

**OFFICE OF INSPECTOR GENERAL
FOR THE
RAILROAD RETIREMENT BOARD**

**SEMIANNUAL
REPORT TO THE
CONGRESS**



OCTOBER 1, 2011▪ MARCH 31, 2012



UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

April 30, 2012

The Honorable Michael S. Schwartz, Chairman
Railroad Retirement Board
844 North Rush Street
Chicago, Illinois 60611-2092

Dear Mr. Schwartz:

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, 2011 through March 31, 2012. This report is submitted in accordance with Section 5 of the *Inspector General Act of 1978*, as amended. The Act requires that you transmit this report, along with any comments you may wish to make, to the appropriate Congressional committees and subcommittees within 30 days.

During this reporting period, we completed our audit of the RRB's fiscal year 2011 financial statements, issuing an unqualified opinion. In addition we:

- published our "Letter to Management" detailing matters related to internal control identified during the financial statement audit;
- prepared our statement on *Management and Performance Challenges Facing the Railroad Retirement Board*;
- published the results of our annual evaluation of the agency's information security program; and
- completed and published two additional audit reports and one evaluation.

Our criminal investigators achieved 15 arrests, 43 criminal convictions, 69 indictments and informations, 13 civil judgments, and more than \$62.4 million in financial accomplishments resulting from OI's investigative work, including joint investigations.

The Office of Inspector General sincerely appreciates the ongoing assistance extended to our staff during the performance of their audits and investigations. We look forward to a continued cooperative relationship.

Sincerely,

Original Signed by

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, unemployment-sickness insurance, and retirement-survivor 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. The RRB's central mission is to pay accurate and timely RRA and RUIA benefits.

During fiscal year (FY) 2011, the RRB paid approximately \$11 billion in retirement and survivor benefits to roughly 578,000 beneficiaries. The RRB also paid roughly \$90.9 million in net unemployment and sickness insurance benefits to almost 11,000 unemployment insurance beneficiaries and 18,000 sickness insurance beneficiaries.

The RRB also has administrative responsibilities for certain benefit payments under the Social Security Act, including the administration of Medicare benefits for qualifying railroad workers and dependents. Pursuant to statutory authority, the RRB, in consultation with the Centers for Medicare and Medicaid Services, awards and monitors the single nationwide Medicare Part B Services contract. During FY 2011, the Railroad Medicare contractor paid approximately \$868 million in Part B medical insurance benefits on behalf of roughly 453,000 Railroad Medicare beneficiaries.

Board Members

The Board consists of three members who are appointed, with the advice and consent of the Senate, by the President of the United States. One Board member is appointed upon the recommendation of railroad employers, another member is appointed upon the recommendation of railroad labor organizations, and the third, who is the Chairman, is appointed to represent the public's interest. Board Members' terms are five years in length and expire in staggered years.



Office of Inspector General for the Railroad Retirement Board

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 added the RRB to the list of covered agencies.

The Inspector General is a Presidential Appointee, with Senate confirmation, who serves as an independent and objective voice to both the RRB 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 management. The OIG also identifies and investigates cases of waste, fraud, 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 sanctions.

The OIG has approximately 50 employees assigned to 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: the RRB headquarters in Chicago, Illinois; an investigative field office in Philadelphia, Pennsylvania; and domicile investigative offices in Arlington, Virginia; Houston, Texas; Miami, Florida; New York, New York; and San Diego, California. These domicile offices provide increased investigative presence and aide in the effective and efficient coordination of joint investigations with other Inspector General offices and law enforcement agencies.



Office of Inspector General for the Railroad Retirement Board

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. During this reporting period, the OA:

- completed its annual audit of the RRB's comparative financial statements for the fiscal years ended September 30, 2011 and 2010 along with the related reports on internal control and compliance;
- prepared the Inspector General's statement of *Management and Performance Challenges Facing the Railroad Retirement Board*;
- published the results of their annual evaluation of the agency's information security program;
- evaluated the agency's oversight of railroad employer compliance;
- published a "Letter to Management" detailing matters related to internal control identified during the financial statement audit;
- audited the agency's compliance with the Improper Payments Elimination and Recovery Act of 2010; and
- completed its audit to assess the reliability of dates of death residing within the agency's Application Express System.

OA's activities, during this reporting period, are discussed in further details on Pages 5 through 14 of this report. All publically available reports are available on our website at www.rrb.gov/oig.



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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 relating to:

- the fraudulent receipt of RRB disability, unemployment-sickness, and retirement-survivor benefits;
- Railroad Medicare fraud;
- false reporting by railroad employers; and
- criminal violations and misconduct by RRB personnel.

Investigative efforts can result in criminal convictions; civil judgments and penalties; administrative recovery of program benefit funds; and/or administrative sanctions.

From October 1, 2011 through March 31, 2012, OI achieved:

- 15 arrests;
- 69 indictments and informations;
- 43 convictions;
- 13 civil judgments;
- 50 referrals to the Department of Justice; and
- more than \$62.4 million¹ in financial accomplishments.

Defendants, in the aggregate, were sentenced to more than 82 years of jail, 95 years of probation, and 490 hours of community service. Additional details regarding OI's activities are discussed on Pages 16 through 27.

Details regarding OI's ongoing joint investigation into a brazen occupational disability fraud scheme are discussed on Page 19.

¹ The total amount of financial accomplishments reflect fraud amounts related to programs administered exclusively by the RRB and fraud amounts from other Federal programs such as Medicare or Social Security which were included in the disposition resulting from the investigation.



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**OCTOBER 1, 2011 – MARCH 31, 2012
ACCOMPLISHMENTS**

Office of Audit

Congress established the OIG to provide independent oversight of the RRB. Within the OIG, the mission of OA 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 semiannual reporting period follow.

Opinion on the Financial Statements

During this reporting period, OA completed its annual audit of the RRB's comparative financial statements for the fiscal years ended September 30, 2011 and 2010. The OIG offered an unqualified opinion on the financial statements, concluding that the financial statements, including accompanying notes, presented fairly, in all material respects, in conformity with U.S. generally accepted accounting principles, the financial position of the RRB, its consolidated net cost of operations and changes in net position, and combined budgetary resources as of and for the fiscal years ended September 30, 2011 and 2010 and the financial condition of the Railroad Retirement program as of January 1, 2011, 2010, 2009, 2008, and 2007 and changes in the financial condition of the program for the year ended December 31, 2010.



Report on Internal Control

In planning and performing the audit of the agency's financial statements, OA considered the RRB's internal control over financial reporting and compliance. OA did this to determine its procedures for auditing the financial statements and to comply with Office of Management and Budget (OMB) audit guidance, and not to express an opinion on internal control. OA reported the following:

- With respect to previously reported control deficiencies, the RRB has made progress strengthening its information security program but this effort is not yet complete and remains an area of material weakness.
- The previously reported material weakness for non-integrated subsystems continues to exist because agency efforts are not yet sufficient.

Report on Compliance with Laws and Regulations

OA's audit of the RRB's financial statements included tests of compliance with selected provisions of laws and regulations, including laws governing the use of budget authority, and other laws and regulations that could have a direct and material impact on the RRB's basic financial statements.

OA's tests of compliance with selected provisions of laws and regulations disclosed no instances of non-compliance that are reportable under either U.S. generally accepted government auditing standards or OMB guidance. However, the objective of the audit was not to provide an opinion on overall compliance with laws and regulations; therefore, they did not express an opinion.

Material Weaknesses and Significant Deficiency

During their audit of the agency's financial statements for the fiscal years ended September 30, 2011 and 2010, OA identified material weaknesses in the following areas:

- information technology security – risk management framework;



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- information technology security – applications and services;
- internal control over non-integrated subsystems; and
- budgetary reporting.

Additionally, OA identified a significant deficiency in the agency's compliance audits of external railroad employers. This significant deficiency increases the risk that railroad reporting errors could remain undetected.

The agency is working to address these identified areas.

Management and Performance Challenges Facing the Railroad Retirement Board

OA's *Management and Performance Challenges Facing the Railroad Retirement Board* is published in RRB's annual *Performance and Accountability Report*. This statement is prepared pursuant to the Reports Consolidation Act of 2000 and the requirements of OMB Circular A-136. This Circular requires OIGs to identify the most serious management challenges facing their parent agency and to briefly assess the agency's progress in addressing those challenges.

OA's identification of challenges facing RRB management is based on recent audits and evaluations; new congressional directives to prevent improper payments and fraud in government programs; and continued lack of audit oversight for the National Railroad Investment Trust (NRRIT), a multi-billion dollar investment enterprise. The following challenges were identified:

- oversight and transparency of invested program assets;
- disability and Railroad Medicare program integrity;
- information technology security;
- controls over non-integrated subsystems;
- human capital management; and
- preventing and detecting improper payments.



