OFFICE OF INSPECTOR GENERAL

# Management Information Report

## Management and Performance Challenges Facing the Railroad Retirement Board

## Report No. 15-02
## November 20, 2014

RAILROAD RETIREMENT BOARD

## Introduction

This statement has been prepared pursuant to the Reports Consolidation Act of 2000 and the requirements of Office of Management and Budget Circular A-136 which require that the Inspectors General identify what they consider the most serious management challenges facing their respective agency and briefly assess the agency's progress in addressing those challenges. By statute, the following is also included in the Railroad Retirement Board's (RRB) fiscal year 2014 Performance and Accountability Report. The RRB's response is included in this report as Appendix I.

Congress created the railroad retirement system more than 75 years ago. The Railroad Retirement Act (RRA) created a nationwide retirement system for railroad workers to provide income security in old age. Over the years the program has been expanded to include disabled workers, elderly spouses and widow(er)s, children, and parents of young children. In 1938, Congress added a nationwide system of unemployment insurance and later, a program of sickness insurance benefits. During fiscal year 2013, the RRB paid about $11.7 billion in retirement and survivor benefits to approximately 568,000 beneficiaries and approximately $91 million in net unemployment and sickness insurance benefits, including almost $7 million in temporary extended unemployment benefits under the American Recovery and Reinvestment Act of 2009, to more than 26,000 claimants.

Our identification of challenges facing RRB management is based on recent audits, evaluations, investigations, and current issues. The RRB Office of Inspector General (OIG) identified the following seven major management challenges facing the RRB during fiscal year 2014.

| **Most Serious Management and Performance Challenges Facing the RRB as of October 1, 2014 (as identified by the Inspector General)** | |
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| **Challenge 1** | *Program Integrity to Strengthen Disability* |
| **Challenge 2** | *Information Technology Security and Modernization* |
| **Challenge 3** | *Oversight of Railroad Medicare* |
| **Challenge 4** | *Preventing and Detecting Improper Payments* |
| **Challenge 5** | *Oversight of RRB Contracts and Contracting Activity* |
| **Challenge 6** | *Controls over Budgetary Reporting* |
| **Challenge 7** | *Limited Transparency at the National Railroad Retirement Investment Trust* |

**Challenge 1 – Program Integrity to Strengthen Disability**

Over the last several years, the OIG has issued numerous recommendations in the form of audits, alerts, and memoranda directed toward increasing program integrity within the RRB's occupational disability program, many to address weaknesses identified during the Long Island Rail Road (LIRR) investigation. This investigative effort resulted in 30 annuitants, 2 doctors, and a former longtime RRB employee being either convicted or pleading guilty to charges stemming from their involvement in the sweeping LIRR occupational disability fraud scheme.

However, to date the RRB has failed to either adequately address or implement the majority of these recommendations and has allowed the adjudication process to remain ineffective and incapable of preventing fraud. For example, the RRB attempted to increase oversight efforts through Board Order 08-63, yet the LIRR occupational disability application approval rate remains essentially unchanged at more than 90 percent.

The following are selected reported challenges in this program:

In January 2013, the OIG reported that the RRB's disability examiners did not always verify job duty information before granting occupational disability annuities as required by RRB regulations.[1] The OIG identified nine individuals employed by LIRR who had been approved for occupational disability annuities even though LIRR did not report their job information to the RRB. The nine unverified annuities represented an estimated $3.8 million in financial risk to the RRB. In December 2013, the RRB sent a letter to rail management and rail labor requesting that they look into this matter. However, the RRB has not taken any corrective action to improve this process.

On February 10, 2014, the OIG issued a seven-day letter—a serious and rarely used communication—alerting the RRB's Chairman to "particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of" the RRB's occupational disability program.[2] In response, the Chairman wrote to the Congress that the letter was unwarranted and failed to acknowledge the circumstances surrounding the fraudulent scheme and the elements that made this fraud possible.[3] While the OIG's ongoing investigation into widespread occupational disability fraud committed by individuals associated with the LIRR was the catalyst for issuance of the seven-day letter, the OIG has a longstanding concern that the RRB's problems are systematic and are not isolated to a particular railroad, and a growing concern about the RRB's failure to take

[1] RRB OIG, *Audit of Job Duty Verification Procedures for Long Island Rail Road Occupational Disability Applicants,* 13-02 (Chicago, IL.: January 15, 2013).
20 CFR § 220.13(b)(2)(iv)(E).
[2] 5 U.S.C. App. 3, § 5(d).
[3] Railroad Retirement Board Chairman Michael S. Schwartz to the Honorable Patty Murray, Committee on Budget Chairman, February 18, 2014.

meaningful action to identify and prevent fraud in its occupational disability program.

