

Office of Inspector General

Railroad Retirement Board



Semiannual Report to the Congress

April 1, 2019 – September 30, 2019



UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

October 31, 2019

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 April 1, 2019 through September 30, 2019. 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 audit reports concerning the Railroad Retirement Board's (RRB):

- information system controls pursuant to the Federal Information System Controls Audit Manual (mandated);
- unapplied cash process;
- compliance with the Improper Payments Elimination and Recovery Act (mandated);
- controls over Railroad Medicare evaluation and management services;
- mainframe applications re-platform initiative;
- legacy systems modernization initiatives;
- Statements of Changes in Cash and Investments Balances;
- acquisition management function;
- implementation of the Disability Program Improvement Plan;
- consideration of fraud risk indicators in the disability decision process; and
- use of medical experts during disability determinations.

Our criminal investigators achieved 4 arrests, 13 indictments and informations, 18 criminal convictions, 8 civil judgments, and more than \$5.2 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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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, respectively. During fiscal year 2018, railroad retirement and survivor benefit payments totaled \$13.1 billion, net of recoveries and offsetting collections. Railroad unemployment insurance (UI) and sickness insurance (SI) benefit payments totaled \$100.2 million, net of recoveries and offsetting collections.

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 (SMAC), Palmetto Government Benefit Administrators, LLC (Palmetto), processed more than 8.5 million claims and paid almost \$868 million in Medicare Part B benefits for fiscal year 2018.

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

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product of its efforts, the OIG offers recommendations for agency improvement to RRB 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, Florida, 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 Inspector General offices 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 issued audit reports concerning the RRB's:

- information system controls pursuant to the Federal Information System Controls Audit Manual (mandated);
- unapplied cash process;
- compliance with the Improper Payments Elimination and Recovery Act (mandated);
- controls over Railroad Medicare evaluation and management services;
- mainframe applications re-platform initiative;
- legacy systems modernization initiatives;
- Statements of Changes in Cash and Investments Balances;
- acquisition management function;
- implementation of the Disability Program Improvement Plan;
- consideration of fraud risk indicators in the disability decision process; and
- use of medical experts during disability determinations.

OA's activities, during this reporting period, are discussed in further detail on pages 4 through 16 of this report. All inspections, evaluations, or audits conducted during this semiannual reporting period were disclosed to the public on OIG's website at

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<https://www.rrb.gov/index.php/OurAgency/InspectorGeneral> and on Oversight.gov. In 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, UI, SI, or retirement-survivor benefits);
- Railroad Medicare fraud;
- false reporting by railroad employers; and
- criminal violations and misconduct by RRB personnel.

From April 1, 2019 through September 30, 2019, OI achieved:

- 4 arrests;
- 13 indictments and informations;
- 18 criminal convictions;
- 8 civil judgments; and
- almost \$5.2 million in financial accomplishments.¹

Defendants, in the aggregate, were sentenced to more than 27 years of prison, 42 years of probation, and 420 hours of community service. Additional details regarding OI activities are discussed on pages 18 through 25.

¹ 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.

APRIL 1, 2019 – SEPTEMBER 30, 2019 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.

Selected General Information System Controls at the Railroad Retirement Board Were Not Always Adequate (Report No. 19-07)

What OA Did

The Federal Information System Controls Audit Manual (FISCAM) provides guidance to auditors in evaluating internal controls over the integrity, confidentiality, and availability of data maintained in information systems.

The objective of this audit was to assess the adequacy of selected information system controls using audit procedures from the Government Accountability Office FISCAM. The FISCAM control areas assessed were security management, access controls, configuration management, and segregation of duties, with selected controls identified from each area. The selected controls were assessed in regards to four technology systems at RRB that include wireless, Headquarters (HQ) Voice over Internet Protocol (VoIP), Field VoIP, and virtual private network.

The scope of this audit was control information that was in effect for the four technology systems during fiscal year 2018.

What OA Found

OA's audit determined that the selected information system controls were not always adequate. OA determined that the agency did not update all management control review documentation for the change to the HQ VoIP system, controls did not ensure that the assessable unit documentation was updated timely, budget allocation prevented necessary reinvestigations, and personal identity verification replacement policy and procedures were not comprehensive and were not implemented. The agency employed a field VoIP system that had vendor support limited after fiscal year 2018.

What OA Recommends

In total, OA made four detailed recommendations to RRB management related to:

- updating the management control review documentation for the HQ voice telecommunications assessable unit to ensure it accurately reflects the RRB's current HQ VoIP environment;
- implementing controls to ensure that assessable unit documentation is updated timely when changes occur and consider whether an acceleration of the assessable unit's control test should be performed;
- reallocating budget dollars to implement reinvestigations based on Title 5, Code of Federal Regulations, Part 731, Suitability;² and
- documenting and implementing personal identity verification replacement card policies and procedures that have been approved by management to address control weaknesses that were identified.

Management concurred with two recommendations: (1) to update HQ voice telecommunications documentation and (2) to document policy and procedures for personal identity verification card replacement. They did not concur with two recommendations. They stated that due to revised agency policy, controls on assessable unit documentation updates were not necessary. For OA's recommendation regarding reinvestigations, they stated that these responsibilities will be transferred to another agency.

Improvements Needed for the Unapplied Cash Process at the Railroad Retirement Board (Report No. 19-08)

What OA Did

OA's objectives were to: (1) assess the adequacy of controls over the unapplied cash process; (2) determine if unapplied cash was being properly recorded and reconciled in an accurate and timely manner; and (3) assess the impact of the Program Accounts Receivable System (PARS) to the Financial Management Integrated System (FMIS) migration on the unapplied cash process.

In order to complete this work, OA considered laws, regulations, and guidance, compared criteria to RRB policies, procedures, and documentation, and reviewed and tested RRB documentation to assess the adequacy of internal controls. OA also interviewed applicable RRB staff and conducted data analysis and walkthroughs.

The scope of this audit was unapplied cash transactions in FMIS for fiscal year 2017.

² 5 C.F.R. § 731.

What OA Found

OA's audit determined that after the PARS migration to FMIS, the RRB's process for unapplied cash needed improvement. Internal controls for the unapplied cash process were not adequate and could not be relied on to ensure the proper processing of transactions. OA found that the controls were outdated and RRB lacked a comprehensive agency-wide process for maintaining, monitoring, and reporting on unapplied cash. Because RRB did not establish and implement proper monitoring control activities: (1) transactions were not reconciled and were not always properly recorded or processed timely; and (2) migration efforts failed to fully automate the unapplied cash process.

