

Office of Inspector General  
■  
Railroad Retirement Board



Semiannual Report to the Congress  
■  
October 1, 2019 – March 31, 2020



UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

April 30, 2020

The Honorable Erhard R. Chorlé, Chairman  
Railroad Retirement Board  
844 North Rush Street  
Chicago, Illinois 60611-2092

Dear Mr. Chorlé:

I am pleased to submit our *Semiannual Report to the Congress*. This report provides a descriptive summary of our activities and accomplishments during the period of October 1, 2019 through March 31, 2020. This report is submitted in accordance with Section 5 of the Inspector General Act of 1978, as amended. Section 5(b) of the Act requires that you transmit this report to the appropriate Congressional committees or subcommittees within 30 days.

During this reporting period, the Office of Audit issued reports concerning the Railroad Retirement Board's (RRB):

- compliance with the Digital Accountability and Transparency Act of 2014;
- comparative financial statements for fiscal years ended September 30, 2018 and 2019 along with the related reports on internal control and compliance;
- major management challenges as identified by the Inspector General;
- information security; and
- compliance with the Government Charge Card Abuse Prevention Act of 2012.

Our criminal investigators achieved 2 arrests, 14 criminal convictions, 7 civil judgments, and more than \$7.5 million in financial accomplishments. Financial accomplishments reflect the full amount of restitution, fines, damages, or penalties ordered including dollar amounts related to programs administered exclusively by the RRB and, in connection with joint investigative work, from other federal programs such as Medicare or Social Security that were included in the disposition. Note that judicial sentences associated with joint casework are not necessarily delineated by agency.

We appreciate the ongoing assistance extended to our staff during the performance of their duties.

Sincerely,

Original Signed

Martin J. Dickman  
Inspector General

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## Highlights

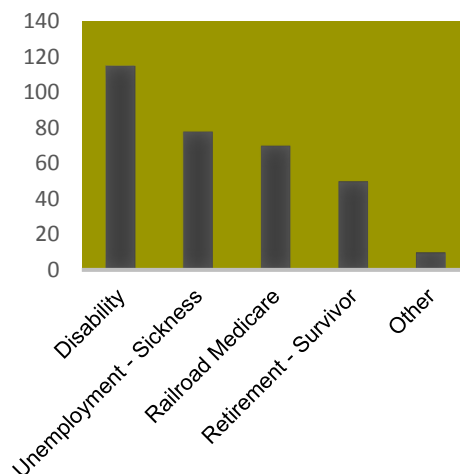
October 1, 2019 - March 31, 2020



### Office of Investigations

- Investigations Closed/Opened: 81/92
- Criminal Convictions: 14
- Civil Judgements: 7
- Financial Impact: More Than \$7.5 Million
- Hotline Contacts: 242

Number of open investigations:



### Office of Audit

- Reports Issued: 5
- Number of New Recommendations: 34
- Total Number of Pending Recommendations: 414

## INTRODUCTION

### Railroad Retirement Board

The Railroad Retirement Board (RRB) is an independent agency in the executive branch of the Federal Government. The RRB administers comprehensive disability, retirement-survivor, and unemployment-sickness insurance benefit programs for the nation's railroad workers and their families. These programs are codified under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA), respectively. During fiscal year 2019, the RRB paid roughly \$13.1 billion in benefits (net of recoveries and offsetting collections) under these statutes to approximately 559,000 beneficiaries.

Additionally, the RRB has administrative responsibilities for certain benefit payments under the Social Security Act, including the administration of Medicare benefits for qualifying railroad workers and their dependents. Pursuant to statutory authority, the RRB, in consultation with the Centers for Medicare and Medicaid Services (CMS), awards and monitors a single nationwide Railroad Medicare Part B services contract. The RRB's Specialty Medicare Administrative Contractor, Palmetto Government Benefit Administrators, LLC, processed almost 8.6 million claims and paid more than \$832 million in Medicare Part B benefits for fiscal year 2019.

### Board Members

The RRB's Board consists of three members who are appointed, with the advice and consent of the Senate, by the President of the United States. One member is appointed upon the recommendation of railroad employers; another member is appointed upon the recommendation of representatives of railroad employees; and the third, who is the Chairman, is appointed without recommendation by either employers or employees and shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees. Board Members' terms are five years in length and expire in staggered years.

### Office of Inspector General

The Railroad Retirement Solvency Act of 1983 amended the RRA to provide for an Office of Inspector General (OIG) for the RRB. The 1988 amendments to the Inspector General Act of 1978 added the RRB to the list of covered agencies. The RRB's Inspector General is a Presidential Appointee, with Senate confirmation, who serves as an independent and objective voice to the Board Members and the Congress. It is the Inspector General's responsibility to promote economy, efficiency, and effectiveness in the RRB's programs and operations. To that end, the OIG conducts audits/evaluations, management reviews, and inspections of the RRB's programs and operations. As a product of its efforts, the OIG offers recommendations for agency improvement to RRB

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management. The OIG also identifies and investigates cases of fraud, waste, and abuse in the RRB's programs and operations. The OIG works closely with federal prosecutors and makes the appropriate referrals for criminal prosecution, civil prosecution, monetary recovery, or administrative action.

The OIG has three operational components: the immediate Office of the Inspector General, the Office of Audit, and the Office of Investigations. The OIG conducts operations from several locations including the RRB headquarters in Illinois and investigative field offices in California, Pennsylvania, Texas, and Washington D.C. These field offices provide an increased investigative presence, which aids in the effective and efficient coordination of joint investigations with other Offices of Inspector General and law enforcement agencies.

## EXECUTIVE SUMMARY

### Office of Audit

The Office of Audit (OA) conducts financial, performance, and compliance audits and evaluations/inspections of the RRB's programs and operations. In addition to focusing on mandated audit requirements, OA strategically identifies areas affecting program performance, the efficiency and effectiveness of agency operations, and areas of potential fraud, waste, and abuse. OA's audit planning process takes into account mandated audits, Congressional and Presidential concerns, programmatic risk, and resource availability. During this reporting period, OA:

- audited the RRB's compliance with the Digital Accountability and Transparency Act of 2014 (mandated);
- completed its annual audit of the RRB's comparative financial statements for fiscal years ended September 30, 2018 and 2019 along with the related reports on internal control and compliance (mandated);
- prepared and issued the Inspector General's statement of *Management and Performance Challenges Facing the Railroad Retirement Board* (mandated);
- published abbreviated audit results regarding information security at the RRB in accordance with the Federal Information Security Modernization Act of 2014 (mandated); and
- conducted a risk assessment, in compliance with the Government Charge Card Abuse Prevention Act of 2012, related to the RRB's purchase and travel card programs for fiscal year 2019 (mandated).