In June 2014, the Government Accountability Office (GAO) reported on the RRB's disability program; concluding, as we do, that the RRB's existing policies and processes impede its ability to prevent improper payments or to detect and prevent fraudulent claims system-wide.[4] While, in response to that report, the RRB agreed with all of GAO's recommendations for improvement; we remain concerned that the RRB has not developed or implemented significant program improvements in the past several years, and in many instances disregarded our recommendations entirely by providing no plans or timeframes for corrective action.

In July 2014, the OIG's Office of Audit reported on the financial impact of injury settlements that awarded service months to qualify railroad employees for occupational disability benefits. Specifically, the report found that the financial impact to the Railroad Retirement trust funds could be minimized if the RRB's three-member Board seeks legislative changes to disallow the allocation of service months as part of injury settlements to qualify for occupational disability annuities, and to tax all creditable compensation.[5] To date, the Board has not responded to these recommendations.

In September 2014, the RRB's three-member Board wrote to the Inspector General to update him on the status of numerous recommendations regarding the disability program. In the letter, they indicated that they implemented several of the Inspector General's recommendations and that they continue to analyze and review the remainder of the recommendations. Additionally, the Board indicated that it was exploring more effective ways to prevent and detect fraud and enhance program integrity. However, the Inspector General views the actions taken by the Board as focusing on peripheral issues, and the Board has not taken decisive actions to address the factors that have contributed to the ongoing fraud in the disability program.

As responsible public stewards, RRB management must implement comprehensive and meaningful procedural and cultural change to ensure that disability award benefits are adjudicated accurately; granting benefits to those who are eligible after an independent, thorough review of the application and all required supporting documentation. If implemented properly, recommendations contained in our previous audits, alerts, and memoranda provide valuable steps to improve program integrity. Without these changes, the RRB's practice of awarding disability benefits based on questionable and even fraudulent applications will continue to cost the RRB and its eligible beneficiaries millions in unwarranted expenses annually.

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[4]GAO, *Railroad Retirement Board Total and Permanent Disability Program at Risk of Improper Payments*, GAO-14-418 (Washington, D.C.: June 2014).
[5]RRB OIG, *Financial Impact of Injury Settlements Awarding Service Months to Qualify Railroad Employees for Occupational Disability Benefits,* 14-08 (Chicago, IL.: July 18, 2014).

## Challenge 2 – Information Technology Security and Modernization

The RRB faces challenges of how best to use existing and emerging technologies to meet its agency and program goals. At the RRB, like all Federal agencies, there are limited budgetary and human resources. In the coming years, RRB plans to replace some existing technologies and update the tools provided to the RRB workforce to allow greater productivity.

In the coming years, RRB seeks to fund several major information technology initiatives, including:

- migration of the Program Accounts Receivable (PAR) system to the Financial Management Integrated System (FMIS);
- implementation of elements of its "Office in the Cloud" plan, which is technology to offer a virtual office to a mobile work force;
- disaster recovery modernization; and
- mainframe reengineering.

Each of these major initiatives presents risks to the RRB that are of concern to the OIG.

The migration of the RRB's PAR system to FMIS is expected to begin in fiscal year 2015. According to the Fiscal Year 2015 Budget Submission for RRB, $2.5 million is budgeted for this project.[6] This project involves the RRB converting the legacy PAR system to an accounts receivable module of FMIS. The current PAR system records and manages about 40,000 new debts and 80,000 cash receipts annually. The RRB risks encountering many of the same challenges or resulting weaknesses during the PAR migration to FMIS as they had faced during the original FMIS migration. Specifically, in audits by the OIG to assess information security controls related to FMIS, we reported on significant weaknesses including unsupported opening balances and inadequate audit trail, insufficient or missing policies and procedures for FMIS, and insufficient documentation regarding the interfaces and interconnections for FMIS.[7]

Further, the OIG is concerned about adequately securing transactions in virtual offices of the mobile work force and the pace of implementation of cloud technology.

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[6] RRB, *Railroad Retirement Board Fiscal Year 2015 Budget Submission* (Chicago, IL.: September 19, 2013).

[7] RRB OIG, *Audit of the Business Process Controls in the Financial Management Integrated System,* 14-10 (Chicago, IL.: August 1, 2014).
RRB OIG, *Audit of the Adequacy of Interface Application Controls in the Financial Management Integrated System,* 14-11 (Chicago, IL.: August 14, 2014).

Given the historic challenges in information technology implementation both at RRB and across government, the OIG considers these major technology systems initiatives to be of risk, requiring close attention and oversight.