What OA Recommends

To address the weaknesses identified in this audit, OA made 14 recommendations related to improving the unapplied cash process at the RRB, which included recommendations related to internal controls over unapplied cash; recording, processing and reconciling unapplied cash; and controls over the interface process between the Overpayment Recovery Correspondence System Unapplied Cash Application and FMIS. RRB management concurred with five recommendations and did not concur with nine recommendations. Although RRB management did not concur with a significant number of OA's audit recommendations, OA continues to see the need for these corrective actions.

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)

What OA Did

Section 3(b) of the Improper Payments Elimination and Recovery Act (IPERA) requires each agency's Inspector General to assess compliance for each fiscal year. OA's audit procedures included identification of criteria; assessment of the accuracy and completeness of agency reporting; assessment of the RRB's sampling plan, accompanying material, and related postings; and coordination efforts with U.S. Department of Health and Human Services Office of Inspector General to obtain source data that supported the RRB's *Performance and Accountability Report*.

The mandated objectives of this audit were to:

- determine whether the RRB is in compliance with IPERA;
- evaluate the accuracy and completeness of improper payment reporting; and
- evaluate agency performance in reducing and recapturing improper payments.

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The scope of this audit was improper payment data reported in the RRB's fiscal year 2018 *Performance and Accountability Report*, which consisted of fiscal year 2015 through fiscal year 2017 improper payment data.

What OA Found

OA's audit determined that the RRB was not compliant with IPERA since RRB reported a gross improper payment rate of 10.53 percent for the Railroad Medicare program. This represents approximately \$90 million in improper payments, and exceeded the statutory 10 percent threshold. Furthermore, OA determined that:

- the accuracy and completeness of the agency's reporting could be improved by obtaining and reviewing the sampling and estimation plan and updating the existing Memorandum of Understanding to reflect RRB and CMS responsibilities clearly and concisely;
- the RRB's payment recapture program for all benefit and non-benefit programs was missing information and needs improvement; and
- some of RRB's additional reporting requirements pertaining to improper payment barriers, improper payment accountability, and relief from annual reporting request were missing or late.

What OA Recommends

To address the weaknesses identified in this audit, OA made 19 recommendations to: help the RRB to become compliant with IPERA; improve the accuracy, completeness, and quality of agency reporting; and improve the completeness of RRB's sampling plan, reduction target, and meet additional reporting requirements in statute. RRB management concurred with 4 of the 19 recommendations. They asserted they will no longer report Railroad Medicare improper payments because, for improper payment purposes, CMS and RRB agreed that Medicare should be treated as one program.

If the RRB follows through with its intentions of not reporting next year, it will be masking the fact that its performance in reducing improper payments has deteriorated further. OA has documentation to show that next year's Railroad Medicare improper payment rate will be 12.5 percent. Consequentially, OA continues to see the need for these recommendations.

See pages 27 to 29 for further discussion regarding this issue.

Railroad Medicare Controls Over Evaluation and Management Services Were Not Fully Adequate (Report No. 19-10)

What OA Did

OA's audit objective was to determine if adequate controls are in place to detect and prevent payments, for high risk Evaluation and Management (E/M) services that are not in accordance with Medicare's coverage and medical necessity requirements.

OA's data analysis and testing primarily focused on high risk E/M services identified based on the likelihood, impact, and materiality of improper payments.

In order to complete this work, OA reviewed CMS laws and regulations, conducted interviews with appropriate officials, assessed E/M risk scenarios, utilized data analytics to quantify and test E/M claims, provided Palmetto with examples of E/M services observed, validated the critical findings, estimated the total improper payments made to E/M providers, and briefed RRB and Palmetto officials.

The scope of this audit was Railroad Medicare E/M services, paid by Palmetto for dates of service between January 1, 2013 and December 31, 2016. Palmetto paid and approved approximately \$1 billion for 14.9 million E/M services.

What OA Found

OA determined that Palmetto's controls were not fully adequate to detect and prevent the payment of improper E/M services and to ensure that the services were in accordance with Medicare's coverage and medical necessity requirements. E/M services represent different types of physician patient encounters, such as office visits or hospital visits. Within each type of encounter, there are different levels of care. Medicare only allows payment where the E/M service is medically necessary. Palmetto's medical review coverage of E/M services was minimal and only represented approximately one percent of E/M services. OA estimates that recoverable E/M improper payments range from \$0.9 million to \$3.5 million for E/M services identified during this audit. Palmetto's controls were considered ineffective and improper payments were identified for 50 percent of the high risk E/M tests performed. Palmetto's control accuracy rate for all E/M tests performed was 62 percent.

What OA Recommends

To address the identified weaknesses and reduce improper payments, OA made 34 recommendations. RRB management did not concur with 32 and stated it is not responsible for the Railroad Medicare program; only reviews Palmetto's contract performance; and believes the E/M improper payments can only be recovered under special limited circumstances.

While benefits received under Railroad Medicare are solely for retired railroad workers, the quality of healthcare, monthly premium cost, and customer service are not distinct from traditional Medicare. If RRB management denies ownership of its Railroad Medicare program responsibilities and does not accept responsibility for minimizing improper payments, there is no practical reason for its existence. Because OA's findings addressed Palmetto's Statement of Work functional requirements under the RRB's contract authority, OA continues to see the need for these corrective actions.

See pages 27 to 29 for further discussion regarding this issue.

The Mainframe Applications Re-platform Initiative at the Railroad Retirement Board is Progressing in Accordance with Established Project Goals (Report No. 19-11)

What OA Did

The RRB received \$10 million in appropriations for mission critical information technology (IT) investments. As a result, they hired a contractor to perform the transition from older technology, such as the mainframe applications re-platform. OA engaged contractor DP George & Company, LLC (DP George) to conduct a performance audit of this project.

The objectives of this audit were to: (1) determine the current status of the RRB project titled "Mainframe Applications Re-platform;" (2) evaluate if the project plans and progress to date are reasonable to achieve success; and (3) evaluate if the goals for mainframe applications re-platform are reasonable and attainable. To achieve this, DP George audited the RRB's mainframe applications re-platform IT against RRB strategic and project management plans; Office of Management and Budget (OMB) IT planning guidance, and other best practice guidance for project management.

The scope of this audit was project activities performed at the RRB from project award on February 1, 2019 through May 31, 2019. Note that this audit was conducted while the project was in progress and was not intended to assess the implementation of the project. Only Phase I of the four phases has been completed as of the scope period.

DP George is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in DP George's audit report.

What DP George & Company Found

DP George determined the current status for the mainframe applications re-platform initiative, assessed that project plans and progress through May 31, 2019 were reasonable to achieve success for the project, and assessed that the RRB goals for the project are reasonable and attainable. They also determined that Phase II was on schedule for completion at the time of report issuance.

DP George did not make any recommendations.