OA's activities, during this reporting period, are discussed in further detail on pages 5 through 11 of this report. All inspections, evaluations, or audits conducted during this semiannual reporting period were disclosed to the public on OIG's website at <https://www.rrb.gov/index.php/OurAgency/InspectorGeneral> and on Oversight.gov. In



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general, reports that transmit non-releasable information have abstracts released publicly as noted above.

### Office of Investigations

The Office of Investigations (OI) focuses its efforts on identifying, investigating, and presenting RRB benefit fraud cases for prosecution. OI conducts investigations throughout the United States related to:

- the fraudulent receipt of RRB benefit payments (disability, unemployment insurance (UI), sickness insurance (SI), or retirement-survivor benefits);
- Railroad Medicare fraud;
- false reporting by railroad employers; and
- criminal violations and misconduct by RRB personnel.

From October 1, 2019 through March 31, 2020, OI achieved:

- 2 arrests;
- 14 criminal convictions;
- 7 civil judgments; and
- more than \$7.5 million in financial accomplishments.<sup>1</sup>

Defendants, in the aggregate, were sentenced to more than 5 years of prison, 19 years of probation, and 350 hours of community service. Additional details regarding OI activities are discussed on pages 12 through 18.

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<sup>1</sup> Financial accomplishments reflect the full amount of restitution, fines, damages, or penalties ordered including dollar amounts related to programs administered exclusively by the RRB and, in connection with OI's joint investigative work, from other federal programs such as Medicare or Social Security that were included in the disposition. Judicial sentences associated with joint casework are not necessarily delineated by agency.

## **OCTOBER 1, 2019 – MARCH 31, 2020 ACCOMPLISHMENTS**

### **Office of Audit**

Congress established the OIG to provide independent oversight of the RRB. Within the OIG, OA's mission is to promote economy, efficiency, and effectiveness in the administration of the RRB's programs and operations; and to detect and prevent fraud, waste, and abuse. Through the Inspector General, OA keeps Board Members and the Congress informed of current and potential problems and deficiencies in the RRB's operations. OA also tracks the agency's progress towards corrective action.

Brief summaries of all audits completed during this reporting period follow.

### ***Audit of Railroad Retirement Board's Digital Accountability and Transparency Act of 2014 Submission for First Quarter of Fiscal Year 2019 (Report No. 20-01)***

#### **What OA Did**

The Digital Accountability and Transparency Act of 2014 (DATA Act) requires the OIG to assess the completeness, timeliness, quality, and accuracy of a statistically valid sample of RRB spending data submitted under the DATA Act.

The objectives of this audit were to assess the completeness, accuracy, timeliness, and quality of the first quarter of fiscal year 2019 financial and award data submitted by the RRB for publication on USASpending.gov; and assess the RRB's implementation and use of the governmentwide financial data standards established by the Office of Management and Budget (OMB) and the Department of the Treasury.

The scope of the audit was first quarter of fiscal year 2019 data the RRB submitted for publication on USASpending.gov, and any procedures, certifications, documentation, and controls to achieve this process.

#### **What OA Found**

OA's audit determined that the RRB generally submitted complete, accurate, and high quality financial and award data for its first quarter of fiscal year 2019 publication on USASpending.gov, which consisted of \$4.1 billion in obligations. As of December 2018, the RRB's obligation amount was in the top 20 for the Federal Government.

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However, OA determined that improvements could be made to internal controls over the DATA Act submission, the completeness and accuracy of the agency's File B submission, the timeliness of the Senior Accountable Official's (DATA Act) certification, and the completeness and accuracy of Files D1 and D2.

Further, OA determined that the RRB generally implemented and used the governmentwide financial data standards established by the OMB and the Department of the Treasury, in accordance with standards.

OA did, however, identify improvements that could be made to the reporting of financial assistance awards containing personally identifiable information and resolving gaps between authoritative data sources and RRB's actual data sources.

### **What OA Recommends**

To address the exceptions identified in this audit, OA made 11 recommendations for improving the RRB's DATA Act policies and procedures, internal controls, and the overall DATA Act submission.

RRB management concurred with all of OA's recommendations. The Bureau of Fiscal Operations provided target completion dates; however, the Bureau of the Actuary and Research did not provide target completion dates in its management comments.

### ***Report on the Railroad Retirement Board's Financial Statements Fiscal Year 2019 (Report No. 20-02)***

#### **What OA Did**

During this reporting period, OA completed its annual mandated audit of the RRB's comparative financial statements for:

- the fiscal years ended September 30, 2019 and 2018;
- the balance sheet and related statements of net cost, changes in net position, and budgetary resources for the years then ended;
- the statement of social insurance as of October 1, 2018, October 1, 2017, October 1, 2016, October 1, 2015, and January 1, 2015; and
- the statement of changes in social insurance amounts for the period ended September 30, 2018; and the related notes to the financial statements.

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### What OA Found

As detailed in Report No. 20-02, OA was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion regarding the financial position of the RRB and accordingly, did not express an opinion (disclaimed opinion) regarding the RRB's financial statements. OA has disclaimed their opinion on the RRB's financial statements since fiscal year 2013 due to the lack of access to the National Railroad Retirement Investment Trust's (NRRIT) books, records, and independent accountant.

The NRRIT represents approximately \$25.4 billion and \$26.6 billion or 78 and 79 percent of the total assets reported for the RRB for fiscal years 2019 and 2018, respectively. NRRIT assets also represent approximately 90 and 95 percent of the Treasury securities and assets held by the Railroad Retirement program as of October 1, 2018 and October 1, 2017, respectively.

### What OA Recommends

OA made four recommendations for improvements. The RRB non-concurred with three of these recommendations. Please see Report No. 20-02 and *Appendix C – Significant Matters* for additional details.

### ***Management Information Report – Management and Performance Challenges Facing the Railroad Retirement Board (Report No. 20-03)***

### What OA Did

OA annually identifies management and performance challenges facing the RRB and reports on them in the RRB's *Performance and Accountability Report (PAR)*. This statement is prepared pursuant to the Reports Consolidation Act of 2000 and the requirements of OMB Circular A-136. This Circular requires the Inspectors General to identify the most serious management challenges facing their parent agency and to briefly assess the agency's progress in addressing those challenges.

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## What OA Found

OA's identification of challenges facing RRB management is based on recent audits, evaluations, investigations, and current issues of concern to the Inspector General. During fiscal year 2019, the Inspector General identified the following six major management challenges facing the RRB.

