

# OFFICE OF INSPECTOR GENERAL

## Management Information Report

### Management and Performance Challenges Facing the Railroad Retirement Board

Report No. 17-02  
December 1, 2016



**RAILROAD RETIREMENT BOARD**

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## Introduction

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This statement has been prepared pursuant to the Reports Consolidation Act of 2000 and the requirements of Office of Management and Budget (OMB) Circular A-136, which require that the Inspectors General identify what they consider the most serious management challenges facing its respective agency and briefly assess the agency's progress in addressing those challenges.

Congress created the railroad retirement system more than 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 2015, the Railroad Retirement Board (RRB) paid about \$12.2 billion in retirement and survivor benefits to approximately 558,000 beneficiaries and approximately \$85.1 million in net unemployment and sickness insurance benefits.<sup>1</sup>

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 2016.

<b>Most Serious Management and Performance Challenges Facing the RRB as of October 1, 2016 (as identified by the Inspector General)</b>	
<b>Challenge 1</b>	<i>Program Integrity to Strengthen Disability Programs</i>
<b>Challenge 2</b>	<i>Information Technology Security and System Modernization</i>
<b>Challenge 3</b>	<i>Management of Railroad Medicare</i>
<b>Challenge 4</b>	<i>RRB's Continued Noncompliance with IPERA</i>
<b>Challenge 5</b>	<i>Agency Succession Planning</i>
<b>Challenge 6</b>	<i>Weaknesses Related to Financial Statement Reporting</i>
<b>Challenge 7</b>	<i>Limited Transparency at the National Railroad Retirement Investment Trust</i>

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<sup>1</sup> United States Railroad Retirement Board (RRB), *Performance and Accountability Report, Fiscal Year 2015* (Chicago, IL: November 2015).

## Challenge 1 – Program Integrity to Strengthen Disability Programs

Two types of disability awards are administered by the RRB, the occupational disability annuity and the total and permanent disability annuity. A railroad employee is considered to be occupationally disabled if a physical and/or mental impairment permanently disqualified them from performing his or her regular railroad occupation (even though the employee may be able to perform other kinds of work). 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 service. According to the RRB's 2016 Annual Report, in fiscal year 2015, occupational disability annuities totaling approximately \$853 million were paid to approximately 23,500 annuitants.<sup>2</sup> The approval rate for occupational disabilities was approximately 97 percent in fiscal year 2015 and has remained relatively consistent for months in 2016 for which data has been reported. A total and permanent disability annuity is payable regardless of age to employees with at least 10 years of service but requires that the applicant not be able to perform any substantial gainful activity. The RRB's approval rate for a total and permanent disability was approximately 78 percent as of May 2016.

These two disability benefits remain the subject of sustained scrutiny by the Congress, the OIG, and the Government Accountability Office (GAO) as a result of continued program vulnerabilities and ineffective oversight from the RRB.

In 2007, the OIG initiated a joint investigation with the Federal Bureau of Investigation that identified a far reaching occupational disability fraud scheme perpetrated by a number of Long Island Rail Road (LIRR) retirees, doctors, and disability facilitators. This case was 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). OIG estimates that 700 individuals may have been involved in this fraud scheme and investigations are ongoing.

Through the LIRR investigation and subsequent work, 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 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."<sup>3</sup>

The OIG remained so concerned by the RRB's failure to address deficiencies in its occupational disability program that in February 2014, the Inspector General (IG) issued a seven-day letter alerting the RRB of its concerns and outlined

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<sup>2</sup> United States Railroad Retirement Board, *2016 Annual Report*, (Chicago, IL).

<sup>3</sup> Government Accountability Office (GAO), *Railroad Retirement Board: Review of Commuter Railroad Occupational Disability Claims Reveals Potential Program Vulnerabilities*, GAO-09-821R (Washington D.C.: September 9, 2009).

particularly serious or flagrant problems, abuses, and deficiencies relating to the occupational disability program.<sup>4</sup> The IG urged the agency to institute substantial and meaningful corrective actions.

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.<sup>5</sup> In testimony, the IG detailed the systemic deficiencies within the RRB's occupational disability program, as well as several key OIG recommendations aimed at addressing these deficiencies.

In response to significant Congressional pressure and oversight by the OMB, GAO, and the OIG, the RRB has taken some steps to improve its occupational disability program. For example, it released a Disability Program Improvement Plan (DPIP), which outlines 18 initiatives aimed at improving program integrity within its disability program. During fiscal year 2015, RRB contractors completed a fraud prevention/detection assessment of the RRB's benefit paying programs, which reiterated much of what GAO and OIG have previously reported. These contractors reported that a number of important vulnerabilities exist within the RRB's disability program and offered a number of recommendations for improvement. Additionally, during fiscal year 2016, the RRB hired a Chief Medical Officer to provide medical guidance to the RRB's disability adjudication staff.

However, foundational flaws and a culture seemingly entrenched in defending its disability program, at the expense of strengthened program integrity, have resulted in little meaningful improvement or change. When its DPIP was first released, it contained many program changes that, if effectively implemented, would have improved program integrity. On the surface, it appears the RRB has made much progress in DPIP implementation. The RRB's September 2016 DPIP shows that it has "closed" 7 of the 18 initiatives. However, from an oversight and program improvement perspective, this document does not accurately reflect actual implementation of program improvements because tasks that the RRB has taken action on, as well as those that it has not taken action on, are both marked "closed." This poses challenges for the Congress and other oversight bodies because they cannot easily identify which tasks and initiatives have actually been completed.

The OIG has brought certain specific and ongoing concerns regarding the DPIP to the RRB's attention. First, RRB OIG remains concerned that the RRB has not taken adequate steps to assure the collection of information on a disability applicant's job duties from railroad employers. In May 2016, the IG issued an

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<sup>4</sup> RRB Office of Inspector General (OIG), *Seven-Day Letter to Congress* (Chicago, IL: February 10, 2014).

<sup>5</sup> U.S. House of Representatives Committee on Oversight and Government Reform's Subcommittee on Government Operations Hearing, *Is the Railroad Retirement Board Doing Enough to Protect Against Fraud?* (Washington D.C.: May 1, 2015).

alert to the RRB's three member Board (the Board) revisiting a critical program vulnerability previously identified by the OIG. Specifically, the alert reiterated that the RRB's continued failure to verify self reported job information with a third party (i.e., railroad employers) during the occupational disability adjudication process jeopardizes program integrity and does not comply with RRB regulations.<sup>6</sup> In 2016, RRB published their intent to replace the current job verification forms (G-251a and G-251b) with a singular version.<sup>7</sup> While this form has undergone extensive revisions as part of the DPIP, language in the Federal Registrar stated twice that completion of this form is voluntary. This is incongruent with RRB regulations that state RRB "shall also consider the employer's description of the physical requirements and environmental factors relating to the employee's regular railroad occupation, as provided by the employer on the appropriate form." This, among other third party verifications, is an important program integrity step that the RRB has not fully implemented through its DPIP. In 2015, about 6 percent of disability determinations included an employer provided form. From January through August 2016, employers provided job description information in approximately 11 percent of cases, with about 26 percent doing so in August 2016 (the month with most recently reported data).<sup>8</sup> An increase in submission of this information is promising but until the RRB makes this information mandatory and based on the individual's specific job duties, it cannot fully assess an applicant's eligibility.

