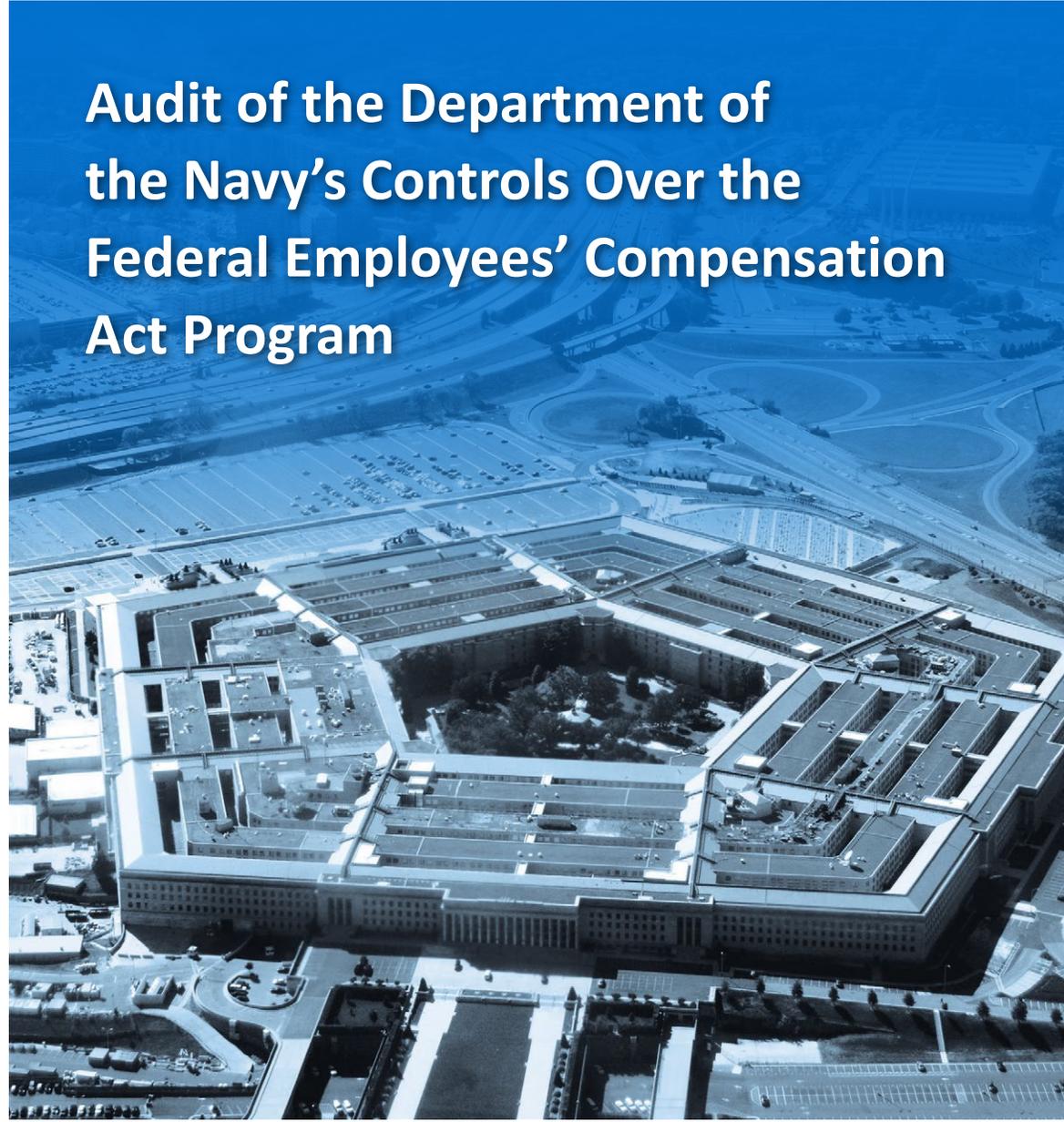


# INSPECTOR GENERAL

*U.S. Department of Defense*

SEPTEMBER 7, 2022



## **Audit of the Department of the Navy's Controls Over the Federal Employees' Compensation Act Program**

INTEGRITY ★ INDEPENDENCE ★ EXCELLENCE





# Results in Brief

## *Audit of the Department of the Navy's Controls Over the Federal Employees' Compensation Act Program*

September 7, 2022

### Objective

The objective of this audit was to determine whether the Department of the Navy (DON) effectively managed the Federal Employees' Compensation Act (FECA) Program, including reducing claimant fraud, waste, or abuse.

### Background

The FECA Program's primary goal is to assist Federal employees who have sustained work-related injuries or disease by providing financial and medical benefits, as well as assistance with returning to work. The Department of Labor Office of Workers' Compensation Programs administers the FECA Program and accepts or denies claims, manages the claims, and pays benefits.

The Office of the Under Secretary of Defense for Personnel and Readiness has overall DoD FECA Program responsibility, and the Defense Civilian Personnel Advisory Service is responsible for developing FECA policy and providing guidance, advice, and assistance for injury compensation matters. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) has overall DON FECA Program responsibility, and the Office of Civilian Human Resources (OCHR) is responsible for the administration of the DON FECA Program. From July 1, 2020, through June 30, 2021, the DoD FECA Program provided \$414 million in workers' compensation benefits, of which DON employees received \$156 million.

### Background (cont'd)

Chargebacks are the Department of Labor assignment of claimants' FECA medical costs and compensation to the employing agencies, and the Department of Labor chargeback year runs from July 1 through June 30.

The Human Resources Office (HRO) Directors at each command are responsible for designating Injury Compensation Program Administrators (ICPAs) to serve as the focal point in all aspects of the DON FECA Program. The ICPAs provide training and guidance to supervisors and employees, help file claims, monitor accepted claims, and ensure that supervisors and employees complete job-related injury or illness forms properly and in a timely manner.

### Finding

The DON did not effectively manage the FECA Program. The DON commands we reviewed did not consistently implement the FECA Program, such as assigning staff, completing chargeback reviews, and tracking and monitoring overpayments. This occurred because the Assistant Secretary of the Navy (Manpower and Reserve Affairs) did not issue detailed guidance for administering the FECA Program and adequately oversee how commands implemented the program. In addition, the ICPAs generally processed initial claims with the Department of Labor Office of Workers' Compensation Programs as required. However, the ICPAs did not always maintain complete records needed to implement the FECA Program, perform annual reviews of a sample of long-term claim files, request current medical reports from the Department of Labor Office of Workers' Compensation Programs, or identify claimants who could return to work. This occurred because the:

- Assistant Secretary of the Navy (Manpower and Reserve Affairs) did not establish timeframes for completing FECA training and the HRO Directors did not ensure that the ICPAs completed the training;



# Results in Brief

## *Audit of the Department of the Navy's Controls Over the Federal Employees' Compensation Act Program*

### **Finding (cont'd)**

- HRO Directors and the Defense Civilian Personnel Advisory Service did not ensure that the ICPAs had access to the necessary documentation, software, and databases; and
- Under Secretary of Defense for Personnel and Readiness did not provide guidance that clearly established ICPA roles and responsibilities.

As a result, the DON did not have the ability to verify the accuracy of the DON FECA chargeback costs, overpaid at least \$325,070 for FECA benefits that claimants or their beneficiaries were not entitled to receive, and missed opportunities to return employees to work.

### **Recommendations**

We recommend that the Under Secretary of Defense for Personnel and Readiness update FECA guidance to clearly establish the ICPA roles and responsibilities.

We recommend that the Assistant Secretary of the Navy (Manpower and Reserve Affairs) develop and issue guidance providing a consistent approach for implementing the FECA Program and command assessments, establish timeframes for ICPAs to complete training, and complete a workforce study that identifies the number of DON personnel required to adequately implement and oversee the FECA Program.

We recommend that the Defense Civilian Personnel Advisory Service Director conduct an analysis of the software and databases needed to manage FECA claims and provide ICPAs access as appropriate.

We recommend that the Chief of Naval Operations and the Commandant of the Marine Corps direct the HRO Directors to:

- ensure the ICPAs complete the required ICPA Level I training;

- conduct reviews to ensure that the ICPAs are maintaining adequate documentation in the claim files and elevating documentation requests to Defense Civilian Personnel Advisory Service Injury Compensation Management Advisors when the Department of Labor Office of Workers' Compensation Programs is unresponsive; and
- report training compliance and overpayment information to the OCHR.

### **Management Comments and Our Response**

The Under Secretary of Defense for Personnel and Readiness agreed with the recommendations to update FECA guidance to clearly establish the ICPA roles and responsibilities and to perform an analysis of the software and databases necessary for FECA case management.

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) agreed with the recommendations to develop a single source of FECA Program implementing guidance, re-establish FECA assessments, require annual refresher training, and conduct workforce studies to identify the OCHR personnel required to perform the FECA workload and the ICPAs required for FECA Program implementation. The Acting Assistant Secretary stated that the DON would also explore opportunities to investigate fraudulent claims in conjunction with the Naval Criminal Investigative Service.

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs), responding for the Chief of Naval Operations and the Commandant of the Marine Corps, agreed with the recommendations to ensure that the ICPAs complete required Level I training and to require the Command Budget Submitting Office FECA Program



# Results in Brief

## *Audit of the Department of the Navy's Controls Over the Federal Employees' Compensation Act Program*

### **Comments (cont'd)**

Managers and Leads to report completion of the training for compliance tracking. Additionally, the DON will institute a biannual program review.

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs), responding for the Chief of Naval Operations and the Commandant of the Marine Corps, also agreed with the recommendation to report FECA Program overpayment information to the OCHR to monitor the outcomes of overpayments. However, the Acting Assistant Secretary did not provide specific actions to address the recommendation. Therefore, we request additional comments on the final report describing the specific actions that the Chief of Naval Operations and Commandant of the Marine Corps will take to report and monitor FECA Program overpayment information.

Please see the Recommendations Table on the next page for the status of recommendations.

## Recommendations Table

Management	Recommendations Unresolved	Recommendations Resolved	Recommendations Closed
Under Secretary of Defense for Personnel and Readiness	None	1	None
Assistant Secretary of the Navy (Manpower and Reserve Affairs)	None	2.a, 2.b, 2.c, 2.d, 2.e	None
Defense Civilian Personnel Advisory Service Director	None	3	None
Chief of Naval Operations	4.c	4.a and 4.b	None
Commandant of the Marine Corps	4.c	4.a and 4.b	None

Please provide Management Comments by October 7, 2022.

**Note:** The following categories are used to describe agency management’s comments to individual recommendations.

- **Unresolved** – Management has not agreed to implement the recommendation or has not proposed actions that will address the recommendation.
- **Resolved** – Management agreed to implement the recommendation or has proposed actions that will address the underlying finding that generated the recommendation.
- **Closed** – DoD OIG verified that the agreed upon corrective actions were implemented.



**INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
4800 MARK CENTER DRIVE  
ALEXANDRIA, VIRGINIA 22350-1500**

September 7, 2022

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR PERSONNEL  
AND READINESS  
AUDITOR GENERAL, DEPARTMENT OF THE NAVY**

**SUBJECT: Audit of the Department of the Navy's Controls Over the Federal Employees' Compensation Act Program (Report No. DODIG-2022-126)**

This final report provides the results of the DoD Office of Inspector General's audit. We previously provided copies of the draft report and requested written comments on the recommendations. We considered management's comments on the draft report when preparing the final report. These comments are included in the report.

This report contains one recommendation that we consider unresolved because management officials did not fully address the recommendation. Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, the recommendation will remain unresolved until an agreement is reached on the actions management officials will take to address the recommendation. Once an agreement is reached, the recommendation will be considered resolved but will remain open until we receive documentation showing that the agreed-upon actions are complete. Once we verify that the actions are complete, we will close the recommendation.