The Legacy Systems Modernization Initiatives at the Railroad Retirement Board are Progressing Effectively (Report No. 19-12)

What OA Did

The RRB received \$10 million in appropriations for mission critical IT investments. As a result, they awarded contracts in support of the legacy systems modernization initiatives. The legacy systems migration services project and the assessment for re-engineering mission essential programs are the first and third components of this initiative. The awarded amount for the legacy systems migration services project was \$4,326,000. The awarded amount for the assessment for re-engineering mission essential programs project was \$625,000. OA engaged contractor DP George to conduct a performance audit of this project.

The objectives of this audit were to: (1) determine and describe the progress that the RRB has made compared to its project plans for the legacy systems migration services and assessment for re-engineering mission essential programs phases of the legacy systems modernization initiative; (2) evaluate the current status of the project outcomes for the two phases, and evaluate if improvements anticipated at the beginning of the projects have been realized to date; and (3) evaluate if the RRB is managing the projects in a way that is effective, including cost effective. To achieve this, DP George audited the RRB legacy systems migration services and assessment for re-engineering mission essential programs (re-engineering assessment) IT projects against RRB strategic and project management plans, OMB IT planning guidance, and other best practice guidance for project management.

The scope of this audit covered project planning activities performed for the legacy systems migration services project and the assessment for re-engineering mission essential programs through March 31, 2019.

DP George is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in DP George's audit report.

What DP George & Company Found

DP George determined that the legacy systems migration services project was completed. They determined that the re-engineering assessment project is underway. They assessed that the status of project outcomes and anticipated improvements were realized for the applications that were converted. The outcomes and improvements for the assessment for re-engineering mission essential programs were not assessed because the project was not complete. The legacy systems migration services project was managed effectively. The assessment for re-engineering mission essential programs could not be fully assessed for effectiveness by DP George because the project was awarded after the audit scope ended.

DP George did not make any recommendations. The legacy systems migration services project is complete. The assessment for re-engineering mission essential programs was awarded and one deliverable was received, another deliverable was scheduled for August 2019 and the project was on schedule for September 2019 completion.

Internal Control Weaknesses Noted in the Preparation of the Railroad Retirement Board's Statements of Changes in Cash and Investments Balances Could Affect the Reliability of the Statements (Report No. 19-13)

What OA Did

OA engaged Wai & Associates (WAI) to conduct a performance audit of the RRB's Statements of Changes in Cash and Investments Balances (SCCIB).

The objective of this audit was to provide an independent evaluation of the reliability of the RRB's SCCIB for fiscal year 2018. WAI identified and tested compliance with applicable criteria; interviewed management; conducted walkthroughs; identified key controls; conducted variance analyses; conducted detailed sample tests; and reviewed and analyzed disclosures.

The scope of this audit was SCCIB transactions reported in RRB's general ledger and included statements for each of 10 Treasury Accounts Symbols for fiscal year 2018.

WAI is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in WAI's audit report.

What Wai & Associates Found

WAI determined that several internal control weaknesses in the preparation of the RRB's SCCIB could affect the reliability of the statements. They also determined that the universe of general ledger transactions supporting SCCIB funds did not reconcile with the respective subsidiary ledgers and related trial balances.

What Wai & Associates Recommends

To address the weaknesses identified in this audit, WAI made 17 detailed recommendations for: development/revision/maintenance of policies and procedures; review of general ledger accounts used by Treasury; improved documentation that includes thresholds and disclosures of various types; defining authoritative basis for preparation and reporting of SCCIB; identifying recipients of the SCCIB; preparation/maintenance of reconciliation files; and maintenance of supporting documentation.

RRB management did not concur with any of the 17 recommendations and stated that it will discontinue preparation of the SCCIB.

The Acquisition Management Function at the Railroad Retirement Board Was Not Fully Adequate or Effective (Report No. 19-14)

What OA Did

OA engaged DP George to conduct a performance audit of the RRB's acquisition management function. The audit objectives were to: (1) assess the effectiveness of RRB's Division of Acquisition Management's policies, procedures, practices, and internal controls in contract management according to applicable laws and regulations; and (2) test the compliance with Federal Acquisition Regulation during contract lifecycle/phases: preaward, award, administration, and closeout.

The scope of this audit was acquisition management at the RRB during fiscal years 2013 through December 2018.

DP George is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in DP George's audit report.

What DP George & Company Found

DP George determined that the acquisition management function at the RRB was not fully adequate or effective. They found weaknesses in the areas of outdated policy and procedures, contract files with problems throughout the contract lifecycle, instances of

non-compliance with the Federal Acquisitions Regulation, and instances of insufficient requisitions.

What DP George & Company Recommends

To address the weaknesses identified in this audit, DP George made 15 detailed recommendations. DP George recommended that policy and procedures be made current; contract files contain appropriate documentation for solicitation, award, administration, and closeout; sufficient amounts be requisitioned; improve reporting to Federal Procurement Data System; and best practices for Human Capital Management be followed.

Management concurred with 11 recommendations and did not concur with 4 recommendations.

The Implementation of the Disability Program Improvement Plan at the Railroad Retirement Board Did Not Result in a Fully Established Fraud Risk Assessment Process (Report No. 19-15)

What OA Did

OA engaged DP George to conduct a performance audit to assess the implementation of the RRB's Disability Program Improvement Plan (DPIP). The objective of this audit was to assess the RRB's implementation of its DPIP and other related program integrity improvements to determine the efficiency and effectiveness of actions taken to prevent future fraud and abuse in the RRB's disability programs. In order to complete this work, DP George identified criteria in laws, regulations, and best practices; identified applicable RRB policies, procedures; and obtained and reviewed RRB's DPIP. DP George also interviewed applicable agency staff, and determined actions taken to implement the DPIP and other related improvements.

The scope of this audit covered actions taken in response to the DPIP and other related program integrity through September 2018.

DP George is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in DP George's audit report.

What DP George & Company Found

DP George determined that the implementation of the DPIIP and other related program improvements did not result in a fully established fraud risk assessment process that is specific to the RRB's disability programs. Specifically, the actions taken did not:

1) establish a dedicated entity within the RRB to lead the fraud risk management process; 2) establish an ongoing fraud risk assessment process tailored to the disability programs that routinely determines and updates the fraud risk profile for the programs; and 3) establish an on-going fraud risk monitoring process to evaluate the effectiveness of corrective actions and identify new risks.

What DP George & Company Recommends

To address the weaknesses identified in this audit, DP George made three recommendations. The first recommendation was to establish a permanent entity within the RRB responsible for continuously assessing fraud risk, implementing corrective actions, and monitoring the effectiveness of those actions as they relate to the RRB disability program. The second recommendation was to establish an on-going fraud risk assessment process that regularly gathers information about disability program fraud risk, assesses the potential likelihood and impact, determines fraud risk tolerance, examines the suitability of existing fraud and documents the fraud risk profile. The third recommendation was to conduct risk-based monitoring tied to the fraud risk profile of the disability program to evaluate the effectiveness of preventive activities and use the results to improve the design and implementation of fraud risk management activities within the disability program.