<b>Most Serious Management and Performance Challenges Facing the Railroad Retirement Board During Fiscal Year 2019 (as identified by the Inspector General)</b>	
<b>Challenge 1</b>	<i>Improve Agency Disability Program Integrity</i>
<b>Challenge 2</b>	<i>Improve Information Technology Security and Complete System Modernization</i>
<b>Challenge 3</b>	<i>Improve Management of Railroad Medicare</i>
<b>Challenge 4</b>	<i>Improve Payment Accuracy and Transparency</i>
<b>Challenge 5</b>	<i>Financial Management and Reporting Issues</i>
<b>Challenge 6</b>	<i>Compliance Concerns Identified</i>

RRB provided written comments, which are reprinted in Report No. 20-03. While RRB management provided comments and disagreements with some of the challenges identified, OA's assessment of the major challenges facing the RRB remains unchanged.

## ***Performance Audit of RRB's Compliance with the Federal Information Security Modernization Act of 2014 for Fiscal Year 2019 - Abstract (Report No. 20-04)***

### What OA Did

The OIG engaged Kearney & Company, P.C. (Kearney) to conduct a performance audit of the information security program (ISP) at RRB for fiscal year 2019. This audit, which was conducted in accordance with the performance audit standards established by Generally Accepted Government Auditing Standards, was mandated by the Federal Information Security Modernization Act of 2014 (FISMA). Kearney is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in Kearney's audit report.

The scope of this audit was information security at the RRB during fiscal year 2019.

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### What Kearney Found

“...Kearney determined that RRB did not comply with FISMA legislation and OMB guidance and that sampled security controls selected from [National Institute of Science and Technology Special Publication] NIST SP 800-53, Rev. 4 demonstrated ineffectiveness; thus, RRB’s Information Security Program did not provide reasonable assurance of adequate security.” Kearney noted that RRB’s ISP did not meet the fiscal year 2019 Inspector General FISMA Reporting Metrics’ definition of “effective” because the program’s overall maturity did not reach Level 4: Managed and Measurable.

During fiscal year 2019, Kearney determined that policies and procedures are not regularly updated and have not been developed for the majority of systems and controls, system owners and information technology (IT) management failed to communicate with each other resulting in missing security controls and processes, and resource constraints have not been properly addressed through changes in IT strategy.

Based on Kearney’s audit work and the instructions in fiscal year 2019 Inspector General FISMA Reporting Metrics, they concluded that RRB’s ISP was not operating effectively.

### What Kearney Recommends

To address the weaknesses identified in this audit, Kearney made 19 detailed recommendations. RRB management concurred with all 19 of the recommendations. Kearney stated that “[i]mplementing our recommended corrective actions will help minimize the risk of unauthorized disclosure, modification, use, and disruption of RRB sensitive, non-public information; improve compliance with FISMA requirements; and assist the RRB ISP reach the next maturity level.”

RRB management comments stated that the Chief Information Officer and the Chief Information Security Officer recognize improvement is required to have an effective ISP.

***Fiscal Year 2019 Risk Assessment for the Government Charge Card Abuse Prevention Act of 2012 (Special Report)***

**What OA Did**

In compliance with the Government Charge Card Abuse Prevention Act of 2012 (the Act), OA conducted a risk assessment related the RRB's purchase and travel card programs for fiscal year 2019. RRB's purchase and travel card spending totaled approximately \$827,000 and \$484,000, respectively. RRB's spending was below the \$10 million threshold established for increased oversight and reporting, therefore our office did not perform any such audits or reviews during fiscal year 2019.

**What OA Found**

Although OA rated the risk as low for financial impact, the lack of corrective actions for 10 related open audit recommendations, concerns about the tone set by operational managers, and risks identified in an OIG fiscal year 2017 data analysis of purchase card transactions, OA assessed the overall risk level as moderate.

**What OA Recommends**

OA did not make any new recommendations.

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### Management Decisions and Implementation

As part of its oversight activities, the OIG tracks the agency's implementation of audit recommendations. The reporting of management decisions and corrective actions for all audit recommendations is required by the OMB Circular No. A-50 (Revised) and the Inspector General Act of 1978, as amended.

Management Decisions	
Requiring Management Decision on October 1, 2019	0
Pending Management Decision for New Recommendations	0
Management Decision on Previous Recommendations	0
Recommendations Pending Management Decision on March 31, 2020	0

Corrective Actions	
Recommendations Requiring Action on October 1, 2019	430
Recommendations Issued During Reporting Period	34
Corrective Actions Completed During Reporting Period	50
Recommendations Rejected During Reporting Period	0
Final Actions Pending on March 31, 2020	414

The Inspector General Empowerment Act of 2016 requires additional details pertaining to outstanding and unimplemented recommendations. This information, including the associated potential cost savings, regarding the 414 open audit recommendations is incorporated into this report by reference and may be accessed in the library section of OIG's website.<sup>2</sup> This report is titled *Open or Unimplemented Audit Recommendations and Cost Savings as of March 31, 2020*.

<sup>2</sup> <https://www.rrb.gov/index.php/OurAgency/InspectorGeneral>



## Office of Investigations

OI's primary objective is to identify, investigate, and refer for prosecution or monetary recovery action cases of fraud, waste, and abuse in the RRB's programs. OI also seeks to prevent and deter program fraud by reporting systemic weaknesses identified through investigative work. In order to maximize the impact of its resources, OI pursues cooperative investigative activities in coordination with other Inspectors General such as the Office of Inspector General for the Department of Health and Human Services, the Office of Inspector General for the Social Security Administration, and other law enforcement agencies, such as the Federal Bureau of Investigation and the U.S. Secret Service.

## Current Caseload

During this reporting period, OI opened 92 new investigative cases.