Another program improvement that has not been fully implemented is action to prevent occupational disability adjudications based on the simple task standard for railroad employees. In May 2015, the OIG issued an alert to the Board recommending improvements to the disability program. One of the recommended improvements was that the RRB should formalize and implement procedures clarifying that an occupational disability application should be assessed against an applicant's permanent inability to perform the essential functions of their regular railroad occupation and not just a single task or function.<sup>9</sup> The RRB implemented a portion of the recommendation by agreeing to provide refresher training to disability examiners to clarify that occupational disabilities should be awarded only to applicants whose conditions are such that they are unable to perform their regular railroad occupation. However, the portion of the recommendation pertaining to formalizing procedures so that an occupational disability application is not assessed based on inability to perform just a single task or function, was not fully implemented. The action taken—to review the disability procedures and verify that they do not include allowing an individual to

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<sup>6</sup> OIG Alert Number 16-03, *Systemic Vulnerability within the Railroad Retirement Board's Occupational Disability Program*, (Chicago, IL: May 11, 2016).

<sup>7</sup> Form G-251 is the "Vocational Report" where the disability applicant self reports all information related to their disability. Forms G-251a and G-251b are the "Job Information" forms that are sent to the employer to verify the job information submitted by the applicant on form G-251. In 2016, the RRB proposed to combine the G-251a and G-251b into one form, a revised G-251a, to be sent to the railroad employer to verify the job information reported by the applicant on Form G-251.

<sup>8</sup> The 26 percent includes submission of the G-251a and "Other (Employer Job Description)", as reported by RRB.

<sup>9</sup> OIG Alert Number 15-05, *Recommended Improvements to the Disability Program*, (Chicago, IL: May 8, 2015).

be found occupationally disabled for an inability to perform a nonessential job task or function—rather than formalizing and implementing procedures, did not effectively address the IG’s recommendations and does not leave claims examiners unequivocal guidance should they face such a situation.

In addition to the ineffective DPIP implementation, the RRB has been resistant to other recommendations to improve its disability programs. A fiscal year 2016 OIG audit identified control weaknesses diminishing the value of medical opinions in the RRB’s disability determination process.<sup>10</sup> The OIG made 18 recommendations to improve the effectiveness of controls associated with the medical opinions. RRB management agreed to take action on 12 of the 18 recommendations. The six recommendations that the RRB did not concur with related to improving the value of medical opinions provided during the disability determination process. By not implementing these recommendations, the RRB does not receive the full value of the medical opinions, which is a key control intended to incorporate medical professionals as a component of the disability determination process.

Finally, we are significantly concerned with RRB’s lack of action regarding recovery of potentially fraudulent payments made to LIRR annuitants. Specifically, OIG has recommended RRB use its fraud or similar fault authority to collect payments made to annuitants based on fraudulent or misleading information. After the LIRR fraud was uncovered and prosecutions were ongoing, RRB terminated benefits of annuitants who applied using medical documentation supplied by specific healthcare providers convicted of fraud. The annuitants were subsequently allowed to reapply with new medical information and more than 80 percent did. This resulted in an approval rate of over 90 percent for the terminated LIRR beneficiaries who refiled. It remains imperative that the RRB use every avenue to recover payments lost due to fraud or similar fault and to prevent the continued abuse of its occupational disability program. Allowing individuals to commit fraud against the program, with no repercussions, only encourages future fraud and abuse of the program.

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, thorough review of the application and all required supporting documentation. 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 taxpayers millions in unwarranted expenses annually.

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<sup>10</sup> RRB OIG, *Control Weaknesses Diminish the Value of Medical Opinions in the Railroad Retirement Board Disability Determination Process*, OIG Audit Report No. 16-05 (Chicago, IL: March 9, 2016).

## **Challenge 2 – Information Technology Security and System Modernization**

As with all federal agencies, the RRB faces the challenge of how to modernize its technology and safeguard sensitive data, all 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 fiscal year 2016, the RRB completed migration of the Program Accounts Receivable (PAR) system to the Financial Management Integrated System (FMIS). In March 2016, the RRB also completed transitioning to a Voice over Internet Protocol telecommunications system at Headquarters. Also, secure wireless access was implemented in April 2016.

The RRB has begun or plans to undergo other major IT initiatives in the coming years, such as:

- RRB legacy systems modernization,
- continued implementation of its "Office in the Cloud" plan, which is technology to offer a virtual office to a mobile workforce, and
- expansion of the imaging system for disability records.

Each of these is a major project, requiring significant planning and oversight. IT acquisitions and improvements governmentwide are so difficult that this matter is on GAO's High Risk List. Federal IT investments too frequently fail or incur cost overruns and schedule slippages, while contributing little to mission related outcomes; 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 best practices that are critical to successfully acquiring IT investments.

The RRB legacy systems modernization is one of the largest IT projects ever undertaken by the RRB. The RRB estimated the project to cost \$15.6 million. This project is expected to take over six years during which approximately 12 million lines of code are to be translated to more modern computer language, followed by a systems reengineering project. However, based on a review of a draft of the fiscal year 2018 Capital Plan, the existing mainframe at the RRB will reach the end of its useful life before the legacy systems modernization project is complete. The Capital Plan states that the RRB plans to utilize the National Information Technology Center for its mainframe operations, temporarily, until the legacy systems modernization project is completed. During fiscal year 2016, the RRB installed new hardware and software for three components of the new infrastructure. The contractor also converted all COBOL code scheduled for the first year. Projects of such size, length, and cost are at significant risk of cost overruns and project failure.

Regarding the RRB “Office in the Cloud Plan,” cloud technology for a mobile workforce comes with possible security and privacy risks of valuable data that is susceptible to vulnerabilities, as well as long term considerations of cost and data access. The security and cost risks remain a concern of the OIG.

In April 2016, the OIG reported on an audit of the information security at the RRB, which is mandated by the Federal Information Security Management Act of 2002 (FISMA).<sup>11</sup> 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 OMB fiscal year 2015 FISMA reporting instructions.

While it was determined during the audit that the RRB is continuing to make progress in implementing an information security program that meets the requirements of FISMA, a fully effective security program has not been achieved. The OIG made twenty-three 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.

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<sup>11</sup> RRB OIG, *Fiscal Year 2015 Audit of Information Security at the Railroad Retirement Board*, OIG Audit Report No. 16-06 (Chicago, IL: April 26, 2016).

### Challenge 3 – Management of Railroad Medicare

The Social Security Administration delegated authority to the RRB to administer certain provisions of the Medicare program for Qualified Railroad Retirement Beneficiaries (QRRB) and active Railroad employees. These provisions included enrollment, premium collection, and selection of a carrier to process Medicare Part B claims nationwide. The RRB is responsible for administering its contract with Palmetto GBA, its Part B carrier. In fiscal year 2015, the RRB withheld approximately \$536 million in premiums, and Palmetto processed about \$829 million in payments for services covered by Medicare Part B. Since 1983, the Centers for Medicare and Medicaid Services (CMS) has reimbursed the RRB for Medicare program related work performed. This reimbursement was approximately \$32.9 million in fiscal year 2015.<sup>12</sup>

In December 2015, the RRB reported that a miscalculation had occurred resulting in Medicare beneficiaries paying an incorrect reduced variable rate. At that time, RRB indicated it was not planning to collect any underpayments. After communication by OIG, RRB ultimately identified that 2,222 beneficiaries had underpaid premiums totaling approximately \$6 million. Of this amount, 893 were deceased beneficiaries totaling approximately \$1.68 million and 1,329 were current beneficiaries totaling approximately \$4.36 million. While the rate was corrected for the January 2016 premium, the RRB is considering a wholesale write off of the undercollected premiums. The OIG is concerned that the RRB's decision will leave \$6 million uncollected. Since RRB's mission requires appropriate action to safeguard the Hospital Insurance and Supplemental Medical Insurance Trust Funds (Medicare Trust Funds), it is imperative that the RRB calculate and collect the proper Medicare premiums due, take action to collect premiums owed, and prevent these errors in the future.