This report contains nine recommendations that we consider resolved. Therefore, as discussed in the Recommendations, Management Comments, and Our Response section of this report, the recommendations will remain open until we receive documentation showing that the agreed-upon actions are complete. Once we verify that the actions are complete, we will close the recommendations.

DoD Instruction 7650.03 requires that recommendations be resolved promptly. For the unresolved recommendation, within 30 days please provide us your comments concerning specific actions in process or alternative corrective actions proposed on the recommendation. For the resolved recommendations, within 90 days please provide us documentation showing that the agreed-upon action has been completed. Your response should be sent as a PDF file to either [REDACTED] if unclassified or [REDACTED] if classified SECRET. Responses must have the actual signature of the authorizing official for your organization.

We appreciate the cooperation and assistance received during the audit. Please direct questions to me at [REDACTED].

A handwritten signature in cursive script, reading "Carol N. Gorman", is positioned above the typed name.

Carol N. Gorman  
Assistant Inspector General for Audit  
Cyberspace Operations & Acquisition,  
Contracting, and Sustainment

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# Introduction

## Objective

The objective of this audit was to determine whether the Department of the Navy (DON) effectively managed the Federal Employees' Compensation Act (FECA) Program, including reducing claimant fraud, waste, or abuse. See Appendix A for a discussion of the scope and methodology and prior audit coverage related to the objective.

## Background

The President signed FECA into law on September 7, 1916, and the Department of Labor (DOL) has administered the FECA Program since 1950. The program's primary goal is to assist Federal employees who have sustained work-related injuries or disease by providing financial and medical benefits, as well as assistance with returning to work. The type and amount of FECA benefits depends on various factors and includes coverage for traumatic injuries and occupational diseases. A traumatic injury is an injury or other condition of the body caused by external force that occurs within one work shift, such as a sprain or fracture. An occupational disease is a condition produced by continued or repeated exposure to elements of the work environment that occurred over more than one work shift, such as hearing loss or carpal tunnel syndrome. From July 1, 2020, through June 30, 2021, the DoD FECA Program provided \$414 million in workers' compensation benefits, of which DON employees received \$156 million.<sup>1</sup> However, the DON FECA benefits have been gradually decreasing. Table 1 identifies the DON FECA benefits for chargeback years 2019 through 2021.

*Table 1. DON FECA Benefits for Chargeback Years 2019 Through 2021*

Chargeback Year	DON FECA Benefits (in millions)
2019	\$172.0
2020	162.7
2021	156.0

Source: Defense Civilian Personnel Advisory Service and the DoD OIG.

<sup>1</sup> Chargebacks are the DOL assignment of claimants' FECA medical costs and compensation to the employing agencies, and the DOL chargeback year runs from July 1 through June 30. The DOL Office of Workers' Compensation Programs provides the chargeback reports to the DoD for dissemination to the Services and Defense agencies.

## ***Organizations Involved With the Federal Employees' Compensation Act Program***

### ***Department of Labor***

The DOL Office of Workers' Compensation Programs (OWCP) administers the FECA Program and is responsible for making timely and fair decisions on accepting or denying claims, managing the claim and paying benefits, and assisting the employees return to work. The DOL OWCP pays the FECA benefits from the Employee's Compensation Fund, a Government-wide fund that the DOL manages, and then charges the DON for the benefits paid on behalf of its employees.<sup>2</sup> An overpayment occurs when the DOL OWCP pays a claimant more compensation than entitled. The DOL OWCP has the sole authority to determine fault with claimant overpayments and whether to recover or waive recovery of the overpayment. If the DOL OWCP recovers an overpayment, the DOL OWCP would credit the DON's future chargeback report. Additionally, the DOL OWCP has the authority to determine whether an employment offer is suitable for an injured employee returning to work.

### ***Defense Civilian Personnel Advisory Service***

The Office of the Under Secretary of Defense for Personnel and Readiness has overall program responsibility for the DoD's FECA Program. The Defense Civilian Personnel Advisory Service (DCPAS), under the authority of the Office of the Under Secretary of Defense for Personnel and Readiness, is responsible for developing FECA policy and providing guidance, advice, and assistance for injury compensation matters. Specifically, DCPAS Injury Compensation Management Advisors are the DoD subject matter experts who provide support, technical advice, and assistance for training, chargeback changes, case review, and return to work.

### ***Department of the Navy***

The Assistant Secretary of the Navy (Manpower and Reserve Affairs) has overall program responsibility for assessment and evaluation of the DON's FECA Program. The Office of Civilian Human Resources (OCHR), under the authority of the Assistant Secretary of the Navy (Manpower and Reserve Affairs), is responsible for the administration, interpretation, review, analysis, and modification of policies and procedures governing the DON FECA Program. The OCHR Injury and Unemployment Compensation Program Manager administers the DON's FECA Program. The Chief of Naval Operations and the Commandant of the Marine Corps are responsible for

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<sup>2</sup> The DOL OWCP pays FECA benefits to more agencies than just the DON; however, for the purpose of this report we are including only the DON.

ensuring that units and organizations that fall under their cognizance implement the DON FECA Program. The Human Resources Office (HRO) Directors at each command are responsible for designating Injury Compensation Program Administrators (ICPAs). The ICPAs serve as the focal point in all aspects of the DON FECA Program, which includes providing training and guidance to supervisors and employees, helping supervisors and employees file claims, monitoring accepted claims, and ensuring that supervisors and employees complete job-related injury or illness forms properly and in a timely manner. As of February 2022, the DON had more than 120 ICPAs across its 19 major commands.

### ***Our Sample***

During the period of July 1, 2018, through March 31, 2021, DON civilian employees received \$453 million in FECA benefits for 20,385 unique FECA claims. We statistically selected 180 claims, valued at \$14.7 million, from 11 commands for our review.<sup>3</sup> We also identified 1,514 claimants who received FECA benefits within the last 3 years, and were also listed as deceased on the Social Security Administration's Death Master File as of August 2, 2021.<sup>4</sup> We statistically selected 55 claimants at nine commands for our review to determine whether the recipients were entitled to the deceased claimants' benefits. See Appendix A for more information on our statistical sample methodology.

### **Review of Internal Controls**

DoD Instruction 5010.40 requires DoD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.<sup>5</sup> We identified internal control weaknesses related to insufficient and outdated DoD and DON guidance, oversight of FECA Program implementation, timely ICPA training, and access to documentation, software, and databases to manage claims. We provided a copy of the report to the senior officials responsible for internal controls in the Office of the Under Secretary of Defense for Personnel and Readiness and the DON.

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<sup>3</sup> According to the OCHR Injury and Unemployment Compensation Program Manager, the DON FECA Program includes the U.S. Marine Corps as one of the major commands the DON oversees.

<sup>4</sup> The Death Master File is a data source that contains records of deaths reported to the Social Security Administration.

<sup>5</sup> DoD Instruction 5010.40, "Managers' Internal Control Program Procedures," May 30, 2013, (Incorporating Change 1, June 30, 2020).

## Finding

### Changes Needed to Improve the Department of the Navy Federal Employees' Compensation Act Program

The DON did not effectively manage the FECA Program. The DON commands we reviewed did not consistently implement the FECA Program, such as assigning staff, completing chargeback reviews, and tracking and monitoring overpayments. This occurred because the Assistant Secretary of the Navy (Manpower and Reserve Affairs) did not issue detailed guidance for administering the FECA Program and adequately oversee how commands implemented the program. In addition, the ICPAs generally processed initial claims with the DOL OWCP as required. However, the ICPAs did not always maintain complete records needed to implement the FECA Program, perform annual reviews of a sample of long-term claim files, request current medical reports from the DOL OWCP, or identify claimants who could return to work. This occurred because the:

- Assistant Secretary of the Navy (Manpower and Reserve Affairs) did not establish timeframes for completing FECA training, and the HRO Directors did not ensure that the ICPAs completed the training;
- HRO Directors and DCPAS did not ensure that ICPAs had access to the necessary documentation, software, and databases; and
- Under Secretary of Defense for Personnel and Readiness did not provide guidance that clearly established ICPA roles and responsibilities.

As a result, the DON did not have the ability to verify the accuracy of the DON FECA chargeback costs, overpaid at least \$325,070 for FECA benefits that claimants or their beneficiaries were not entitled to receive, and missed opportunities to return employees to work.<sup>6</sup>

### Ineffective Management of the Federal Employees' Compensation Act Program

The DON did not effectively manage the FECA Program. The 11 DON commands we reviewed did not consistently implement the FECA Program.<sup>7</sup> Specifically, the DON commands used different approaches for assigning staff, completing chargeback reviews, and tracking and monitoring overpayments.

<sup>6</sup> The DOL OWCP has recouped some of these overpayments, which were associated with the 180 statistically selected claims and the 55 statistically selected deceased claimants.

<sup>7</sup> See Appendix A for a list of the commands and the offices reviewed.

## ***Inconsistent Approaches for Assigning Staff***

The DON commands used different approaches for assigning staff to implement the FECA Program. Secretary of the Navy (SECNAV) Instruction 12810.2A requires HRO Directors to designate an ICPA to oversee the program.<sup>8</sup> All 11 DON commands designated an ICPA. However, not all commands assigned a backup ICPA to oversee the program when the primary ICPA could not perform the responsibilities. For example, the U.S. Marine Corps FECA Program Manager did not assign a backup ICPA at U.S. Marine Corps Camp Pendleton. Therefore, when the ICPA resigned in July 2021, there was no one at the command who could perform the FECA Program duties until the new ICPA assumed the role in September 2021. During that time, DCPAS assigned an Injury Compensation Management Advisor (DCPAS Advisor) to assist the U.S. Marine Corps Camp Pendleton with filing new claims with the DOL OWCP. However, the DCPAS Advisor was not responsible for monitoring any existing claims and benefits paid. According to the new U.S. Marine Corps Camp Pendleton ICPA, as of December 2021, he had not started monitoring the existing claims because he prioritized processing new claims so injured employees could receive their FECA benefits. The SECNAV Instruction does not require a backup ICPA; however, it is a good practice to have someone available to fill the role at all times. According to a U.S. Marine Corps HRO official, in December 2021 U.S. Marine Corps Camp Pendleton designated an official to become the backup ICPA. Without backups in place, the claimants may not receive appropriate FECA benefits.

*The DON commands used different approaches for assigning staff to implement the FECA Program.*

## ***Inconsistent Approaches for Completing Chargeback Reviews***

The DON commands also used different approaches for completing chargeback reviews. DoD Instruction 1400.25, Volume 810, published in 2009, required the ICPA to certify the accuracy of all charges and chargeback codes on the quarterly chargeback reports.<sup>9</sup> However, SECNAV Instruction 12810.2A does not discuss chargeback reviews or establish procedures for ICPAs to use when certifying the accuracy of charges, which created inconsistencies at the commands. For example, the ICPAs at the Manpower, Personnel, Training, and Education Command and the Fleet Forces Command conducted reviews differently. The Manpower, Personnel, Training, and Education Command ICPA reviewed the chargeback report only to determine whether the claimants belonged to the command. The Fleet Forces

<sup>8</sup> SECNAV Instruction 12810.2A, "Federal Employees' Compensation Act Program," January 24, 2019.

<sup>9</sup> DoD Instruction 1400.25, Volume 810, "DoD Civilian Personnel Management System: Injury Compensation," April 16, 2009. DoD Instruction 5025.01, "DoD Issuances Program," May 22, 2019, states that Issuances published before March 25, 2012, should be updated or canceled within 10 years of their publication date. The Under Secretary of Defense for Personnel and Readiness did not update DoD Instruction 1400.25 within 10 years of publication; therefore, it expired in 2019.