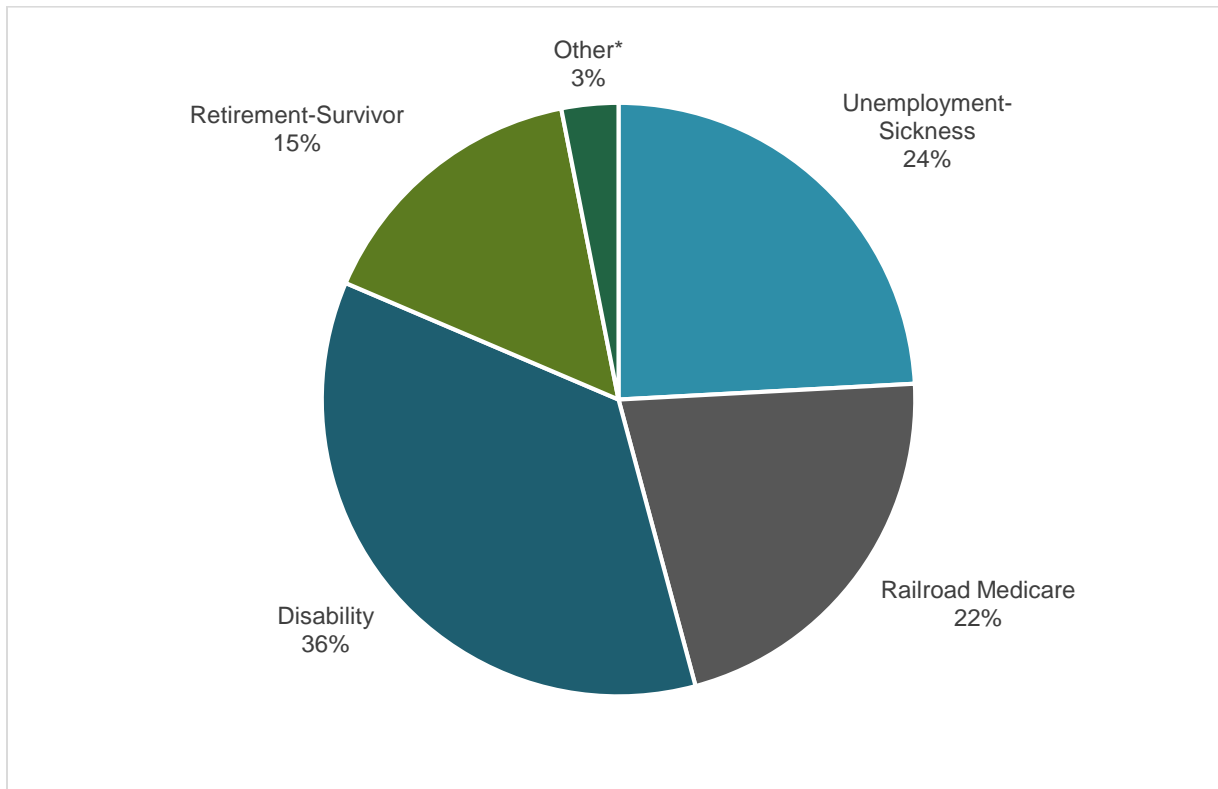
Current Caseload	
Investigative Cases Open as of October 1, 2019 <sup>3</sup>	312
Investigative Cases Closed During Reporting Period	81
Investigative Cases Opened During Reporting Period	92
Investigative Cases Open as of March 31, 2020	323

As of March 31, 2020, OI's investigative caseload totaled 323 matters which represents more than \$551 million in potential fraud losses.<sup>4</sup> The chart on the following page reflects the distribution of OI cases open at the end of the reporting period.

<sup>3</sup> An investigative case may include multiple subjects.

<sup>4</sup> This reflects potential fraud amounts related to programs administered exclusively by the RRB and potential fraud amounts from other federal programs such as Medicare or Social Security which have been identified during OI's joint investigative work.

## Investigative Caseload by Case Type



\*Other case type is an amalgam of various types of cases involving matters such as misconduct by RRB employees, threats against agency employees, false reporting by railroad employers, and others.

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## Investigative Accomplishments

Action	October 1, 2019 – March 31, 2020
Total Number of Investigative Reports Issued	26
Total Number of Persons Referred to the Department of Justice for Criminal Prosecution	16
Total Number of Persons Referred to State or Local Prosecuting Authorities for Criminal Prosecution	0
Indictments/Informations During Reporting Period (Original Prosecutive Referral Made Prior to October 1, 2019)	4
Subpoenas Issued	58
Arrests	2
Criminal Convictions	14
Civil Complaints	4
Civil Judgments	7
Restitution and Fines <sup>5</sup>	More Than \$7 Million
Civil Damages and Penalties <sup>6</sup>	Almost \$163,000
Prison	More Than 5 Years
Probation	19 Years
Community Service	350 Hours

<sup>5</sup> The totals in this table reflect dollar amounts related to programs administered exclusively by the RRB and, in connection with OI's joint investigative work, from other federal programs such as Medicare or Social Security that were included in the disposition. Sentences associated with joint casework are not necessarily delineated by agency.

<sup>6</sup> See above footnote.

## **Investigative Case Summaries**

Brief descriptions of representative matters referred to prosecutorial authorities and the resulting convictions are summarized on pages 15 through 18. OI does not have any substantiated senior government employee misconduct cases or incidents of whistleblower retaliation to report.

## **Disability Investigations**

OI conducts fraud investigations relating to the RRB's disability program. Railroad workers who are awarded an RRB disability annuity are subject to work restrictions and earnings limitations. Disability benefit fraud may involve applicant fraud or sophisticated schemes to hide disqualifying work activities/earnings from the RRB.

During this reporting period, OI obtained one criminal conviction and one civil judgement for disability fraud cases. Defendants in these cases received sentences totaling 2 years of probation, 250 hours of community service, and were ordered to more than \$91,000 in restitution and civil damages.

Descriptions of the fraud cases completed during this reporting period follow.

### **Disability Annuitant Criminally Convicted**

OI investigated a disability annuitant who failed to report income and excess earnings to the RRB.

This case was referred to the United States Attorney's Office for the Southern District of Florida which filed an indictment against the annuitant. The annuitant subsequently pleaded guilty to Theft of Government Funds and was sentenced to 2 years of probation, 250 hours of community service, and ordered to repay more than \$56,000 in restitution.

### **Disability Annuitant Fails to Report Work and Earnings to the RRB**

OI investigated a disability annuitant who concealed his earnings from the RRB.

This case was referred to the United States Attorney's Office for the District of New Jersey. The annuitant entered into a settlement agreement with the United States Attorney's Office for \$35,000 to settle charges under the False Claims Act.

### **Unemployment-Sickness Insurance Investigations**

UI and SI benefit fraud typically involves individuals claiming and receiving benefits while working or collecting state administered unemployment benefits. OI receives the majority of these case referrals from the RRB's Sickness and Unemployment Benefits Division.

During this reporting period, OI obtained six criminal convictions and six civil judgments for UI-SI fraud cases. Defendants in these cases received, in the aggregate, sentences totaling three years of probation and were ordered to pay more than \$183,000 in restitution and civil damages/penalties.

Descriptions of representative UI-SI cases completed during this reporting period follow.

#### **UI Claimant Sentenced to 12 Months of Probation**

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of July 2018 through December 2018, the claimant applied for UI benefits on the same days she was working and being paid by a private employer. The claimant submitted a total of 11 false claims and received more than \$7,600 in fraudulent UI benefits.

This case was referred to the United States Attorney's Office for the Middle District of Pennsylvania. The claimant entered into a 12 month pretrial diversion agreement with the United States Attorney's Office which included 12 months of probation and full restitution.

#### **UI Claimant Agrees to Repay Double Damages**

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of June 2016 through December 2016, the claimant applied for UI benefits on the same days he was working and being paid by a private employer. The claimant submitted a total of 15 false claims and received more than \$7,500 in fraudulent UI benefits.