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***Fiscal Year 2011 Financial Statement Audit Letter to
Management***

On January 31, 2012, OA issued their *Fiscal Year 2011 Financial Statement Audit Letter to Management*. This letter transmits OA's memorandum on internal control which communicates certain internal control matters that came to OA's attention during the financial statement audit.

In addition to the previously identified material weaknesses, OA noted certain other matters involving the RRB's internal control structure and its operation. Although these matters do not rise to the level of a material weakness or significant deficiency, either individually or in the aggregate, they represent areas in which control weaknesses increase the risk of error or mishandling.

- RRB risks issuing incorrect statement of budgetary resources and financial statement notes.
- Internal controls are not sufficient to ensure that information included in the annual Performance and Accountability Report reflects the latest changes in guidance for social insurance.
- Internal controls are not sufficient to ensure that the quality assurance section, and checklists referenced in the Actuary's internal policies and procedures, reflect the latest changes in guidance for social insurance reports and documents.
- The agency's Bureau of Fiscal Operations does not always identify errors or non-compliance with applicable guidance for data provided to them from other agency bureaus. It was also observed that the agency's existing control framework is over-reliant on the OIG's annual audit of the financial statements to ensure that these documents are accurate and comply with applicable guidance.

RRB management has agreed to take action on our recommendations relating to the above findings.



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***Fiscal Year 2011 Evaluation of Information Security at
the Railroad Retirement Board***

OA conducted an evaluation of information security at the RRB for FY 2011, which is mandated by the Federal Information Security Management Act of 2002 (FISMA). The objectives of this evaluation included testing the effectiveness of the information security policies, procedures, and practices of a representative subset of the agency's information systems; and a report on selected elements of the agency's information security program to be prepared in compliance with OMB's FY 2011 FISMA reporting instructions.

In a separately issued Restricted Distribution report, OA communicated that the RRB continues to make progress in implementing an information security program that meets the requirements of FISMA; yet a fully effective security program has not been achieved. The significant deficiency in the internal control structure over the review of contractor deliverables, associated with the risk management framework, remains unresolved. Additionally, OA cited the RRB with a significant deficiency in its security configuration management program. OA also noted some lesser deficiencies in the RRB's security program. In total, OA made 13 detailed recommendations to RRB management. For example, OA recommended that RRB management should:

- develop and implement a comprehensive risk management governance strategy that builds information security capabilities into federal information systems, maintains awareness of the systems' security state, and provides essential information to facilitate decisions;
- obtain the necessary funding and resources to decommission unsupported equipment;
- provide additional security awareness training to employees;
- improve data collection methods, and performing a quality assurance review of security incidents and data reported internally and externally;
- implement and perform a quarterly quality assurance review for the preparation and processing of system access re-authorizations; and
- formally review and publish the agency's Capital Planning and Investment Control Guide.

RRB management has agreed to take corrective actions on all 13 recommendations.

Semiannual Report to the Congress

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Evaluation of the Railroad Retirement Board's Oversight of Railroad Employer Compliance

OA reviewed the RRB's oversight of railroad employer compliance. In 1993, the agency approved the establishment of the Audit and Compliance Division (ACD) within the RRB's Bureau of Fiscal Operations. ACD conducts external audits of railroad employers to ensure compliance under the RRA and the RUIA, and verifies the accuracy and timeliness of reported compensation and contributions. Although ACD does not have authority to audit taxes under the Railroad Retirement Tax Act, its staff reviews the compensation amounts on which these payroll taxes are based. The objectives of this audit were to evaluate the accuracy and completeness of ACD's audit results, and the effectiveness of ACD's audit process, for a selected Non-Class I Railroad employer.

Key Findings

OA found that, for the selected Non-Class I Railroad employer, ACD's audit results were not fully accurate and complete, and their process was not fully effective to ensure compliance with RRA and RUIA. ACD did not:

- use finalized documents for reconciliations;
- pursue individual compensation differences below \$1,000 per employee, per year;
- have sufficiently detailed procedures to identify potentially covered employees; and
- properly communicate and coordinate with other RRB units.

OA identified potential underreported Tier I and Tier II creditable compensation of approximately \$283,000 and \$320,000, respectively, which resulted in a potential \$84,000 in taxes lost to the RRB's trust fund.



Recommendations

To improve operations, OA recommended that the agency's Bureau of Fiscal Operations:

- implement controls to ensure that auditors verify all information used in their final audit reports;
- implement controls to ensure ongoing communication with audited railroad employers and other RRB units during the entire audit process;
- revise its procedures to use lower thresholds for pursuing identified differences in creditable compensation;
- request that the railroad employer submit a compensation adjustment report to correct the 141 employees with creditable compensation differences in calendar year (CY) 2007;
- revise the railroad employer audit procedures to ensure that potentially covered employees are identified;
- refer the 11 identified individuals to the ACD's coverage unit for review;
- establish controls for agency-wide coordination to ensure railroad employer compliance;
- request that the railroad employer submit a compensation adjustment report to credit service months for wage continuation in CYs 2008 and 2009; and
- request that the railroad employer submit a new compensation adjustment report to reverse the September 2008 compensation adjustment report.

Management's Response

RRB agreed to take corrective action on all nine audit recommendations.



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***Audit of the Railroad Retirement Board's Compliance
with the Improper Payments Elimination and Recovery
Act***

On July 22, 2010 the President signed the Improper Payments Elimination and Recovery Act of 2010 (IPERA), amending the Improper Payments Information Act of 2002, which is meant to achieve the President's goal of reducing wasteful, improper payments. Subsequently, OMB issued government-wide guidance on the implementation of IPERA and mandated that each agency's Inspector General annually review improper payment reporting in the agency's *Performance and Accountability Report (PAR)* for the most recent fiscal year.

An improper payment is any payment that should not have been made or that was made in an incorrect amount under the statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients. An improper payment also includes any payment that was made to an ineligible recipient or for an ineligible good or service, or payments for goods or services not received. For FY 2010, the agency reported approximately \$62.3 million in improper RRA payments which were .58% of total outlays of \$10,780.2 million.

Key Findings

OA's review disclosed that the RRB's reporting of improper payment balances in their FY 2011 PAR was complete and all data reviewed contained the necessary components. However, OA's review disclosed that RRB's reporting was understated by \$257,000 and the agency's verification review process is not fully effective to identify errors in improper data.

Recommendation

OA recommended that the agency strengthen their existing review process to ensure the accuracy of IPERA reporting details in the annual PAR.



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Agency Response

The agency concurred with this recommendation.

Audit of the Application Express System's Date of Death Reliability

OA conducted an audit to assess the reliability of dates of death residing within the RRB's Application Express (APPLE) system and to evaluate input and output controls over APPLE date of death information transmitted to the agency's Medicare Information Recorded, Transmitted, Edited and Logged (MIRTEL) system and the agency's Payment Rate and Entitlement History (PREH) system. This audit focused on controls over the accuracy and completeness of APPLE system dates of death, the retention of APPLE system proof of death records, and date of death consistency across the RRB's APPLE, MIRTEL, and PREH systems.

Key Findings

OA identified the following weaknesses:

- available APPLE system data are not always used to correct unreliable MIRTEL system dates of death;
- RRB procedures do not require correction of an inaccurate day of death; and
- proof of death is not adequately retained in the RRB's claim folder system.

Key Recommendations

To address the identified weaknesses, OA recommended that RRB officials:

- identify an optimal method for updating preexisting date of death records in MIRTEL with available APPLE dates of death that will maximize accuracy and consistency across RRB systems;
- establish a periodic date of death validation process that will ensure the reliability of date of death data disseminated within and outside of the agency;
- determine the feasibility of classifying date of death data based on its proof of death status prior to external distribution;



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- revise the RRB's death notification procedures to require field service representatives to re-enter the correct "day" of death, when it has been determined that the wrong "day" of death was previously received and entered into the APPLE system; and
- require retention of a scanned copy of the proof of death in the RRB's claims folder system.

Management's Response

The Office of Programs agreed with three of our recommendations and disagreed with two recommendations. The following details the two rejected recommendations.

The Office of Programs disagreed with our recommendation to periodically validate date of death data. Their reasoning failed to address the date of death anomalies contained in the agency's MIRTEL system. We are still concerned regarding the possibility of outside entities unknowingly using inaccurate date of death data contained in the agency's MIRTEL system. If the Office of Programs implemented our recommendation regarding the establishment of a periodic date of death validation process, they could potentially identify other data reliability issues.

