

OFFICE OF INSPECTOR GENERAL

Audit Report

**Audit of Job Duty Verification Procedures for Long Island
Rail Road Occupational Disability Applicants**

**Report No. 13-02
January 15, 2013**



RAILROAD RETIREMENT BOARD

EXECUTIVE SUMMARY

The Office of Inspector General (OIG) conducted an audit of the Railroad Retirement Board's (RRB) job duty verification procedures for Long Island Rail Road (LIRR) occupational disability applicants.

In the fall of 2008, a series of news reports raised concerns about the large number of workers from LIRR who applied and were approved for occupational disability benefits by the RRB. The OIG had subsequently issued briefing reports related to these findings. One particular report issued in November of 2011, titled "Program Vulnerabilities in the Railroad Retirement Board Occupational Disability Program," revealed that occupational disability benefits were being awarded despite unverified job information. The finding was expanded into this audit and resulted in the identification of opportunities to improve the effectiveness of controls over the occupational disability process.

The objective of the audit was to determine whether RRB disability examiners granted occupational disability annuities (to LIRR employees) based on unverified job information.

Findings

Our audit determined that RRB's disability examiners did not always verify job duty information before granting occupational disability annuities. We identified nine individuals who were approved for occupational disability annuities even though their railroad employer, LIRR, did not return the Job Information Forms to the RRB. These nine unverified annuities represent an estimated \$3.8 million in financial risk to the agency. The financial risks to the agency would be significantly higher if we considered all railroad employers that did not return Job Information Forms.

In addition, the RRB's policies and procedures, which are contained in the Disability Manual, were not sufficient to ensure that the job information provided by LIRR employees was appropriately verified by the railroad employer prior to the agency's occupational disability determinations.

Recommendations

To address the identified control weaknesses, we recommended that the Office of Programs work with the agency's three-member Board and/or the Disability Advisory Committee to:

- Modify occupational disability procedures to comply with the Code of Federal regulations (CFR) and to ensure that every reasonable effort is made by the District Office staff and/or the Disability staff to obtain the Job Information Forms from the railroad employer during the established response period.
- Revise the wording of the Job Information Forms using stronger language.
- Send or route the Job Information Forms to the applicant's direct supervisor, and require the direct supervisor to certify the information given in the space provided on the appropriate Job Information Form.
- Consider extending the employer response period to forward the Job Information Forms and related documentation to the RRB.
- Perform a study to determine the reasons for the railroad employers' failure to return the Job Information Forms, and take corrective action to elicit better responses based on their findings.

Management's Response

The Office of Programs stated that they had one significant concern regarding the report. They said that the report gives an incorrect impression with respect to the relationship between the Board's regulations as published in the Code of Federal Regulations (CFR) and the policies and procedures used by disability examiners to evaluate applications for disability benefits. They stated that both the regulations and the procedures were developed in 1997 as part of the same joint labor-management initiative and the procedures were extensively reviewed at that time and properly reflect the regulations.

The Office of Programs also stated that they are unable to comment on the recommendations made in the report at this time. They further stated that the recommendations contained in the draft report differed from those discussed with OIG audit staff in that the recommendations now state that the Office of Programs work with "the agency's three-member Board and/or the Disability Advisory Committee" to implement the five recommendations in the report. Therefore, the Office of Programs stated that their response as to concurrence or non-concurrence for each recommendation will be delayed until they can confer with Board Offices.

RRB-OIG's Comments on Management's Response

We disagree with the Office of Programs' statements that the report gives an incorrect impression with respect to the relationship between the Board's regulations as published in the Code of Federal Regulations (CFR) and the policies and procedures used by disability examiners to evaluate applications for disability benefits. Although we understand that the policies and procedures and regulations were developed jointly in 1997, we found that current policies and procedures do not strictly adhere to the regulations in the CFR, and consequently, do not fully meet the intent of the regulations.

With regards to the Office of Programs' statements that the recommendations contained in the draft report differ from those we discussed, we disagree. The recommendations themselves did not significantly change. However, when the OIG met with the Office of Programs to detail our audit findings, the Office of Programs management and staff told us that they lacked the authority to change any of the policies and procedures regarding disability determinations. Based on these statements and regulations which specify that the (Disability Advisory) Committee shall periodically review, as necessary, the subpart of the CFR and the Disability Manual (which contains the disability policies and procedures) and make recommendations to the Board with respect to amendments to the CFR or the Disability Manual, we expanded the recommendation to include the three-member Board and the Disability Advisory Committee.