In August 2016, an OIG audit reported that the RRB did not calculate reimbursed Medicare costs in accordance with federal requirements.<sup>13</sup> Controls were not adequate to ensure the RRB's cost allocation plans and Medicare reimbursement calculations were accurate and supported. Railroad Medicare cost allocation policies and procedures were not effective in preventing errors. In addition, labor costs were reimbursed based on management's professional judgment, and indirect costs had not been formally approved by CMS. These weaknesses resulted in unsupported Medicare direct costs totaling approximately \$30.4 million and unsupported indirect costs ranging from \$9.5 million to \$33.8 million for fiscal years 2010 through 2014. The OIG issued 26 recommendations to address the weaknesses identified. RRB management concurred with 10 and did not concur with 16 of the recommendations. The OIG was concerned by the significant nonconcurrence from RRB management and conducted subsequent discussions but RRB management made no revisions in its official responses to the audit report. Most of the RRB's nonconcurrence was with recommendations

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<sup>12</sup> RRB 2016 Annual Report.

<sup>13</sup> RRB OIG, *Railroad Retirement Board Did Not Calculate Reimbursed Medicare Costs in Accordance with Federal Requirements*, OIG Audit Report No. 16-10 (Chicago, IL: August 22, 2016).

that would require retroactive assessment of the accuracy of reimbursements received from CMS and have the potential to cause a violation of the Antideficiency Act.<sup>14</sup> The OIG and the RRB also have a fundamental disagreement on the applicability of and the RRB's compliance with OMB Circular A-87. This circular established principles and standards for allowable cost reimbursements between governmental units that RRB was required to follow, based on its agreement with CMS.<sup>15</sup> The OIG believes that the RRB should take all necessary steps to implement these recommendations in order to assure the accuracy of prior and future reimbursements.

Additionally, OIG is concerned that Railroad Medicare is not using the CMS Fraud Preventative System (FPS). Implemented in July 2011 by CMS, FPS is utilized by CMS to assist in reducing improper Medicare payments.<sup>16</sup> While FPS has been integrated with CMS systems that process claims, it has not been integrated with the payment processing system used for Railroad Medicare claims. Railroad Medicare has been approved for on-boarding to FPS with implementation planned for December 2016 or January 2017.

The Railroad Medicare Program continues to be a challenge to the RRB and a significant concern to the OIG. The RRB must continue to improve controls over the \$829 million in Railroad Medicare payments made on behalf of its beneficiaries.

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<sup>14</sup> The Antideficiency Act is codified in several sections of title 31 of the United States Code (USC) including 31 USC 1341(a), 1342, 1349-1351, 1511(a), and 1512-1519.

<sup>15</sup> OMB Circular No. A-87, *Cost Principles for State, Local, and Indian Tribal Governments* (Washington DC: May 10, 2004). A-87 was relocated to 2 Code of Federal Regulations (CFR) Part 225 (effective August 31, 2005). OMB has consolidated and streamlined its guidance located at 2 CFR Part 200.

<sup>16</sup> 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).

## **Challenge 4 – RRB’s Continued Noncompliance with Improper Payments Elimination and Recovery Act**

In 2015 and 2016, OIG reported that RRB was not in compliance with the Improper Payments Elimination and Recovery Act (IPERA) of 2010, which amended the Improper Payments Information Act of 2002 (IPIA).<sup>17</sup> In May 2015, OIG issued an audit report to assess the RRB’s fiscal year 2014 compliance with IPERA. The audit determined that the RRB was not in full compliance with IPERA reporting requirements.<sup>18</sup> Specifically, RRB did not comply with the risk assessment requirements because it did not assess risks for all of the programs that it administers. As a result, the OIG was unable to assess compliance for the publication requirement for improper payment estimates for all of the programs and activities identified as susceptible to significant improper payments under the risk assessment. The audit also reported 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. The OIG reviewed the risk assessment plan developed by RRB in fiscal year 2016 and assessed it as noncompliant because it did not meet the minimum requirements as specified in OMB guidance.

In May 2016, the OIG determined that the RRB remained noncompliant with IPERA for the second consecutive year for the risk assessment requirement.<sup>19</sup> Specifically, risk assessment documentation did not meet the minimum requirements specified in OMB guidance. The OIG also determined that improvement was still needed to ensure the accuracy of reported improper payment amounts for RRA and RUIA programs because both programs reported understated amounts of approximately \$12 million and \$904,000. In addition, the OIG identified other improper payment reporting deficiencies which made the RRB improper payments report incomplete.

In its 2016 report, the OIG made six detailed recommendations to address the identified weaknesses. The RRB concurred with three of the recommendations. The RRB requested a legal opinion for two other recommendations that pertained to incorrect classifications of RUIA underpayment cases. The RRB classified these cases as proper based on the methodology that it used, which was that the amount of payment was correct based on the information known when it was initially paid. When new or corrected information was received

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<sup>17</sup> Public Laws 111-204 and 107-300, respectively.

<sup>18</sup> 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*, OIG Audit Report No. 15-06 (Chicago, IL: May 15, 2015).

<sup>19</sup> RRB OIG, *Audit of the Railroad Retirement Board’s Compliance with the Improper Payment Elimination and Recovery Act of 2010 in the Fiscal Year 2015 Performance and Accountability Report*, OIG Report No. 16-07 (Chicago, IL: May 13, 2016).

subsequent to the original payment that resulted in a change in the original payment, RRB still classified the payment as proper, as long as the new or corrected information was received within the reporting year and the payment did not retroact beyond the reporting year. The RRB deems this as a timely adjustment and its methodology uses timeliness in determinations of proper or improper. However, the OIG believes these cases should have been classified as improper based on OMB guidance for improper payments, which has a specific definition for improper payments that does not include timeliness. In June 2016, the RRB's General Counsel issued a legal opinion agreeing with the RRB's categorization that these cases were proper. The OIG disagrees and, as a result, subsequent audits will still deem RUIA cases of this type as improper.

Finally, the RRB did not concur with the OIG recommendation that it revise its overall process for the RRA program that supports improper payment reporting requirements to ensure the accuracy of the data. The RRB's nonconurrence was based on some refinements to its methodology considering the previous year's audit. The RRB was required to resubmit the refined methodology to OMB for approval. OMB is reviewing the resubmitted methodology and the RRB is waiting for OMB's formal response. The RRB also stated that the overall process has been in place since fiscal year 2002 and there has been no significant challenge of the process. RRB routinely reviews its process and make adjustments as appropriate based on applicable subsequent guidance documents issued by OMB. The OIG believes that the current process is insufficient for improper payment reporting purposes. We reiterate the need for revision of the overall process to improve the accuracy of improper payment reporting. Without a thorough and reliable assessment of its improper payment program, the RRB is at risk of failing to identify all improper payments and the root causes of improper payments, which ultimately will allow them to continue.