Additionally, the Office of Programs disagreed with our recommendation regarding proof of death retention. Their current practice of not scanning supporting documents into the RRB's system of records does not comply with the agency's requirement for electronic records, Federal internal control standards, or management's assertions regarding its internal controls for imaging.

We encourage the agency to reassess their rejection of these recommendations.

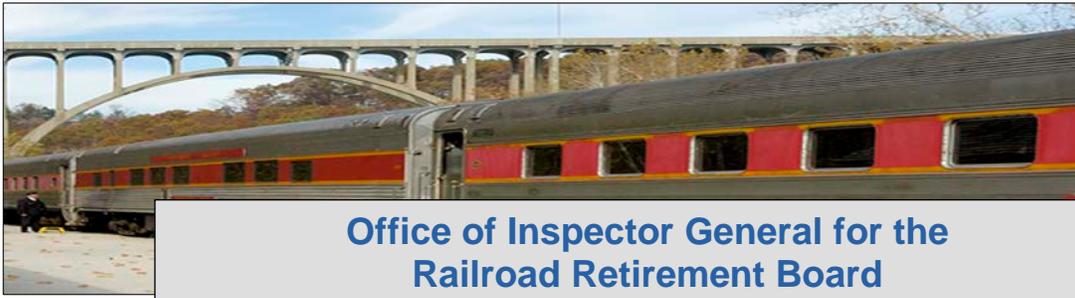


Management Decisions and Implementation

As part of its oversight activities, the OIG tracks the agency's implementation of audit recommendations. Additionally, OMB Circular No. A-50 (Revised) and the Inspector General Act Amendments of 1988 require the reporting of management decisions and corrective actions for all audit recommendations.

Management Decisions	
Requiring Management Decision on October 1, 2011	0
Pending Management Decision for New Recommendations	0
Management Decision on Previous Recommendations	0
Recommendations Pending Management Decision on March 31, 2012	0

Corrective Action	
Recommendations Requiring Action on October 1, 2011	187
Recommendations Issued During Reporting Period	34
Corrective Actions Completed During Reporting Period	28
Recommendations Rejected During Reporting Period	2
Final Actions Pending on March 31, 2012	191



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Office of Investigations

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

Current Caseload

During this semiannual reporting period, OI reviewed 115 matters and opened 72 new cases.

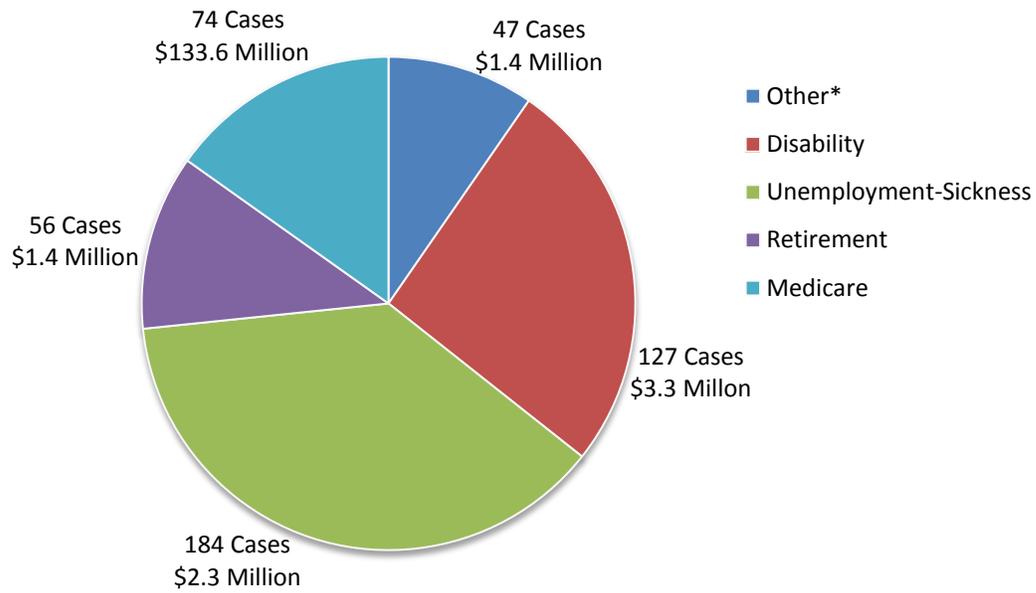
Investigative Caseload Data	
Investigative Cases Open as of October 1, 2011	545
Investigative Cases Opened During Reporting Period	72
Investigative Cases Closed During Reporting Period	129
Investigative Cases Open as of March 31, 2012	488

As of March 31, 2012, OI's investigative case load totaled 488 matters. This represents more than \$142 million² in potential fraud loss being investigated by OI's staff of 15 Special Agents. The chart located on the next page reflects the distribution of OI cases by RRB major program area including potential fraud losses.

² 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.



Current 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 employees, and others.*



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Investigative Accomplishments

Action	October 1, 2011 – March 31, 2012
Referrals to the Department of Justice	50
Indictments/Informations	69
Arrests	15
Convictions	43
Civil Complaints	9
Civil Judgments	13
Restitution and Fines	\$20 Million ³
Civil Damages and Penalties	\$42.1 Million ⁴
Investigative Recoveries ⁵	\$245,000
Community Service Hours	490

³ The total amount of financial accomplishments in this table reflect fraud amounts related to programs administered exclusively by the RRB and fraud amounts from other Federal programs such as Medicare or Social Security which were included in the disposition resulting from the investigation.

⁴ See above footnote.

⁵ RRB benefits that are overpaid due to fraud and can be recouped through RRB administrative recovery action are expressed as investigative recoveries.



Representative Investigations October 1, 2011 – March 31, 2012

Disability Investigations

OI conducts fraud investigations relating to the RRB's disability program. Railroad workers who are awarded a disability annuity by the RRB are subject to work restrictions and earnings limitations. Disability benefit fraud often involves sophisticated schemes to hide disqualifying work activities from the RRB.

During this reporting period, OI obtained eight convictions and one civil judgment in disability fraud cases. The defendants received, in the aggregate, sentences totaling more than 13 years of probation, 250 hours of community service, and were ordered to pay approximately \$175,000 in restitution, fines, and civil damages/penalties.

Descriptions of representative cases completed during this reporting period follow.

11 Individuals Charged and Arrested in Alleged Occupational Disability Fraud Scheme

OI's joint investigation with the Federal Bureau of Investigation unraveled a complex occupational disability fraud scheme allegedly perpetrated by a number of railroad retirees, doctors, and disability facilitators. On October 27, 2011, the Inspector General, the United States Attorney for the Southern District of New York, and the Federal Bureau of Investigation announced charges against seven railroad retirees, two doctors, and two disability facilitators for their alleged involvement in a brazen occupational disability fraud scheme.

As alleged in a publically available 74 page complaint, OI's joint investigation revealed that three doctors used their medical practices to run "disability mills." These doctors charged a premium of approximately \$800 to \$1,000 in exchange for fraudulent medical documentation designed to qualify their "client" for an RRB occupational disability. In fact, the doctors allegedly helped the retiree "pre-plan" their disability so that it would coincide with their anticipated retirement date.



It is also alleged that some of the retirees used disability “facilitators” to increase their likelihood of being awarded an occupational disability. The facilitators assisted and coached their disability clients on how to complete the RRB occupational disability application in order to gain approval. One of the facilitators charged in this scheme is a former RRB employee.

OI’s joint investigation into this expansive fraud scheme remains ongoing. The charges contained in the complaint are accusations and the defendants are presumed innocent until proven guilty.

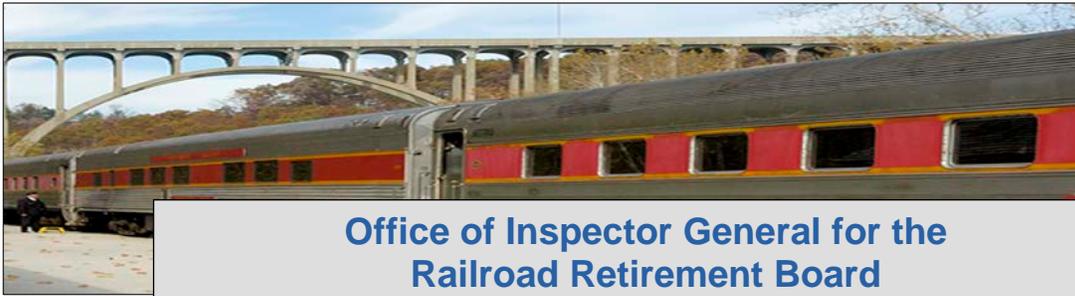
Annuitant Conceals Family Business from the RRB

Special Agents investigated an RRB disability annuitant who had initially reported self-employment and ownership of a construction company to the RRB but claimed that he was closing the company because he was physically unable to work. OI’s subsequent investigation revealed that instead of the closing the company, the annuitant simply renamed the company and put it in his spouse’s name. Additionally, it was discovered that the annuitant maintained two sets of books in order to conceal the company’s income from the RRB. The annuitant’s failure to report his excess earnings to the RRB caused him to fraudulently receive more than \$30,000 in disability payments.