**Challenge 3 – Oversight of Railroad Medicare**

The Railroad Medicare Program provides medical care for qualified railroad retirees. The Railroad Medicare Program is managed by one nationwide Medicare contractor, Palmetto GBA, which processes Medicare Part B claims of qualified railroad retirement beneficiaries. The RRB is responsible for administering its contract with Palmetto GBA. In fiscal year 2013, the RRB withheld approximately $532 million in premiums and Palmetto processed about $846 million in payments for services covered by Medicare Part B.[8] CMS reimburses the RRB for expenses related to administering this program—approximately $23 million in fiscal year 2013.[9]

In May 2014, the OIG reported control weaknesses regarding Railroad Medicare payments to physical therapists.[10] These weaknesses allowed payments to unlicensed providers, to providers with invalid provider numbers, to providers subject to disciplinary actions, and to providers with practice locations that have not been authenticated. The OIG estimated $14.3 million in improper payments to physical therapists: this includes $1.8 million in payments to unlicensed providers and another $12.5 million to providers with invalid provider numbers. RRB management agreed to work with its Medicare contractor to take corrective action on seven of our ten recommendations. They have not agreed to take corrective action on our two recommendations related to recovery of the estimated improper payments. In addition, they have not agreed to work with the contractor to take corrective action on our recommendation related to Railroad Medicare providers subject to state disciplinary actions.

In July 2014, the OIG reported a number of challenges facing the Railroad Medicare contractor.[11] These challenges limit the contractor's ability to detect fraud and abuse. The contractor does not:

- have access to the same program integrity tools as other Medicare contractors.
- have adequate communications between its various units.

[8] *Fiscal Year 2014, Annual Report, U.S. Railroad Retirement Board,* page 27. Approximately $532 million estimated based on total number of individuals from/for whom premiums were withheld at a monthly rate of $99.90 through December 2012 and $104.90 thereafter.
[9] RRB, *Performance and Accountability Report, Fiscal Year 2013* (Chicago, IL.: December 2013).
[10] RRB OIG, *Audit of Payment Controls over Railroad Medicare Claims Submitted by Physical Therapists,* 14-07 (Chicago, IL.: May 16, 2014).
[11] RRB OIG, *Railroad Medicare Progress and Challenges,* 14-09 (Chicago, IL.: July 25, 2014).

- have medical staff with specialized experience in the detection of fraud and abuse.
- utilize all available tools to identify improper payments, including potential fraud.

These and other known challenges in the Railroad Medicare program cause concern to the OIG. The RRB will be challenged to continue to improve controls over the more than $800 million in Medicare payments made on behalf of its beneficiaries.

**Challenge 4 – Preventing and Detecting Improper Payments**

Pursuant to the Improper Payments Elimination and Recovery Act of 2010 (IPERA), the RRB reports its progress in reducing improper payments for its two benefit payment programs, RRA benefits and Railroad Unemployment Insurance Act (RUIA) benefits.

For fiscal year 2013, the RRB estimates over $82 million in improper RRA benefit payments, which represents 0.70 percent of program outlays. This is a reduction from the 1.64 improper payment percentage reported for fiscal year 2004. However, RRA actual overpayments were still more than $62 million for fiscal year 2013.

In its current improper payment reporting, the RRB estimates that 27 percent of RRA improper payments are due to “Authentication and Medical Necessity,” which is a significant increase from the 2.2 percent reported in the fiscal year 2013 Performance and Accountability Report (PAR). The RRB attributes the increase to terminated disability cases and a change in methodology for projecting causes. The RRB states that it has ongoing efforts to prevent fraud in the disability process but does not elaborate. The RRB then dismisses the higher percentage as a possible anomaly based on historical overpayments in this category.

As outlined in Challenge 1, the OIG has serious concerns about the RRB’s disability program and the adequacy of its improper payment detection methods. Therefore, the current year percentage may not be an anomaly.

The RRB estimates that 67 percent of RRA improper payments are due to changes coming from outside the RRB and the challenge is to obtain the information and process it as quickly as possible. The RRB has established a number of automated initiatives designed to minimize RRA improper payments. The reduction of RRA improper payments is impacted by manual workload backlogs and requires long range planning.

For fiscal year 2013, the RRB estimates over $4 million in improper RUIA benefit payments, which represents 3.7 percent of program outlays. RUIA improper payments are considered relatively low due to the RRB's current program integrity effort. However, RUIA actual overpayments were still more than $3 million for fiscal year 2013. The RRB has convened an inter-bureau project team to identify additional ways of further minimizing RUIA improper payments.

In our 2014 IPERA report, we recommended that RRB management identify all programs that they administer in its risk assessment for improper payments, including Railroad Medicare.[12] In its current IPERA reporting, the RRB has included a risk assessment for Railroad Medicare with a determination of low risk. The OIG will assess the accuracy of this determination in our next IPERA review.