Command ICPA conducted a more thorough review of the quarterly chargeback reports by checking whether the claimants belonged to the command and checked the accuracy of the cause of injury, nature of injury, and case status coding. Without a consistent approach to review the accuracy of the chargeback reports, the claimants may receive inaccurate FECA benefits.

### ***Inconsistent Approaches for Monitoring Overpayments***

The DON commands did not consistently track and monitor FECA Program overpayments. SECNAV Instruction 12810.2A does not address overpayments, including the DON's responsibilities for tracking and monitoring overpayments.

*The ICPAs at 8 of the 11 commands we reviewed did not track or monitor overpayments.*

In addition, the OCHR did not require commands to report overpayments so it could consolidate and track overpayments across the DON. As a result, the ICPAs

at 8 of the 11 commands we reviewed did not track or monitor overpayments. For example, we determined that seven claims managed by the Commander, Navy Installations Command, resulted in overpayments of \$92,854 that the command did not report to the OCHR. In addition, the ICPAs at 3 of the 11 commands tracked overpayments made to FECA claimants; however, this was not done consistently. For example, a Naval Sea Systems Command (NAVSEA) ICPA and U.S. Pacific Fleet ICPA tracked overpayments of an estimated \$500,000 and \$142,000, respectively; however, the ICPAs were unsure whether the claimants repaid these funds. Conversely, a Fleet Forces Command ICPA kept a list of more than \$290,000 in recouped overpayments. Without a consistent approach to track, monitor, and report overpayments, the DON senior officials were unaware of the magnitude of the overpayments and the potential to recoup the funds.

### **Guidance and Oversight Needed to Improve Program Implementation**

The DON commands did not consistently implement the FECA Program because the Assistant Secretary of the Navy (Manpower and Reserve Affairs) did not issue detailed guidance. Also, the OCHR did not adequately oversee how commands implemented the program.

#### ***Commands Lacked Detailed Guidance***

The DON commands did not consistently implement the FECA Program because the Assistant Secretary of the Navy (Manpower and Reserve Affairs) did not issue detailed guidance. Although the Assistant Secretary issued SECNAV Instruction 12810.2A to establish DON policy for administration of the FECA Program, the SECNAV Instruction provides only high-level roles and

responsibilities for the DON HRO Directors and above.<sup>10</sup> The SECNAV Instruction does not include specific procedures for the ICPAs to follow for implementing the FECA Program, such as requiring a backup ICPA or requiring the ICPA to certify the accuracy of chargeback reports and track and monitor overpayments. The SECNAV Instruction also does not discuss the use of the Defense Injury and Unemployment Compensation System (DIUCS). DoD Instruction 1400.25 stated that DIUCS is the foundation of the standard enterprise-wide civilian human resources system for managing the injury compensation program. Although the DoD Instruction stated that DIUCS provides an efficient method of filing initial injury claims and record keeping to provide the ICPAs more time to effectively manage the FECA Program, DON ICPAs continued to create and maintain paper files for claims. For more than 11 years, the DON commands did not consistently implement the use of DIUCS. In November 2020, the OCHR sent an e-mail requiring the ICPAs to use DIUCS for managing claims. This action was due to the coronavirus disease–2019 pandemic, which resulted in many DON ICPAs teleworking and not being able to create or maintain paper files for claims. In addition, the DON did not develop guidance to refer potentially fraudulent or abusive claims for investigation.<sup>11</sup> The DoD Instruction required the ICPAs to refer suspected fraud cases through channels to the proper military investigative authority, the DOL Inspector General, or other investigative services. However, the SECNAV Instruction did not identify the process for the ICPAs to make referrals. According to OCHR officials, the DON plans to update the SECNAV Instruction and develop a Civilian Human Resources Manual to provide additional FECA Program guidance for the ICPAs. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) should develop and issue formal guidance that provides a consistent approach for implementing the FECA Program, including assigning staff, completing chargeback reviews, tracking and monitoring overpayments, maintaining claim files in DIUCS, and referring claims for investigation.

### ***Inadequate Oversight of Commands***

The DON commands did not consistently implement the FECA Program because the OCHR did not adequately oversee how commands implemented the program. The OCHR Injury and Unemployment Compensation Program Manager is responsible for ensuring compliance with FECA Program guidance. According to the OCHR Injury and Unemployment

*The OCHR did not adequately oversee how commands implemented the program.*

<sup>10</sup> The positions above the DON HRO Directors include the Director of Civilian Human Resources, Chief of Naval Operations, Commandant of the Marine Corps, Deputy Assistant Secretary of the Navy (Civilian Human Resources), and the Assistant Secretary of the Navy (Manpower and Reserve Affairs).

<sup>11</sup> DoD Instruction 1400.25 defined fraud as, “The intentional deceptive act, or series of acts, committed by an individual with the specific intent to cause the [DoD] or OWCP to grant benefits under FECA that would not normally be provided.” DoD Instruction 1400.25 defined abuse as, “Excessive, extravagant, or wrongful use of FECA in a manner contrary to its legal intent to acquire additional benefits for personal gain.”

Compensation Program Manager, she is the only OCHR official who oversees the FECA Program, and there are no other subject matter experts within that office. However, despite telling us that she wanted to review the FECA Program of each of the 19 commands once every 5 years, she conducted only three assessments in 2018 and has not conducted any FECA Program assessments since 2018. If the OCHR does not complete assessments of how commands implemented the FECA Program, then the OCHR may not be aware of problems that could hinder its ability to manage FECA claims. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) should establish guidance regarding completing and setting the frequency of command assessments and ensure that those assessments are completed. Additionally, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) should conduct a workforce study to determine the resources required for OCHR personnel to adequately oversee the FECA Program.

## The Department of the Navy Focused on Processing Initial Claims

The ICPAs generally processed injured employees' initial claims with the DOL OWCP as required. According to the Code of Federal Regulations, all claims must meet five requirements before the DOL OWCP can accept the claim.<sup>12</sup>

1. The claim is filed within the FECA time limits.<sup>13</sup>
2. The injured person was an employee of the United States at the time of injury.
3. Injury, disease, or death occurred.
4. Injury, disease, or death occurred while the employee was in the performance of duty.
5. The medical condition is related to the claimed injury, disease, or death.

The submissions for at least 133 of the 180 claims reviewed contained documentation to support these five requirements. For example, a Naval Facilities Engineering Systems Command (NAVFAC) employee was injured in a motor vehicle accident during the performance of duty. Within 2 days of the claimant notifying the NAVFAC ICPA of the work-related injury, the NAVFAC ICPA filed a claim with

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<sup>12</sup> Title 20 Code of Federal Regulations Part 10, "Claims for Compensation Under the FECA, As Amended," current as of February 1, 2021.

<sup>13</sup> For injuries and deaths that occurred before September 7, 1974, the ICPAs should contact the supporting DoD liaison to obtain assistance because different provisions apply with respect to timeliness. For injuries or deaths that occurred on or after September 7, 1974, the claim for compensation must be filed within 3 years of the injury or death. However, compensation may still be allowed if written notice of injury was given in 30 days or the immediate supervisor had actual knowledge of the injury or death within 30 days of occurrence.

the DOL OWCP. The DOL OWCP approved the claim because the claimant submitted it in a timely manner and included the appropriate documentation to support the five requirements.

If a supervisor or ICPA has a reason to believe that an employee is not entitled to FECA benefits, the supervisor or ICPA can challenge a claim with the DOL OWCP. The ICPAs challenged 22 potentially invalid claims when the documentation submitted did not support the five requirements; however, the DOL OWCP ultimately accepted these claims. For example, a NAVFAC ICPA challenged a claim because the claimant did not provide support that the injury was work-related. The DOL OWCP initially agreed that there was insufficient medical documentation and factual evidence, but later accepted the claim after the claimant provided additional documentation.

*The ICPAs challenged 22 potentially invalid claims.*

## Claims Not Adequately Managed

The ICPAs did not always adequately manage FECA claims. DoD Instruction 1400.25 stated that the ICPAs must maintain adequate records needed to implement the FECA Program, perform annual reviews of long-term claim files, request current medical reports from the DOL OWCP, and identify claimants who can return to work.<sup>14</sup> Of the 180 claims we reviewed, 170 claimants in our statistical sample have received FECA benefits for more than 2 years. Table 2 identifies the amount of time the claimants within our statistical sample had received FECA benefits, as of March 31, 2021.

*Table 2. Time Claimants Have Received Benefits*

Claim Length	Number of Claims Within Statistical Sample
Less than or Equal to 45 Days	0
46 Days to 2 Years	10
Greater than 2 Years	170
<b>Total</b>	<b>180</b>

Source: DCPAS.

<sup>14</sup> The DoD Instruction does not define “long-term” claims. Therefore, we defined new claims as claims that are within 45 days from the date of injury and long-term claims as claims that remained open at least 2 years from the date of injury.

Despite the high number of long-term claims, seven FECA officials from four commands stated that they focused their attention on the new claims.<sup>15</sup> For example, the DON Secretariat Offices ICPA acknowledged that she has greater awareness of the newer claims. She also stated that she would not do as much monitoring for the older claims, especially if the claim forms are not in the electronic claim file systems.

DoD Instruction 1400.25 required a claimant in a long-term pay status to provide periodic medical documentation.<sup>16</sup> The ICPAs at six commands did not maintain current medical documentation for 16 claim files, as required.<sup>17</sup> For example, a Fleet Forces Command claimant was in a long-term pay status that required annual medical documentation, but the most current medical document in the claimant's file was from June 2018. The ICPA was unaware when the last medical report was completed and did not request that the DOL OWCP obtain updated medical documentation in order to ensure the claimant received benefits to which he was entitled.

DoD Instruction 1400.25 also required the DON to identify claimants who could return to work and identify light-duty positions that the claimant could perform or opportunities to refer the claimant to vocational rehabilitation as part of the review of long-term claim files. However, we identified two examples where commands did not take steps to return claimants to work. For example, a NAVSEA claimant was injured in 1993, but was medically cleared to work with restrictions in 1995. Because the claimant could not return to the job he held before the injury or to light duty because the facility where the claimant was employed closed, the NAVSEA ICPA should have continuously requested the DOL OWCP to refer the claimant to vocational rehabilitation. However, the NAVSEA ICPA did not take these actions, and the claimant continued receiving compensation through at least July 2021.

## Guidance and Information Needed to Improve Claims Management

The ICPAs did not always adequately manage FECA claims because the DoD and DON did not establish timeframes for completing training; provide access to the necessary documentation, software, and databases; or issue updated guidance establishing FECA Program roles and responsibilities.

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<sup>15</sup> FECA officials from DON Secretariat Offices, Naval Air Systems Command, NAVFAC, and U.S. Marine Corps stated that they focused on new claims.

<sup>16</sup> DoD Instruction 1400.25 required a claimant in a long-term pay status to provide annual medical documentation, unless the claimant is receiving a reduced compensation due to the ability to earn wages (2 years) or has no re-employment potential (3 years).

<sup>17</sup> See Appendix B for the list of commands.

### ***Timeframes Not Established for Completing Training***

The ICPAs did not always adequately manage FECA claims because the Assistant Secretary of the Navy (Manpower and Reserve Affairs) did not establish timeframes for completing training and the HRO Directors did not ensure that the ICPAs completed the FECA training. SECNAV Instruction 12810.2A states that HRO Directors are responsible for ensuring that the ICPAs complete the necessary training; however, the SECNAV Instruction does not provide timeframes for completion. DCPAS developed ICPA Level I training to provide information for the ICPAs to make informed decisions about injury compensation and to address topics such as processes for submitting and managing claims, reviewing chargeback reports, and reducing improper payments.