Because the agency was deemed noncompliant for two consecutive years for the same programs or activities, IPERA guidance states that the Director of OMB will review the program and determine if additional funding would help the agency to become compliant. IPERA compliance remains a challenge for the RRB given that policies and procedures that it developed for IPERA risk assessments were incomplete, thereby directly impacting the risk assessments prepared for the various programs that the RRB administers.

## Challenge 5 – Agency Succession Planning

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 2019, more than 40 percent of personnel will be eligible for retirement, with approximately 55 percent having more than 20 years or more of service.<sup>20</sup> Further, the agency is run by a three member Board. The Office of Chairman has been vacant since the retirement of the Chairman on August 31, 2015. A top priority for agency leadership will be to ensure the transfer of knowledge to ensure continuing and uninterrupted operations of the agency.

In September 2011, the OIG reported that the RRB had identified staff attrition as an ongoing concern.<sup>21</sup> The report also stated that these changes would impact every aspect of the agency's operations, to include senior level management. While RRB has a Human Capital Management Plan and Succession Plan, 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. 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.

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

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<sup>20</sup> RRB 2016 Annual Report.

<sup>21</sup> RRB OIG, *Office of Inspector General's Proposal to Improve Business Efficiency at the Railroad Retirement Board*, (Chicago, IL: September 21, 2011).

## Challenge 6 – Weakness Related to 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, 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 and 2015. The material weakness included a previously reported significant deficiency for budgetary reporting. Corrective actions for the budgetary reporting deficiencies identified, have still not been completed. During the course of the audits, material financial recording errors were detected and internal control procedures were not consistently performed timely or effectively.

This material weakness, which consists of ineffective controls and the lack of communication with the National Railroad Retirement Investment Trust's (NRRIT) auditor, 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.

Although RRB's Bureau of Fiscal Operation's management has taken corrective actions for ineffective controls, the actions continue to be insufficient and the OIG continues to identify material transactions that were recorded without sufficient supporting documentation.

The OIG will report a new material weakness in fiscal year 2016. Specifically, the OIG has determined that the RRB's control environment may have a detrimental effect on the RRB's financial statements. OMB issued guidance defining management's responsibility for ensuring that an organization is committed to sustaining an effective control environment.<sup>22</sup> The guidance explains five principles of the control environment and if one principle is ineffective, management would be unable to conclude that the control environment is effective. The material weakness that the OIG reported is based on an ineffective control principle, the enforce accountability principle, which states that management should hold individuals accountable for their internal control responsibilities. RRB management has not taken the necessary corrective actions to address several significant matters and we are concerned that ongoing noncompliance with applicable laws, regulations, and authoritative guidance could impact the reliability of financial reporting at the RRB and at

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<sup>22</sup> OMB, *Management's Responsibility for Enterprise Risk Management and Internal Control*, M-16-17 (July 15, 2016).

governmentwide levels. In addition, RRB management does not always communicate matters of audit significance with RRB OIG auditors and RRB management had not responded to numerous requests to reconsider its determinations and to discuss most of the matters detailed in this finding. According to the AICPA's guidance, inadequate two-way communication could indicate an unsatisfactory control environment, thereby impacting the risk of material misstatements.<sup>23</sup>

One of the most significant concerns involves ownership of NRRIT net assets. The RRB indicated that it has no ownership interest in the NRRIT in its assertion that the NRRIT should be classified as a disclosure entity for financial statement reporting purposes under new Federal Accounting Standards Advisory Board's (FASAB) Statement of Federal Financial Accounting Standards 47 (SFFAS 47), *Reporting Entity*. The OIG disagrees with the RRB's assertion and believes that the NRRIT should be classified as a consolidating entity. The classification determination ultimately decides whether the NRRIT's net assets will continue to be included in the RRB and governmentwide financial statements beginning in fiscal year 2018 when SFFAS 47 becomes effective. Based on the RRB's classification of the NRRIT as a disclosure entity, the net assets would not be included, there would only be a footnote reference to the NRRIT. If classified as a consolidating entity, the net assets would still be included in the financial statements. The NRRIT's net assets represented \$24.5 billion or approximately 79 percent of the total assets reported for fiscal year 2015 and approximately \$1.2 billion is transferred annually from the NRRIT to RRB to pay RRB program expenditures. The OIG is concerned with the RRB's assertion that it does not maintain legal ownership to the net assets of the NRRIT.

Other OIG concerns, many of which are discussed in this document, are (1) lack of action or formal response for our audit recommendation associated with the NRRIT communication portion of the material weakness for financial reporting, (2) a change in the social insurance valuation date that will result in NRRIT savings of approximately \$200,000 in contract services expenses, which is less than one half of one percent of NRRIT's annual total expenses but will increase the workload for the RRB's Bureau of Actuary, (3) lack of corrective action and acknowledgement for inaccurate Medicare cost reimbursements and nonadherence with applicable authoritative guidance, (4) a planned change to reclassify the RRB's financial interchange system that records approximately \$12 billion in transactions from a major application to a minor one without documented rationale and would be in noncompliance with authoritative guidance, and (5) RRB management's inaccurate improper payment definitions, which continue to result in understated reported improper payments.

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<sup>23</sup> AICPA, *AICPA Professional Standards AICPA Professional Standards, AU-C Section 260, The Auditor's Communication with Those Charged with Governance*, June 1, 2013.

## **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 \$24.5 billion in assets were held by the NRRIT on behalf of railroad retirees and their families at the end of fiscal year 2015.<sup>24</sup>

The OIG is concerned that oversight of the NRRIT is inadequate. 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.<sup>25</sup>

The following outlines the specific challenges related to the NRRIT.

### Performance Audits

The NRRIT has commissioned only four performance audits since its inception in 2002 and has not established a formal policy for such audits. There is no indication that the performance audits commissioned by the NRRIT were performed in accordance with GAGAS, which provides a framework for conducting high quality audits with competence, objectivity, and independence. Of additional 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 oversight organizations. 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 impairs independence and 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 require performance audits would have greater permanence, since the NRRIT could not legally opt to discontinue any new oversight practices.

In order to address the OIG's and GAO's concerns, the NRRIT signed a Memorandum of Understanding (MOU) with the RRB in October 2014 to

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<sup>24</sup> RRB, *Performance and Accountability Report, Fiscal Year 2015* (Chicago, IL: November 2015).

<sup>25</sup> GAO, *Government Auditing Standards, 2011 Revision*, GAO-12-331G (Washington, D.C.: December 2011).

delineate responsibilities and procedures for (i) Financial Audits and (ii) Performance Assessment Evaluations with respect to assets held by the NRRIT. This MOU states that “performance reviews should be regularly scheduled every 3 years beginning in calendar year 2015, with the understanding that additional reviews could be scheduled, if warranted.”<sup>26</sup> Although the MOU clearly states that the NRRIT has agreed to these performance reviews, there has been no indication that any NRRIT performance reviews have been initiated since the signing of the MOU in 2014, and the MOU does not require them to be performed.

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.<sup>27</sup> 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.