This case was referred to the United States Attorney’s Office for the Southern District of Iowa which filed an indictment against the annuitant. He pled guilty to Failure to Report Information to the U.S. RRB and Filing a False Income Tax Return. He entered into a plea agreement with the U.S. Attorney’s Office agreeing to 3 months of home confinement, 2 years of probation, 200 hours of community service, and full restitution.

Pastor Fraudulently Collected \$60,000 in Disability Benefits

OI Special Agents investigated an RRB disability annuitant who failed to report his income and excess earnings he received from his position as a pastor for a local church. The annuitant’s failure to report this information to the RRB caused him to fraudulently receive approximately \$60,000 in disability payments.



This case was referred to the United States Attorney's Office for the Eastern District of Kentucky. The United States Attorney's Office entered into a settlement agreement with the annuitant for \$60,000.

Annuitant Failed to Report Self-Employment to the RRB

OI Special Agents investigated an RRB disability annuitant who failed to report income and excess earnings received from self-employment. The annuitant's failure to report his excess earnings to the RRB caused him to fraudulently receive more than \$22,000 in disability payments.

This case was referred to the United States Attorney's Office for the District of North Dakota. The United States Attorney's Office filed an information against the annuitant for Failure to Report Information to the U.S. RRB. The annuitant pled guilty and was sentenced to three years of probation, full restitution, and a special assessment fee.

Unemployment-Sickness Insurance Investigations

Unemployment Insurance-Sickness Insurance benefit fraud typically involves individuals claiming and receiving Unemployment Insurance (UI) or Sickness Insurance (SI) benefits while working or collecting state administered unemployment benefits. OI receives the majority of these cases from the RRB's Disability, Sickness, and Unemployment Benefits Division as a result of information developed through state wage matching programs. The RRB conducts computer wage matches with various states to identify claimants who may have collected RRB administered UI or SI benefits on the same days they received wages from a private employer or on the same days they received state administered unemployment benefits.

Since the enactment of the American Recovery and Reinvestment Act of 2009 and various other benefit extending legislation, OI has seen a substantial increase of UI fraud referrals. In fact, almost 94% of OI's current UI fraud cases involve extended UI benefits.

During this reporting period, OI obtained nine convictions and ten civil judgments for UI-SI fraud cases. Defendants in these cases received, in the aggregate, 11½ years of



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probation, 100 hours of community service, and were ordered to pay more than \$392,000 in restitution, fines, and civil damages/penalties.

The following are examples of UI-SI cases completed during this reporting period.

UI Claimant Prosecuted in State Court

OI initiated this investigation of an RRB UI claimant based upon an agency referral. OI's subsequent investigation, determined that during October 2007 through April 2008 the claimant applied for RRB UI benefits on many of the same days he worked for a private employer. The claimant's failure to report his employment and earnings to the RRB caused him to fraudulently receive over \$6,000 in UI benefits.

This case was referred to the Office of the District Attorney for Montgomery County, Pennsylvania. The claimant entered a guilty plea for violating Pennsylvania Statute 18-3922, Theft by Deception, False Pretenses and was sentenced to four years of probation and ordered to pay \$1,731 in restitution. The claimant had already repaid \$4,700 prior to sentencing.

UI Claimant Enters into Pretrial Diversion

OI initiated an investigation of an RRB UI claimant based upon an agency referral. OI's subsequent investigation determined that during the period of August 2009 through April 2010, the claimant applied for RRB UI benefits on many of the same days he was working as a car salesman. His actions resulted in the theft of more than \$10,000 in UI benefits.

This case was referred to the United States Attorney's Office for the Western District of Arkansas. The claimant entered into an 18 month Pretrial Diversion agreement with the United States Attorney's Office for violation of False Claims. Under this agreement, the claimant must pay full restitution and report regularly to a U.S. Pretrial Services Officer for length of the agreement or until full restitution has been paid to the government.



Default Judgment Entered Against UI Claimant

OI initiated an investigation of an RRB UI claimant based upon an agency referral. OI's subsequent investigation determined that during the period of February 2008 through September 2008, the claimant applied for RRB UI benefits on many of the same days he was working and being paid by a private employer. He submitted a total of 15 false claims when applying for benefits by intentionally not reporting his employment. His actions resulted in the theft of almost \$9,000 in UI benefits.

This case was referred to the United States Attorney's Office for the District of New Jersey. The United States Attorney's Office filed a civil complaint for violations of the False Claims Act. OI Special Agents served the claimant with a copy of the complaint and a summons; however, he failed to respond. Subsequently, the District Court entered a default judgment against him for over \$26,000.

Retirement-Survivor Benefits and Representative Payee 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 conviction and one civil judgment for retirement benefit fraud cases. Defendants in these cases received, in the aggregate, 5 years of probation, 100 hours of community service, and were ordered to pay almost \$152,000 in restitution, fines, and civil damages/penalties.



The following are brief summaries for each case.

Annuitant's Commission Fraudulently Paid to Spouse

OI Special Agents investigated an RRB retirement annuitant who, in order to conceal his work as an independent contractor, directed that his commissions and expenses be paid to his spouse. OI's investigation revealed that both the annuitant and his spouse worked as independent contractors for the same organization; however, they directed that all commissions and reimbursements be paid to the spouse. The annuitant's failure to report his income to the RRB caused him to fraudulently receive almost \$53,000 in retirement payments.

This case was referred to the United States Attorney's Office for the District of Kansas. The annuitant entered into a settlement agreement with the U.S. Attorney's Office agreeing to pay \$75,000 to settle charges under the False Claims Act.

Annuitant's Niece Steals Almost \$77,000 in RRB Benefits

OI's investigation revealed that an RRB annuitant had passed away in July 1999; however, RRB continued to deposit electronic funds into a joint bank account until August 2006. Special Agents determined that the annuitant's niece was the joint owner on the account and had used almost \$77,000 in RRB benefits for her own personal benefit.

This case was referred to the United States Attorney's Office for the Southern District of Texas. The United States Attorney's Office filed an indictment charging the niece with Wire Fraud, False Statements, and Theft of Government Funds. She pled guilty to one count Theft of Government Funds and was sentenced to 5 years of probation, 100 hours of community service, full restitution, and a special assessment.



Railroad Medicare Investigations

During this reporting period, OI obtained 25 convictions and 1 civil judgment in Railroad Medicare fraud cases. Defendants in these cases received, in the aggregate, more than 82 years of jail, 66 years of probation, 40 hours of community service, and were ordered to pay more than \$61.4 million in restitution, fines, and civil damages/penalties.⁶

All of OI's active Medicare cases are being worked jointly with 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.

The following are examples of Railroad Medicare cases completed during this reporting period.

Qui Tam Lawsuit Settled for \$41.8 Million

OI Special Agents worked cooperatively as members of a multi-agency team investigating allegations contained in a Qui Tam lawsuit filed in the Eastern District of Tennessee. Agents were able to substantiate the allegations contained in the Qui Tam and the U.S. Attorney's Office for the Eastern District of Tennessee intervened in the case.

The team's investigation revealed that the subject durable medical equipment provider knowingly submitted numerous false claims to Medicare and Railroad Medicare for specialized medical equipment which was medically unnecessary.

In order to resolve these allegations, the provider entered into a settlement agreement with the U.S. Attorney's Office for the Eastern District of Tennessee consenting to pay \$41.8 million to the government. Additionally, the provider entered into a comprehensive

⁶ This total reflects the full amount of restitution, fines, and civil damages/penalties ordered. Since OI's Railroad Medicare fraud cases are joint investigations, the total dollar amount includes losses to other health care programs.



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five year Corporate Integrity Agreement with the Office of Inspector General for the U.S. Department of Health and Human Services.

Three Individuals Sentenced for Health Care Fraud

OI initiated this investigation pursuant to a referral from the Office of Inspector General for the Department of Health and Human Services. The subsequent joint investigation revealed that the owners of a medical clinic, along with a nurse employed by the clinic, conspired to fraudulently bill Medicare for services which were never provided.