RRB management concurred with the three recommendations, but stated that they do not have the authority to take these actions. As such, these recommendations will be forwarded to the RRB Board Members for consideration.

The Railroad Retirement Board Disability Programs Do Not Effectively Consider Fraud Risk Indicators in the Disability Decision Process (Report No. 19-16)

What OA Did

OA engaged DP George to conduct a performance audit of a statistically valid sample of disability decisions in fiscal years 2016 to 2018. The objectives were to review a statistically valid sample of disability decisions in fiscal years 2016 to 2018 to assess the potential for fraud and abuse, and identify fraud indicators against the RRB's disability programs. In order to complete this work, DP George identified criteria in laws, regulations, and best practices, identified applicable RRB policies, procedures, and gained an understanding of types of disability claims at the RRB. DP George also interviewed applicable agency staff, selected and tested a statistically valid sample of disability decisions.

The scope of this audit covered all approved and denied disability decisions in fiscal years 2016 to 2018.

DP George is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in DP George's audit report.

What DP George & Company Found

DP George determined that the RRB's disability programs do not effectively consider fraud risk indicators in the disability decision process. RRB has not designed a control process that effectively uses preventive control measures to mitigate the potential for fraud and abuse within the program.

What DP George & Company Recommends

To address the weaknesses identified in this audit, DP George made three recommendations. The first recommendation was to define definitive fraud risks within the disability programs based on a comprehensive fraud risk assessment. The second recommendation was to use the fraud risks identified to establish a scoring or other process for determining those applications where a higher risk of fraud or abuse occurring exists, and the third recommendation was to establish additional supervisory review and documentation protocols to ensure that decisions for higher risk applications are sufficiently reviewed and consistently documented to reflect the basis for the decision.

RRB management did not concur with any of the three recommendations.

The Use of Medical Experts During Disability Determinations at the Railroad Retirement Board Can Be Improved **(Report No. 19-17)**

What OA Did

OA engaged DP George to conduct a performance audit of the use of medical experts in the RRB's disability determinations. The objectives were to review RRB's use of medical experts in the RRB's disability determinations to assess how the RRB relies on their input, potential changes to the process, and the efficiency and effectiveness of their involvement in the disability determination process. In order to complete this work, DP George identified criteria in laws, regulations, and best practices; identified applicable RRB policies, procedures; and gained an understanding of types of disability claims at the RRB. DP George also interviewed applicable agency staff and reviewed disability decisions.

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The scope of this audit covered disability determinations made in fiscal years 2016 to 2018 where the use of a medical expert was involved.

DP George is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in DP George's audit report.

What DP George & Company Found

DP George determined that the RRB's use of medical experts in the disability determination process can be improved. RRB medical experts do not always reach a consistent medical assessment based on the medical evidence. In these instances, RRB identifies if there are inconsistencies but does not have an established process for documenting and reviewing the final medical assessment to ensure that the basis for the final decision is clear.

What DP George & Company Recommends

To address the weaknesses identified in this audit, DP George made two recommendations. The first recommendation was to establish procedures specifying how differences in medical assessments between medical experts should be documented and reviewed to ensure the basis for the final decision is clearly evident in the disability case file. The second recommendation was to gather details about areas where a lack of objective findings to support medical assessments are observed for assessments performed by contracted medical experts, and establish a process for discussing and resolving common inconsistencies with the contracted medical experts.

RRB management did not concur with either of the two 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 April 1, 2019	0
Pending Management Decision for New Recommendations	0
Management Decision on Previous Recommendations	0
Recommendations Pending Management Decision on September 30, 2019	0

Corrective Action	
Recommendations Requiring Action on April 1, 2019	369
Recommendations Issued During Reporting Period	111
Corrective Actions Completed During Reporting Period	46
Recommendations Rejected During Reporting Period	4
Final Actions Pending on September 30, 2019	430

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 430 open audit recommendations is incorporated into this report by reference and may be accessed in the library section of OIG's website.³ This report is titled *Open or Unimplemented Audit Recommendations and Cost Savings as of September 30, 2019*.

³ <https://www.rrb.gov/index.php/OurAgency/InspectorGeneral>

Office of Investigations

Ol's primary objective is to identify, investigate, and refer for prosecution or monetary recovery action cases of fraud, waste, or abuse in the RRB's programs. Ol 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, Ol 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, Ol opened 107 new investigative cases.

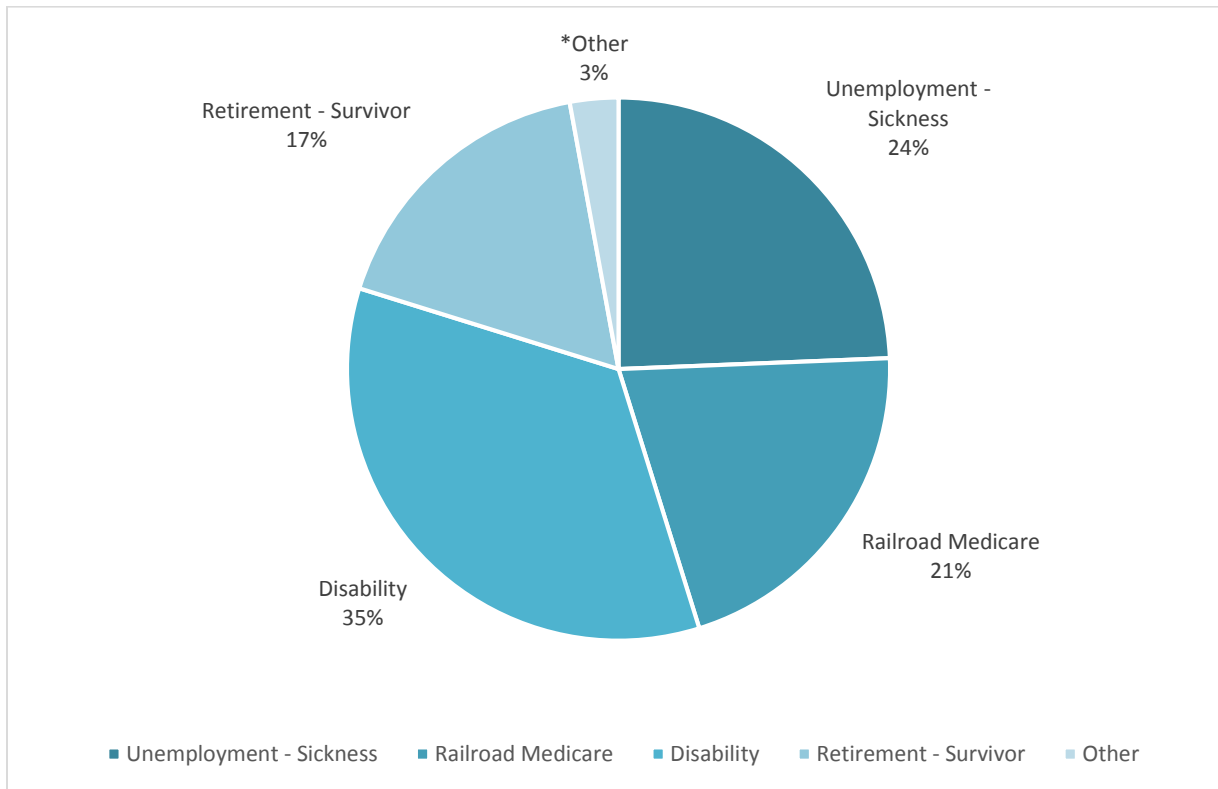
Investigative Caseload Data	
Investigative Cases Open as of April 1, 2019 ⁴	281
Investigative Cases Closed During Reporting Period	76
Investigative Cases Opened During Reporting Period	107
Investigative Cases Open as of September 30, 2019	312