According to OCHR officials, DON guidance does not include a specific timeframe for an ICPA to complete the training because the ICPA start date may not align with the scheduled trainings; however, a DCPAS official stated that DCPAS offered eight ICPA Level I courses in 2021. Despite the number of courses offered, according to the OCHR Injury and Unemployment Compensation Program Manager, 41 of 122 DON FECA officials across all 19 major commands assigned to perform the ICPA role had not completed the Level I training as of February 2022. In addition, although required by SECNAV Instruction 12810.2A, the HRO Directors did not ensure that their ICPAs received the training. DON officials who do not receive this training course may not be aware of or comply with ICPA requirements. For example, one Fleet Forces Command ICPA stated that she was not aware of DoD Instruction 1400.25 and its requirements, and that she did not take the ICPA Level I training and relied on DOL OWCP FECA training modules and Fleet Forces Command checklists to process and manage FECA claims. In another example, a Manpower, Personnel, Training, and Education ICPA stated that before attending the ICPA Level I training she would review the chargeback reports only to make sure the employees listed were correct. However, she learned through the ICPA Level I training that she needed to review the chargeback reports for duplicate costs and make sure the compensation aligned with the claimant's salary and dependent status. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) should include timeframes within updates to the SECNAV Instruction for the ICPAs to complete the ICPA Level I course. Additionally, the Chief of Naval Operations and the Commandant of the Marine Corps should direct the HRO Directors to ensure the ICPAs accomplish the ICPA Level I training as required by SECNAV Instruction 12810.2A. Once the training is complete, the HRO Directors should report the information to the OCHR Injury and Unemployment Compensation Program Manager to track ICPA compliance with all FECA Program-related training and take appropriate action for those not completing the training.

*41 of 122 DON FECA officials had not completed the Level I training.*

## ***Inadequate Access to Necessary Information***

The ICPAs did not always adequately manage FECA claims because HRO Directors and DCPAS did not ensure that the ICPAs had access to the necessary documentation, software, and databases. The ICPAs did not always have access to the necessary documentation for the FECA claims and had to rely on other agencies, such as the DOL. We identified that 35 of 180 claims at eight commands did not have the initial FECA claim forms in the DON files at the time of our review.<sup>18</sup> For example, 15 NAVSEA files that were created between 1969 and 1993 did not have the initial FECA claim forms.<sup>19</sup> According to both the NAVSEA ICPA and the OCHR Injury and Unemployment Compensation Program Manager, these paper NAVSEA files transferred four times between DON commands, and the forms were not in the claims files when transferred back to NAVSEA.<sup>20</sup> According to the NAVSEA ICPA, she requested that the DOL OWCP load the FECA claim documents into the Employees' Compensation Operations and Management Portal.<sup>21</sup> However, the DOL OWCP did not upload all of the requested information. According to a DCPAS official, if the ICPAs are not receiving the documentation needed to monitor FECA claims, they should request assistance from their DCPAS Advisors to elevate the documentation request. Additional information is included in the Significant Claims Action Process Standard Operating Procedure and requires communication between the DoD and the DOL to resolve outstanding claim actions. Once the ICPAs receive documentation, they should upload it into an electronic system to ensure the claim can be continuously monitored.

Additionally, the ICPAs did not have access to documentation associated with the Department of Veterans Affairs or Social Security benefits. Section 81, title 5, United States Code, prohibits FECA claimants from receiving FECA compensation and other Federal benefits at the same time.<sup>22</sup> According to the OCHR Injury and Unemployment Compensation Program Manager, because the ICPAs do not have access to the records of other Federal agencies, they cannot identify whether a claimant is receiving benefits from more than one Federal agency at the same time. For example, a Commander, Navy Installations Command ICPA stated that the Department of Veterans Affairs generally does not respond to requests for

<sup>18</sup> See Appendix B for the list of commands.

<sup>19</sup> Based on our review, NAVSEA contacted the DOL OWCP to obtain copies of the initial claim forms and received at least four initial claim forms.

<sup>20</sup> NAVSEA initially transferred the claims to Commander, Navy Installations Command. Commander, Navy Installations Command transferred the claims to either the U.S. Pacific Fleet or Fleet Forces Command. Then the U.S. Pacific Fleet and Fleet Forces Command transferred the claims back to Commander, Navy Installations Command. Then Commander, Navy Installations Command ultimately transferred the claims back to NAVSEA.

<sup>21</sup> The Employees' Compensation Operations and Management Portal is a DOL web-based application that allows DON FECA officials and employees to electronically file reports of injury or illness, submit claims for benefits, and upload supporting documentation to the cases.

<sup>22</sup> Section 81, title 5, United States Code, "Compensation for Work Injuries."

information. Additionally, according to a NAVSEA ICPA, it takes about 2 years for the Social Security Administration to provide information necessary for a Federal Employee Retirement System compensation offset. When the claim files are incomplete and agencies do not provide the appropriate documentation, the ICPAs cannot effectively monitor the FECA claims. Therefore, the Chief of Naval Operations and the Commandant of the Marine Corps should direct the HRO Directors to conduct periodic reviews of claim files to ensure that the ICPAs are maintaining adequate documentation and elevating documentation requests to DCPAS Advisors, when the DOL OWCP is unresponsive, as required by the Significant Claims Process Standard Operating Procedure.

Furthermore, the ICPAs do not have access to the necessary software and databases needed for effective case management. For example, two U.S. Pacific Fleet ICPAs stated that they used trend analysis software while working at the Department of the Army, but they do not have access to this software at the U.S. Pacific Fleet. In addition, according to a DCPAS official and the OCHR Injury and Unemployment Compensation Program Manager, the ICPAs do not have access to the Social Security Administration's Death Master File. The officials explained that the DON's data would be more reliable if the ICPAs had access to the file instead of conducting Internet searches on specific individuals. For example, 17 ICPAs from nine commands stated that they searched obituaries to ensure that the FECA beneficiaries, claimants, or their dependents were still living.<sup>23</sup> A NAVSEA ICPA stated that she requested that the DOL OWCP stop FECA benefits when she found an obituary with the same name as a FECA beneficiary. The ICPA stated that after the DOL OWCP stopped the FECA payments, she discovered that the obituary was for a different individual with the same name.

Therefore, the ICPA had to request the DOL OWCP to reinstate the benefits because of the error. In addition, the DON overpaid 16 of the 55 deceased claimants or their beneficiaries by more than \$82,000 because the DOL OWCP did not terminate FECA benefits upon a claimant's death. While the DOL OWCP has recouped some of these funds, ICPA access to the Social Security Administration's Death Master File would be more reliable and efficient and may decrease overpayments to deceased FECA beneficiaries and relieve the unnecessary burden on the families to repay these funds.<sup>24</sup> DCPAS should conduct an analysis of the software and databases needed to manage FECA claims, such as the Social Security Administration's Death Master File, and provide the ICPAs access as appropriate.

*The DON overpaid 16 of the 55 deceased claimants or their beneficiaries by more than \$82,000.*

<sup>23</sup> The ICPAs from the Naval Air Systems Command and the Naval Education and Training Command did not state that they searched for claimant obituaries. See Appendix A for a list of all 11 commands we reviewed.

<sup>24</sup> The DON identified that the DOL OWCP recouped at least \$53,000.

## ***Roles and Responsibilities for Injury Compensation Program Administrators Need to Be Clarified***

The ICPAs did not always adequately manage FECA claims because the Under Secretary of Defense for Personnel and Readiness did not provide guidance that clearly established FECA Program roles and responsibilities. DoD Instruction 1400.25 implemented policy, prescribed procedures, and delegated authority on implementing the FECA Program for the DoD. However, the Instruction expired in 2019. In addition, the Instruction did not explain ICPA responsibilities regarding monitoring overpayments and reviewing the chargeback reports. Therefore, the ICPAs were unaware that it was their responsibility to help the DOL OWCP identify potential overpayments and follow up with the DOL OWCP to determine whether the DOL OWCP recouped overpayments from the claimants. According to the OCHR Injury and Unemployment Compensation Program Manager, the ICPA is responsible for following each overpayment until the claimant repays the funds or the DOL OWCP waives the overpayment. According to DoD Instruction 1400.25, if the ICPA identifies an overpayment, the ICPA should notify the DOL OWCP, and the DOL OWCP is responsible for reaching out to the claimant.

DoD Instruction 1400.25 required the ICPA to certify the accuracy of all charges and chargeback codes on the quarterly chargeback reports. However, the DoD Instruction did not clearly explain how to certify the accuracy of the information during the chargeback reviews. Therefore, the ICPAs at all 11 commands reviewed the chargeback reports to determine whether the claimants were command employees, but only two ICPAs performed additional procedures to validate both the medical and compensation costs. For example, a Manpower, Personnel, Training, and Education ICPA stated that she only made sure that the claimant was an employee of the command. In contrast to the limited review by the Manpower, Personnel, Training, and Education ICPA, a Naval Education and Training Command ICPA, stated that he ensured the charges belonged to the correct command and validated the pay status and amounts listed on the chargeback report. The ICPAs at four commands stated that they wanted to review the costs, but did not have the time.<sup>25</sup> For example, a NAVFAC FECA Program Manager stated that the NAVFAC HRO did not have time to validate every medical cost because the office did not have enough staff.

According to a DCPAS official, DCPAS is updating the expired 2019 DoD Instruction to change the requirement to verify the accuracy of chargeback costs and more clearly identify the ICPA's roles and responsibilities. However, the official stated that DCPAS

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<sup>25</sup> The ICPAs from DON Secretariat Offices, the Naval Air Systems Command, the U.S. Pacific Fleet, and NAVFAC stated that they did not have time to review chargeback report costs.

would not issue the DoD Instruction before the end of 2022. In addition, a DCPAS official stated that DCPAS is developing an operating manual as a supplement to the DoD Instruction to help the ICPAs with situations they will encounter while managing FECA claims. The DCPAS official anticipates that DCPAS will issue the operating manual at the end of 2022. The Under Secretary of Defense for Personnel and Readiness should update FECA guidance to clearly establish the ICPA roles and responsibilities, including tracking and recouping overpayments and reviewing the chargeback reports. Once the Under Secretary issues the guidance for tracking and recouping overpayments, the Chief of Naval Operations and the Commandant of the Marine Corps should direct the HRO Directors to report overpayment information to the OCHR Injury and Unemployment Compensation Program Manager to monitor the outcomes of all FECA overpayments. Additionally, once the Under Secretary establishes the ICPA roles and responsibilities, the Assistant Secretary of the Navy (Manpower and Reserve Affairs) should complete a workforce study that identifies the number of ICPAs required to implement and perform the FECA workload, so that the required functions of case management, including chargeback reviews and long-term claim file reviews, are accomplished.

## Conclusion

The FECA Program is a critical program for providing benefits to employees injured during the performance of duty. However, like all programs, without proper oversight, the program can be subject to fraud, abuse, and mismanagement. To ensure that the program is operating as intended, the ICPAs need to be aware of potential fraud and abuse warning signs and refer those claims to investigative agencies. In addition, the DoD and DON should develop detailed guidance for implementing and overseeing the FECA Program, and the ICPAs should complete required training. These actions will provide a consistent process for the ICPAs to perform adequate case management. It is also important that the ICPAs perform due diligence to make certain that claimant FECA benefits are accurate and if not, ensure that timely adjustments are made.

We determined that the DON did not have the ability to verify the accuracy of the DON FECA chargeback costs, overpaid at least \$325,070 for FECA benefits that claimants or their beneficiaries were not entitled to receive, and missed opportunities to return

*The DON overpaid at least \$325,070 for FECA benefits that claimants or their beneficiaries were not entitled to receive.*

employees to work. For example, the DOL OWCP overpaid one NAVSEA claimant by more than \$63,000 in FECA compensation benefits over a 12-year period. In 1995, the DCPAS Advisor became aware that the DOL overpaid the claimant because the claimant was working and earning outside wages. The DCPAS Advisor notified

the DOL OWCP in 1996, 1998, and 2000. Additionally, the NAVSEA ICPA requested an investigation in 1998 and notified the DCPAS Advisor in 2000. However, the DOL OWCP continued to overpay the claimant until 2002. For approximately 20 years, DCPAS and DON took no action with the DOL OWCP to recoup this overpayment. However, in January 2022, as a result of our audit, the NAVSEA ICPA requested that the DOL OWCP review this case to make an overpayment determination. In February 2022, the DOL OWCP requested that the claimant repay \$63,740. Given that the DON FECA Program averaged \$163.6 million in costs over the last 3 years, inadequate oversight of FECA claims can be financially costly to the DON commands and offices.