This case was referred to the United States Attorney's Office for the Southern District of Georgia. All three individuals entered in to a plea agreement with the U.S. Attorney's Office. The first owner pled guilty to Violation of Assignment Terms and was sentenced to 3 years of probation, 40 hours of community service, forfeiture of more than \$1.3 million, and a special assessment. The second owner pled guilty to Conspiracy to Commit Medicare Fraud and Aggravated Identity Theft. He was sentenced to 133 months of prison, restitution of more than \$3.9 million, and a special assessment. The nurse pled guilty to Payment of Kickback Related to Federal Health Care Program and was sentenced to 13 months of prison, 3 years of supervised probation, 40 hours of community service, \$20,000 in restitution, and a special assessment.

Durable Medical Equipment Company Owner Sentenced to More Than 8 Years of Prison

Pursuant to a referral from the Medicare Fraud Strike Force, OI initiated this investigation against four individuals: the owner and office manager of a Texas Durable Medical Equipment company and two patient recruiters. The subsequent joint investigation revealed that the owner and office manager had paid kickbacks to the patient recruiters in exchange for patient information. This information was used to submit approximately \$4.3 million in false claims to Medicare, Medicaid, and private insurance companies.



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This case was referred to the United States Attorney's Office for the Southern District of Texas. After a five day trial the owner was convicted of Conspiracy to Commit Health Care Fraud, Aiding and Abetting in Health Care Fraud, and Violating the Anti-Kickback Statute. He was sentenced to 97 months of prison. The other three individuals had previously pled guilty to Conspiracy to Commit Health Care Fraud and violating the Anti-Kickback Statute. They were sentenced to a combined 86 months of prison. All four individuals were sentenced to jointly repay more than \$1.5 million in restitution.

Civil Enforcement Results

OIG may pursue civil actions to obtain judicial orders for the recovery of funds fraudulently obtained by annuitants or claimants. These civil actions are typically brought under the provisions of the False Claims Act. This statute provides that the government may recover up to treble damages as well as \$5,500 to \$11,000 for each false claim submitted.

During this semiannual reporting period, a total of 13 civil judgments were entered by U.S. District Courts for RRB fraud cases totaling more than \$42.1 million in damages and penalties.⁷ Some of these civil actions are pursued under the Department of Justice's Affirmative Civil Enforcement program which provides an efficient and effective means to address fraud against the RRB's programs.

⁷ The total amount of damages and penalties listed reflects fraud amounts related to programs administered exclusively by the RRB and fraud amounts from other Federal programs such as Medicare or Social Security which were included in the disposition resulting from the investigation.



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Hotline Contacts

The OIG established its Hotline to receive complaints concerning suspected fraud, waste, and abuse in the RRB's programs and operations. The Hotline provides an open line of communication for individuals to report suspected criminal activity and mismanagement/waste of RRB funds.

The Hotline received 631 contacts during this reporting period. The following table summarizes Hotline referrals or other action during this reporting period.

Referral or Other Action	October 1, 2011 – March 31, 2012
Other (Hang Ups, Misdirected Calls, Disconnections, etc.)	248
Referred to RRB District or Regional Office	219
Referred to OI	83
Referred to Another Federal Agency	32
Calls with Insufficient Information to Make Appropriate Referrals	29
Referred to RRB Bureaus	9
Disposition Not Yet Determined, Additional Information is Being Obtained	8
Referred to Durable Medical Equipment Medicare Administrative Contractor	2
Referred to a Railroad	1



OTHER OVERSIGHT ACTIVITIES

American Recovery and Reinvestment Act of 2009

During this semiannual period, the OIG continued their efforts to aide in a transparent American Recovery and Reinvestment Act process by preparing monthly progress reports in formats developed by the Recovery Accountability and Transparency Board. These monthly reports are published on the Recovery.gov website and are also available on the RRB's Recovery Act Information webpage.

Since the enactment of the American Recovery and Reinvestment Act of 2009 and various other benefit extending legislation, OI has seen a substantial increase of UI fraud referrals. In fact, almost 94% of OI's current UI fraud cases involve extended UI benefits.

Occupational Disability Program

The prevention of improper payments remains a priority for the OIG and we continue to devote investigative and audit resources to strengthening the integrity of the RRB's benefit programs including the occupational disability program. In fact, over the last several years, the Inspector General has identified a wide range of recommendations to strengthen the integrity of the occupational disability program.

Most recently, on November 7, 2011, the OIG transmitted two documents to the agency's three-member Board pertaining to the occupational disability program. The first document, *Program Vulnerabilities in the Railroad Retirement Board Occupational Disability Program*, contained recommendations aimed at improving the integrity of the occupational disability program and the second document, *Disability Program Recommendations*, provided a summarized version of each recommendation. The following are a few of the vulnerable areas highlighted in our November 7, 2011 transmittal to the Board:

- annual certification and disability reminder notices;
- verification of job information and consideration of job attendance information;



- consideration of all relevant medical information;
- trend analysis of health care professionals; and
- elimination of “benefit stacking.”

The RRB’s occupational disability has fundamental problems.⁸ This is not a new or unique opinion. The agency owes it to the nation’s railroad workers and their families to fulfill their mission by paying “benefits to the right people, in the right amounts, in a timely manner, and ... [taking] appropriate action to safeguard [their] customers’ trust funds.”⁹

OUTREACH ACTIVITIES

In addition to audit and investigative activities, OIG staff members perform outreach activities as a means to further the office’s mission. The following are examples of outreach activities conducted during this reporting period.

The Inspector General made a presentation to students majoring in Government Oversight and Inspection at John Jay College of Criminal Justice in New York. His presentation focused on government auditing standards and issues pertinent to the Inspector General community.

An OI Special Agent successfully worked with his local District Attorney’s Office to gain inclusion of the RRB in their local Crime Stoppers initiative. This initiative rewards individuals for providing information which leads to the arrest of a fugitive or the prosecution of a subject for benefit fraud.

An OI Special Agent currently serves as a board member and attends monthly meetings for a tri-state criminal investigators association.

⁸ See page 19 for details relating to an ongoing investigation of a brazen occupational disability fraud scheme.

⁹ Railroad Retirement Board, *Mission Statement*. (Chicago, Illinois: September 2003). Retrieved from <http://www.rrb.gov/general/mission.asp>. Accessed March 29, 2012.



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An OI Special Agent participates in an insurance/health care fraud working group organized by her local District Attorney's Office.

OI staff members participated in a number of Medicare related meetings including several task forces. These task forces provide an open forum for health care fraud related communications and foster a team approach to health care fraud investigations. Members of the various task forces include representatives from: the Department of Justice; the Centers for Medicare and Medicaid Services; the Office of Inspector General for the Department of Health and Human Services; the Office of Inspector General for the Office of Personnel Management; the Federal Bureau of Investigation; various State Police agencies; various Medicaid Fraud Control Units; and Medicare Program Safeguard Contractors. Since Railroad Medicare is a national program, OI staff members attend task forces in several judicial districts. Participation in Task Force meetings allows the Special Agents to develop the necessary contacts and information to ensure that Railroad Medicare fraud losses will be included in Medicare investigations. They also provide an opportunity for OI Special Agents to become familiar with the most recent fraud schemes.

The Assistant Inspector General for Audit, audit staff, and an Information Technology representative met with the Office of Inspector General for the Office of Personnel Management's Assistant Inspector General for Audits, Deputy Assistant Inspector General for Audits, information systems audit group, and information systems audit staff to discuss data warehousing initiatives. These meetings served as a catalyst for the OIG's data warehouse efforts and provided key contact points for an exchange of ideas.

A number of OA staff members participated in the Institute of Internal Auditors (IIA) – Chicago Chapter 52nd Annual Seminar. This conference focused on Fraud, The Social Media Revolution, Future Trends in Privacy, Data Protection & Information Technology. IIA provides a variety of networking and training opportunities for government auditing professionals.

OA staff members participated in the Chicago Chapter of the Association of Government Accountants (AGA). AGA provides a variety of networking and training opportunities for government auditing professionals. OA staff members currently serve on the Executive Committee as Membership Director and Website Director.



An auditor serves as the OIG's representative at the RRB's monthly Information Technology Steering Committee and Privacy Committee meetings.

OPERATIONAL ISSUES

The following operational issue impacts the OIG's ability to effectively carry out its oversight role. This issue would have to be remedied with legislative change.