As of September 30, 2019, Ol's investigative caseload totaled 312 matters which represents almost \$314.7 million in potential fraud losses.⁵ The chart on the following page reflects the distribution of Ol cases open at the end of the reporting period.

⁴ An investigative case may include multiple subjects.

⁵ 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 Ol'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	April 1, 2019 – September 30, 2019
Total Number of Investigative Reports Issued	37
Total Number of Persons Referred to the Department of Justice for Criminal Prosecution	14
Total Number of Persons Referred to State or Local Prosecuting Authorities for Criminal Prosecution	4
Indictments/Informations Issued During Reporting Period (Original Prosecutive Referral Made Prior to April 1, 2019)	12
Indictments/Informations Issued During Reporting Period (Original Prosecutive Referral Made After April 1, 2019)	1
Subpoenas Issued	105
Arrests	4
Criminal Convictions	18
Civil Complaints	9
Civil Judgments	8
Restitution and Fines ⁶	Almost \$1.6 Million
Civil Damages and Penalties ⁷	Almost \$3.6 Million
Prison	More Than 27 Years
Probation	42 Years
Community Service	420 Hours

OI Special Agents refer potential cases to federal, state, or local prosecutors through the use of specialized prosecution reports (investigative reports). These reports are utilized to explain the alleged offenses and present the evidence developed to substantiate these allegations. During this semiannual reporting period, OI issued a total of 37 investigative reports. Prosecution referrals may result in criminal convictions, civil judgments and penalties, and/or a recommendation for administrative recovery.

⁶ 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.

⁷ See above footnote.

Investigative Case Summaries

Brief descriptions of representative matters referred to prosecutorial authorities and the resulting convictions are summarized on pages 21 through 25. Ongoing investigations are not included. 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 nine criminal convictions for disability fraud cases. Defendants in these cases received, in the aggregate, sentences totaling more than 6 years of prison, 25 years of probation, 400 hours of community service, and were ordered to almost \$790,000 in restitution and fines.

Descriptions of representative disability fraud cases completed during this reporting period follow.

Disability Annuitant Sentenced to Five Years of Prison

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 Northern District of Texas which filed an indictment against the annuitant. The annuitant subsequently pleaded guilty to Theft of Government Funds and was sentenced to five years of prison, three years of probation, and ordered to repay more than \$163,000 in restitution and fines.

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 Middle District of Florida which filed an indictment against the annuitant. The annuitant subsequently pleaded guilty to Making False Statements and was sentenced to more than a year of prison, two years of probation, and ordered to repay almost \$169,000 in restitution.

Disability Annuitant Sentenced to House Arrest

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

This case was referred to the United States Attorney's Office for the District of West Virginia which filed an indictment against the annuitant. The annuitant subsequently pleaded guilty to Making False Statements and was sentenced to 6 months of house arrest, 3 years of probation, 400 hours of community service, and ordered to repay more than \$92,000 in restitution.

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 three criminal convictions and three civil judgments for UI-SI fraud cases. Defendants in these cases received, in the aggregate, sentences totaling one year of probation and were ordered to pay almost \$76,000 in restitution, fines, and civil damages/penalties.

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

UI Claimant Enters into Pretrial Diversion

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of March 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 20 false claims and received more than \$13,000 in fraudulent UI benefits.

This case was referred to the United States Attorney's Office for the Western District of Pennsylvania. The claimant entered into a 12 month Pretrial Diversion agreement with the United States Attorney's Office. Under this agreement, the claimant must pay full restitution and report regularly to a U.S. Pretrial Services Officer for length of the agreement.

UI Claimant Pleaded Guilty to Theft of Government Property

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of August 2015 through March 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 14 false claims and received more than \$10,000 in fraudulent UI benefits.

This case was referred to the United States Attorney's Office for the Central District of California. The United States Attorney's Office filed an information against the claimant for Theft of Government Property. He subsequently pleaded guilty and was sentenced to 12 months of probation and ordered to pay full restitution plus a special assessment.

UI Claimant Enters into a Settlement Agreement and a Consent Judgment to Settle Fraud Charges

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of April 2018 through December 2018, 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 19 false claims and received almost \$12,500 in fraudulent UI benefits.

This case was referred to the United States Attorney's Office for the Northern District of Ohio. The claimant entered into a settlement agreement with the United States Attorney's Office agreeing to repay double damages. He also signed a Consent Judgment in favor of the United States for the same amount.

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 two criminal convictions and one civil judgment for retirement-survivor benefit fraud. Defendants in these cases received, in the aggregate, sentences totaling more than 7.5 years of prison, 7 years of probation, 20 hours of community service, and were ordered to pay almost \$810,000 in restitution, fines, and civil damages/penalties.

Descriptions of representative retirement-survivor cases completed during this reporting period follow.

Annuitant's Daughter Steals over \$197,000 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 a civil complaint against the daughter for violating the False Claims Act. Due to her failure to respond, the District Court subsequently entered a default judgment against her for treble damages.

Annuitant's Great Granddaughter Sentenced to More Than a Year of Prison

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

This case was referred to the United States Attorney's Office for the Central District of California which filed an indictment against the great granddaughter. The great granddaughter subsequently pleaded guilty and was sentenced to more than a year of prison, 2 years of probation, 20 hours of community service, and ordered to repay almost \$192,000 in restitution.

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.