#### Disclaimer of Opinion on RRB Financial Statements

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 through 2016. 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.<sup>28</sup> To date, there has been no communication

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<sup>26</sup> Memorandum of Understanding between National Railroad Retirement Investment Trust and the United States Railroad Retirement Board signed in October 2014.

<sup>27</sup> GAO, *Retirement Security: Oversight of the National Railroad Retirement Investment Trust*, GAO-14-312 (Washington, D.C.: May 15, 2014).

<sup>28</sup> AICPA, *AICPA Professional Standards, AU-C Section 600, Special Considerations - Audits of Group Financial Statements (including the Work of Component Auditors)* June 1, 2013.

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 is imperative that RRB management counsel the NRRIT regarding its auditor's responsibilities to comply with the AICPA's group financial statement requirements.

The OIG plans to continue oversight in all areas highlighted in this letter through audits, investigations, and other follow-up activities. We encourage the RRB to take meaningful action on these challenges in order to prevent fraud and abuse in the programs and operations of the RRB, and to reduce improper payments in all of its programs.

### RRB Management's Comments & Our Response

The OIG provided a draft of this statement to the RRB for inclusion in its fiscal year 2016 Performance and Accountability Report. Subsequently, the RRB provided written comments, which are reprinted in Appendix I. The RRB described actions implemented and approaches taken to improve the functions and operations of the agency to address the challenges identified by the OIG.

Throughout the management challenges, OIG described various steps the RRB has taken to improve performance in the programs that we have addressed in this report. However, these actions do not always meet the intent of the OIG recommendations nor do they always address the weaknesses that remain. As responsible public stewards, RRB management must implement an effective control system to ensure that all agency programs are managed efficiently. While RRB Management provided expansive comments, we generally rely on our description of management challenges to outline our concerns, which remain. However, OIG believes two matters deserve further clarification, which follow.

### Challenge 3 - Management of Railroad Medicare

In RRB management's comments on Challenge 3 regarding Management of Railroad Medicare, management stated that the OIG's Cost Allocation Plan audit conducted in fiscal year 2016 was fundamentally flawed because the guidance used for the OIG audit, OMB Circular No. A-87 (A-87), did not pertain to federal entities and it did not adequately address a reimbursement relationship between two federal agencies. RRB management referred to 2 CFR Part 200 stating it superseded the guidance that we used a full year earlier than our audit start date. RRB Management stated that 2 CFR Part 200 does not contain the same programmatic requirements that were cited as criteria in our audit.

Fundamentally, the RRB and the RRB OIG disagree on the applicability of and the RRB's compliance with A-87. RRB Management believes that A-87 is only guidance and, as such, compliance is not required. The OIG believes that since the 1991 interagency agreement that controls the cost reimbursements requires that charges be based on actual allowable costs as defined in A-87, compliance is required.

As detailed in our audit report, the 1991 interagency agreement between CMS and the RRB requires reimbursement will be based on actual, allowable costs as defined in the General Services Administration's Financial Management Code 74-4. General Service Administration's Financial Management Code 74-4 was reissued as A-87 then codified as 2 CFR Part 225, which was then consolidated with other OMB Circulars as 2 CFR Part 200 with an effective date no later than December 26, 2014. During our audit, RRB management did not indicate that the agency was aware of, or had implemented, 2 CFR Part 200. The previous six cost allocation plans were developed based on the criteria cited in our report — A-87, the guidance that the RRB asserts in its comments not to be applicable.

#### Reclassification of RRB's Financial Interchange System

Based on the OIG's concerns regarding the RRB's planned change to reclassify the RRB's Financial Interchange system from a major application to a minor one, RRB reconsidered its planned change. After we provided our draft for inclusion in the fiscal year 2016 Performance and Accountability Report we received formal notification of RRB management's decision to keep the Financial Interchange system as a major application on November 10, 2016.

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

The RRB is committed to improving the quality of disability decisions. We have devoted a significant amount of time, effort and resources on quality and process improvements. In some instances the RRB did not agree with the specific recommendations of the OIG, but instead we have remained consistent in our approach to administering the program so as to protect the integrity of the Trust Fund.

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

#### 2014

- Established Medical Provider Database to facilitate provider analysis.
- Established an Anti-Fraud Task Force that monitors implementation of the Disability Process Improvement Plan (DPIP).
- Initiated fraud awareness training for all agency employees as well as specific training for claims staff and managers.
- Ensured that all disability adjudications would be subject to a second review.
- Hired a Director of Audit Affairs whose duties include coordination of the DPIP implementation.

#### 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 Social Security Administration's (SSA) 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 policy changes requiring applicants to submit all medical evidence related to disability claims.

#### 2016

- Revised the job information process/forms to request pertinent information from employees and employers to insure that disability examiners have adequate and uniform vocational information available to them when adjudicating applications and to easily identify discrepancies for resolution.

- Revised the application forms to ensure that all relevant information is obtained.
- Expanded continuing disability reviews (CDR) by identifying disability annuitants meeting certain criteria (age, type of impairment) who may return to work or potentially recover from their claimed impairment(s).
- Revised the CDR form to obtain additional information, address OIG suggestions to improve program integrity.
- Created a new form to obtain medical information from employers within 18 months and having the employer certify as to having or not having medical evidence.
- Created a new form which requires field office staff to provide pertinent observations on disability applicants and annuitants to help identify fraud or areas of investigation.
- Created a new earnings booklet for employee disability applicants and annuitants concerning the impact of work and earnings on their disability annuity.
- Created a new certification form for disability annuitants to certify that they remain disabled.
- Signed a contract with The Work Number to obtain more timely earnings data to support stronger initial adjudication and post-entitlement program integrity, (pending implementation).
- Revised procedure in the Disability Claims Manual (DCM), Field Operations Manual, and provided training in RRB University concerning fraud.
- Revised procedure in DCM to correspond with SSA procedure requiring all medical evidence be requested and considered during disability adjudication.
- Developed a new application tracking system for employee disability (occupational and total disability) applications and posted the results on the RRB's website.
- Established the position of Chief Medical Officer (CMO) to provide assistance and expert medical guidance to the Office of Programs in the adjudication of disability annuity claims.
- Conducted monthly medical training in addition to programmatic training on Self-Employment and Total and Permanent adjudication to ensure eligibility regulations are consistently applied. Delivered specialized disability fraud training to disability adjudication staff.

In addition, the following program improvements will be implemented:

- Revise the electronic application process to include the disability application in order to store information into a database.
- Expand the application tracking system to include disabled survivors and children.
- Implement use of The Work Number.

The Office of Programs concurred with many of the recommendations in the OIG Report titled *Control Weaknesses Diminish the Value of Medical Opinions in the RRB Disability Determination*. While the Office of Programs may have disagreed with specific solutions put forward, we did agree with the intent of the other recommendations. For instance, the newly hired CMO is actively involved in reviewing the medical evidence provided. The CMO contacts physicians in order to resolve any conflicting medical opinions contained in the files and has already begun delivering training topics to examiners. The CMO also keeps regular office hours to allow examiners with questions to seek guidance with respect to the evidence in the file.