Other Related Comments

In connection with the RRB's compliance with the 1995 Paperwork Reduction Act, the RRB submitted a comment request in the Federal Register which invited comments on the RRB's data collection forms for job duty information. In response to the request, LIRR submitted a letter to the agency dated December 17, 2012. In this letter, LIRR made recommendations that were similar to some of those contained in this audit report.

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INTRODUCTION

This report presents the results of the Office of Inspector General's (OIG) audit of the Railroad Retirement Board's (RRB) job duty verification procedures for Long Island Rail Road (LIRR) occupational disability applicants.

Background

The RRB is an independent agency in the executive branch of the Federal government. The RRB administers the retirement/survivor and unemployment/sickness insurance benefit programs for railroad workers and their families under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act. These programs provide income protection during old age and in the event of disability, death, or temporary unemployment and sickness.

The RRA provides for the payment of an occupational disability annuity if an employee becomes permanently unable to perform his or her regular railroad occupation due to illness or injury. To become eligible for an occupational disability annuity, an employee must have completed 10 years of service and attained age 60, or may qualify with 20 years of service regardless of age. The employee must also have a current connection with the railroad industry. Generally, the current connection requirement can be satisfied by having completed at least 12 months of creditable railroad service in the 30 months preceding the annuity commencement date.

Once the disability annuity has been awarded, there are two requirements for the continuation of benefit payments. The annuitant must continue to be unable to perform his or her railroad occupation, and may not have monthly earnings in excess of \$790 (after deduction of disability related expenses) from any work, or annual earnings in excess of \$9,480.¹

Job duty information is necessary in the occupational disability process to compare with impairment-related restrictions. In order to apply for occupational disability benefits, Form G-251 (hereafter referred to as the "Vocational Report") is completed by the applicant. It includes work history for determining the regular railroad occupation and a job description of tasks performed. The tasks include a narrative description, environmental hazards, and physical activities involved in an 8-hour work day.

After the Vocational Report is filed by the employee, Forms G-251a and G-251b (hereafter referred to as the "Job Information Forms") are sent to the railroad employer to inform the employer that the applicant has filed for an occupational disability and to provide an opportunity for the employer to comment on the job duties that were reported by the applicant.

¹ These are Calendar Year 2012 limits.

In connection with the adjudication of occupational disability claims, examiners use job duty information provided by railroad employee on the Vocational Report, and job information received from railroad employer on the Job information Form to determine the job duties performed. The occupational disability applicants' reported job information, in addition to other background data and medical data, is used in making occupational disability determinations.

In June 1997, representatives of rail labor and management announced that they had reached an agreement on joint recommendations to the RRB to reform the occupational disability program. In November 1997, the agency's three-member board (the Board) approved the draft final rule in Section 220.10 (a) of 20 Code of Federal Regulation (CFR) Ch. II Subpart C. In accordance with these regulations, the RRB selected two physicians, one based on the recommendations of employers, and the other based on the recommendations of employees.² These individuals comprised the Occupational Disability Advisory Committee. In 1997, this committee submitted the Disability Manual to the agency for approval. According to the above regulations, "This Committee shall periodically review, as necessary, this subpart and the (Disability) Manual and make recommendations to the Board with respect to amendments to this subpart or to the Manual. The Board shall confer with the Committee before it amends either this subpart or the Manual."

The RRB's Office of Program's Disability Benefits Division is responsible for developing, analyzing, and evaluating records of physical examinations, medical treatment, employment vocational experience, and other information in connection with claims for occupational disability benefits. Occupational disability determinations are made based on the findings of fact and law. This office also requests additional evidence and orders medical examinations through a contractor, and reviews completed reports for adequacy.

During Fiscal Year (FY) 2011, approximately \$1.9 billion, representing approximately 83% of all disability benefit payments, were paid to more than 62,000 railroad employees who had been initially awarded benefits under the occupational disability provisions of the RRA. All of these employees were subject to the job duty verification process as required under the RRA. With advancing age, and changing medical conditions, many disabled annuitants have subsequently qualified for benefits by reason of age and service, or by becoming totally and permanently disabled. During FY 2011, the RRB awarded a total of 1,923 occupational disability annuities; 41 applications were denied.