During this reporting period, OI obtained four criminal convictions and four civil judgments in Railroad Medicare related fraud cases. Defendants in these cases received, in the aggregate, sentences totaling 13.5 years of prison, 9 years of probation, and were ordered to pay almost \$3.5 million in restitution, fines, and civil damages/penalties.⁸

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

⁸ 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.

Doctor Settles Fraud Charges

An OI Special Agent participated as a member of a multi-agency team investigating allegations against a doctor. The investigation revealed that the doctor billed various medical programs, including Railroad Medicare, for misbranded prescription drugs.

This case was handled by the United States Attorney's Office for the District of Utah which entered into a settlement agreement with the doctor for almost \$281,000.

Doctor Sentenced to Five Years 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 performed and billed for invasive and medically unnecessary procedures.

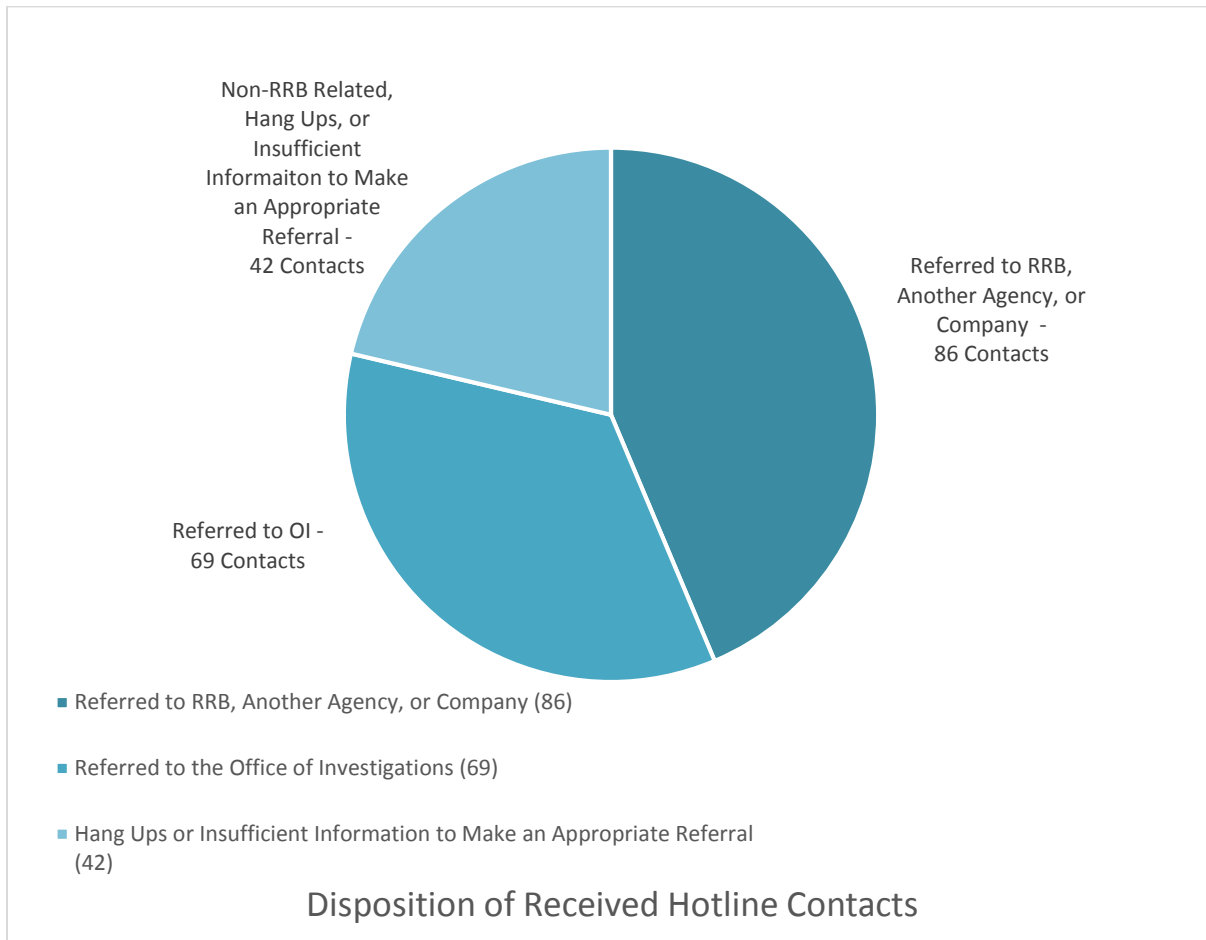
This case was prosecuted by the United States Attorney's Office for the Eastern District of Kentucky. The doctor was ultimately convicted of 11 health care fraud related counts and was sentenced to 5 years of prison, 3 years of probation, and almost \$1.2 million in restitution payable to a variety of health care programs.

Qui Tam Lawsuit Settled for More Than \$2.4 Million

OI Special Agents worked cooperatively as members of a multi-agency team investigating allegations contained in a Qui Tam lawsuit filed in the Northern District of Texas. Agents were able to prove that the subject medical provider violated anti-kickback regulations and the United States Attorney's Office subsequently intervened in this case. The U.S. Attorney's Office entered into a settlement agreement with the provider for more than \$2.4 million.

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 197 contacts in the following manner: 78.7 percent by telephone, 18.8 percent by email, and 2.5 percent by mail. The following chart summarizes the disposition of these received hotline contacts.



OTHER OVERSIGHT ACTIVITIES

Inspections, Evaluations, Audits, and OIG Alerts 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.

OIG Alerts supplement the current audit and investigative processes by providing the Inspector General with a quick and efficient mechanism to suggest program integrity improvements. During this semiannual reporting period, the Inspector General issued one OIG Alert relating to the RRB's representative payee program. OIG Alerts are restricted from public distribution because they generally contain non-releasable information.

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 reporting period, there were no attempts to interfere with the independence of the OIG.

During this reporting period, however, RRB management non-concurred with a vast majority of the recommendations OIG made related to the RRB's administration of the Railroad Medicare program. As a result, the OIG's ability to effectively carry out its oversight role is directly impacted. See these concerns in the following section.

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.

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Since April 2000, the RRB has contracted with a nationwide contractor, Palmetto, to process the Medicare Part B claims for QRRBs. In September 2012, Palmetto was awarded contract responsibilities as the SMAC for Railroad Medicare. The RRB's contract with Palmetto states that, "[t]he contractor shall perform all carrier functions for individuals enrolled in Part B of the Railroad Medicare program throughout the United States." These carrier functions include medical review and benefit integrity, among other responsibilities.