National Railroad Investment Trust

The NRRIT is a tax-exempt entity independent of the Federal government which was established by the Railroad Retirement and Survivors' Improvement Act of 2001 (RRSIA) to manage and invest Railroad Retirement assets.¹⁰ The RRSIA does not provide the OIG with oversight authority to conduct audits and investigations of the NRRIT; however, RRSIA does require that the NRRIT report to the RRB.

On March 31, 2008, this office issued a *Statement of Concern* addressing the RRB's passive relationship with the NRRIT. Since the release of this statement, there has been no corrective action directed toward alleviating our NRRIT oversight concerns despite our continued concern regarding the questionability of the NRRIT's long-term trust fund solvency. Most notable, on September 21, 2011, we issued a report titled *Office of Inspector General's Proposal to Improve Business Efficiency at the Railroad Retirement Board* which states, among other facts, that the NRRIT's administrative expenses have steadily risen and increased by the overall RRB cost structure by more than 70%. This increase can be partially explained by the number of fund management staff that would be needed to manage increasingly complex risk-based investment strategies and transactions. However, minimal information is released publically to justify the recurrent increases in administrative expenses. Despite the NRRIT's lack of fund management transparency and the extraordinary value of the fund's assets, there has been a consistently passive approach to fund management and we continue to identify the lack of oversight in this area as a critical issue.

¹⁰ As of February 29, 2012, the RRB's investments in the NRRIT were valued at approximately \$24 billion.



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Additionally, a lack of NRRIT investment fund management accountability, transparency, and stringent financial oversight can be precursors to fraud, waste, and abuse. Within the Federal agency spectrum there is no comparable example where Federal program assets are completely outside of the jurisdiction of a Federal agency's appointed Inspector General. However, the NRRIT fund which supports the Railroad Retirement program remains outside the purview of those appointed to protect the interests of the program's beneficiaries and tax-paying public.

To ensure the integrity, economy, and long-term viability of the NRRIT, RRB management must establish performance audit requirements that will strengthen administrative and financial oversight and ensure fund transparency.

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 OIG did not make any comments during this reporting period.

APPENDICES

Appendix	Title	Page No.
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Appendix A – Office of Inspector General Reports and Other Publicly Available Papers Issued

- Report on the Railroad Retirement Board's Fiscal Year 2011 Financial Statements, November 15, 2011
- Fiscal Year 2011 Evaluation of Information Security at the Railroad Retirement Board - Abstract, January 5, 2012
- Evaluation of the Railroad Retirement Board's Oversight of Railroad Employer Compliance, January 26, 2012
- Fiscal Year 2011 Financial Statement Audit Letter to Management, January 31, 2012
- Audit of the Railroad Retirement Board's Compliance with the Improper Payments Elimination and Recovery Act, March 8, 2012
- Audit of the Application Express (APPLE) System's Date of Death Reliability, March 30, 2012

All publically available audit reports and papers are available on our website at www.rrb.gov/oig.

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, 2011	0	0	0
B. Which were issued from October 1, 2011 through March 31, 2012	4	\$2.2 billion	0
Subtotal (A + B)	4	\$2.2 billion	0
C. For which a management decision was made between October 1, 2011 through March 31, 2012	4	\$2.2 billion	0
(i) dollar value of disallowed costs	3	\$2.2 billion	0
(ii) dollar value of costs not disallowed	1	\$80,856	0
D. For which no management decision had been made by March 31, 2012	0	0	0
E. Report for which no management decision was made within six months of issuance	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 October 1, 2011	0	0
B. Which were issued from October 1, 2011 through March 31, 2012	1	\$3,483
C. Subtotal (A + B)	1	\$3,483
(i) dollar value of disallowed costs	1	\$3,483
(ii) dollar value of costs not disallowed	0	0
D. For which no management decision had been made by March 31, 2012	0	0
E. Report for which no management decision was made within six months of issuance	0	0

Appendix C – Report on Receivables, Waivers, and Recoveries

The FY 1999 appropriations language for the OIG requires the reporting of additional information concerning actual collections, offsets, and funds put to better use achieved as a result of the OIG’s activities.

Office of Investigations

Recoveries realized by the RRB resulting from court-ordered restitution and civil damages	
Fiscal Year	Amount Recovered
1999	\$ 855,655
2000	\$1,038,134
2001	\$ 990,356
2002	\$ 785,843
2003	\$ 947,876
2004	\$ 646,273
2005	\$ 844,183
2006	\$1,281,680
2007	\$1,347,049
2008	\$1,389,489
2009	\$1,097,227
2010	\$1,118,256
2011	\$2,293,530
October 1, 2011 – March 31, 2012	\$ 600,687

Office of Audit

Report	Funds to be put to better use	Funds Agreed by Management	Receivables Established	Waivers	Recoveries to Date ¹¹
99-03	\$50,850	\$50,850	\$50,850	\$50,490	\$360
99-14	\$83,000	\$83,000	\$34,423	\$0	\$30,584
99-16	\$48,000,000	\$48,000,000	\$0	\$0	\$19,400,000
99-17	\$11,000,000	\$11,000,000	\$0	\$0	\$1,604,545
00-16	\$235,000	\$235,000	\$0	\$0	\$253,846
03-06	\$306,129	N/A	\$0	\$0	\$306,129
04-06	\$821,000	\$821,000	\$604,429	\$5,564	\$629,688
04-10	\$400,000	\$400,000	\$0	\$0	\$761,151
05-03	\$1,800,000	\$1,800,000	\$4,358,513	\$339,244	\$2,425,476
05-06	\$10,000	\$10,000	\$0	\$0	\$42,915
05-07	\$1,070,000	\$1,070,000	\$49,943	\$0	\$92,464
05-10	\$2,600,000	\$2,600,000	\$311,000		
06-04	\$257,000	\$257,000			
06-05	\$2,100	\$2,100	\$0	\$0	\$0
06-06	\$200,000	\$200,000	\$13,651	\$0	\$20,671
09-02	\$600,000	\$600,000	\$320	\$0	\$1,022,194
10-09	\$3,355,408	\$3,355,408	\$0	\$0	\$3,355,408
10-13	\$212,038	\$92,412	\$0	\$0	\$18,614
12-03	\$3,483	\$3,483	\$0	\$0	\$0

¹¹ Both overpayments and underpayments are included in this column.

Appendix D – Significant Matters

The OIG has identified deficiencies in controls over non-integrated subsystems, budgetary reporting, railroad audits, and information security as significant matters. A summary of the issues and related recommendations for corrective action follow.

Internal Control over Non-Integrated Subsystems

The OIG identified the RRB's non-integrated subsystems as a material weakness. The RRB's financial reporting control structure is not comprehensive with respect to the reconciliation of the general ledger to non-integrated subsystems. The agency has taken action to address this material weakness by performing reconciliations of the various non-integrated subsystems that support financial accounting. Although this shows that progress is being made, the progress is not yet sufficient to ensure that all of the reconciliations are properly implemented.

Non-Integrated Subsystems

March 11, 2010

Report OIG 10-03, #2

Budgetary Reporting

The OIG identified budgetary reporting as a material weakness. During our FY 2011 financial statement audit, we found material errors in the RRB's Statement of Budgetary Resources which had to be corrected by the agency prior to completion of the audit. In addition, the OIG also identified numerous instances of ineffective controls for budgetary transactions. The agency has taken action to address this material weakness by providing training and implementing a revised review process.

Budgetary Reporting

January 31, 2012

Report OIG 12-04, #1 and #2

Railroad Audits

The OIG identified the agency's performance of railroad audits as a significant deficiency. The RRB's organizational unit assigned to perform railroad audits lacked comprehensive procedures for conducting, reporting and documenting audits to ensure that compensation is reported in accordance with the law. The agency is working to address these deficiencies.

Railroad Audits

January 31, 2012
February 1, 2011

Report OIG 12-04
Report OIG 11-04, #3-7, 11-12

Information Security

Risk Management Program

The OIG previously evaluated information security pursuant to the provisions of FISMA and concluded that the RRB has not yet achieved an effective FISMA-compliant security program. Although agency managers are working to strengthen controls, management action in response to the following OIG recommendations had either not been completed as of the end of the current semiannual reporting period or had not been in place long enough to permit evaluation.