This case was referred to the United States Attorney's Office for the Northern District of Illinois. The claimant entered into a consent judgement with the United States Attorney's Office agreeing to repay double damages.

#### **SI Claimant Enters into Pretrial Diversion to Settle Fraud Charges**

OI investigated a SI claimant based upon a referral from the RRB. OI's investigation determined that during the period of July 2016 through December 2016, the claimant applied for SI benefits while working and being paid by a private employer. The claimant received more than \$7,800 in fraudulent SI benefits.

This case was referred to the United State Attorney's Office for the Western District of North Carolina. The claimant entered into a 12 month pretrial diversion agreement with the United States Attorney's Office for Theft of Government Funds. He agreed to pay full restitution by the end of the agreement.

### **Retirement-Survivor Investigations**

The RRA provides retirement-survivor benefits for qualified railroad workers and their families. RRB retirement-survivor benefit fraud typically involves:

- an individual failing to report information to the RRB that may disqualify the annuitant from receiving benefits;
- instances of theft or fraudulent cashing of retirement benefit checks by someone other than the authorized RRB annuitant; or
- an individual designated to receive RRB benefits on behalf of an RRB annuitant fraudulently using the funds for their own personal use.

During this reporting period, OI obtained one criminal conviction for retirement-survivor benefit fraud. The defendant received a sentence totaling six months of prison, six months of home confinement, three years of probation, and was ordered to pay more than \$127,000 in restitution.

A description of this case follows.

#### **Annuitant's Daughter Steals Over \$127,000 in RRB Benefits**

OI investigated a deceased payee case against an annuitant's daughter.

This case was referred to the United States Attorney's Office for the Eastern District of Virginia which filed an indictment against the daughter. The daughter subsequently pleaded guilty and was sentenced to six months of prison, six months of home confinement, three years of probation, and ordered to pay full restitution of more than \$127,000.

### **Railroad Medicare Investigations**

All of OI's active Railroad Medicare cases are being worked jointly with either the Office of Inspector General for the U.S. Department of Health and Human Services, the Office of Inspector General for the Office of Personnel Management, or other agencies responsible for investigating health care fraud. Interagency cooperation is imperative to effective law enforcement especially among agencies responsible for investigating the complexities of health care fraud committed against multiple federal agencies.

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During this reporting period, OI obtained four criminal convictions in Railroad Medicare related fraud cases. Defendants in these cases received, in the aggregate, sentences totaling more than 2 years of prison, 8 years of probation, 100 hours of community service, and were ordered to pay more than \$7 million in restitution and fines.<sup>7</sup>

Descriptions of representative Railroad Medicare cases completed during this reporting period follows.

### **Doctor Sentenced to 45 Days of Prison**

An OI Special Agent participated as member of a multi-agency team investigating allegations into the medical billing practices of a doctor. The investigation revealed that the doctor manipulated his billings to fraudulently increase reimbursements.

This case was prosecuted by the United States Attorney's Office for the Eastern District of Missouri which filed a criminal information against the doctor. The doctor subsequently pleaded guilty and was sentenced to 45 days of prison, 2 years of probation, and ordered to pay more than \$200,000 in restitution and fines.

### **Psychiatric Clinic Violated Anti-Kickback Regulations**

An OI Special Agent participated as member of a multi-agency team investigating allegations into the medical billing practices of a psychiatric clinic. The investigation revealed that the clinic violated anti-kickback regulations.

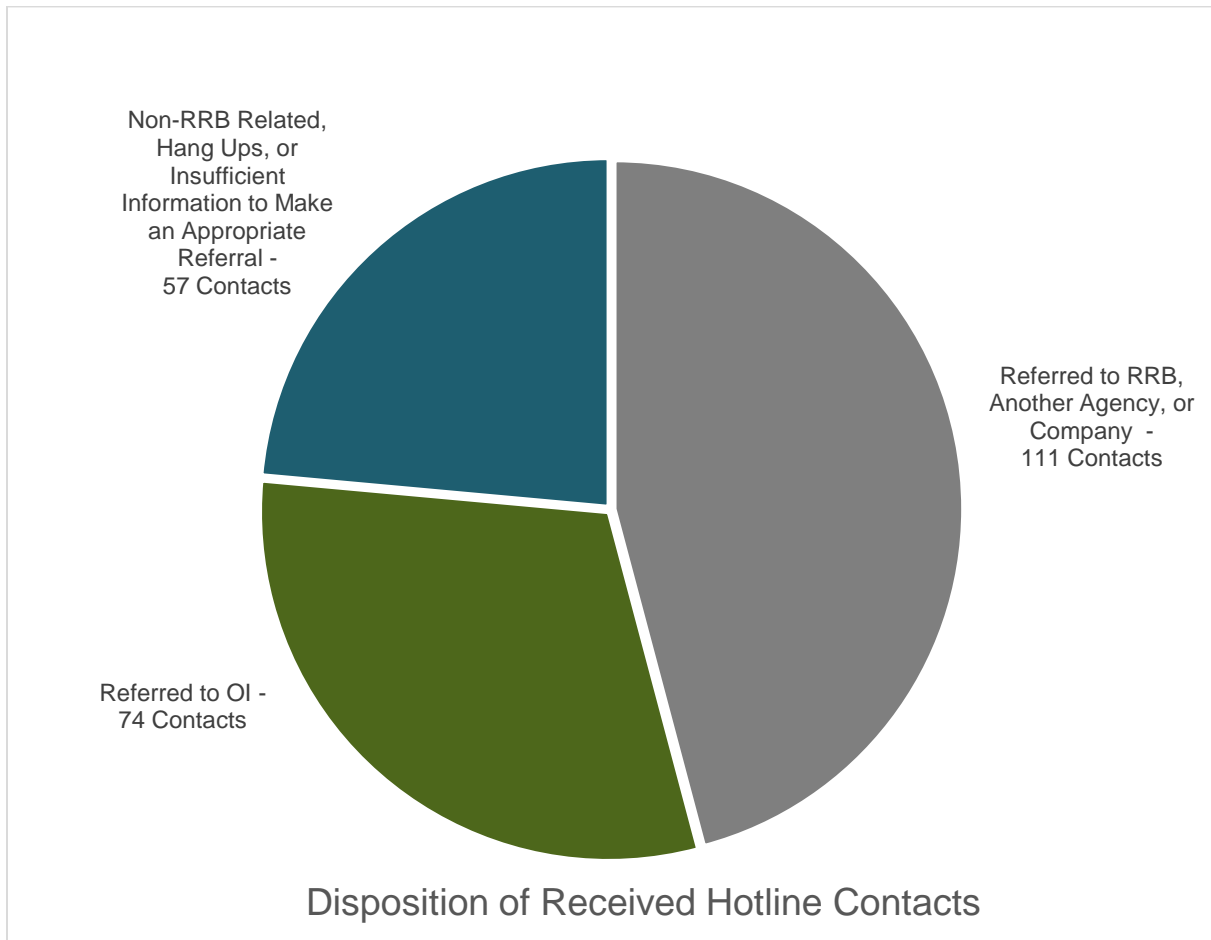
This case was prosecuted by the United States Attorney's Office for the Southern District of Texas which filed a criminal indictment against clinic staff. A patient advocate subsequently pleaded guilty and was sentenced to three years of probation and ordered to pay more than \$1.5 million in restitution.