² Section 220.10 (a) of 20 CFR Ch. II Subpart C refers to Disability under the Railroad Retirement Act for Work in an Employee's Regular Railroad Occupation.

In the fall of 2008, a series of news reports raised concerns about the large number of workers from LIRR who applied and were approved for occupational disability benefits by the RRB. As a result, the RRB issued a board order (Board Order #08-63) on October 20, 2008. This board order adopted and implemented recommendations to ensure that only LIRR employees who are eligible receive occupational disability annuities. In a memorandum dated October 10, 2008, the Inspector General recommended a number of changes to the agency's disability program. One of the recommendations was that occupational disability applications should not be adjudicated if the completed Job Information Forms are not received from the employer. In response to this recommendation, RRB management requested a legal opinion from the agency's General Counsel. The legal opinion stated that, if the Board were to refuse to adjudicate any occupational disability annuity application where the railroad employer has failed to complete the Job Information Forms, the Board would, in effect, be imposing another eligibility requirement on each applicant. Therefore, the agency found that the OIG recommendation could not be legally implemented. However, this legal opinion does not affect the recommendations made in this audit report.

The OIG has issued two briefing reports, one in 2008, and one in 2011, on the occupational disability program administered by the RRB.³ Both focused on LIRR employees and their experiences with the occupational disability program. The 2011 paper identified weaknesses in the process of awarding occupational disability annuities based on unverified job duty information. In connection with those identified weaknesses, the OIG conducted this audit.

The RRB's strategic plan includes ensuring the accuracy and integrity of benefit programs, which is paying the correct amount of benefits to the right people, as the second strategic objective in meeting the larger goal of serving as responsible stewards for their customers' trust funds and agency resources. This audit directly addresses that key area of performance.

Audit Objective

To determine whether the RRB's disability examiners granted occupational disability annuities (to LIRR employees) based on unverified job information.

Scope

The scope of our audit included all the disability annuities awarded to LIRR employees from October 21, 2008 through September 30, 2011.⁴

³ OIG reports issued –“Retirement Experience of the Employees of the Long Island Rail Road Under the Railroad Retirement Act,” November 24, 2008, page 4, and “Program Vulnerabilities in the Railroad Retirement Board Occupational Disability Program,” November 7, 2011, pages 6 and 7.

⁴ Occupational disability cases awarded on October 21, 2008 are included in the scope. However, the database used to track LIRR occupational disability cases began on October 22, 2008.

Methodology

To accomplish our objectives, we:

- Reviewed prior OIG findings.
- Reviewed applicable laws, regulations, agency's policies and procedures, and the Government Accountability Office's (GAO) Standards of Internal Control.
- Assessed whether agency's procedures agreed to corresponding law.
- Obtained an understanding of the criteria that was applicable to our audit objective.
- Conducted walkthroughs of occupational disability claim process and related controls.
- Interviewed responsible RRB management and staff as necessary.
- Obtained download of Program and Evaluation Management Service's (PEMS) utility database containing all LIRR occupational disability cases completed (awarded cases) from October 21, 2008 through September 30, 2011.
- Selected a random sample of 50 completed LIRR occupational disability case files from the universe of LIRR completed case files from PEMS utility database for the period of October 22, 2008 through September 30, 2011.
(See Appendix I.)

We tested data reliability by comparing data downloaded from the PEMS database, which was the source of our sample, with LIRR occupational disability award data provided by the RRB's Bureau of Actuary. We determined the download data was sufficiently reliable for the purposes of this audit.

We conducted this performance audit 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We conducted our fieldwork at the RRB's headquarters in Chicago, Illinois and the RRB's OIG office in New York, New York, from December 2011 through October 2012.

RESULTS OF AUDIT

Our audit determined that RRB's disability examiners did not always verify job duty information before granting occupational disability annuities. We identified nine individuals who were approved for occupational disability annuities even though their railroad employer, LIRR, did not return the Job Information Forms to the RRB. These nine unverified annuities represent an estimated \$3.8 million in financial risk to the agency. The financial risks to the agency would be significantly higher if we considered all railroad employers that did not return Job Information Forms. In addition, we determined that job duty verification procedures were insufficient to ensure employer verification of job duty information.

The full text of Management's response is included in this report as Appendix III. The details of our audit and recommendations for corrective action follow.

Occupational Disability Annuities Were Granted to LIRR Employees Despite Unverified Job Duty Information

RRB's disability examiners did not always grant occupational disability annuities for LIRR applicants based on verified job duty information.