Within the RRB, the Office of Programs is responsible for oversight of the Railroad Medicare contract. To conduct this oversight responsibility, the Office of Programs had one Medicare Contracting Officer's Representative working at RRB headquarters and one Medicare Contract Operations Specialist working onsite at Palmetto. As part of the OIG's oversight responsibilities under the Inspector General Act of 1978, as amended, the OIG conducts audits and investigations of alleged fraud, waste, and abuse within the Railroad Medicare program.

Oversight of Railroad Medicare and Improper Payment Recording

As discussed on pages 6 and 7 of this report, OA made 14 audit recommendations directed at improving the RRB's improper payment reporting for Railroad Medicare. The RRB provided blanket non-concurrences for all 14 recommendations and stated that it would no longer report Railroad Medicare improper payments because, for improper payment purposes, CMS and RRB agreed that Medicare should be treated as one program. Therefore, RRB believes that the RRB's reporting of improper payments for Railroad Medicare is unnecessary because it would be duplicative with CMS's improper payment reporting. The RRB, however, has been the awarding agency for its SMAC contract with Palmetto since September 28, 2012. At the time of OA's improper payments audit report, issued in May 2019, the potential award amount for this seven year contract was approaching \$200 million. The RRB, not CMS, paid Palmetto to process Railroad Medicare Part B claims and provide value-added services to the railroad community that according to the RRB, the CMS's Medicare Administrative Contractors do not perform.

OIG disagrees with management's response. Although the RRB received approval from the agency's three-member Board to cease the reporting of improper payment data, such approval is not sufficient because IPERA does not provide authority to the Board to grant relief from reporting. Under IPERA, OMB approval is needed to provide RRB with any reporting relief. The RRB identified Railroad Medicare as being susceptible for improper payments, thus subjecting the program to improper payment reporting requirements. Once an agency starts reporting, they must report for a minimum of two consecutive years before requesting that OMB grant them relief from annual reporting.

Subsequent to the issuance of this audit report (Report No. 19-09), RRB management provided additional documentation, at the request of OIG staff, regarding their communications with OMB and CMS relating to Railroad Medicare improper payment

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reporting. These communications, however, did not provide any conclusive approval from OMB.

With respect to the RRB's viewpoint that separately reporting Railroad Medicare is redundant to the Medicare improper payment reporting completed by CMS, it is pertinent to highlight OMB guidance regarding groupings of programs. Appendix C to OMB Circular No. A-123 requires that, "[a]gencies should not put programs or activities into groupings that may mask significant improper payment rates by the large size or scope of a grouping." OIG believes the intent of the statement is to provide complete transparency of improper payment rates for programs an agency is responsible for overseeing and administering. While maintaining the same principle of the guidance in Appendix C, a significant improper payment error rate of a small program should not be combined with a large program that has a rate below the statutory threshold to allow the otherwise noncompliant smaller program to become compliant. If the RRB follows through with its intentions of not reporting next year, it will be masking the fact that its performance in reducing improper payments has deteriorated further. OIG has documentation to show that the Railroad Medicare improper payment rate that should be reported in the RRB's upcoming (fiscal year 2019) *Performance and Accountability Report* is 12.5 percent (a sizeable increase compared to the 10.53 percent rate reported this year).

Also during this reporting period, the OA issued an audit report in which the audit determined that Palmetto's controls were not fully adequate to detect and prevent the payment of improper E/M services and to ensure that the services were in accordance with Medicare's coverage and medical necessity requirements. As discussed in more detail on pages 8 and 9 of this report, OA estimates that recoverable E/M improper payments range from \$0.9 million to \$3.5 million for E/M services identified during OA's audit.

To address the identified weaknesses and reduce improper payments, OA made 34 recommendations. RRB management did not concur with 32 of these recommendations and stated it is not responsible for the Railroad Medicare program.

While benefits received under Railroad Medicare are solely for retired railroad workers, the quality of healthcare, monthly premium cost, and customer service are not distinct from traditional Medicare. If RRB management denies ownership of its Railroad Medicare program responsibilities and does not accept responsibility for minimizing improper payments, there is no practical reason for its existence. Because OA's findings addressed Palmetto's Statement of Work functional requirements under the RRB's contract authority, OIG continues to see the need for these corrective action.

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.

APPENDICES

<i>Appendix</i>	<i>Title</i>	<i>Page No.</i>
A	Office of Inspector General Reports and Other Publicly Available Papers Issued	32
B	Audit Reports with Questioned Costs or with Recommendations that Funds be Put to Better Use	33
C	Significant Matters	35
D	Peer Reviews	38
E	Reporting Requirements	39
F	Acronyms	41
G	Legal References	42

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

- *Selected General Information System Controls at the Railroad Retirement Board Were Not Always Adequate* (Report No. 19-07)
- *Improvements Needed for the Unapplied Cash Process at the Railroad Retirement Board* (Report No. 19-08)
- *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)
- *Railroad Medicare Controls Over Evaluation and Management Services Were Not Fully Adequate* (Report No. 19-10)
- *The Mainframe Applications Re-platform Initiative at the Railroad Retirement Board is Progressing in Accordance with Established Goals* (Report No. 19-11)
- *The Legacy Systems Modernization Initiatives at the Railroad Retirement Board are Progressing Effectively* (Report No. 19-12)
- *Internal Control Weaknesses Noted in the Preparation of the Railroad Retirement Board's Statements of Changes in Cash and Investments Balances Could Affect the Reliability of the Statements* (Report No. 19-13)
- *The Acquisition Management Function at the Railroad Retirement Board Was Not Fully Adequate or Effective* (Report No. 19-14)
- *The Implementation of the Disability Program Improvement Plan at the Railroad Retirement Board Did Not Result in a Fully Established Fraud Risk Assessment Process* (Report No. 19-15)
- *The Railroad Retirement Board Disability Programs Do Not Effectively Consider Fraud Risk Indicators in the Disability Decision Process* (Report No. 19-16)
- *The Use of Medical Experts During Disability Determinations at the Railroad Retirement Board Can Be Improved* (Report No. 19-17)

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 April 1, 2019	0	\$0	\$0
B. Which were issued from April 1, 2019 through September 30, 2019	2	\$6,115,791	\$6,115,791
Subtotal (A + B)	2	\$6,115,791	\$6,115,791
C. For which a management decision was made between April 1, 2019 through September 30, 2019	2	\$6,115,791	\$6,115,791
(i) dollar value of disallowed costs (agreed to by management)		\$0	\$0
(ii) dollar value of costs not disallowed (not agreed to by management)		\$6,115,791	\$6,115,791
D. For which no management decision had been made by September 30, 2019	0	\$0	\$0

	Audit Reports With Recommendations That Funds Be Put to Better Use	Dollar Value
A. For which no management decision had been made by April 1, 2019	0	\$0
B. Which were issued from April 1, 2019 through September 30, 2019	0	\$0
Subtotal (A + B)	0	\$0
C. For which a management decision was made between April 1, 2019 through September 30, 2019	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 September 30, 2019	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

Ineffective Controls

This material weakness was initially reported in fiscal year 2014 as part of the overall material weakness for financial reporting and OA made recommendations for improvement. During OA's current audit, OA continued to see the need for internal control improvements. In addition, some corrective actions related to this material weakness remain open.