## **Management Comments on the Finding and Our Response**

### ***Assistant Secretary of the Navy (Manpower and Reserve Affairs) Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) disagreed that the DON did not effectively manage the FECA program and requested that we reconsider the finding based on the DON comments on the draft report. The Acting Assistant Secretary added that the DON aims to execute a model program and that some of the proposed report recommendations may enhance consistent implementation of the FECA program. The Acting Assistant Secretary agreed that the DON ICPAs generally processed initial claims with the DOL OWCP as required but that there may have been instances where complete records were not maintained, annual reviews were not performed, current medical reports were not requested, or claimants who could return to work were not identified.

### ***Our Response***

We appreciate the Acting Assistant Secretary's comment that the DON aims to execute a model FECA Program; however, the extent of our audit findings concerning staffing, chargeback reviews, and the monitoring and tracking of FECA Program overpayments are indicative of an ineffective program. Therefore, we did not revise the finding based on the DON comments on the draft report.

## Unsolicited Management Comments on the Finding and Our Response

A summary of unsolicited management comments on the finding and our response is in Appendix C.

## Recommendations, Management Comments, and Our Response

### ***Recommendation 1***

**We recommend that the Under Secretary of Defense for Personnel and Readiness update Federal Employees' Compensation Act guidance to clearly establish the Injury Compensation Program Administrator roles and responsibilities, including tracking and recouping overpayments and reviewing the chargeback reports.**

### ***Under Secretary of Defense for Personnel and Readiness Comments***

The Under Secretary of Defense for Personnel and Readiness agreed, stating that an updated version of DoD Instruction 1400.25, Volume 810, is in coordination and that it provides more detail regarding the ICPA's responsibilities when reviewing the Quarterly Chargeback Listing. The Under Secretary stated that the DoD Instruction is expected to be published by the end of 2022.

### ***Our Response***

Comments from the Under Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. We will close the recommendation once we verify that the revised DoD Instruction clearly establishes ICPA roles and responsibilities, including tracking and recouping overpayments and reviewing the chargeback reports.

### ***Recommendation 2***

**We recommend that the Assistant Secretary of the Navy (Manpower and Reserve Affairs):**

- a. Develop and issue formal guidance that provides a consistent approach for implementing the Federal Employees' Compensation Act Program, including assigning staff, completing chargeback reviews, tracking and monitoring overpayments, maintaining claim files in the Defense Injury and Unemployment Compensation System, and referring claims for investigation.**

### ***Assistant Secretary of the Navy (Manpower and Reserve Affairs) Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) agreed, stating that the OCHR's position is that DoD Instruction 1400.25 and the DON's central repository of FECA information provides thorough policy and guidance for effective implementation of the FECA Program. However, the Acting Assistant Secretary stated that the OCHR is finalizing a Civilian Human Resources Manual for expected completion in October 2022, which will establish a single source of FECA implementation guidance for DON commands. The Acting Assistant Secretary added that the OCHR is also re-establishing FECA assessments, pursuing centralization of FECA operations by creating a DON FECA Center of Excellence, establishing policy requiring annual mandatory refresher training, and developing a process for the Naval Criminal Investigative Service to investigate fraudulent claims.

### ***Our Response***

Comments from the Acting Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. We will close the recommendation once we verify that the Civilian Human Resources Manual includes guidance for assigning staff, completing chargeback reviews, tracking and monitoring overpayments, maintaining claim files in DIUCS, and referring claims for investigation.

- b. Establish guidance for completing and setting the frequency of command assessments and ensure that those assessments are completed.**

### ***Assistant Secretary of the Navy (Manpower and Reserve Affairs) Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) agreed, acknowledging that the DON has not performed assessments to identify shortfalls and inconsistencies or to ensure commands are appropriately implementing the FECA Program since 2018. However, he stated that the OCHR has re-established a schedule for FECA Program assessments to begin in August 2022.

### ***Our Response***

Comments from the Acting Assistant Secretary on Recommendation 2.a concerning guidance and on Recommendations 2.a and 2.b concerning re-establishing a FECA Program assessment schedule addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. The date for initiating the

FECA Program assessments is stated differently in the Acting Assistant Secretary's comments on Recommendation 2.a (February 2023); however, once we verify that the Civilian Human Resources Manual contains guidance for completing and setting the frequency of command assessments and that the initial assessments are completed, we will close the recommendation.

- c. **Complete a workforce study that identifies the number of Department of the Navy Office of Civilian Human Resources personnel required to perform the Federal Employees' Compensation Act workload, including the required functions of oversight and command assessments.**

### ***Assistant Secretary of the Navy (Manpower and Reserve Affairs) Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) agreed, stating that the OCHR intends to conduct a workforce study by the end of first quarter FY 2023.

### ***Our Response***

Comments from the Acting Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. We will close the recommendation once we verify that the OCHR completed the workforce study and identified the number of OCHR personnel required to perform the FECA workload.

- d. **Include timeframes within updates to Secretary of the Navy Instruction 12810.2A, "Federal Employees' Compensation Act Program" for the Injury Compensation Program Administrators to complete the Injury Compensation Program Administrator Level I course.**

### ***Assistant Secretary of the Navy (Manpower and Reserve Affairs) Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) agreed, stating that the Civilian Human Resources Manual will include a requirement for the ICPAs and Command Budget Submitting Office FECA Program Managers and Leads to complete Level I training within 3 months of assignment to their position. He stated that the Command Budget Submitting Office FECA Program Managers and Leads are responsible to track and report completion of the training to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) OCHR Injury and Unemployment Compensation Program Manager. The Acting

Assistant Secretary added that the Command Budget Submitting Office FECA Program Managers and Leads will take appropriate action for those who have not completed the mandatory training requirement.

### ***Our Response***

Comments from the Acting Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. Although we recommended that the Assistant Secretary update the SECNAV Instruction 12810.2A, actions taken to include the ICPA Level I training requirements in the Civilian Human Resources Manual meet the intent of the recommendation because the Civilian Human Resources Manual will be the DON's FECA Program implementing guidance. We will close the recommendation once we verify that the Civilian Human Resources Manual includes the Level I training requirements.

- e. **Complete a workforce study that identifies the number of Injury Compensation Program Administrators required to implement and perform the Federal Employees' Compensation Act Program workload, including the required functions of case management, chargeback reviews, and long-term claim file reviews, once the Under Secretary of Defense for Personnel and Readiness clearly establishes the Injury Compensation Program Administrator roles and responsibilities.**

### ***Assistant Secretary of the Navy (Manpower and Reserve Affairs) Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs) agreed, stating that a workforce study will be completed by December 2022 and included in the business case to support decisions on centralization. He added that the OCHR believes that the command FECA staff serving in ICPA roles as a collateral duty was a more likely contributing factor to the reported problems. He added that the DON is pursuing FECA Program centralization by January 2024 and expects centralization to mitigate the report findings.

### ***Our Response***

Comments from the Acting Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. We will close the recommendation once we verify that the workforce study is complete and that it identifies the number of the ICPAs required to perform the FECA workload.

### ***Recommendation 3***

**We recommend that the Defense Civilian Personnel Advisory Service Director conduct an analysis of the software and databases needed to manage Federal Employees' Compensation Act claims, such as the Social Security Administration's Death Master File, and provide Injury Compensation Program Administrators access as appropriate.**

#### ***Defense Civilian Personnel Advisory Service Comments***

The Under Secretary of Defense for Personnel and Readiness, responding for the DCPAS Director, agreed, stating that his office will perform the analysis by the end of FY 2023.

#### ***Our Response***

Comments from the Under Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. We will close the recommendation once we receive the results of the analysis and a determination of which software and databases, if any, will be provided to the ICPAs.

### ***Recommendation 4***

**We recommend that the Chief of Naval Operations and the Commandant of the Marine Corps direct the Human Resources Office Directors to:**

- a. Ensure the Injury Compensation Program Administrators accomplish the Injury Compensation Program Administrator Level I training as required by Secretary of the Navy Instruction 12810.2A. Once the training is complete, report the information to the Department of the Navy Office of Civilian Human Resources Injury and Unemployment Compensation Program Manager to track the Injury Compensation Program Administrator's compliance with all training related to the Federal Employees' Compensation Act Program and take appropriate action for those not completing the training.**

#### ***Chief of Naval Operations and Commandant of the Marine Corps Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs), responding for the Chief of Naval Operations and the Commandant of the Marine Corps, agreed, stating that that ICPAs completed training in May 2022. The Acting Assistant Secretary added that the ICPAs are expected to complete training within 90 days of the date they are assigned to the position.

### ***Our Response***

Comments from the Acting Assistant Secretary on Recommendation 2.d concerning guidance and Recommendation 4 concerning training completion requirements addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. We will close the recommendation once we verify that the Civilian Human Resources Manual contains guidance requiring tracking and reporting of all FECA Program training to include the appropriate actions for noncompliance.

- b. Conduct periodic reviews of claim files to ensure that the Injury Compensation Program Administrators are maintaining adequate documentation and elevating documentation requests to Defense Civilian Personnel Advisory Service Advisors when the Department of Labor Office of Workers' Compensation Programs is unresponsive, as required by the Significant Claims Process Standard Operating Procedure.**

### ***Chief of Naval Operations and Commandant of the Marine Corps Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs), responding for the Chief of Naval Operations and the Commandant of the Marine Corps, agreed, stating that the DON will institute a biannual program review process beginning in the first quarter FY 2023.

### ***Our Response***

Comments from the Acting Assistant Secretary addressed the specifics of the recommendation; therefore, the recommendation is resolved, but open. We will close the recommendation once we receive the implementing biannual program review guidance.

- c. Report overpayment information to the Department of the Navy Office of Civilian Human Resources Injury and Unemployment Compensation Program Manager to monitor the outcomes of all Federal Employees' Compensation Act overpayments, once the Under Secretary of Defense for Personnel and Readiness issues the guidance for tracking and recouping overpayments.**

### ***Chief of Naval Operations and Commandant of the Marine Corps Comments***

The Acting Assistant Secretary of the Navy (Manpower and Reserve Affairs), responding for the Chief of Naval Operations and the Commandant of the Marine Corps, agreed, stating that the recommendation may be an opportunity to ensure leadership is aware of elements affecting the reduction of DON chargeback costs.

### ***Our Response***

Comments from the Acting Assistant Secretary did not address the specifics of the recommendation; therefore, the recommendation is unresolved. Although the Acting Assistant Secretary agreed, he did not provide specific actions to address the recommendation. Therefore, we request additional comments on the final report describing the specific actions that the Chief of Naval Operations and Commandant of the Marine Corps will take once the Under Secretary of Defense for Personnel and Readiness issues the guidance for tracking and recouping overpayments.

## Appendix A

### Scope and Methodology

We conducted this performance audit from May 2021 through May 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We identified a universe of 20,385 unique DON FECA claims valued at \$453.8 million for the period of July 1, 2018, through March 31, 2021. We worked with the DoD OIG Quantitative Methods Division to identify a random statistical sample of 180 claims, with \$14.7 million in total FECA benefits, for our review. Table 3 identifies the statistical sample of claims at the following 11 DON commands, including the U.S. Marine Corps.