While the OIG recognizes that the RRB has made some efforts toward minimizing RRA and RUIA improper payments, the RRB must include initiatives to reduce the impact of manual workload backlogs on RRA improper payments in their long range planning.

## Challenge 5 – Oversight of RRB Contracts and Contracting Activity

In fiscal year 2014, the RRB estimated over $13.4 million for major contracts.[13] The RRB's estimate for major contracts in fiscal year 2015 is approximately $10.2 million.[14]

Previous OIG audits have identified issues related to the review of contractor's deliverables for IT contracts. The RRB also has contracts for the Railroad Medicare, and for medical exams related to disability decisions, which are two areas of concern that have already been highlighted. As such, there is a great need for the RRB's continual vigilance in all phases of contract administration.

In fiscal year 2011 report, the OIG performed a review of Railroad Medicare contract costs and found that controls for both the RRB and its contracted carrier were not fully effective.[15] The carrier's records of work performed were insufficient to support amounts billed. The RRB's oversight and contract management procedures were inadequate to fully ensure the integrity of Railroad Medicare cost reimbursements. This report contained 15 recommendations and the RRB agreed to take action on each of the recommendations. More than three years later, none of the recommendations have been closed, including the recommendation to review total costs of $3.1 million and $3.7 million incurred by the Customer Service Unit and Medical review unit during fiscal years 2008 and 2009 to determine if the costs are allowable. In September 2013, when asked about the status of the open recommendations, the RRB responded "[o]ther

[12]RRB OIG, *Audit of the Railroad Retirement Board's Fiscal Year 2013 Compliance with the Improper Payments Elimination and Recovery Act of 2010*, 14-05 (Chicago, IL.: March 28, 2014).
[13] RRB, *Justification of Budget Estimates Fiscal Year 2014 Draft* (Chicago, IL.: April 3, 2013).
[14] RRB, *Congressional Justification of Budget Estimates Fiscal Year 2015 Draft* (Chicago, IL.: March 5, 2014).
[15] RRB OIG, *Audit of Controls Over Railroad Medicare Contract Costs*, 11-06 (Chicago, IL.: April 20, 2011).

higher priority project prevented in-depth review of new contract.” The OIG finds it problematic that higher priorities would delay the review of contract cost by more than 3 years considering that this is a multi-million dollar contract. The RRB entered into the new contract in 2012 without performing an in-depth review of the contract.

### Challenge 6 – Controls over Budgetary Reporting

The RRB’s Statement of Budgetary Resources (SBR) remains a concern. The OIG observed that through June 2014, the Bureau of Fiscal Operations (BFO) had not been able to produce the SBR through FMIS. Although BFO has taken some corrective action, including the migration to FMIS, and the implementation of the Department of the Treasury’s Governmentwide Treasury Account Symbol Adjusted Trial Balance System, further corrective actions need to be taken to ensure the accuracy of calculations, consistency in recorded amounts and effectiveness of controls.

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

The National Railroad Retirement Investment Trust (NRRIT) was established by the Railroad Retirement and Survivors’ Improvement Act of 2001 (RRSIA). The NRRIT is a tax-exempt entity, independent of the Federal government, whose purpose is to manage and invest railroad retirement assets. The NRRIT is authorized to invest the assets entrusted to it in a diversified investment portfolio in the same manner as private sector retirement plans. From time-to-time, the NRRIT may transfer funds to the RRB as necessary to pay benefits that are not covered through current tax receipts from railroad employees or employers. Over $25 billion in assets were held by the NRRIT, on behalf of railroad retirees and their families, at the end of fiscal year 2013.[16]

The OIG has a longstanding concern that NRRIT oversight is inadequate. In March 2008, the OIG published a statement of concern which stated that reliance on the annual audits of the NRRIT’s financial statements had left the NRRIT with fewer safeguards than those established to protect other similar retirement investments.[17] Further, while the RRB has legal standing to enforce the NRRIT’s compliance with RRSIA, the authority is not supported by adequate legislative authority to assert an oversight role, which may support such enforcement activities.

Oversight and improved transparency of the NRRIT could be accomplished through a combination of independent performance audits conducted in compliance with Generally Accepted Government Auditing Standards (GAGAS)

[16] RRB, *Performance and Accountability Report*, Fiscal Year 2013 (Chicago, IL.: December 2013).
[17] RRB OIG, *Statement of Concern: National Railroad Retirement Investment Trust Lack of Provision for Performance Audits* (Chicago, IL.: March 31, 2008).

and a transparent annual financial statement audit; along with independent investigations, evaluations, and assessments, as appropriate.[18] The following outlines major challenges presented in each of these areas.