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<sup>7</sup> This total reflects the full amount of restitution, fines, damages, or penalties ordered. Since OI's Railroad Medicare fraud cases are joint investigations, the total dollar amount includes losses to other health care programs. Sentences associated with joint casework are not necessarily delineated by agency.

## Hotline Contacts

The OIG's hotline provides an open line of communication for individuals to report suspected criminal activity and mismanagement/waste of RRB funds. During this reporting period, the hotline received 242 contacts in the following manner: 84 percent by telephone, 14 percent by email, and 2 percent by mail. The following chart summarizes the disposition of these received hotline contacts.





## **OTHER OVERSIGHT ACTIVITIES**

### **Inspections, Evaluations, and Audits Not Disclosed to the Public**

No inspections, evaluations, or audits were conducted and not disclosed to the public during the reporting period. Reports that transmit non-releasable information have abstracts released publicly on OIG's website and Oversight.gov.

## **OPERATIONAL ISSUES**

The following operational issues impact the OIG's ability to effectively carry out its oversight role.

### **Attempts to Interfere with the Independence of the Office of Inspector General**

During this semiannual period, there were no attempts to interfere with the independence of the OIG.

### **Improper Payments Elimination and Recovery Act**

In accordance with the Improper Payments Elimination and Recovery Act (IPERA), our mandated improper payments audit was in progress during this semiannual period. As discussed in the following section, RRB did not report a Railroad Medicare improper payment rate in the Payment Integrity section of its fiscal year 2019 PAR; thereby, impacting our current IPERA audit.

### **Railroad Medicare**

In May 1966, the Social Security Administration (SSA) delegated authority to the RRB to administer certain provisions of the Medicare program for Qualified Railroad Retirement Beneficiaries (QRRBs). These provisions included enrollment, premium collection, and selection of a carrier to process Medicare Part B claims. The enactment of Public Law 92-603 in October 1972 amended the Social Security Act and granted the RRB jurisdiction over all QRRBs that were receiving benefits from both RRB and SSA. At the end of fiscal year 2019, approximately 455,000 QRRBs were enrolled in the RRB's administered portion of Medicare Part B.

## Semiannual Report to the Congress

In the RRB's fiscal year 2018 PAR, they reported a Railroad Medicare gross improper payment rate of 10.53 percent, which exceeded the 10 percent threshold established by statute. For this reason, among others, OA's fiscal year 2019 mandatory IPERA audit (Report No. 19-09) determined that RRB was not compliant.<sup>8</sup> In response to this report, RRB stated that CMS and RRB agreed that Medicare should be treated as one program; therefore, RRB reporting of Railroad Medicare duplicates Medicare improper payment reporting made by CMS. The RRB used its agreement with CMS as a basis for not concurring with the 14 recommendations OA made in Report No. 19-09. The RRB contacted OMB about this matter and OMB responded that because they don't have specific knowledge of the sampling and estimation plans used to report improper payments, they would not be able to provide official approval for this change. OMB also indicated that they defer to the agencies to work out the specific details. OA disagreed with RRB's response that RRB reporting of Railroad Medicare duplicates Medicare improper payment reporting made by CMS. Our concerns regarding this matter were discussed in our September 30, 2019 *Semiannual Report to the Congress*.

As a result of the RRB's agreement with CMS, RRB did not report improper payment data for the Railroad Medicare program in the Payment Integrity section of the RRB's fiscal year 2019 PAR. During this current semiannual reporting period, RRB stated that they are working on an updated memorandum of understanding between the RRB and CMS, which would spell out each agency's responsibilities with respect to the Medicare contract and the reporting of improper payments. RRB also stated that the RRB and CMS are finalizing the specific details as to which agency has reporting responsibility. Because the RRB has discontinued reporting improper payment data for the Railroad Medicare program without a signed agreement between the RRB and CMS, this matter continues to be an audit concern.

In a related matter and as discussed in our September 30, 2019 *Semiannual Report to the Congress*, the RRB, in response to Report No. 19-10, stated that CMS is responsible for the Medicare program as a whole and, therefore, did not concur with 32 of our audit recommendations.<sup>9</sup> These recommendations addressed the need to detect and prevent Railroad Medicare payments for improper evaluation and management services as identified during this audit. The non-concurrences provided by RRB for this matter continue to be of concern because a formal agreement regarding whether the RRB or CMS has reporting responsibility for the Railroad Medicare program remains in progress.

To facilitate resolution of this matter, the Inspector General sent a letter to CMS describing our concerns and seeking CMS' input regarding each agency's responsibilities relating to the Railroad Medicare program.

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<sup>8</sup> RRB OIG, *Audit of Railroad Retirement Board's Compliance with Improper Payments Elimination and Recovery Act in Fiscal Year 2018 Performance and Accountability Report*, Report No. 19-09 (Chicago, IL: May 30, 2019).

<sup>9</sup> RRB OIG, *Railroad Medicare Controls Over Evaluation and Management Services Were Not Fully Adequate*, Report No. 19-10 (Chicago, IL: August 5, 2019).

## **LEGISLATIVE & REGULATORY REVIEW**

The Inspector General Act of 1978, as amended, requires the Inspector General to review existing and proposed legislation and regulations relating to the programs and operations of the agency. The agency did not submit any legislative proposals for OIG review during this reporting period.

# Semiannual Report to the Congress

## APPENDICES

<i>Appendix</i>	<i>Title</i>	<i>Page No.</i>
<b>A</b>	<b>Office of Inspector General Reports and Other Publicly Available Papers Issued</b>	<b>24</b>
<b>B</b>	<b>Audit Reports with Questioned Costs or with Recommendations that Funds be Put to Better Use</b>	<b>25</b>
<b>C</b>	<b>Significant Matters</b>	<b>27</b>
<b>D</b>	<b>Peer Reviews</b>	<b>31</b>
<b>E</b>	<b>Reporting Requirements</b>	<b>32</b>
<b>F</b>	<b>Acronyms</b>	<b>34</b>
<b>G</b>	<b>Legal References</b>	<b>35</b>

## **Appendix A – Office of Inspector General Reports and Other Publicly Available Papers Issued**

- *Audit of Railroad Retirement Board's Digital Accountability and Transparency Act of 2014 Submission for First Quarter of Fiscal Year 2019* (Report No. 20-01)
- *Report on the Railroad Retirement Board's Financial Statements Fiscal Year 2019* (Report No. 20-02)
- *Management Information Report – Management and Performance Challenges Facing the Railroad Retirement Board* (Report No. 20-03)
- *Performance Audit of RRB's Compliance with the Federal Information Security Modernization Act of 2014 for Fiscal Year 2019 - Abstract* (Report No. 20-04)
- *Fiscal Year 2019 Risk Assessment for the Government Charge Card Abuse Prevention Act of 2012* (Special Report)

All publicly available audit reports and papers are available on OIG's website at <https://www.rrb.gov/index.php/OurAgency/InspectorGeneral>.