*Table 3. Statistical Sample of Claims Reviewed by Command*

Command	Offices	Number of Claims	Dollar Value of Claims
Commander, Navy Installations Command		29	\$4,382,982
DON Secretariat Offices	DON Assistant for Administration	1	546,852
Fleet Forces Command	Military Sealift Command, Norfolk, Norfolk Naval Shipyard, and Portsmouth Naval Shipyard	29	1,617,554
Manpower, Personnel, Training, and Education	U.S. Naval Academy and U.S. Naval War College	2	16,692
Naval Air Systems Command	Fleet Readiness Centers: East and Southwest Naval Air Warfare Centers: Weapons Division China Lake and Aircraft Division Patuxent River	9	1,296,976
Naval Education and Training Command		1	7,859
NAVFAC	Southwest	21	2,692,355
NAVSEA	Inactive Shipyards	24	2,321,356
Naval Supply Systems Command		4	210,740
U.S. Pacific Fleet	Hawaii, Northwest, and Southwest	47	967,284

Table 3. Statistical Sample of Claims Reviewed by Command (cont'd)

Command	Offices	Number of Claims	Dollar Value of Claims
U.S. Marine Corps	Albany, Arlington, Camp Lejeune, Camp Lejeune – Cherry Point, Camp Pendleton – Barstow, Camp Pendleton, Camp Pendleton – Twentynine Palms, and Okinawa – Kaneohe Bay	13	598,971
<b>Total</b>		<b>180</b>	<b>\$14,658,621</b>

Source: DCPAS and the DoD OIG.

For the claimant statistical sample, we reviewed the following applicable Federal, DoD, DON, and DOL laws, regulations, policies, and procedures to identify internal controls over the FECA Program and the requirements for program implementation.

- Section 81, title 5, United States Code, “Compensation for Work Injuries”
- Title 20 Code of Federal Regulations Part 10, “Claims for Compensation Under the FECA, As Amended,” current as of February 1, 2021
- DoD Instruction 5025.01, “DoD Issuances Program,” May 22, 2019
- DoD Instruction 1400.25, Volume 810, “DoD Civilian Personnel Management System: Injury Compensation,” April 16, 2009
- SECNAV Instruction 12810.2A, “Federal Employees’ Compensation Act Program,” January 24, 2019
- DCPAS, Significant Claims Action Process Standard Operating Procedure, October 1, 2017
- DOL, Publication CA-810, “Injury Compensation for Federal Employees,” Revised 2009

We requested access to DIUCS to determine whether the DON was effective in initial processing, monitoring, and reviewing chargeback reports associated with the claims. However, due to Privacy Act restrictions, the DoD was not able to provide us access to DIUCS. Therefore, we requested specific documentation from each DON major command and ICPA to support a review of the following for each claim.

- **Chargeback costs.** We obtained the July 1, 2018, through March 31, 2021, chargeback report data, which contained the names and costs incurred for current and former DON claimants receiving FECA benefits. We determined whether the DON reviewed the reports, identified any errors, and notified DCPAS and the DOL OWCP of the required changes.
- **Processing of initial claims.** We requested the Notice of Traumatic Injury and Notice of Occupational Disease claimant forms and medical documentation to support the claim approval for each claimant within

our sample. We also interviewed FECA program managers and the ICPAs to determine what training they received to process claims and identify potentially fraudulent or abusive claims. We determined whether the DON processed the claims as required and challenged (controverted) claims when necessary.

- **Monitoring of claims.** We obtained claimant file documentation to determine how often the ICPA contacted the claimant to document any changes in their medical status or followed requirements to return employees to work, when applicable. We reviewed claimant file documentation to identify whether the DON officials obtained current medical documentation that identified work restrictions.

We also obtained the Social Security Administration's Death Master File to determine whether FECA benefits were improperly paid for deceased claimants. We worked with the DoD OIG Quantitative Methods Division to compare the Death Master File to the DON claimants listed on the chargeback report and identified 1,514 claimants who were on both lists within the last 3 years. We worked with the Quantitative Methods Division to identify a random statistical sample of 55 claimants at nine commands to perform further analysis to determine whether the recipients were entitled to the deceased claimants' benefits.

## Internal Control Assessment and Compliance

We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed the control environment related to the development of individuals. We assessed the information and communication related to relevant data and reliable sources. We also assessed monitoring related to reporting and evaluation of issues and corrective actions. Lastly, we assessed the control activities related to documented responsibilities through policies. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

## Use of Computer-Processed Data

We obtained data from DIUCS, the Employees' Compensation Operations and Management Portal, and the Social Security Administration's Death Master File. DIUCS is an automated, interactive database and reporting tool designed to help the ICPAs manage FECA claims. DIUCS combines DOL claim data with employee

personnel and payroll information to generate reports, including quarterly chargeback reports, on FECA costs and claims. The Defense Manpower Data Center provided the universe of DON FECA claims from July 1, 2018, through March 31, 2021, from the DIUCS chargeback report. To assess the reliability of DIUCS data, we compared the information within the DIUCS chargeback report to supporting documentation contained within the claim files, such as the Notice of Traumatic Injury and Notice of Occupational Disease claimant forms, medical documentation, and notifications of personnel action. Based on our review, we determined that the DIUCS chargeback data were sufficiently reliable for the purposes of this review.

The Employees' Compensation Operations and Management Portal is a DOL web-based application that allows DON FECA officials and employees to electronically file reports of injury or illness, submit claims for benefits, and upload supporting documentation to the cases. We obtained scanned claim file documentation from the Employees' Compensation Operations and Management Portal, such as the Notice of Traumatic Injury and Notice of Occupational Disease claimant forms, updated medical reports, and return-to-work job offers or vocational rehabilitation reports. To assess the reliability of data from the Employees' Compensation Operations and Management Portal, we interviewed the ICPAs to discuss the specific scanned Employees' Compensation Operations and Management Portal claim file documentation. Based on our review, we determined that the Employees' Compensation Operations and Management Portal documentation were sufficiently reliable for the purposes of this review.

The Social Security Administration collects an individual's death information within its Death Master File to administer its programs. The Social Security Administration's Death Master File includes data from multiple sources, such as family members, funeral homes, and state and other Federal agencies. The Death Master File includes the deceased individual's Social Security number; first, middle, and surnames; date of birth; and date of death. The Defense Manpower Data Center provided the DoD OIG Quantitative Methods Division the Death Master File to compare to the list of DON claimants on the chargeback report. To assess the reliability of the Death Master File, we compared the Death Master File name and date of death to supporting documentation contained in the claim files, such as death certificates and beneficiary forms, when available. Based on our review, we determined that the Death Master File data was sufficiently reliable for the purposes of this review.

## Use of Technical Assistance

We obtained support from the DoD OIG Quantitative Methods Division in developing two statistical samples and comparing Social Security numbers in the DON chargeback report to the Social Security Administration's Death Master File. We reviewed the first statistical sample of DON FECA claims to test whether the ICPAs processed and monitored claims in accordance with requirements. To obtain the sample, we totaled the values of each claim across the chargeback reports and removed all claims from the universe with an absolute value less than \$1,500.<sup>26</sup> The DoD OIG Quantitative Methods Division calculated a sample size of 180 claims using a stratified attribute sampling methodology, with a 90-percent confidence level and 5-percent precision.

We reviewed the second statistical sample of DON FECA claims to test whether the surviving beneficiaries of a deceased claimant were still entitled to benefits. To obtain the sample, the DoD OIG Quantitative Methods Division compared the Death Master File to the DON claimants listed on the chargeback report. The DoD OIG Quantitative Methods Division calculated a sample size of 55 claimants using a simple random sampling methodology, with a 90-percent confidence level and a 10-percent margin of error.

## Prior Coverage

During the last 5 years, the Government Accountability Office (GAO) issued two reports discussing the FECA Program. Unrestricted GAO reports can be accessed at <http://www.gao.gov>.

### **GAO**

Report No. GAO-20-253, "FECA: Comparisons of Benefits in Retirement and Actions Needed to Help Injured Workers Choose Best Option," July 23, 2020

At retirement age, FECA recipients can remain on FECA or choose to receive their retirement benefits. The GAO found that FECA recipients did have access to estimates to compare their FECA and retirement benefits; however, the DOL does not routinely remind recipients to compare benefits. In addition, the DOL and the Social Security Administration use a manual and highly complex process to calculate a key component of a FECA recipient's compensation related to Social Security benefits. As a result, estimates that include this component are not readily available before retirement.

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<sup>26</sup> Some claims within the universe had reimbursements associated with overpayments.

Report No. GAO-16-793, "FECA: DoD Access to DOL Data is Generally Sufficient, but Monitoring Timelines Could Help Return to Work Efforts," September 15, 2016

The GAO found that in 2015, the DoD employees made up 17 percent of all FECA claimants. Of those claimants who received total disability benefits, 56 percent were at or above their full Social Security retirement age. The GAO also found that the DoD FECA officials generally had sufficient access to the DOL data, but the DoD reported perceived delays with receiving certain decisions from the DOL. However, the DoD did not monitor the timelines associated with requesting DOL action to determine the extent this may exist, known reasons for these issues, and any effect possible delays may have on return-to-work efforts. Finally, the GAO found that each Military Department oversaw their own FECA claimants. The DON oversaw its FECA claims with compensation specialists spread across the DON major commands with the major command program managers reporting to the DON FECA program manager.

## Appendix B

### Command Claim File Review Summary

Table 4 includes a summary of the DON commands we reviewed that did not maintain Notices of Traumatic Injury or Occupational Disease claimant forms and current medical documentation.

*Table 4. DON Command Summary Based on Claim File Review*

Command	ICPAs Did Not Maintain Notices of Injury or Disease	ICPAs Did Not Maintain Current Medical
Commander, Navy Installations Command	X	X
DON Secretariat Offices		
Fleet Forces Command	X	X
Manpower, Personnel, Training, and Education		
Naval Air Systems Command	X	X
Naval Education and Training Command		
NAVFAC	X	X
NAVSEA	X	
Naval Supply Systems Command	X	
U.S. Pacific Fleet	X	X
U.S. Marine Corps	X	X
<b>Total</b>	<b>8</b>	<b>6</b>

Source: The DoD OIG.

## Appendix C

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### Unsolicited Management Comments on the Finding and Our Response

Although not required to comment, the NAVSEA Commander provided comments on the finding. The complete text of those comments is in the Management Comments section of this report.

#### *NAVSEA Comments on Inconsistent Approaches for Monitoring Overpayments*

The NAVSEA Commander stated that during an audit interview, the NAVSEA ICPA mentioned an estimated amount of cumulative overpayments that the DOL has not recouped. He added that ICPAs can only ask the DOL to take action to recoup the overpayments. However, since that interview, the DOL created a team of Claim Examiners to handle overpayment cases and NAVSEA has seen an increase in collection actions. The Commander proposed updated report language to add “estimate” in front of the overpayment value and to change “the ICPAs were unsure whether the claimants repaid these funds” to “the ICPAs were unsure whether the DOL recouped the overpayments from the claimants.”

#### *Our Response*

We partially agree with the suggested revisions. We updated the report language to state the overpayment total was an estimate; however, we did not update the report language to include “whether the DOL recouped the overpayments from the claimants,” because the ICPAs still were not aware if the claimants repaid the overpaid amounts. Even with the creation of the DOL OWCP overpayment team, the ICPAs should be aware of the status of their claimants’ overpayments and continue to track the recoupment of funds.

#### *NAVSEA Comments on Claims Not Adequately Managed*

The Commander stated that in this section’s example, the shipyard closed the year after the employee was injured and the only option was for the DOL to refer him to vocational rehabilitation. The ICPA requested the DOL refer the claimant to vocational rehabilitation and in 2010, the Rehabilitation Counselor closed the case due to work restrictions identified in a second medical opinion that made reemployment questionable. The Commander stated that there are conflicting medical opinions in the case file concerning the claimant’s ability to

work. The Commander proposed updated report language explaining that the claimant could not return to light duty because the shipyard closed and that the claimant continued to receive compensation because the DOL did not timely pursue vocational rehabilitation based on initial requests from the NAVSEA ICPA.