Performance Audits

The NRRIT has commissioned four periodic performance audits since its inception in 2002, but has not established a formal policy for such audits. There is no indication that the performance audits commissioned by the NRRIT are performed in accordance with GAGAS, which provides a framework for conducting high-quality audits with competence, integrity, objectivity, and independence. Of concern is that the NRRIT self-selects the audit areas. Comparable entities, such as the Thrift Savings Plan and private pensions, are subject to performance audits by one or more independent external entities. In contrast, the NRRIT defines the subject and scope of its performance audits. It is the OIG's opinion that selection by the NRRIT of the audits to be performed prevents thorough oversight of the NRRIT's assets and operations. The OIG strongly opposes any arrangement that allows the NRRIT to control performance audits. It is also the OIG's opinion that a statutory amendment to provide for performance audits would have greater permanence, since the NRRIT could not legally opt to discontinue new oversight practices.

In fiscal year 2014, GAO reported on performance audit policies and practices that exist for overseeing the NRRIT, performance audit policies in place at comparable organizations, and options that could be pursued to improve NRRIT performance audit policies.[19] While the report did not contain any formal recommendations, it did list options for expanded NRRIT oversight including:

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

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

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

[18] GAO, *Government Auditing Standards, 2011 Revision*, GAO-12-331G (Washington, D.C.: December 2011).
[19] GAO, *RETIREMENT SECURITY: Oversight of the National Railroad Retirement Investment Trust,* GAO-14-312 (Washington, D.C.: May 15, 2014).

Disclaimer of Opinion on RRB Financial Statements

The OIG's lack of access to the NRRIT has resulted in the OIG issuing a disclaimer of opinion on the RRB's fiscal year 2013 financial statements, and we expect to do so again in fiscal year 2014. The OIG is required by law to audit the financial statements of the RRB, and the NRRIT is a significant component of the RRB. In order to comply with the American Institute of Certified Public Accountants (AICPA) group financial statement auditing standard, the OIG contacted the NRRIT requesting direct communication with, and cooperation from their auditor.[20] To date, there has been no communication or cooperation from the NRRIT's auditor, directly or indirectly. In view of the fact that the OIG cannot obtain sufficient appropriate audit evidence with respect to the NRRIT, we cannot issue an opinion on the RRB's financial statements. To prevent future disclaimers of opinion, it's imperative that RRB management counsel the NRRIT regarding its auditor's responsibilities to comply with the AICPA's group financial statement requirements.

RRB Management's Comments & Our Response

The OIG provided a draft of this statement to the RRB for inclusion in its fiscal year 2014 Performance and Accountability Report. Subsequently, the RRB provided written comments, which are reprinted in Appendix I. Regarding Challenge 1, the RRB responded that the agency has taken decisive action and has directed further program improvements to strengthen both the initial disability process, as well as overall program integrity. They also outlined actions taken to date that address Challenges 2 through 7.

We acknowledge that the RRB has directed a number of changes in the Disability Program. However, until the challenges outlined in this document are addressed and all other recommended changes are fully and effectively implemented and their effectiveness assessed, the RRB will continue to lack a robust system of program integrity. We believe the challenges facing the RRB are significant and will require not only long-term dedicated attention but a change in the institutional culture. An effective control system is imperative because the RRB manages approximately $12 billion in annual RRA and RUIA benefit payments, including disability benefit payments, and more than $800 million in Railroad Medicare benefit payments.

[20] AICPA, AU-C Section 600, Special Considerations - Audits of Group Financial Statements (including the Work of Component Auditors).

Finally, increased oversight of the $26 billion held by the NRRIT is necessary for the OIG to accomplish all of its statutory mandates and to assure the long term stability of the NRRIT. The OIG encourages the RRB to develop a legislative proposal that would allow for appropriate oversight of the NRRIT to protect the railroad employees who have funded it and who will rely on the funds in the future.

The OIG reiterates its opinion that the NRRIT net assets meet the definition of pervasive because they represent a substantial portion of the financial statements. For fiscal year 2014, NRRIT net assets, $26 billion, represented 80% of total assets reported for the RRB. They also represented 95% of the Treasury securities and assets held by the Railroad Retirement program as of January 1, 2014. Therefore, a qualified opinion cannot be rendered because undetected misstatements, that are both material and pervasive, could exist.[21] OIG auditors discussed this opinion with RRB management. They also discussed the audit evidence that would be needed and may allow the OIG auditors to obtain sufficient and appropriate evidence, and thereby consider rendering a different audit opinion on the financial statements.