While the OIG acknowledges RRB Management's extensive revisions to, and intent to replace the current job verification forms (G-251a and G-251b) with a singular version, OIG contend that voluntary completion of the forms is "incongruent with RRB regulations...". In support of this contention, the OIG has noted that the regulations of the RRB state that the RRB "shall also

consider the employer's description of the physical requirements and environmental factors relating to the employee's regular railroad occupation, as provided on the appropriate form." Notably omitted from the regulatory citation is the fact that the regulations provide that examiners must also consider the employee's own description, as well as other sources, such as the Dictionary of Occupational Titles. The intent of this regulation is to identify what information disability examiners should consider if available, not to mandate that employers must provide vocational information. This is not only apparent from the logical reading of the regulation, but was also emphasized when the policy was established. As noted at the time the procedure was introduced, it was to allow for employers to "offer the applicant's railroad employer the opportunity to voluntarily provide information on the applicant's job duties which may be utilized in determining the applicant's eligibility to an occupational disability." [Emphasis added.] Determining Disability, 62 Fed. Reg. 50056 (proposed Sept. 24, 1997) (to be codified at 20 C.F.R. pt. 220).

OIG also asserts that "another program improvement that has not been fully implemented is action to prevent occupational disability adjudications based on the simple task standard for railroad employees." RRB Management respectfully disagrees with this assertion. In response to OIG Alert No. 15-05, Disability Staff received refresher training on following the appropriate standard for occupational disability adjudication. This training included a review of how impairments are assessed to determine if an individual is disabled or not, as well as how to develop sufficient objective medical evidence to determine restrictions caused by impairments. These restrictions are then compared to essential job functions and a determination of whether the applicant can perform the job duties is made. The sequential evaluation process used in the training is found in 20 Code of Federal Regulations (CFR) 220.13(b)(2)(iv). These regulations are included in RRB's Disability Claims Manual Part 13, along with the Independent Case Evaluation process where medical information is reviewed to establish the functional limitations of the condition. As functional limitations are established and job demands determined, the two are compared and reviewed to determine if the claimant can perform the essential job duties to continue performing their regular railroad occupation.

In summary, contrary to the OIG's assertion, the procedure had been reviewed and is accurately documented. In addition, refresher training has been provided to DBD staff on the subject.

Finally, the OIG recommends that RRB should reopen annuity award determinations and recover disability annuity payments to former LIRR employees where the annuities were based in part upon medical evidence provided by two physicians convicted of fraud. Based on evidence developed by the RRB's OIG and the Department of Justice, the U.S. District Court convicted 33 individuals of fraud and ordered restitution be made to the RRB. Litigation presently continues in the District Court regarding restitution owed to the RRB. No other individuals were indicted. Forty-five individuals participated in a voluntary program, the terms of which, at the suggestion of the Department of Justice, did not require repayment of prior annuities paid.

In addition, the RRB terminated prospective annuity payments for over 700 disability annuitants in 2013 where the annuities were based, in part, upon medical evidence provided by the two physicians convicted of fraud. None of these individuals were indicted or participated in the voluntary program referenced above. Annuitants who were terminated were allowed to file a new disability application. However, those who opted to refile were required to submit new evidence supporting their disability claim and undergo independent examinations performed by medical specialists. The OIG has alleged "potential" overpayments, but has not presented

evidence to the RRB establishing that the submission of the original applications filed by those individuals terminated in 2013 was based upon fraudulent information.

### **Information Technology Security and System 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 fewer 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 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 2017. 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.

### **Management of Railroad Medicare**

In the OIG's 2016 document, "Management and Performance Challenges Facing the Railroad Retirement Board" (p. 7), the OIG states: "The Social Security Administration delegated authority to the RRB to administer certain provisions of the Medicare program for Qualified Railroad Retirement Beneficiaries and active Railroad employees. These provisions included enrollment, premium collection, and selection of a carrier to process Medicare Part B claims nationwide". In actuality, Congress gave the RRB this authority.

The issue of Medicare beneficiaries paying an incorrect reduced variable rate arose as a result of an administrative error in calculating cost of living adjustments (COLA). Public Law 100-360 amended Section 1839(f) of the Social Security Act to extend the Hold Harmless provision to railroad beneficiaries who have Part B premiums deducted from their railroad annuity. The law was enacted into legislation as the Medicare Catastrophic Coverage Act of 1988. Prior to this law, for the years 1986, 1987, and 1988, the Hold Harmless provision was applied to Social Security benefits only. The computer programs that calculate the RRB cost of living adjustments (COLA) failed to accurately make the Hold Harmless determinations since the inception of the provision in 1988.

This error was not detected until December 2015. The RRB contacted the Centers for Medicare and Medicaid Services (CMS) to determine if we could waive the arrearages. CMS informed us that they did not have legal authority to waive the arrearages. As a result, RRB reimbursed CMS for the sum total of \$6,043,841.20, the arrearage calculated for over 1,300 beneficiaries still alive and 893 deceased beneficiaries. The beneficiaries impacted by this error would have been required to repay thousands of dollars to the RRB, due to the Agency's Administrative error, which was no fault of their own. The RRB is considering using the authority granted to adjust Medicare premiums due to agency error to set the beneficiaries' premiums at the amount collected. This protects the beneficiaries from loss of Medicare coverage for failure to pay the higher premiums.

Going forward, the computer program has been corrected to prevent this problem from occurring in the future.

The Fraud Preventative Service (FPS) is a CMS program. Initially, FPS was implemented more as a CMS internal program. As the program progressed, CMS began sharing findings primarily with Zone Program Integrity Contractors and to a lesser degree with the Medicare Administrative Contractors. Today, findings are shared through edits in the Multi-Carrier System (MCS). Initially, CMS decided not to include the Railroad Retirement Board's (RRB) Specialty Medicare Administrative Contractor (SMAC).

In 2016 CMS recompeted the FPS contract. CMS advised the RRB's Specialty Medicare Administrative Contractor (SMAC) that the RRB's SMAC would be incorporated into FPS once the new contract was awarded. The new contract was awarded in April 2016. CMS approved incorporating the RRB's SMAC in FPS during phase 3 of implementation of the new FPS contract. Phase 3 begins around December 2016 or January 2017.

1. During option year (OP) 3 of the Specialty Medicare Administrative Contract (SMAC) which began on October 1, 2015, 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): Quality Assurance Surveillance Plan (QASP) reviews - QASP reviews provide oversight on the quality, quantity and timeliness of contractor performance. For OP 3, a total of 10 business functions were reviewed, which covered 47 performance standards.
2. A Continuity of Operations Plan (COOP) was conducted in option year 3 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 Appeals, Beneficiary Services and Benefit Integrity (BI) areas.

All recommendations that were made as a result of these reviews were accepted by Palmetto GBA and implemented timely. OP 3 was completed on September 30, 2016, 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 conducting numerous audits/reviews, the MCOR and MCOS attended training to:

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

The following initiatives were implemented during OP 3:

1. The SMAC worked closely with their JM MAC counterpart to develop processes for a smooth implementation of the Comprehensive Error Rate Testing (CERT) program that was implemented in OP 2. The CERT contractor continues pulling claim samples and conducting their review of claims processed by the RRB SMAC. The CERT program measures improper payments in the Medicare Fee-for-Service program. The final report with CERT findings is scheduled to be published in November 2017.