## Appendix B – Audit Reports with Questioned Costs or with Recommendations That Funds Be Put to Better Use

	Audit Reports With Questioned Costs	Amount of Questioned Costs	Amount of Unsupported Costs
A. For which no management decision had been made by October 1, 2019	0	\$0	\$0
B. Which were issued from October 1, 2019 through March 31, 2020	0	\$0	\$0
Subtotal (A + B)	0	\$0	\$0
C. For which a management decision was made between October 1, 2019 through March 31, 2020	0	\$0	\$0
(i) dollar value of disallowed costs (agreed to by management)		\$0	\$0
(ii) dollar value of costs not disallowed (not agreed to by management)		\$0	\$0
D. For which no management decision had been made by March 30, 2020	0	\$0	\$0

	<b>Audit Reports With Recommendations That Funds Be Put to Better Use</b>	<b>Dollar Value</b>
A. For which no management decision had been made by October 1, 2019	0	\$0
B. Which were issued from October 1, 2019 through March 31, 2020	0	\$0
Subtotal (A + B)	0	\$0
C. For which a management decision was made between October 1, 2019 through March 31, 2020	0	\$0
(i) dollar value of recommendations agreed to by management		\$0
(ii) dollar value of recommendations not agreed to by management		\$0
D. For which no management decision had been made by March 31, 2020	0	\$0

## Appendix C – Significant Matters

The OIG has identified deficiencies in RRB management controls as a significant matter. A summary of the issues and related recommendations for corrective action follow.

### ***Financial Controls and Reporting***

#### Financial Reporting

This material weakness encompasses ineffective controls, communication with the NRRIT's auditor, and social insurance valuation. OA's fiscal year 2019 audit identified audit concerns for each of these areas.

- Ineffective controls

OA continued to see the need for internal control improvements for ineffective controls. Recommended corrective action as related to this material weakness remains open.

- Communication with the NRRIT's Auditor

American Institute of Certified Public Accountants standards require communication between OIG and NRRIT auditors. This communication has not occurred. RRB management stated that they do not have authority to grant communication between OIG and NRRIT auditors. Historically the NRRIT has been unresponsive to our requests pertaining to its auditors. Due to the significance of this matter, OA continues to look for resolution of this issue despite the RRB's non-concurrence with our prior recommendation for corrective action.

- Social Insurance Valuation

OA's actuarial contractor identified a material difference for the RRB's Statement of Social Insurance (SOSI) dated October 1, 2018. This material difference resulted in a \$2.3 billion understatement in the open group surplus amount as shown on the SOSI statement. Due to the change in social insurance valuation period, amounts were adjusted by the negative return on assets held by the NRRIT during the fourth quarter of 2018. OIG's actuarial contractor reported that this adjustment was inappropriate. RRB management disagreed and therefore did not concur with OA's recommendation for corrective action to strengthen the accuracy of social insurance program valuation and reporting. This issue will be addressed in the fiscal year 2020 financial statement audit.



## Deficient Internal Controls at the Agencywide Level

- Ineffective Standards for Internal Controls

OA determined that the RRB's overall system of internal control was not operating effectively in accordance with Government Accountability Office (GAO) and OMB guidance. It was also determined that the following internal control components were not designed, implemented, and operating effectively: control environment, risk assessment, control activities, information and communication, and monitoring.

- IT Security and Financial Reporting Controls

OA determined that information system control risk must be assessed as high in accordance with GAO's Financial Audit Manual guidance. This determination resulted from the eight FISMA metric domain assessments of "not effective" as provided by our contractor for the fiscal year 2018 FISMA audit. OA did not make any recommendations due to the 31 recommendations provided in the FISMA audit report. The RRB disagreed with our finding. OA will continue to assess FISMA deficiencies in the fiscal year 2020 financial statement audit.

- Compliance with Indirect Laws, Regulations, Contracts, Treaties, and International Agreements

OA determined that the RRB has not established effective policies and procedures for 1) preventing agency noncompliance with indirect laws, regulations, and contracts, and 2) identifying treaties and international agreements impacting the RRB or the NRRIT. These policies and procedures are required per Financial Audit Manual guidance. RRB management did not concur with our recommendations for corrective action. OA will continue to assess this audit concern during the fiscal year 2020 financial statement audit.

- Compliance with RRA Benefit Payment Provisions

The RRB could not ensure compliance with RRA benefit payment provisions for fiscal year 2019 because its quality assurance reviews were not completed until October 31, 2019. Compliance assessments made through its quality assurance reviews were not completed within allowable timeframes for OA's audit. The quality assurance reviews consisted of a sample of benefit payments totaling approximately \$662.1 million. The agency cited severe staffing shortages as the cause for delay and stated that they will continue to work diligently to provide these results in the timeframes required for completion of the audit.

- Controls Over Railroad Service and Compensation

OA determined that RRB controls over creditable and taxable compensation were inadequate due to insufficient audit coverage for railroad employer reporting. The RRB's Audit and Compliance Section (ACS) conducts audits of railroad employers to determine whether creditable compensation and financial reporting requirements provided in the RRA and RUIA are being met. These audits help ensure the accuracy of railroad service and compensation which is the basis for the payroll taxes that the RRB receives. The RRB received approximately \$4.6 billion in payroll taxes as of June 30, 2019. Railroad employer audits are not an effective control for ensuring the accuracy of payroll taxes because an insufficient number of these audits are being conducted. RRB management explained that the limited number of ACS audits is due to staffing and funding constraints. RRB management agreed that additional resources are needed, but only partially concurred with our recommendation due to uncertainty regarding funding.