During our review of 50 cases, we found that 14 of 50 (28%) occupational disability determinations were made based on unverified job data. This included 9 cases where the Job Information Form was not received, and 5 cases where the Job Information Form was received after the occupational disability determination was made. (See Appendix I.)

The CFR states that "...[i]n determining the job demands of the employee's regular railroad occupation, the Board will not only consider the employee's own description of his or her regular railroad occupation, but **shall** also consider the employer's description of the physical requirements and environmental factors relating to the employee's regular railroad occupation, as provided by the employer on the appropriate form...." ⁵

Disability determinations were made without the proper verification of job duty information because the procedures set forth in the Disability Manual did not strictly adhere to the regulations in the CFR.

Procedures that allow occupational disability determinations to be made without the proper verification of job duty information increases the risk of potential fraud and the granting of occupational disability annuities to applicants who are not entitled.

⁵ 20 CFR § 220.13

Recommendation:

We recommend that the Office of Programs work with the agency's three-member Board (Board) and/or the Disability Advisory Committee to:

1. Modify occupational disability procedures to comply with the CFR and ensure that every reasonable effort is made by the District Office staff and/or the Disability staff to obtain the Job Information Form from the railroad employer during the established response period.

Management's Response

The Office of Programs stated that they are unable to comment on this recommendation at this time. They further stated that the recommendations contained in the draft report differed from those discussed with OIG audit staff in that the recommendations now state that the Office of Programs work with "the agency's three-member Board and/or the Disability Advisory Committee" to implement the five recommendations in the report. Therefore, they stated that their response as to concurrence or non-concurrence for each recommendation will be delayed until they can confer with Board Offices.

The Office of Programs also stated that they had one significant concern regarding the report. They said that the report gives an incorrect impression with respect to the relationship between the Board's regulations as published in the Code of Federal Regulations (CFR) and the policies and procedures used by disability examiners to evaluate applications for disability benefits. They stated that both the regulations and the procedures were developed in 1997 as part of the same joint labor-management initiative and the procedures were extensively reviewed at that time and properly reflect the regulations.

RRB-OIG's Comments on Management's Response

With regards to the Office of Programs' statements that the recommendations contained in the draft report differ from those we discussed, we disagree. The recommendations themselves did not significantly change. However, when the OIG met with the Office of Programs to detail our audit findings, the Office of Programs management and staff told us that they lacked the authority to change any of the policies and procedures regarding disability determinations. Based on these statements and regulations which specify that the (Disability Advisory) Committee shall periodically review, as necessary, the subpart of the CFR and the Disability Manual (which contains the disability policies and procedures) and make recommendations to the Board with respect to amendments to the CFR or the Disability Manual, we expanded the recommendation to include the three-member Board and the Disability Advisory Committee.

We disagree with the Office of Programs' statements that the report gives an incorrect impression with respect to the relationship between the Board's regulations as published in the Code of Federal Regulations (CFR) and the policies and procedures used by disability examiners to evaluate applications for disability benefits. Although we understand that the policies and procedures and regulations were developed jointly in 1997, we found that current policies and procedures do not strictly adhere to the regulations in the CFR, and consequently, do not fully meet the intent of the regulations.

Policies and Procedures Need Improvement

Our review determined that RRB's job verification policies and procedures were not sufficient to ensure that the job information provided by LIRR employees was appropriately verified by the railroad employer prior to making occupational disability determinations.

Internal control is an integral component of an organization's management that provides reasonable assurance concerning the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations. Pursuant to the provisions of the Federal Managers' Financial Integrity Act of 1982, GAO has issued "Standards for Internal Control in the Federal Government." These standards provide the overall framework for establishing and maintaining internal control and for identifying and addressing major performance and management challenges and areas at greatest risk of fraud, waste, abuse, and mismanagement.

During our review of RRB job verification policies and procedures, we found that the wording on the Job Information Forms that are sent to the railroad employer to verify job requirements suggest that a response is not required. The following are excerpts from the Job Information Forms:

- "The above named railroad employee has applied for an occupational disability benefit under section 2(a) (IV) of the Railroad Retirement Act. RRB regulation 20 CFR 220.13 (b) (2) provides that railroad employers **may** furnish pertinent information concerning the job duties the employee is required to perform."
- "If **you wish** to provide job duty information on the above-named employee, it must be received by the RRB no later than...."