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

Martin J. Dickman
Inspector General

[21] Misstatements in the NRRIT net assets could be both material and pervasive. AICPA AU-C 705.06 defines pervasive as, “[a] term used in the context of misstatements to describe the effects on the financial statements of misstatements or the possible effects on the financial statements of misstatements, if any, that are undetected due to an inability to obtain sufficient appropriate audit evidence.” In context to the RRB’s financial statements, the “[p]ervasive effects on the financial statements are those that, in the auditor’s judgment” are confined to specific elements, accounts, or items of the financial statements, and “represent or could represent a substantial proportion of the financial statements.” AICPA, AU-C Section 705, Modifications to the Opinion in the Independent Auditor’s Report.

## Management's Comments

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

Program Integrity to Strengthen Disability

RRB management has taken decisive action to strengthen both the initial disability determination process as well as overall program integrity. In response to OIG recommendations and ad hoc communications as well as the Government Accounting Office (GAO) audit findings, the agency has taken meaningful action to improve the central critical functions of the RRB's disability program including:

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

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

- Independent Medical Examinations for most cases.
- Review of contracted sources by the Disability Advisory Committee for the purpose of making recommendations for improvement.
- Freeze determination to be made concurrently with the disability rating under the Railroad Retirement Act (RRA).
- Revise the job information process/forms to ensure that disability examiners have adequate and uniform vocational information available to them when adjudicating applications.
- Enhance training in disability adjudication and provide additional professional medical support to claims examiners.
- Task a multi-component team from the RRB with the responsibility for reviewing SSA's disability program and identifying "best practices" that can be utilized by the RRB.
- Review and revise application forms to ensure that all relevant information is obtained.
- Resume continuing disability reviews for occupational disability cases on a more routine basis.
- Establish a quality control unit and related performance goals.
- Create a matrix analyzing those attributes associated with a higher level of fraud and require annuitants who meet the parameters of the matrix to annually certify their continued eligibility.
- Explore options to obtain more timely earnings data to support stronger initial adjudication and post-entitlement program integrity.
- Set up procedures to identify and address cases of potential fraud before claims are approved.

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

Information Technology Security and Modernization

The Information Technology (IT) Enterprise Roadmap outlines the plan to enable a future ready RRB workforce equipped with modern tools and technologies to do their jobs in the most efficient, effective, and secure manner that leads to sustained customer satisfaction in the railroad community we serve. The IT Enterprise Roadmap introduces the concept of Office in the Cloud. This robust and secure concept provides sustained operations for the future. Applications are modernized to run on virtual servers and do real-time processing in a secure Private Cloud. This initiative enables self-service solutions for the railroad community, mobile applications, and a virtual office that allows our workforce to accomplish tasks securely without physical constraints of the four-walled office. IT security risks in the virtual office are much smaller and better managed than the agency's current environment. All data at rest will be encrypted to FIPS 140-2 standard. The virtual office is enabled using secure socket layer virtual private network (SSL VPN) at a minimum. Each employee will use a PIV card to logon for multi-factor authentication. The virtual office will establish a secure container for every RRB employee with a USB PIV card reader and a USB Windows-To-Go boot stick for secure remote connectivity on a home PC. Furthermore, security monitoring at the Security Operations Center (SOC) gives the agency advanced capabilities to proactively block and remediate any security threats we come across.

The disaster recovery modernization initiative is a phased implementation. The RRB extended the SunGard disaster recovery services contract for a six-month period, with the option to exercise on a monthly basis if the need arises as the agency transitions to the USDA National Information Technology Center (NITC). Migration of services to NITC expands the agency's current disaster recovery processes to further advance capabilities to meet customer expectations that IT services will be operational in a matter of hours and not days. It is our vision to provide enhanced continuity of operations and fail safe disaster recovery capabilities that are routinely tested to assure confidence. The RRB will establish NITC as an alternate site for business continuity in phases. The first phase focuses on mainframe systems and applications recovery by use of a remote Virtual Tape Library at NITC and necessary data communication channels with the agency's data center.

Like much of the RRB's workforce, a large number of BIS employees are at or nearing retirement age – 60% of the Applications Development Center can already retire. Employees retire and often take with them the institutional knowledge of 40+ years, and it is becoming difficult to find young developers with COBOL skills. This is a significant risk to the agency to sustain future operations. Other agencies have considered teaching COBOL to the young workforce. However, given that this skill is not marketable, these young developers will be looking for another job and leave at the first opportunity. The appropriate manner to mitigate this risk is reengineering the legacy applications. For an IT operation of our size (200 MIPS in mainframe computing), Gartner and other sources recommend a reengineering approach. As the need for hiring increases with attrition, we will have an opportunity to attract and hire employees with more current technical skill sets that are being taught in academia or practiced at other technology forward organizations.