2. In accordance with the Improper Payment Information Act (IPIA) Reporting Details as amended by the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), the Medicare program was evaluated and information was prepared and included in the FY 2016 Performance and Accountability Report (P&AR). The P&AR was sent to OMB for approval on October 31, 2016.
3. We continued the timesheet reviews at the RRB SMAC conducted by the MCOR and MCOS in OP 3 to ensure appropriate time is being reported to the work being performed. In OP 3, we conducted four quarterly reviews. All recommendations that were made, as a result of these reviews, were accepted and implemented by the RRB SMAC.
4. In OP 3, the Board began submitting a report of beneficiaries 90 years old or older to Palmetto for review. The analysis conducted by Palmetto identifies claims history activity and date of death information of those beneficiaries. The Board is currently reviewing the results of the report submitted by Palmetto.
5. The MCOR and MCOS worked closely with Palmetto to develop a document destruction schedule (DDS) for claims and correspondence. The DDS was developed and implemented in accordance with CMS guidelines. The process was fully implemented in OP 3 and will reduce sending documents to storage and ultimately reduce contract costs.
6. We worked with Palmetto GBA and developed a more robust a Medical Review Strategy and Medical Review Strategy Analysis Report and system changes to protect the Medicare trust fund and prevent improper payments. These initiatives were implemented in OP 3:
  - a) Developed and implemented new review screens for chiropractic services on a widespread service-specific-basis to validate medical necessity.
  - b) Performed statistical analysis of the top providers by number of allowed services to determine if there are any outlier providers in the billing data.
  - c) Developed and implemented an edit to reject any chiropractic services billed with a dual modifier combination.
  - d) The SMAC is now part of and participating in the California Ambulance Task force meetings held by CMS. The meeting centered on discussing ambulance suppliers identified in the State of California with high charge denial rates, licensing issues or any other fraud/compliance related issues that would warrant a closer look by law enforcement agencies and the Medicare contractors.
  - e) The Medical Review (MR), BI, Claims Processing and Provider Outreach and Education (POE) departments formed the RRB SMAC Fraud Taskforce, Members of this task force attend the various collaboration meetings that take place with the other MACs or CMS. The task force assists BI and MR with being more proactive in their efforts to identify fraudulent providers within their program.
  - f) In OP 3, the SMAC implemented the automation of Medical Review Audits in the Multi-Carrier System (MCS). By automating specific audits, it eliminates the manual time associated with reviewing the claim history on each claim that fails the audit

criteria. Now each claim is expedited and quality is increased as the human element is removed from the decision and adjudicating process.

We are in discussion with CMS on the following initiatives:

1. Establishing a tentative timeframe for implementing the Health Integrated General Ledger Accounting System (HIGLAS) for the RRB SMAC.
2. We continue to work with CMS on signing additional Joint Operating Agreements with the remaining Zoned Program Integrity Contractors to ensure that all Railroad Medicare referrals and potential overpayments are pursued by the SMAC Benefit Integrity Unit.
3. We are working with CMS to provide the RRB SMAC with a yearly listing of aberrant chiropractor providers. This is in conjunction with the Chiropractic Prior Authorization Medical Review program outlined in MACRA.
4. The RRB SMAC requested access to the CMS FPS database which identifies the highest risk claims for fraud, waste and abuse. The CMS has approved this request and Palmetto is scheduled for onboarding in December 2016 or January 2017.
5. As OP 4 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.

Regarding the RRB's Medicare Reimbursement: The RRB believes that the OIG's Cost Allocation Plan audit was fundamentally flawed because the guidance used as the basis for review addressed grant relationships between the federal government and state, local, and Indian tribal governments. The guidance cited does not pertain to federal entities, nor does it adequately address a reimbursement relationship between two federal agencies. Additionally, the guidance used for the review was superseded by 2 CFR 200 a full year before the audit start date. Further, 2 CFR 200 does not contain the same programmatic requirements as the guidance cited. While the RRB believes the audit was fundamentally flawed, the RRB is committed to improving controls over the reimbursement process between the RRB and CMS. Therefore, the RRB concurred with 10 of 26 recommendations. During fiscal year 2017 the RRB will work to enhance the reimbursement process with CMS.

#### **RRB's Continued Noncompliance with Improper Payments Elimination and Recovery Act**

The OIG *Audit of the Railroad Retirement Board's Compliance with IPERA of 2010 in the Fiscal Year 2015 Performance and Accountability Report* (P&AR) indicated the RRB's risk assessment documentation did not meet the minimum requirements specified in OMB guidance and the OIG made 6 specific audit recommendations. The RRB concurred with four recommendations and has already completed corrective actions on three.

As part of our recent FY 2016 IPERA analysis and reporting, we have updated our risk assessment documents for the RRA, RUIA and Medicare programs to include the nine specific risk factors developed by OMB which are likely to contribute to improper payments. The responses to these nine risk factors for the RRA, RUIA, and Medicare programs are now included in the IPERA section of the RRB's FY 2016 Performance and Accountability Report.

The RRB is now in compliance with OMB's guidelines. In response to the audit recommendations, the Medicare program is now reflected in all appropriate tables and charts in the P&AR. We have also strengthened controls to ensure the accuracy of supporting data by improving our validation processes and updated our procedures to reflect these enhancements.

The RRB has received approval of our established methodologies from OMB for identifying improper payments in the RRA and RUIA benefit payment programs. In August 2016, OMB granted the RRB approval to continue conducting the RRA Improper Payment analysis according to our established methodology. OMB's Controller stated that the ". . . methodology was reviewed by OMB staff from the Office of Federal Financial Management, the Resource Management Office, and staff from the Office of Economic Policy." In February 2014, OMB approved our sampling methodology to analyze improper payments for the RUIA program. In FY 2016, we further improved our estimation of RUIA underpayments by changing from a judgmental sample review of 20 cases to a statistically valid sample review of 100 cases in response to the OIG recommendation.

Using the definition of an "Improper Payment" per the Improper Payment Act of 2002, we determined that RUIA underpayments made for accurately adjudicated redetermined claims and reconsidered applications or claims are proper because the initial payment had been correct based on accurate information in the Board's possession at the time. We secured a legal opinion from our Office of General Counsel in FY 2016 and they agree with our classification of these payments as proper. Therefore, we disagree with the OIG's assertion that the RUIA program understated the estimated amount of improper underpayments by \$904,000. In addition, we are unable to confirm or refute the OIG's assertion that the RRA program understated the estimated amount of improper payments by \$12 million since the OIG provided no specifics or computations to substantiate this statement.

### **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.

### **Weaknesses Related to Financial Statement Reporting**

The OIG continues to report a material weakness, which consists of ineffective controls and the lack of communication with the National Railroad Retirement Investment Trust's (NRRIT) auditor. 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 2016. In fiscal year 2016, the financial statement note *Reconciliation of Net Cost of Operations to Budget* was substantially automated in the agency's Financial Management Integrated System (FMIS). In addition, portions of our Accounting Procedures Guide were rewritten with detailed instructions for operating within a new cloud shared service capability. Finally, quarterly internal quality assurance meetings were held during fiscal year 2016 to discuss voucher exceptions in an effort to address the OIG recommendations for this portion of the material weakness. These actions have improved accuracy and consistency of recorded amounts and effectiveness of controls.