Internal Control Over the Risk Management Program¹²

July 18, 2005	Report OIG 05-08, #4
September 30, 2008	Report OIG 08-05, #2 & 7
November 12, 2009	Report OIG 10-01, #1 & 5
September 28, 2011	Report OIG 11-10, #1 – 3
September 28, 2011	Report OIG 11-11, #1 – 4
September 29, 2011	Report OIG 11-12, #1 – 5
January 05, 2012	Report OIG 12-02, #1 – 5 ¹³

Configuration Management

The OIG also identified a material weakness regarding information technology security application services because the RRB continues to use an unsupported server for some major applications. Although the agency has moved some of the servers to the virtual environment, this action does not alleviate the problems associated with processing data in an unsupported environment. Uncertainties exist in determining the timeframe in which this situation will be corrected as well as the necessary resources for completion.

Security Configuration Management	January 5, 2012	Report OIG 12-02, ¹⁴ #7 & 8
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¹² Previously known as Certification and Accreditation.

¹³ The abstract online summarizes the results of the evaluation. The full report includes information protected from disclosure and has been designated for limited distribution pursuant to 5 U.S.C. § 552.

¹⁴ The abstract online summarizes the results of the evaluation. The full report includes information protected from disclosure and has been designated for limited distribution pursuant to 5 U.S.C. § 552.

Appendix E – Peer Reviews

Section 989C of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires Inspectors General to provide information regarding peer reviews in their *Semiannual Reports to the Congress*.

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 recent peer review (which was for the year ended March 31, 2009) were transmitted on August 24, 2009. OA received a peer review rating of pass. This peer review did not contain any recommendations.

OA did not conduct any peer reviews during this semiannual reporting period.

Office of Investigations

During the peer review process, Federal OIG investigative organizations, in general, may receive a peer review rating of fully compliant, compliant, or not compliant with the quality standards established by the Council of the Inspectors General on Integrity and Efficiency and the Attorney General's Guidelines for Inspectors General with law enforcement authority based on Section 6(e) of the Inspector General Act, as amended.

During this reporting period, OI received the result of their most recent peer review (for the FY ended September 30, 2011). The Office of Inspector General for the United States Nuclear Regulatory Commission concluded that OI was in compliance with the quality standards established by the Council of the Inspectors General on Integrity and Efficiency and the Attorney General's Guidelines. No formal recommendations were identified.

Additionally, OI completed their peer review of the U.S. Department of State and the Broadcasting Board of Governors' investigative operations through the transmittal of the Quality Assessment Review on October 4, 2011. The OIG concluded that the U.S. Department of State and the Broadcasting Board of Governors were in compliance with the quality standards established by the Council of the Inspectors General on Integrity and Efficiency and the Attorney General's Guidelines (for FY 2011 through September 16, 2011). OI did not identify any formal recommendations.

Appendix F – Reports Prepared by Management

Final Action on Audits with Disallowed Costs

For the 6-Month Period Ending March 31, 2012	<u>Number of Audit Reports</u>	<u>Disallowed Costs</u>
A. Audit reports, with management decisions, on which final action had not been taken at the beginning of the period.	0	\$ 0
B. Audit reports on which management decisions were made during the period.	0	\$ 0
C. Total audit reports pending final action during the period. (A + B)	0	\$ 0
D. Audit reports on which final action was taken during the period.		
1. Recoveries		
(a) Collections and offsets	0	\$ 0
(b) Property	0	\$ 0
(c) Other	0	\$ 0
2. Recovery Waived	0	\$ 0
3. Total of 1 and 2	0	\$ 0
E. Audit reports needing final action at the end of the period (C - D.3).	0	\$ 0

Management Report on Final Action on Audits with Recommendations to Put Funds to Better Use for the 6-Month Period Ending March 31, 2012

	<u>Number of Audit Reports</u>	<u>Funds to be Put to Better Use</u>
A. Audit reports, with management decisions, on which final action had not been taken at the beginning of the period.	5	\$4,249,920*
B. Audit reports on which management decisions were made during the period.	1	\$3,483
C. Total audit reports pending final action during the period. (A + B)	6	\$4,253,403
D. Audit reports on which final action was taken during the period.		
1. Value of recommendations implemented (completed)	0	\$0
2. Value of recommendations that management concluded should not or could not be implemented (completed)	0	\$0
3. Total of 1 and 2	0	\$0
E. Audit reports needing final action at the end of the period (C - D.3)	6	\$4,253,403

* Comprised of the following amounts: \$2,100 from Audit Report 06-05, *Review of Compliance with Provisions of the Railroad Retirement Act Governing the Initial Award of Benefits*; \$200,000 from Audit Report 06-06, *Review of the Termination and Suspension of Benefits Paid Under the Railroad Retirement Act*; \$600,000 from Audit Report 09-02, *Fiscal Year 2008 Financial Statement Audit Letter to Management*; \$3,355,408 from Audit Report 10-09, *Audit of Internal Controls over Medicare Premium Transfers Between the Railroad Retirement Board and the Centers for Medicare and Medicaid Services*; \$92,412 from 10-13 *Railroad Medicare Services Billed with Dates of Service after Beneficiaries' Dates of Death*; and \$3,483 from 12-03 *Evaluation of the Railroad Retirement Board's Oversight of Railroad Employer Compliance*.

Management Statement on Resolved Audit Reports Over 12 Months Old with Final Action Pending as of March 31, 2012

Report	Date	Disallowed Costs	Funds to be Put to Better Use	Reason Action Not Completed
Review of Information Security at the Railroad Retirement Board (02-04)	02/5/02	NONE	NONE	Information Services has closed 26 out of 28 recommendations. A complete review has not yet been completed. Bureau of Information services will provide documentation once review is complete. Work continues.
Review of Internal Control Over the Actuarial Projection Process (05-04)	05/5/05	NONE	NONE	The Chief Actuary is still reviewing their options to best implement this recommendation.
Review of LAN, LAN Security Scan and Web-based Applications (DSD)	06/7/05	NONE	NONE	These contractor-prepared confidential reports contained 45 recommendations, with 39 closed thus far. Documentation will be submitted for 3 recommendations and testing is still needed for remaining.
Review of Access Controls in the End-User Computing General Support System (05-08)	07/18/05	NONE	NONE	Information Services has closed 14 of 15 recommendations in this confidential report. As reported previously, new risk assessment still must be submitted for remaining case. Work continues.
Fiscal Year 2005 Evaluation of Information Security at the Railroad Retirement Board (05-11)	09/28/05	NONE	NONE	Bureau of Information Services is taking steps to train IT owners to use SharePoint POAM website. Work continues.
Accuracy and Reliability of GPRA Performance Measures: Timeliness of Non-Disability Survivor Annuity Payments (06-03)	01/30/06	NONE	NONE	Programs have closed five of the seven recommendations. One recommendation has been delayed due to higher priority project and the other recommendation, a new Operations Analyst was hired which will be briefing and trained.
Review of Compliance with the Provisions of the Railroad Retirement Act Governing the Initial Award of Benefits (06-05)	04/12/06	NONE	\$2,100	Programs staff closed four of the five recommendations. Requirements are currently in development for programming changes to the EDM system.

Management Statement on Resolved Audit Reports Over 12 Months Old with Final Action Pending as of March 31, 2012

Report	Date	Disallowed Costs	Funds to be Put to Better Use	Reason Action Not Completed
Review of the Termination and Suspension of Benefits Paid Under the Railroad Retirement Act (06-06)	05/24/06	NONE	\$200,000	Programming work on a referral system is pending review.
Review of Incident Handling and Reporting at the Railroad Retirement Board (06-09)	08/24/06	NONE	NONE	Work continues on training material and progress has been made to the updating of policies.
Audit of the DAISY/CHICO Component Application of the RRA Benefit Payment Major Application System (07-02)	03/9/07	NONE	NONE	Recent IT changes are pending review as resources were diverted to higher priority projects.
Audit of the State Wage Match Data Transmission Controls (07-04)	03/28/07	NONE	NONE	Coordination is still required with outside agencies. Programs completed and implemented one of the two remaining recommendations. The last recommendation is schedule to be completed in FY12.
Evaluation of the Railroad Retirement Board's Privacy Program (07-06)	07/30/07	NONE	NONE	New CPO was appointed. Additional funding and resources are needed. Of the 16 recommendations, 13 have been closed with 3 targeted for completion during FY12.
Audit of Federal Income Taxes Withheld from Railroad Retirement Annuities (07-07)	07/30/07	NONE	NONE	Coordination is required with another org. Five of the six recommendations have been closed, with the remaining one targeted for completion in FY12.
Fiscal Year 2007 Evaluation of Information Security at the Railroad Retirement Board (07-08)	09/27/07	NONE	NONE	Policy and procedures are still being developed. Recommendations are targeted for completion in FY12.
Audit of Controls to Safeguard Sensitive Personally Identifiable Information (07-09)	09/27/07	NONE	NONE	Coordination is required with an outside contractor on 1 recommendation and work plans, policy and procedures are still being developed for all other recommendations. Target date for completion is FY12.