Communication with the National Railroad Retirement Investment Trust's Auditor

This portion of the overall material weakness in financial reporting continues to exist. Communication between OIG and the National Railroad Retirement Investment Trust's (NRRIT) auditors is required to achieve compliance with American Institute of Certified Public Accountants (AICPA) standards. RRB management continues to cite statutory limitations as the basis for not permitting OIG auditors to communicate with NRRIT's auditors, and therefore, did not concur with the recommendation for corrective action. OA continues to look for resolution of this issue.

Deficient Internal Controls at the Agencywide Level

During fiscal year 2018, OA determined that the RRB's required control components were not designed, implemented, and operating effectively, consistent with Government Accountability Office and OMB guidance. Because the RRB's overall system of internal control was not operating effectively, OA reported an entity-level control material weakness. OMB Circular A-123 states that an evaluation of internal controls must be performed for the agency as a whole. If control principles or components have not been fully designed and implemented they cannot be tested and must be considered ineffective. The control environment had been identified in prior audit opinions as a separate material weakness. This year it is included in the overall material weakness for deficient internal controls at the agencywide level.

In addition, OA reported that RRB management had not always communicated matters of audit significance with OIG auditors. AICPA AU-C section 260, *The Auditor's Communication with Those Charged with Governance*, explains the importance of communication between auditors and agency management and indicates that inadequate two-way communication may indicate an unsatisfactory control environment, thereby impacting the risk of material misstatements.

See other details regarding financial statement concerns as reported in OIG Report No. 19-01, *Report on the Railroad Retirement Board's Financial Statements* and OIG Report No. 19-06, *Fiscal Year 2018 Financial Statement Audit Letter to Management*. These reports are publicly available on OIG's website at <https://www.rrb.gov/index.php/OurAgency/InspectorGeneral>.

Financial Controls and Reporting Issue Area	Date of Report	Audit Report and Recommendations
Ineffective Controls	August 1, 2014 March 31, 2015 August 14, 2015 November 30, 2015	OIG Report 14-10, 1-2 OIG Report 15-05, 2 OIG Report 15-08, 1,3-4, 6, 9-12, 16 OIG Report 16-02, 8-11
Communication with the NRRIT's Auditor	March 31, 2015	OIG Report 15-05, 8
Deficient Internal Controls at the Agencywide Level	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

Information Technology

As with all federal agencies, the RRB faces the challenge of how to modernize its IT and safeguard sensitive data, while accomplishing the agency's mission.

Prior IT related audit reports included recommendations for improvement, many of which continue to be open or unimplemented. OA's latest Federal Information Security Modernization Act of 2014 compliance report was issued for fiscal year 2018.

Information Technology Issue Area	Date of Report	Audit Report and Recommendations
Information Security	December 19, 2018	OIG Report 19-03, 1-4, 7-31

Disability Program Integrity

The OIG has identified deficiencies in disability program integrity as a significant matter.

As discussed on pages 13 to 16, during this reporting period, DP George, an OIG contracted audit firm, performed three distinct audits related to disability integrity. These audits determined that:

- the RRB's implementation of the DPIP and other related program improvements did not result in a fully established fraud risk assessment process that is specific to the RRB's disability programs;
- the RRB's disability programs do not effectively consider fraud risk indicators in the disability decision process; and
- the RRB's use of medical experts in the disability determination process can be improved.

DP George made a total of eight recommendations, of which the RRB's Office of Programs concurred with three, but said that they did not have the authority to take corrective action for any of the three. As such, they stated that they would forward them to the Board for consideration. The Office of Programs did not concur with the other five recommendations.

Disability Program Integrity	Date of Report	Audit Report and Recommendations
RRB's Disability Program Improvement Plan	September 30, 2019	OIG Report 19-15, 1-3
RRB's Disability Decision Process	September 30, 2019	OIG Report 19-16, 1-3
Use of Medical Experts During RRB Disability Determinations	September 30, 2019	OIG Report 19-17, 1,2

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

Act Section	Inspector General Reporting Requirements	Page(s)
4(a)(2)	Review of Legislation and Regulations	30
5(a)(1)	Significant Problems, Abuses, and Deficiencies	35 – 37
5(a)(2)	Recommendations With Respect to Significant Problems, Abuses, and Deficiencies	35 – 37
5(a)(3)	Prior Significant Recommendations Not Yet Implemented	35 – 37
5(a)(4)	Matters Referred to Prosecutive Authorities	20
5(a)(5)	Summary of Reports to the Chairman	None
5(a)(6)	Open or Unimplemented Audit Recommendations and the Associated Cost Savings	17
5(a)(7)	Summary of Each Significant Report	4 – 16
5(a)(8)	Statistical Table on Management Decisions on Questioned Costs	33
5(a)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put to Better Use	34
5(a)(10)	Summary of Each Audit Report Over 6 Months Old for Which No Management Decision Has Been Made	17
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	27 – 29, 35 – 37
5(a)(13)	Chairman Statement of Compliance	None
5(a)(14)	Peer Reviews	38
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	20

Act Section	Inspector General Reporting Requirements	Page(s)
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	27
5(a)(22)(a)	Inspections, Evaluations, and Audits Closed and Not Disclosed to the Public	27
5(a)(22)(b)	Investigations Involving Senior Government Employees Closed and Not Disclosed to the Public	None

Appendix F – Acronyms

Acronym	Explanation
AICPA	American Institute of Certified Public Accountants
CMS	Centers for Medicare and Medicaid Services
DP George	DP George & Company, LLC
DPIP	Disability Program Improvement Plan
E/M	Evaluation and Management
FMIS	Financial Management Integrated System
FISCAM	Federal Information System Controls Audit Manual
HQ	Headquarters
IPERA	Improper Payments Elimination and Recovery Act
IT	Information Technology
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
Palmetto	Palmetto Government Benefit Administrators, LLC
PARS	Program Accounts Receivable System
QRRBs	Qualified Railroad Retirement Beneficiaries
RRA	Railroad Retirement Act
RRB	Railroad Retirement Board
SMAC	Specialty Medicare Administrative Contractor
SCCIB	Statements of Changes in Cash and Investments Balances
SI	Sickness Insurance
SSA	Social Security Administration
UI	Unemployment Insurance
VoIP	Voice over Internet Protocol
WAI	Wai & Associates

Appendix G – Legal References

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

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

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.

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

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

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