Our review also determined that the job information forms are routinely addressed to the railroad employer's Human Resource Department rather than to the employee's immediate supervisor. In our opinion, the employee's supervisor would be the best source for obtaining a description of actual duties performed by the employee.

Of the remaining 41 responses we found that 31 (75%) were from LIRR Human Resource Department, 8 (20%) were from LIRR Audit and Quality Services Department, 2 (5%) were from LIRR Pension Administration Systems and Services Department; not one was received from the employee's immediate supervisor.

RRB's current policy indicates that the employer will be given 30 days to return the complete Job Information Form. If the employer does not respond within this time, occupational disability examiners are instructed to use the job duty information on the Vocational Report (which is supplied by the applicant) when evaluating the occupational disability determination. Furthermore, the examiner is instructed not to trace the Job Information Forms with the field office or the railroad employer. These procedures allow disability examiners to make occupational disability determinations based on unverified job data, which is contrary to the CFR.

RRB's failure to implement policies and procedures that would ensure the complete and proper verification of job duty information from the employer resulted in the granting of occupational disability awards based on unverified job duty information. As a result, there is an increased risk of granting occupational disability awards to individuals who are not entitled.

In 9 of the 50 (18%) cases tested, the railroad employer (LIRR) did not return the Job Information Form. The estimated financial impact of the occupational disability benefits payable to the nine annuitants where the Job Information Forms were never returned to the RRB totals approximately \$3.8 million.⁶ Taking into account that this \$3.8 million represents only one railroad employer, the financial risks to the agency would be significantly higher if we considered all railroad employers that did not return Job Information Forms. (See Appendices I and II.)

⁶ This calculation includes benefits payable from annuity beginning date to the annuitants' full retirement ages, at which time they would begin receiving regular retirement benefits.

Recommendations

We recommend that the Office of Programs work with the Board and/or Disability Advisory Committee to:

2. Revise the wording of the Job Information Forms using stronger language.
3. Send or route the Job Information Forms to the applicant's direct supervisor, and require the direct supervisor to certify the information given in the space provided on the appropriate Job Information Form.
4. Consider extending the employer response period to forward the Job Information Forms and related documentation to the RRB.
5. Perform a study to determine the reasons for the railroad employers' failure to return the Job Information Forms, and take corrective action to elicit better responses based on their findings.

Management's Response

The Office of Programs stated that they are unable to comment on these recommendations at this time. They further stated that the recommendations contained in the draft report differed from those discussed with OIG audit staff in that the recommendations now state that the Office of Programs work with "the agency's three-member Board and/or the Disability Advisory Committee" to implement the five recommendations in the report. Therefore, they stated that their response as to concurrence or non-concurrence for each recommendation will be delayed until they can confer with Board Offices.

RRB-OIG's Comments on Management's Response

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Other Related Comments

In connection with the RRB's compliance with the 1995 Paperwork Reduction Act, the RRB submitted a comment request in the Federal Register which invited comments on the RRB's data collection forms for job duty information. In response to the request, LIRR submitted a letter to the agency dated December 17, 2012. In this letter, LIRR made recommendations that were similar to some of those contained in this audit report.

TESTING METHODOLOGY AND RESULTS

RANDOM SAMPLE

This appendix presents the methodology and results of our tests for a random sample of LIRR occupational disability case files. Our testing involved the verification of job duty information.

Audit Objective

We tested a randomly selected sample of LIRR occupational disability case files to determine whether RRB occupational disability examiners granted occupational disability annuities based on unverified job information.

Scope

Using the RRB's PEMS utility database, we randomly selected a sample of 50 occupational disability case files from a population of 348 LIRR completed occupational disability cases (awarded cases) for the period October 21, 2008 through September 30, 2011. All awarded cases in the population were subject to selection.

Review Methodology

We used the following methodology for testing the case files once they were identified.

1. Noted evidence of completed Vocational Report from railroad employee and returned Job Information Form and related documentation from railroad employer.
2. Determined whether job duties described on both Vocational Report and Job Information Form (including related documents) were in agreement.
3. Determined whether the occupational disability decision was made based on verified or unverified job data per the Vocational Report.
4. Noted evidence of job duty verification procedures.
5. Interviewed agency employees about the content of the files.
6. Examined the case files to determine who completed the Job Verification Forms to establish the number of cases where the immediate supervisor had completed the forms.