<b>Financial Controls and Reporting Issue Area</b>	<b>Date of Report</b>	<b>Audit Report and Recommendations</b>
Ineffective Controls	March 31, 2015	OIG Report 15-05, 2
Communication with the NRRIT's Auditor	March 31, 2015	OIG Report 15-05, 8
Social Insurance Valuation	November 19, 2019	OIG Report 20-02, 1
Ineffective Standards for Internal Control	February 16, 2017 April 11, 2017 September 28, 2017 July 9, 2018	OIG Report 17-03, 2, 3 OIG Report 17-04, 1-19 OIG Report 17-08, 1-13 OIG Report 18-07, 1-3, 10
IT Security and Financial Reporting Controls	December 19, 2018	OIG Report 19-03, 1-4, 7, 12, 14-18, 20, 21, 23-31
Compliance with Indirect Laws, Regulations, Contracts, Treaties, and International Agreements	November 19, 2019	OIG Report 20-02, 2, 3
Controls Over Railroad Service and Compensation	November 19, 2019	OIG Report 20-02, 4

## ***Information Technology***

The RRB continues its modernization efforts for IT and safeguarding sensitive data, while accomplishing its mission.

Prior IT reports included recommendations for improvement, many of which continue to be open or unimplemented. OA's most recent FISMA compliance report was issued for fiscal year 2019.

<b>Information Technology Issue Area</b>	<b>Date of Report</b>	<b>Audit Report and Recommendations</b>
<b>Information Security</b>	<b>December 18, 2019</b>	<b>OIG Report 20-04, 1-19</b>

## ***Major Management Challenges***

OIG identified six major management and performance challenges facing the RRB. For more information regarding the major management challenges identified, see *Management and Performance Challenges Facing the Railroad Retirement Board*, OIG Management Information Report No. 20-03, November 21, 2019 or pages 7 and 8 of this report.

## **Appendix D – Peer Reviews**

### ***Office of Audit***

In general, federal audit organizations may receive a peer review rating of pass, pass with deficiencies, or fail.

The results of OA's most recently completed peer review for the period ending March 31, 2018, was transmitted on August 28, 2018. OA received a peer review rating of pass. The system review report did not contain any recommendations and a letter of comment was not issued. The Pension Benefit Guaranty Corporation's OIG determined that the system of quality control for the audit organization of RRB OIG in effect for the period ended March 31, 2018 has been suitably designed and complied with to provide RRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

During this semiannual reporting period, OA did not complete any peer reviews of other audit organizations.

### ***Office of Investigations***

A rating of compliant conveys that the reviewed Office of Inspector General has adequate internal safeguards and management procedures to ensure that Council of Inspectors General on Integrity and Efficiency standards are followed and that law enforcement powers conferred by the Inspector General Act of 1978, as amended, are properly exercised.

The results of OI's most recent peer review, for the period ending August 25, 2017, was transmitted on November 6, 2017. OI received a rating of compliant.

During this semiannual reporting period, OI did not complete any peer reviews of other investigative offices.

## Appendix E – Reporting Requirements

<b>Act Section</b>	<b>Inspector General Reporting Requirements</b>	<b>Page(s)</b>
4(a)(2)	Review of Legislation and Regulations	22
5(a)(1)	Significant Problems, Abuses, and Deficiencies	27 – 30
5(a)(2)	Recommendations With Respect to Significant Problems, Abuses, and Deficiencies	27 – 30
5(a)(3)	Prior Significant Recommendations Not Yet Implemented	27 – 30
5(a)(4)	Matters Referred to Prosecutive Authorities	14
5(a)(5)	Summary of Reports to the Chairman	None
5(a)(6)	Open or Unimplemented Audit Recommendations and the Associated Cost Savings	11
5(a)(7)	Summary of Each Significant Report	5 – 10
5(a)(8)	Statistical Table on Management Decisions on Questioned Costs	25
5(a)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put to Better Use	26
5(a)(10)	Summary of Each Audit Report Over 6 Months Old for Which No Management Decision Has Been Made	11
5(a)(11)	Description and Explanation for Any Significant Revised Management Decision	None
5(a)(12)	Information on Any Significant Management Decision With Which the Inspector General Disagrees	20 – 21, 27 – 30
5(a)(13)	Chairman Statement of Compliance	None
5(a)(14)	Peer Reviews	31
5(a)(15), (16)	Peer Reviews – Outstanding Recommendations	None
5(a)(17), (18)	Investigative Reports Issued to the Department of Justice and State and Local Prosecutors	14

<b>Act Section</b>	<b>Inspector General Reporting Requirements</b>	<b>Page(s)</b>
5(a)(19)	Substantiated Investigations Involving Senior Government Employees	None
5(a)(20)	Instances of Whistleblower Retaliation	None
5(a)(21)	Attempts to Interfere with OIG Independence	None
5(a)(22)(a)	Inspections, Evaluations, and Audits Closed and Not Disclosed to the Public	20
5(a)(22)(b)	Investigations Involving Senior Government Employees Closed and Not Disclosed to the Public	None

## Appendix F – Acronyms

Acronym	Explanation
ACS	Audit and Compliance Section
CMS	Centers for Medicare and Medicaid Services
DATA ACT	Digital Accountability and Transparency Act of 2014
FISMA	Federal Information Security Modernization Act of 2014
GAO	Government Accountability Office
IPERA	Improper Payments Elimination and Recovery Act
ISP	Information Security Program
IT	Information Technology
Kearney	Kearney & Company, P.C.
NRRIT	National Railroad Retirement Investment Trust
OA	Office of Inspector General for the Railroad Retirement Board – Office of Audit
OI	Office of Inspector General for the Railroad Retirement Board – Office of Investigations
OIG	Office of Inspector General for the Railroad Retirement Board
OMB	Office of Management and Budget
PAR	Performance and Accountability Report
QRRBs	Qualified Railroad Retirement Beneficiaries
RRA	Railroad Retirement Act
RRB	Railroad Retirement Board
RUIA	Railroad Unemployment Insurance Act
SI	Sickness Insurance
SOSI	Statement of Social Insurance
SSA	Social Security Administration
UI	Unemployment Insurance

## **Appendix G – Legal References**

Digital Accountability and Transparency Act of 2014 – P.L. 113-101

False Claims Act – 31 U.S.C. §§ 3729-3733

Federal Information Security Modernization Act of 2014 – P.L. 113-283

Government Charge Card Abuse Prevention Act of 2012 – P.L. 112-194

Improper Payments Elimination and Recovery Act – P.L. 111-204

Inspector General Act of 1978, as amended – 5 U.S.C. App. 3

Inspector General Empowerment Act of 2016 – P.L. 114-317

Railroad Retirement Act – 45 U.S.C. § 231, et. seq.

Railroad Retirement Solvency Act of 1983 – P.L. 98-76

Railroad Unemployment Insurance Act – 45 U.S.C. § 351, et. seq.

Reports Consolidation Act of 2000 – P.L. 106-531

Social Security Act – 42 U.S.C. § 301, et seq.

Social Security Amendments of 1972 – P.L. 92-603



# REPORT FRAUD, WASTE, AND ABUSE



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