### ***Our Response***

We partially agree with the suggested revisions. We updated the report language to explain that the claimant could not return to light duty because the facility where the claimant was employed closed; however, the NAVSEA ICPA did not provide evidence to demonstrate whether the DOL OWCP did or did not timely pursue vocational rehabilitation. Although there were conflicting medical reports in the case file, there were medical reports that stated the claimant could return to work as early as 1995 and additional medical reports stating he was able to work even after 2010. Therefore, the ICPA should have continued to pursue efforts to return the injured employee to the workforce.

### ***NAVSEA Comments on Inadequate Access to Necessary Information***

The Commander stated that for the 15 NAVSEA files that did not have initial FECA claim forms, the claims originated between 1969 and 1993 and were transferred multiple times. He added that the NAVSEA ICPA received at least five of the missing claim forms since the audit began and that the DOL was unable to provide the other missing initial claim forms due to their inability to access the paper files during the coronavirus disease-2019 pandemic. The Commander proposed updated report language to explain the timeframe for when the paper case files were created and transferred.

### ***Our Response***

We partially agree with the suggested revisions. We added the dates when the missing initial claim forms were created but did not include that the case files were transferred “over the decades since they were created.” We acknowledge in the report that the NAVSEA case files were transferred multiple times and that the ICPA successfully obtained some of the initial claim forms since the audit began.

### ***NAVSEA Comments on Conclusion***

The NAVSEA Commander stated that in this section's example the DOL was contacted multiple times but did not take action to determine whether an overpayment existed until 2022. He stated that ICPAs can only ask the DOL to take action on overpayments and it is up to the DOL to determine whether an overpayment exists and to recoup the overpayment.

### ***Our Response***

Based on the documentation NAVSEA provided, the ICPA last notified the DCPAS Advisor of the overpayment in 2000. During the audit, we discussed the overpayment with the ICPA, who in January 2022, requested that the DOL OWCP perform an overpayment determination. Subsequently, the DOL OWCP declared an overpayment and requested that the claimant repay the funds.

## Management Comments

### Under Secretary of Defense for Personnel and Readiness



PERSONNEL AND  
READINESS

UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

JUL 11 2022

MEMORANDUM FOR INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Response to Audit of the Department of Navy's Controls Over the Federal Employees' Compensation Act Program (Project No. D2021-D000AT-0125.000) Draft Report

This memorandum responds to your recommendations under my purview in the draft report on the audit of the Department of the Navy's Federal Employees' Compensation Act (FECA) Program.

The report recommends that I update FECA guidance to clearly establish the Injury Compensation Program Administrator (ICPA) roles and responsibilities, including tracking and recouping overpayments and reviewing the chargeback reports. I concur with this recommendation. As noted in the draft report, an updated version of DoD Instruction 1400.25, Volume 810, "DoD Civilian Personnel Management System: Injury Compensation," is now in coordination (expected to be published by the end of the year) and provides more detail as to the responsibilities of the ICPA when reviewing the Quarterly Chargeback Listing.

The report also recommends that my office conduct an analysis of the software and databases needed to manage FECA claims, such as the Social Security Administration's Death Master File, and provide ICPAs with access as appropriate. By the end of Fiscal Year 2023, my office will perform the recommended analysis, and determine if access to other data sources can be provided.

For more information, my point of contact is [REDACTED] Branch Chief, Injury and Unemployment Compensation, Benefits, Wage and Nonappropriated Fund Policy, Defense Civilian Personnel Advisory Service, at [REDACTED] or [REDACTED]

Gilbert R. Cisneros, Jr.

## Assistant Secretary of the Navy (Manpower and Reserve Affairs)



THE ASSISTANT SECRETARY OF THE NAVY  
(MANPOWER AND RESERVE AFFAIRS)  
1000 NAVY PENTAGON  
WASHINGTON, D. C. 20350-1000

JUN 30 2022

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

Subject: Proposed Report on the Audit of the Department of the Navy's Controls over the Federal Employees' Compensation Act Program

Reference: (a) DoD Audit Project No. D2021-D000AT-0125

Enclosures: (1) DON Response to D2021-D000AT-0125\_DOD IG FECA Audit

Thank you for the opportunity to respond to the proposed Department of Defense Inspector General Report titled, "Audit of the Department of the Navy's Controls Over the Federal Employees' Compensation Act Program".

The DON disagrees with the overall summary finding that the DON did not effectively manage the Federal Employees' Compensation Act (FECA) Program. We aim to execute a model program and concurs that some of the proposed recommendations may enhance consistent implementation of the program. However, DON asks that you reconsider your finding based upon the detailed comments provided.

We concur with recognition that the DON's Injury Compensation Program Administrators generally processed initial claims with the Department of Labor Office of Workers' Compensation Programs as required, and agree that there may be instances where complete records were not maintained, annual reviews of a sample of long-term claim files were not performed, current medical reports from the Department of Labor Office of Workers' Compensation Programs were not requested, or claimants who could return to work identified.

DON responses to the audit are found in Enclosure 1.

If you have questions or need additional information, please contact [REDACTED]

A handwritten signature in black ink that reads "Robert D. Hogue".

Robert D. Hogue  
Acting

Attachment:  
As Stated

## Assistant Secretary of the Navy (Manpower and Reserve Affairs) (cont'd)

Department of the Navy Response

DoD Office of Inspector General  
Audit of the Department of the Navy's Controls Over the  
Federal Employees' Compensation Act Program  
DODIG Audit Project #D2021-D000AT-0125.000  
16 June 2022

**Executive Summary:** This document provides the requested Department of the Navy (DON), Assistant Secretary of the Navy (Manpower & Reserve Affairs) (ASN (M&RA)) review and comment on the DoD Office of Inspector General (DoD IG) Audit of the DON's Controls Over the Federal Employees' Compensation Act (FECA) Program draft report.

### **DoD IG Recommendation 2.a**

Develop and issue formal guidance that provides a consistent approach for implementing the Federal Employees' Compensation Act Program, including assigning staff, completing chargeback reviews, tracking and monitoring overpayments, maintaining claim files in the Defense Injury and Unemployment Compensation System, and referring claims for investigation.

Comment: Agree with comments

1. In response to the alleged lack of ASN (M&RA) detailed guidance for administering the FECA Program, the ASN (M&RA), Office of Civilian Human Resources (OCHR) cited SECNAV INSTRUCTION 12810.2A, which established the DON's policy for administration of the FECA in accordance with the policy set forth in 5 U.S.C. § 8101 et seq., 20 CFR Part 10, DOL/GOVT-1 Privacy Act Systems, and DoD INSTRUCTION 1400.25-V810.
  - a. DoD IG asserted the DON could have provided more detailed information. OCHR's position is that the DoD Instruction 1400.25-V810, over 250 pages, provided thorough policy and guidance for effective implementation of the requirement. OCHR also indicated that in general, it is DON's intent to adapt DoD policy and guidance to the fullest extent possible and provide DON commands with the left and right rails to execute. DoD IG indicated this approach resulted in inconsistencies due to lack of detailed guidance.
  - b. OCHR indicated that detailed implementing guidance was developed and promulgated via Frequently Asked Questions (FAQs), emails, job aids, and training modules with all available on the DON FECA SharePoint Site, the central repository on all FECA related information. These documents were made available to the entire injury compensation (IC) community as single source of guidance and information. As of 11 June 2022, OCHR is also in the process of finalizing a Civilian Human Resources Manual (CHRM). DoD IG acknowledged awareness. Estimated completion date of this activity is 1 October 2022.
  - c. OCHR requested identification of any thresholds used to determine the definition of an alleged finding, identification of isolated cases to focus attention, etc. DoD IG did not have thresholds and the expectation is 100% compliance.
  - d. OCHR:
    - (1) is finalizing the DON CHRM, which will provide a single source of

## Assistant Secretary of the Navy (Manpower and Reserve Affairs) (cont'd)

implementing guidance to Command by 1 October 2022,  
 (2) is re-establishing FECA assessments by February 2023,  
 (3) has provided just-in-time training on 17-18 May 2022 and is establishing DON policy to require annual mandatory refresher training per CHRM,  
 (4) is currently exploring opportunities with Naval Criminal Investigative Service (NCIS) to investigate fraudulent claims. The resultant process will be included in the CHRM, and  
 (5) is pursuing centralization of FECA operations by creating a DON FECA Center of Excellence that will enable DON-wide FECA centralization by January 2024.

### **Recommendation 2.b**

Establish guidance for completing and setting the frequency of command assessments and ensure that those assessments are completed.

Comment: Agree with comments

Since 2018, DON/OCHR has not performed assessments to identify shortfalls and inconsistencies or ensure commands appropriately implemented the program. OCHR has re-established a schedule for FECA program assessments beginning in August 2022.

### **Recommendation 2.c**

Complete a workforce study that identifies the number of Department of the Navy, OCHR personnel required to perform the Federal Employees' Compensation Act workload, including the required functions of oversight and command assessments.

Comment: Agree. OCHR intends to conduct a workforce study by end of first quarter FY2023.

### **Recommendation 2.d**

Include timeframes within updates to Secretary of the Navy Instruction 12810.2A, "Federal Employees' Compensation Act Program" for the Injury Compensation Program Administrators to complete the Injury Compensation Program Administrator Level I course.

Comment: Agree with comments

DON has updated the draft DON CHRM to include a required mandatory training requirement that the Injury Compensation Program Administrators (ICPAs) and Command Budget Submitting Office (BSO) FECA Program Managers/Leads complete the Level 1 Training within 3 months of assignment to their position. The BSO FECA Program Manager/Lead is responsible for tracking the completion of the training. Once the training is completed, the BSO FECA Program Manager/Lead will report the information to the ASN (M&RA) OCHR Injury and Unemployment Compensation Program Manager to track the ICPA's compliance with all training related to the FECA Program and take appropriate action for those who have not completed the mandatory training requirement.

### **Recommendation 2.e**

Complete a workforce study that identifies the number of Injury Compensation Program Administrators required to implement and perform the Federal Employees' Compensation Act Program workload, including the required functions of case management, chargeback reviews,

## Assistant Secretary of the Navy (Manpower and Reserve Affairs) (cont'd)

and long-term claim file reviews, once the Under Secretary of Defense for Personnel and Readiness clearly establishes the Injury Compensation Program Administrator roles and responsibilities.

Comment: Agree with comments. DoD IG recommended completing workforce and time studies to determine the resource requirements. This will be included in the business case to support decisions on centralization by December 2022.

Although OCHR believes the lack of resources may be an issue in some instances, a more likely contributing factor to these problems is the staff supporting this function at the command level, has these duties as collateral and do not have the requisite core skills or knowledge.

The DON has an opportunity to pursue centralization of the FECA program into a Center of Excellence (COE) that is expected to mitigate findings in this report. Leveraging best practices from the Army who originally had 110 Specialists supporting over 330,000 civilian employees Centralization enabled the Army to reduce staff to 32 full-time specialists to support the program. The DON currently has 120 Specialists supporting over 220,000 civilian employees with most serving in this role as a collateral duty. Investigation of a similar construct in the DON is being pursued with an estimated implementation date by January 2024.

### **Recommendation 4.a**

Ensure the Injury Compensation Program Administrators accomplish the Injury Compensation Program Administrator Level I training as required by Secretary of the Navy Instruction 12810.2A. Once the training is complete, report the information to the Department of the Navy Office of Civilian Human Resources Injury and Unemployment Compensation Program Manager to track the Injury Compensation Program Administrator's compliance with all training related to the Federal Employees' Compensation Act Program and take appropriate action for those not completing the training.