We agree that these initiatives require close attention and oversight to mitigate the risks of implementing change at RRB. We introduced these concepts in the FY2016 budget submission, and are currently undergoing an assessment of the legacy applications, systems and processes by an external contractor. As we continue to secure the funding, our implementation approach is to show success with small projects, communicate these wins across the agency to gain support and confidence to accomplish the remaining larger critical tasks in an iterative and incremental approach.

The RRB's Program Accounts Receivable (PAR) system is a subsystem of the Federal Financial System (FFS) that we recently migrated to the Financial Management Integrated System (FMIS). The PAR system was significantly modified and separated from the FFS core financial system and is operated as a stand-alone system. The PAR system maintains its own general ledger and generates a monthly trial balance that is manually recorded in the RRB's general ledger. PAR migration to FMIS is required to maintain an integrated general ledger system, in addition to being compliant with Office of Management and Budget and the Department of Treasury directives for financial system operations. This will require the RRB to obtain a commercial off-the-shelf accounts receivable system from the same shared service provider that provided the RRB with FMIS. The RRB expects to save staff and other costs associated with managing its accounts receivable program in a shared service environment. Data management, data quality, and internal controls will improve and reduce the risk of financial misstatements or errors. The RRB will be in compliance with Federal Information Security Management Act requirements as improved security should protect information and reduce the risk of data loss. In order to mitigate risks, we have reviewed audit recommendations by our Office of Inspector General, in conjunction with lessons learned documented during the migration of FFS to FMIS. We intend to reference and incorporate, where applicable, these contributions in the planning of PAR migration to FMIS.

Oversight of Railroad Medicare

In FY 2014 the RRB successfully modified the Medicare Management Control Review (MCR) process to include the Medicare contract and to document the controls and oversight that are in place to safeguard against waste, fraud and abuse. In addition to modifying the Medicare MCR process, we tested the controls that were put in place. The modified Medicare MCR not only reflects the actions taken by the RRB but also reflects the mechanisms that are in place to safeguard the Medicare Trust Fund.

In addition to modifying the Medicare MCR process, during option year (OP) 1 of the Specialty Medicare Administrative Contract (SMAC) which began on October 1, 2013, the Medicare Contracting Officer Representative (MCOR) and Medicare Contract Operations Specialist (MCOS) conducted the following reviews as required by the Federal Acquisition Regulations (FAR) to ensure that our Medicare contractor (Palmetto GBA) was in complete compliance with the Statement of Work (SOW):

1. Quality Assurance Surveillance Plan (QASP) reviews - QASP reviews provide oversight on the quality, quantity and timeliness of contractor performance. For OP 1, a total of 9 business functions were reviewed, which covered 40 performance standards.

2. Review of RRB SMAC Workload Reporting—the purpose of this review was to determine that the current procedures in workload reporting are being followed as required by the Centers for Medicare and Medicaid Services' (CMS) guidelines.

3. Quality Control Plan Review Report – we reviewed the quality control program for the SMAC in the Provider Customer Service Program, Provider Enrollment and Finance.

All recommendations that were made as a result of these reviews were accepted by Palmetto, GBA and implemented in OP 1.

OP 1 was completed on September 30, 2014, and we are in the process of assessing our contractor's performance (as required under the FAR). Also, overall responsibility and handling of the management and operations of the Medicare program is assigned by law to CMS which means that Palmetto, GBA must adhere to the guidelines and procedures established by CMS.

In addition to modifying and testing the updated Medicare MCR process and conducting numerous audits/reviews, the MCOR and MCOS attended training to:

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

We are in discussions with CMS on the following initiatives:

1. Developing a partnership with a Zone Program Integrity Contractor to refer potential Medicare overpayments to the SMAC's benefit integrity unit. This endeavor will more fully ensure that Medicare overpayments are pursued for RRB beneficiaries.

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

3. Including the RRB SMAC in the CMS Comprehensive Error Rate Testing program to ensure that the contractor is paying claims appropriately and the providers are billing medically necessary services correctly.

As OP 2 begins, we will continue to conduct reviews of our SMAC contractor, Palmetto, GBA to ensure its compliance with the SOW and work with it, wherever possible, to reduce waste, fraud and abuse in an effort to protect the Medicare Trust Fund.

<u>Preventing and Detecting Improper Payments</u>

The RRB has consistently focused its efforts on monitoring and reducing improper payments and has steadily achieved impressive results. As recognized by the Inspector General, the rate of improper payments under the RRA decreased from 1.64% in FY 2004 to .70% in FY 2013. We attribute this accomplishment primarily to increased automation and standardization of work processes, and ongoing training of staff. We also perform detailed quality assurance studies and follow-up on all findings indicating that improvements are possible.