The RRB disagrees with the control environment material weakness cited by the OIG in fiscal year 2016. Moreover, the RRB believes that due to insufficient evidence to support the assertion, the cited material weakness is unfounded. Specifically, the OIG asserts that the RRB's control environment may have a detrimental effect on the RRB's financial statements and cites *Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control* as the basis for this assertion. The OIG elaborates that the new material weakness is based on a singular ineffective control principle, specifically, the enforce accountability principle. This principle states management should hold individuals accountable for their internal control responsibilities. Per the GAO's *Standards for Internal Control in the Federal Government*, management holds personnel accountable through mechanisms such as performance appraisals and disciplinary actions. Additionally, management takes corrective action as necessary to enforce accountability for internal control. These actions can range from informal feedback provided to the direct supervisor to disciplinary action, depending on the significance of the deficiency to the internal control system. None of the examples cited by the OIG provide evidence that the OIG evaluated management's accountability enforcement mechanisms. Provided below are examples the OIG cited as support of the asserted material weakness based on the "enforce accountability" principle.

According to the OIG, the most significant concern is NRRIT net asset ownership. The RRB OIG auditors disagreed with the Bureau of Fiscal Operations' assertion that the RRB has no ownership interest in the NRRIT and that the NRRIT should be classified as a disclosure entity for financial statement reporting purposes under new Federal Accounting Standards Advisory Board's (FASAB) Statement of Federal Financial Accounting Standards 47, *Reporting Entity* (SFFAS 47). The classification determination will ultimately determine whether the NRRIT's net assets will continue to be included in the RRB and government-wide financial statements beginning in fiscal year 2018 when this guidance becomes effective. The RRB's General Counsel rendered a legal opinion addressing NRRIT asset ownership and the implications of guidance provided by the newly issued FASAB SFFAS 47, finding that, under the accounting standards outlined in SFFAS 47, the Trust, on balance meets the characteristics of a disclosure

entity more than a consolidation entity. Additionally, characterizing the Trust as a disclosure entity would more accurately reflect the text and the intent of section 15 of the RRA. The RRB is coordinating this managerial decision with the SFFAS 47 working group. Members of the working group include U.S. Treasury, Office of Management and Budget and other authoritative/oversight agencies. The RRB is committed to implementing the necessary change as supported by the working group.

Additional concerns conveyed by the OIG intended to support the asserted "control environment" material weakness are enumerated below:

- 1) Lack of action or formal response for OIG audit recommendation associated with the NRRIT communication portion of the material weakness for financial reporting.
  - The OIG stated in their memo dated July 27, 2016, entitled *Material Weakness in Control Environment Identified* that the RRB's Chief Financial Officer (CFO) "provided a verbal nonconurrence to our audit recommendation." GAO's propagated *Government Auditing Standards* allow for oral submission of comments. Consequently, the RRB did, in fact, provide a formal response consistent with GAO standards.
- 2) Change in social insurance valuation date that will result in NRRIT savings of approximately \$200,000 in contract services is less than one half of one percent of NRRIT's annual total expenses but will increase the workload for RRB's Bureau of Actuary.
  - As executive agent for the agency concerning financial reporting, the RRB's CFO concurred with NRRIT's request to adjust the social insurance valuation date from calendar year to fiscal year for financial and administrative purposes. The CFO reviewed applicable accounting standards and found no cause to deny the request. In addition, the CFO coordinated the request with the Office of Management and Budget's policy office and received concurrence. Therefore, the RRB requested the valuation date change from calendar year to fiscal year, effective for fiscal year 2016 financial reporting period.
- 3) Lack of corrective action and acknowledgement for inaccurate Medicare cost reimbursements and adherence with applicable authoritative guidance.
  - Relative to adherence with applicable authoritative guidance, the RRB believes that the OIG's Cost Allocation Plan audit was fundamentally flawed because the guidance used as the basis for review addressed grant relationships between the federal government and state, local, and Indian tribal governments. The guidance cited does not pertain to federal entities, nor does it adequately address a reimbursement relationship between two federal agencies. Additionally, the guidance used for the review was superseded by 2 CFR 200 a full year before the audit start date. Further, 2 CFR 200 does not contain the same programmatic requirements as the guidance cited. While the RRB believes the audit was fundamentally flawed, the RRB is committed to improving controls over the reimbursement process between the RRB and CMS. Therefore, the RRB concurred with 10 of 26 recommendations. During fiscal year 2017 the RRB will work to enhance the reimbursement process with CMS.

- Relative to corrective action, the RRB OIG's audit report was published August 22, 2016, allowing, as of the drafting date of this publication the RRB limited opportunity to implement corrective action. However, on September 26-27, 2016 the Director of Audit Affairs and Compliance and the Bureau of Fiscal Operation's Cost Accountant, attended Indirect Cost Allocation Plan training provided by the Federal Highway Administration. It's worth noting that the Federal Highway Administration is a grant making agency within the U.S. Department of Transportation that supports State and local governments in the design, construction, and maintenance of the Nation's highway system (Federal Aid Highway Program) and various federal and tribal owned lands (Federal Lands Highway Program). Additionally, some of the agreed to corrective action is based on system changes/upgrades that will facilitate time accounting, but are projected to take place next fiscal year.
- 4) Planned change to reclassify the RRB's financial interchange system that records approximately \$12b in transactions from a major application to a minor application without documented rationale and would be in noncompliance with authoritative guidance.
- The OIG was advised that this plan will not be implemented. Originally, the Chief Actuary, Chief Information Officer (CIO), and the Senior Executive Officer (SEO) forwarded guidance via email to the OIG that informed the OIG the RRB had re-designated the Financial Interchange (FI) information system from a major application to a minor application. However, after discussing the recommended designation change with the Chief Security Officer, the CIO notified the OIG on November 10, 2016 that the he reassessed the categorization of the FI information system and based on the guidance provided in Appendix III to OMB Circular No. A-130 considers the FI information system as a Major Application Information System. As such, The CIO determined that the FI information system is required to be categorized as a RRB Major Information System.
- 5) RRB management's inaccurate improper payment definitions, which continue to result in understated reported improper payments.
- RRB Management rejects OIG's allegation that inaccurate improper payment definitions continue to result in understated reported improper payments. We secured a legal opinion from our Office of General Counsel in FY 2016 and they agree with our classification of RUIA and RRA payments as proper. The RRB also received approval of our established methodologies from OMB for identifying improper payments in the RRA and RUIA benefit payment programs. In August 2016, OMB granted the RRB approval to continue conducting the RRA Improper Payment analysis according to our established methodology. Please reference Management's more detailed response under "Management Challenge #4 (above).

Several of the examples presented above represent managerial decisions that the OIG simply disagrees with or were already addressed by the existing material weakness related to NRRIT and provide no evidence addressing management's efforts to "enforce accountability." Finally, lack of certainty in their assertion, or correlation to the current financial statement audit, undermines the credibility of the assertion and audit's independence. Therefore, the RRB disagrees with the cited material weakness.

**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. In December 2015, the NRRIT engaged the independent firm of KPMG to conduct the first audit under the agreement, on the topic of Corporate Governance Framework. In September 2016, NRRIT provided the RRB with a copy of the report and advised that the audit had identified no significant gaps in the corporate governance framework of the NRRIT. The NRRIT notes that it agreed with several auditor recommendations to strengthen existing governance policies and procedures. The NRRIT appointed a Chief Compliance Officer to be responsible for a more formalized compliance program; expanded the Trust's Code of Conduct to Trustees; expanded the Conflict of Interest Policy; and formalized policies and procedures to define the risk assessment process and corresponding level of review which needs to be performed. 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.