Comment: Agree. Just-in-time training was completed on 17-18 May 2022. Training is expected to be completed within 90 days of the date the employee is assigned to their position.

### **Recommendation 4.b**

Conduct periodic reviews of claim files to ensure that the Injury Compensation Program Administrators are maintaining adequate documentation and submitting requests to Defense Civilian Personnel Advisory Service Advisors when the Department of Labor Office of Workers' Compensation Programs is unresponsive, as required by the Significant Claims Process Standard Operating Procedure.

## Assistant Secretary of the Navy (Manpower and Reserve Affairs) (cont'd)

Comment: Agree. The DON will be instituting a bi-annually program review process beginning first quarter FY2023.

### **Recommendation 4.c**

Report overpayment information to the Department of the Navy Office of Civilian Human Resources Injury and Unemployment Compensation Program Manager to monitor the outcomes of all Federal Employees' Compensation Act overpayments, once the Under Secretary of Defense for Personnel and Readiness issues the guidance for tracking and recouping overpayments.

Comment: Agree with comment

This recommendation may be an opportunity for improvement to ensure leadership is aware of elements affecting the reduction in DON's chargeback costs since the audit did not refer to any specific violations in regards to the DoDI 1400.25, Department of Labor guidance, or 5 U.S.C. § 8101.

## Naval Sea Systems Command



DEPARTMENT OF THE NAVY  
NAVAL SEA SYSTEMS COMMAND  
1333 ISAAC HULL AVE SE  
WASHINGTON NAVY YARD DC 20376-0001

IN REPLY REFER TO  
7502  
00N3/226  
23 Jun 22

From: Commander, Naval Sea Systems Command (SEA 00N)  
To: Inspector General, Department of Defense

Subj: NAVSEA COMMENTS ON DEPARTMENT OF DEFENSE INSPECTOR  
GENERAL DRAFT REPORT (PROJECT NUMBER: D2021-  
D000AT-0125.000)

Ref: (a) DOD IG Draft Report (Project Number: D2021-D000AT-  
0125.000)

Encl: (1) NAVSEA Comments on DoD IG Draft Report

1. Enclosure (1) contains the Naval Sea Systems Command's  
(NAVSEA) comments on reference (a).

2. My point of contact for this matter is [REDACTED],  
SEA 00N3. She can be reached at [REDACTED].  
[REDACTED].

ADAMS.CARL.JR.1 [REDACTED]

CARL J. ADAMS, JR.  
By direction

## Naval Sea Systems Command (cont'd)

**NAVSEA COMMENTS ON DOD IG DRAFT REPORT  
(PROJECT NO: D2021-D000AT-0125.000)**

Page	Para. or Bullet	Comments	Component /POC	Type 1 Accuracy 2 Sensitivity 3 Context and Perspective 4 Editorial
<i>Use page number from the report rather than the document.</i>		<p><i>Provide specific remarks including suggested revised report narrative.</i></p> <p><i>Referenced Text: Copied from the document.</i></p> <p><i>Comment and Rational: Why a change is required</i></p> <p><i>Proposed Text: Proposed changes to the text are shown with red font for additions or strikethroughs for deletions</i></p>	<p><i>Identify the name, phone #, and Component of the program official (SME) submitting each substantive comment.</i></p>	<p><i>Choose one option to characterize each comment.</i></p>
6		<p><b>Referenced text:</b> “For example, a Naval Sea Systems Command (NAVSEA) ICPA and U.S. Pacific Fleet ICPA tracked overpayments of \$500,000 and \$142,000, respectively; however, the ICPAs were unsure whether the claimants repaid these funds.”</p> <p><b>Comment &amp; rationale:</b> During the audit interview, [REDACTED], NAVSEA Closed Shipyards ICPA, mentioned an estimated \$500,000 in cumulative overpayments that Department of Labor (DOL) was not taking action to recoup the money. ICPAs can only ask DOL to take action on overpayments; it’s up to DOL to recoup the money. DOL has since created a team of Claims Examiners to handle the overpayment cases and we’ve seen an increase in collection actions. The ICPA monitors the status of NAVSEA’s overpayments, but because she did not know the specific dollar amount recovered at the time of the interview, this was mentioned in the report.</p> <p><b>Proposed Text:</b> For example, a Naval Sea Systems Command (NAVSEA) ICPA and U.S. Pacific Fleet ICPA tracked overpayments of <u>an estimated \$500,000 and \$142,000, respectively</u>; however, the ICPAs were unsure whether <u>DOL has recouped these funds from the claimants</u></p>	<p>[REDACTED], Director of Labor and Employee Relations, NAVSEA Civilian Human Resources (SEA 10D); [REDACTED]</p>	3

## Naval Sea Systems Command (cont'd)

**NAVSEA COMMENTS ON DOD IG DRAFT REPORT  
(PROJECT NO: D2021-D000AT-0125.000)**

Page	Para. or Bullet	Comments	Component /POC	Type 1 Accuracy 2 Sensitivity 3 Context and Perspective 4 Editorial
10		<p><b>Referenced text:</b> “For example, a NAVSEA claimant was injured in 1993, but was medically cleared to work with restrictions in 1995. Because the claimant could not return to the job he held before the injury, the NAVSEA ICPA should have taken action to help identify a light-duty position or continuously pursued vocational rehabilitation for the claimant. However, the NAVSEA ICPA did not take these actions, and the claimant continued receiving compensation through at least July 2021.”</p> <p><b>Comment &amp; rationale:</b> Since the claimant was a former employee of a closed shipyard (Naval Station NY), the only option to return him to work would be for DOL to refer him for Vocational Rehabilitation (VR) for training and/or placement in a suitable position outside of the employing agency. The case file shows that efforts were taken to notify DOL that since the employing agency was closed in 1994, light duty work could not be offered by the agency, and requests were made to DOL to refer the case to VR. ICPAs can only ask DOL to make the referral; it’s up to DOL to take that action. This case was eventually referred to VR and subsequently closed by the Rehab Counselor in 2010 since the Second Opinion medical report provided work restrictions that made reemployment questionable. The case file contains conflicting medical opinions concerning the claimant’s ability to return to work as his treating physician has indicated he could not return to work in any capacity.</p> <p><b>Proposed Text:</b> “For example, a NAVSEA claimant was injured in 1993, but was medically cleared to work with restrictions in 1995. Because the claimant could not return to the job he held before the injury, <u>or to light duty work, due to the closure of the facility,</u> the NAVSEA ICPA should have continuously requested <u>DOL to refer the claimant</u> for vocational rehabilitation. <u>Since DOL did not timely pursue vocational rehabilitation based on initial requests from the NAVSEA ICPA,</u> the claimant continued receiving compensation through at least July 2021.”</p>	<p>Director of Labor and Employee Relations, NAVSEA Civilian Human Resources (SEA 10D);</p>	3

## Naval Sea Systems Command (cont'd)

**NAVSEA COMMENTS ON DOD IG DRAFT REPORT  
(PROJECT NO: D2021-D000AT-0125.000)**

Page	Para. or Bullet	Comments	Component /POC	Type 1 Accuracy 2 Sensitivity 3 Context and Perspective 4 Editorial
11		<p><b>Referenced text:</b> “For example, 15 NAVSEA files did not have the initial FECA claim forms. According to both the NAVSEA ICPA and the DON OCHR Injury and Unemployment Compensation Program Manager, these NAVSEA files transferred four times between DON commands, and the forms were not in the claims files when transferred back to NAVSEA. According to the NAVSEA ICPA, she requested that the DOI, OWCP load the FECA claim documents into the Employees’ Compensation Operations and Management Portal. However, the DOL OWCP did not upload all of the requested information.”</p> <p><b>Comment &amp; rationale:</b> These claims were from 1969-1993 and the files were transferred multiple times between CNIC, U.S. Pacific Fleet, Fleet Forces Command, and NAVSEA. The NAVSEA Closed Shipyards ICPA has received at least five of the missing claim forms for her files since the audit. DOL responded to her other requests for claim forms, indicating that they could not provide the requested information due to their inability to access the paper files in the office at the time (most, if not all, Claims Examiners were still working remotely due to COVID at that time).</p> <p><b>Proposed Text:</b> For example, 15 NAVSEA <u>closed facility case files created between 1969 and 1993</u> did not have the initial FECA claim forms. According to both the NAVSEA ICPA and the DON OCHR Injury and Unemployment Compensation Program Manager, these NAVSEA files transferred four times between DON commands <u>over the decades since they were created</u>, and the <u>paper</u> forms were not in the claims files when transferred back to NAVSEA. According to the NAVSEA ICPA, she requested that the DOL OWCP load the FECA claim documents into the Employees’ Compensation Operations and Management Portal. However, the DOL OWCP did not upload all of the requested information.”</p>	<p>[REDACTED], Director of Labor and Employee Relations, NAVSEA Civilian Human Resources (SEA 10D); [REDACTED]</p>	3

## Naval Sea Systems Command (cont'd)

**NAVSEA COMMENTS ON DOD IG DRAFT REPORT  
(PROJECT NO: D2021-D000AT-0125.000)**

Page	Para. or Bullet	Comments	Component /POC	Type 1 Accuracy 2 Sensitivity 3 Context and Perspective 4 Editorial
15		<p><b>Referenced text:</b>                      “For example, the DOL OWCP overpaid one NAVSEA claimant by more than \$63,000 in FECA compensation benefits over a 12 year period. In 1995, the DCPAS Advisor became aware that the DOL overpaid the claimant because the claimant was working and earning outside wages. The DCPAS Advisor notified the DOL OWCP in 1996, 1998, and 2000. Additionally, the NAVSEA ICPA requested an investigation in 1998 and notified the DCPAS Advisor in 2000. However, the DOL OWCP continued to pay the claimant until 2002. For approximately 20 years, DCPAS and DON took no action with the DOL OWCP to recoup this overpayment. However, in January 2022, as a result of our audit, the NAVSEA ICPA requested that the DOL OWCP review this case to make an overpayment determination. In February 2022, the DOL OWCP requested that the claimant repay \$63,740.”</p> <p><b>Comment &amp; rationale:</b> DOL was contacted multiple times on this issue but did not take action to determine whether an overpayment existed until this year. ICPAs can only ask DOI to take action on overpayments; it’s up to DOI to determine whether there was an overpayment and to recoup the money.</p> <p><b>Proposed Text:</b> N/A</p>	[REDACTED] Director of Labor and Employee Relations, NAVSEA Civilian Human Resources (SEA 10D); [REDACTED]	3

## Acronyms and Abbreviations

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<b>DCPAS</b>	Defense Civilian Personnel Advisory Service
<b>DIUCS</b>	Defense Injury and Unemployment Compensation System
<b>DOL</b>	Department of Labor
<b>DON</b>	Department of the Navy
<b>FECA</b>	Federal Employees' Compensation Act
<b>HRO</b>	Human Resources Office
<b>ICPA</b>	Injury Compensation Program Administrator
<b>NAVFAC</b>	Naval Facilities Engineering Command
<b>NAVSEA</b>	Naval Sea Systems Command
<b>OCHR</b>	Office of Civilian Human Resources
<b>OWCP</b>	Office of Workers' Compensation Programs
<b>SECNAV</b>	Secretary of the Navy



# **Whistleblower Protection**

## **U.S. DEPARTMENT OF DEFENSE**

*Whistleblower Protection safeguards DoD employees against retaliation for protected disclosures that expose possible fraud, waste, and abuse in Government programs. For more information, please visit the Whistleblower webpage at <http://www.dodig.mil/Components/Administrative-Investigations/Whistleblower-Reprisal-Investigations/Whistleblower-Reprisal/> or contact the Whistleblower Protection Coordinator at [Whistleblowerprotectioncoordinator@dodig.mil](mailto:Whistleblowerprotectioncoordinator@dodig.mil)*

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