Results

We noted the following:

- In 9 of the 50 (18%) cases tested, the railroad employer did not return the Job Information Form. In the remaining 41 cases where the forms were returned, the Job Information Forms were not received from claimant's immediate supervisor.
- In 5 of the 50 (10%) cases tested, the Job Information Form was received after the occupational disability award was granted.
- In 14 of the 50 (28%) cases tested, occupational disabilities were awarded based on unverified job data.

The results of our case review and issues identified are outlined in the table below.

Test attributes - Job Verification – Case File Review	Tested	Non-Exceptions	Exceptions
<u>Job Verification</u> Job verification was considered complete if the Job Information Form was received, reviewed and reconciled to the Vocational Report by examiner prior to the occupational disability determination. Categories 1, 2, 3 and 4 below were considered as exceptions.			
(1) Job Information Forms never received	50	41	9
(2) Job Information Forms received after award	50	45	5
(3) Occupational Disability determinations based on unverified job duty Information	50	36	14
(4) Job Information Forms not received from claimants' immediate supervisors (50 case files less the 9 case files where job information forms were not received from employer = 41 case files tested)	41	0	41 ⁷

Audit Conclusion:

RRB's disability examiners did not always grant occupational disability annuities for LIRR employees based on verified job information. Such practices were attributable to weaknesses in RRB's job verification policies and procedures, which failed to ensure that the job information provided by LIRR employees was appropriately verified by the railroad employer prior to the occupational disability determination.

⁷ Category #4 in the table above does not prevent the job verification process from occurring. However, this observation was classified under exceptions based on the fact that not receiving a Job Information Form from the claimant's immediate supervisor weakens the job verification process; resulting in an increased risk of obtaining inaccurate job duty information from indirect sources.

Estimated Dollars at Risk

The estimated financial impact of nine individuals who were approved for occupational disability annuities even though their railroad employer, LIRR, did not return the job information form to the RRB, are provided in the table below. The calculation includes benefits payable from the annuity beginning date to the annuitant's full retirement age, at which time regular retirement benefits would begin.

Annuitant #	Annuity Beginning Date	Estimated Retirement Date	No. of Benefit Months to be Paid Until Retirement	Estimated Amount of Dollars at Risk
1	11/01/2008	01/01/2021	147	\$480,524
2	12/01/2008	04/01/2021	149	\$456,788
3	03/01/2009	11/01/2014	69	\$249,266
4	04/01/2009	04/01/2014	61	\$227,458
5	02/01/2009	03/01//2016	86	\$311,110
6	12/01/2009	05/01/2026	198	\$709,362
7	05/01/2010	06/01/2026	194	\$672,677
8	04/01/2010	07/01/2013	40	\$114,219
9	11/01/2010	11/01/2024	169	\$594,088
Total				\$3,815,492



UNITED STATES
GOVERNMENT

FORM G-115f (1-92)
RAILROAD RETIREMENT BOARD
January 4, 2013

MEMORANDUM

TO: Diana Kruef
Assistant Inspector General for Audit

FROM: Ronald Russo *Ron Russo*
Director of Policy and Systems

THROUGH: Martha M. Barringer *Martha M. Barringer*
Director of Programs

SUBJECT: Draft Report – Audit of Job Duty Verification Procedures for Long Island Rail Road Occupational Disability Applicants

Thank you for the opportunity to review the findings and recommendations in the above referenced report.

We have one significant concern regarding the report. The report gives an incorrect impression with respect to the relationship between Board's regulations as published in the Code of Federal Regulations (CFR) and the policies and procedures used by disability examiners to evaluate applications for disability benefits. The report indicates that procedures do not comply with Board regulations. Both the regulations and procedures were developed in 1997 as part of the same joint labor-management initiative. The procedures were extensively reviewed at that time and properly reflect the regulations. We expressed similar comments at the closing conference and, subsequent to the meeting, provided additional documentation to support our position.

At this time we are unable to comment on the recommendations made in the report. As you know the recommendations contained in the draft report differ from those we discussed with your staff. Because the report now recommends that the Office of Programs work with "the agency's three-member Board and/or the Disability Advisory Committee" to implement the five recommendations in the report, the Office of Programs will confer with Board Offices in order to respond to your office with a statement of concurrence or non-concurrence for each recommendation in the report by April 30, 2013.

cc: Director of Program Evaluation and Management Services
Director of Disability Benefits
Secretary to the Board