Management Statement on Resolved Audit Reports Over 12 Months Old with Final Action Pending as of March 31, 2012

Report	Date	Disallowed Costs	Funds to be Put to Better Use	Reason Action Not Completed
Fiscal Year 2007 Financial Statement Audit Letter to Management (08-01)	03/6/08	NONE	NONE	Bureau of Fiscal Operations implemented enhanced controls in FY10. OIG will reassess once sufficient time has lapse.
Evaluation of Information Security for the RRB's Financial Interchange Major Application – Abstract (08-03)	09/26/08	NONE	NONE	Work plans, policy and/or procedures continue with target completion in FY12 and one in FY13.
Fiscal Year 2008 Evaluation of Information Security at the RRB (08-05)	09/26/08	NONE	NONE	Coordination is still required with outside contractor; and additional documentation is requested by OIG.
Fiscal Year 2008 Financial Statement Audit Letter to Management (09-02)	03/24/09	NONE	\$600,000	Review and updating of documentations along with case reviews are currently being performed on remaining recommendations. Work continues.
Audit of Internal Control Over Accounts Payable (09-03)	03/31/09	NONE	NONE	Two of the three recommendations have been closed, with the remaining one awaiting the results of a quarterly review. Work continues.
Audit of the Railroad Medicare Integrity Program at Palmetto Government Benefits Administrators (09-04)	09/25/09	NONE	NONE	Additional documentations were requested which requires coordination with outside agency.
Audit of the General and Application Controls in the Financial Management Major Application System (09-05)	09/30/09	NONE	NONE	In the process of developing work plans, policy and/or procedures continue with target completion in FY12.
Fiscal Year 2009 Evaluation of Information Security (10-01)	11/12/09	NONE	NONE	The Bureau of Information Services will review and take the necessary action(s). Target completion in FY12.
Fiscal Year 2009 Financial Statement Audit Letter to Management (10-03)	03/11/10	NONE	NONE	No change. Awaiting OIG reassessment based on documentation submitted to OIG for implementation on last open recommendation. OIG indicated they will assess the request for closure during the FY2011 financial statement audit.

Management Statement on Resolved Audit Reports Over 12 Months Old with Final Action Pending as of March 31, 2012

Report	Date	Disallowed Costs	Funds to be Put to Better Use	Reason Action Not Completed
Review of Statistical Methods Employed in the Financial Interchange Determination (10-06m)	05/04/10	NONE	NONE	The Bureau of Actuary (BOA) is reviewing documentation and will take the necessary action(s) and coordinate with the Bureau of Information Services for programming services.
Review of the Technical Approach and Methodology Used to Determine the Annual Financial Interchange Amount for the Year Ended September 30, 2008 (10-07m)	05/19/10	NONE	NONE	The Bureau of Actuary is reviewing documentation and will take the necessary action(s).
Audit of Internal Controls over Medicare Premium Transfers Between the Railroad Retirement Board and Centers for Medicare and Medicaid Services (10-09)	05/21/10	NONE	\$3,355,408	Work continues in the development of work plans, policy and/or procedures with target completion in FY12.
Review of the Accuracy of the Financial Interchange as Executed for the Year Ended September 30, 2008 (10-10)	05/25/10	NONE	NONE	The Bureau of Actuary is reviewing documentation and will take the necessary action(s).
Audit of Unilateral Disability Freeze Determinations (10-11)	08/12/10	NONE	NONE	Work continues in the development of work plans, policy and/or procedures with target completion in FY12.
Audit of the Account Benefits Ratio (10-12)	09/29/10	NONE	NONE	The Bureau of Actuary reviewed and will take the necessary action(s).
Railroad Medicare Services Billed with Dates of Service after the Beneficiaries' Dates of Death (10-13)	09/30/10	NONE	\$92,412	Coordination continues with outside organization.
Fiscal Year 2010 Evaluation of Information Security at the Railroad Retirement Board - Abstract (11-01)	11/05/10	NONE	NONE	Additional documentations requested for one recommendation and documentation for the remaining will be submitted to the OIG for implementation.
Fiscal Year 2010 Financial Statement Audit Letter to Management (11-03)	1/25/11	NONE	NONE	The Bureau of Fiscal Operations will reassess recommendation during the FY2012 financial statement audit and continues to apply procedures assessed by OIG as properly designed.

**Management Statement on Resolved Audit Reports Over 12 Months
Old with Final Action Pending as of March 31, 2012**

Report	Date	Disallowed Costs	Funds to be Put to Better Use	Reason Action Not Completed
Review of the Railroad Retirement Board's Audit and Compliance Division (11-04)	02/01/11	NONE	NONE	Work continues in the development of work plans, policy and/or procedures with target completion in FY12.

Appendix G – Reporting Requirements

Act Reference	Inspector General Reporting Requirements	Page(s)
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Section 5(a) (3)	Prior Significant Recommendations Not Yet Implemented	39 – 40
Section 5(a) (4)	Matters Referred to Prosecutive Authorities	4, 18
Section 5(a) (5)	Instances Where Information Was Refused	None
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Section 5(a) (7)	Summary of Each Significant Report	5 – 14
Section 5(a) (8)	Statistical Tables on Management Decisions on Questioned Costs	36
Section 5(a) (9)	Statistical Tables on Management Decisions on Recommendations That Funds be Put to Better Use	36
Section 5(a) (10)	Summary of Each Audit Report Over 6 Months Old for Which No Management Decision Has Been Made	15
Section 5(a) (11)	Description and Explanation for Any Significant Revised Management Decision	None
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Act Reference	Management Reporting Requirements	Page(s)
Section 5(b) (1)	Comments Deemed Appropriate	Transmittal Letter
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Appendix H – Acronyms

Acronym	Explanation
ACD	Audit and Compliance Division
AGA	Association of Government Accountants
APPLE	Application Express system
CY	Calendar Year
FISMA	Federal Information Security Management Act of 2002
FY	Fiscal Year
IIA	Institute of Internal Auditors
IPERA	Improper Payments Elimination and Recovery Act of 2010
MIRTEL	Medicare Information Recorded, Transmitted, Edited and Logged System
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
PREH	Payment Rate and Entitlement History System
RRA	Railroad Retirement Act
RRB	Railroad Retirement Board
RRSIA	Railroad Retirement and Survivors' Improvement Act of 2001
RUIA	Railroad Unemployment Insurance Act
SI	Sickness Insurance
UI	Unemployment Insurance

Appendix I – Legal References

Federal:

Aiding and Abetting in Health Care Fraud – 18 U.S.C. § 1349
Aggravated Identity Theft – 18 U.S.C. § 1028A
American Recovery and Reinvestment Act of 2009 – P.L. 111–5
Conspiracy to Commit Health Care Fraud – 18 U.S.C. § 1347
Dodd-Frank Wall Street Reform and Consumer Protection Act – P.L. 111-203
Failure to Report Information to the RRB – 45 U.S.C. § 231(l)
False Claims Act – 31 U.S.C. §§ 3729 – 3733
False Statements – 18 U.S.C. § 1001, et. seq.
Federal Information Security Management Act of 2002 – 44 U.S.C. § 3531, et. seq.
Filing a False Income Tax Return – 26 U.S.C. § 7206(1)
Health Care Fraud – 18 U.S.C. § 1347
Improper Payments Elimination and Recovery Act of 2010 – P.L. 111-204
Improper Payments Information Act of 2002 – P.L. 107-300
Inspector General Act of 1978, as amended – 5 U.S.C. App. 3
Payment of a Kickback Related to the Health Care Program – 42 U.S.C. § 1320a-7b
Railroad Retirement Act – 45 U.S.C. § 231, et. seq.
Railroad Unemployment Insurance Act – 45 U.S.C. § 351, et. seq.
Railroad Retirement and Survivors' Improvement Act of 2001 – P.L. 107–90
Railroad Retirement Solvency Act of 1983 – P.L. 98–76
Railroad Retirement Tax Act – 26 U.S.C. § 3201
Reports Consolidated Act of 2000 – P.L. 106-531
Social Security Act – 42 U.S.C. § 301, et seq.
Theft of Public Money/Government Funds/Government Property – 18 U.S.C. § 641
Violating the Anti-Kickback Statute – 42 U.S.C. § 1320a-7b
Violation of Assignment Terms – 42 U.S.C. § 1320a-7b

State:

Theft by Deception –18 Pa. Cons. Stat. § 3922

REPORT

FRAUD, WASTE, AND ABUSE



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