The Inspector General also noted that more than 90% of the RRA improper payments are due to information from external sources, such as changes in the beneficiary's status that affects entitlement or eligibility. We agree with the Inspector General that the RRB's challenge is to obtain current and accurate information and process it as quickly as possible. Many of our long-term system initiatives work toward that end as well as the automation of current manual workloads

The program integrity effort over the Railroad Unemployment and Insurance Act (RUIA) benefit payments is already at a very high level, keeping RUIA improper payments relatively low. Our most recent analysis of improper payments indicated that the majority (62%) of RUIA improper payments resulted from changes coming from outside the agency, particularly changes in the beneficiary's status which affect entitlement or eligibility, either temporarily or permanently. As a result, on February 18, 2014, we implemented revisions to Forms ID-4M, *Notice of Receipt of Sickness Application for Benefits* and ID-4N, *Notice of Receipt of Unemployment Application for Benefits.*

These forms are released to each sickness and unemployment applicant advising them that we have processed their application and contain general claim and payment processing information. The revised forms now include information with respect to RRB program integrity activities (i.e., prepayment verification and state wage matches) to prevent and detect earnings fraud. The revised forms are a direct, clear reminder to applicants of their responsibilities to report work activities which will help minimize improper RUIA payments.

Oversight of the RRB Contracts and Contracting Activity

There were several underlying factors impacting implementation of audit recommendations:

- The OIG audited a contract that was nearing the end of its term;
- The RRB had to collaboratively work with an outside agency (CMS) that was charged with administering the Medicare program, as well as having significant responsibilities and duties in co-administering the RRB legacy Medicare Part B contract; and
- The RRB was also in the process of soliciting and negotiating a new contract that may or may not have been awarded to the same vendor as the legacy contract.

To that end, we have taken a constructive approach to ensure the new contract addresses the issues raised by the OIG in its recommendations. However, we would advocate that the award and administration of the SMAC was, in fact, a legitimate priority impacting our response. The transition to the SMAC was challenging due to the lack of agency expertise and resources to convert from the predecessor Medicare legacy contract once the responsibility transferred from CMS. We leveraged our procurement staff to perform this function while simultaneously managing all other ongoing agency requirements.

Notwithstanding the responsibility of the RRB OIG audit, we must also recognize the Health and Human Services (HHS)-OIG role and its oversight responsibility for the Medicare program and all current MAC and legacy contracts. It is important to note that the HHS-OIG found the reimbursement billings for costs incurred allowable and allocable in its audit of Palmetto, GBA's RRB Final Administrative Cost Proposals (FACP) for Fiscal Years 2007 and 2008, (report number A-04-11-04018, dated June 29, 2012), and Fiscal Years 2009, 2010, 2011, and 2012, and for the period of October 2, 2012 through January 31, 2013, (report number HHSM-500-2013-00155C dated September 3, 2014).

We agree that oversight and contract management requires our vigilance to fully ensure the integrity of Railroad Medicare cost reimbursements. As such, we will make every effort to implement outstanding recommendations.

Controls over Budgetary Reporting

Budgetary training was held for our accounting and budget staff, to include the implementation of the Department of the Treasury's Government-wide Treasury Account Symbol Adjusted Trial Balance System during the fiscal year. In addition to training and assessing prior internal controls for enhancement, we will be automating the reporting of the Statement of Budgetary Resources (SBR). With the migration to FMIS we will be automating the SBR through the system for FY 2015, which was not the case with the prior obsolete financial system. This action will significantly improve accuracy and consistency of recorded amounts and effectiveness of controls.

Limited Transparency at the National Railroad Retirement Investment Trust

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

Initially, RRB management believes the language of section 15(j) and the legislative history leading to its enactment clearly establish the intent of Congress to protect the assets of the Trust and the NRRIT itself from political influence. Moreover, in a May 2014 Report by GAO concerning oversight of the NRRIT (GAO -14-312), the GAO in concluding remarks noted this purpose and further, that the NRRIT is not without oversight beyond mandatory financial audits. In particular, GAO noted the Trust's condition is monitored by the RRB through regular reports and other communications. GAO also noted that the NRRIT on its own initiative commissioned four performance audits since 2002 which were comparable to and, in some cases, more comprehensive than those of comparable state pension plans. Nevertheless, the RRB and NRRIT recently concluded a Memorandum of Understanding requiring performance reviews over 3-year cycles on a selection of fourteen topics. The priority for review and timeline for consideration are determined after consultation between the NRRIT and the RRB. In RRB's view, the history of continuing cooperation between NRRIT and RRB on this and other matters renders any amendment recommended by the IG unnecessary.

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