

Semiannual Report to the Congress



Office of Inspector General for the Railroad Retirement Board

October 1, 2009 to March 31, 2010



UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

April 30, 2010

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, 2009 through March 31, 2010. 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 2009 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
- examined the RRB's compliance with sections 2201(a)(1)-(5) and 2006(a) of the *American Recovery and Reinvestment Act of 2009*.

Our criminal investigators achieved 19 criminal convictions, 25 indictments and/or informations, 10 civil judgments, and established receivables totaling over \$1.6 million.

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

TABLE OF CONTENTS

INTRODUCTION	1
Railroad Retirement Board	1
EXECUTIVE SUMMARY	2
Office of Inspector General.....	2
Office of Audit	2
Office of Investigations	4
OCTOBER 1, 2009 - MARCH 31, 2010 ACCOMPLISHMENTS	5
Office of Audit	5
Opinion on the Financial Statements	5
Report on Internal Control	5
Report on Compliance with Laws and Regulations	6
Management and Performance Challenges Facing the RRB.....	6
Fiscal Year 2009 Financial Statement Audit Letter to Management	9
Fiscal Year 2009 Evaluation of Information Security at the RRB	10
American Recovery and Reinvestment Act of 2009	11
Management Decisions and Implementation	12
Office of Investigations	13
Investigative Accomplishments	13
Current Caseload	14
Representative Investigations.....	15
Disability Investigations.....	15
Unemployment and Sickness Insurance Investigations	17
Retirement/Survivor Benefit and Representative Payee Investigations	18
Railroad Medicare Investigations	20
Civil Enforcement Results	22
Hotline Contacts	23
OTHER OVERSIGHT ACTIVITIES	24
American Recovery and Reinvestment Act of 2009.....	24
Occupational Disability Program	25
OUTREACH ACTIVITIES	27
OPERATIONAL ISSUES	28
National Railroad Investment Trust.....	28
LEGISLATIVE & REGULATORY REVIEW	28

TABLE OF CONTENTS

APPENDICES	29
Appendix A – Office of Inspector General Reports and Other Publicly Available Documents Issued	30
Appendix B – Audit Reports with Questioned Costs or with Recommendations That Funds be Put to Better Use	31
Appendix C – Report on Receivables, Waivers, and Recoveries.....	32
Appendix D – Significant Matters	34
Appendix E – Management Reports	35
Appendix F – Reporting Requirements	41
Appendix G – Acronyms	42
Appendix H – Legal Citations	43



INTRODUCTION

Railroad Retirement Board

The Railroad Retirement Board (RRB) is an independent agency in the executive branch of the Federal government. The Board consists of three members who are appointed by the President of the United States with the advice and consent of the Senate. 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.

The 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, 45 U.S.C. § 231, et. seq. and the Railroad Unemployment Insurance Act, 45 U.S.C. § 351 et. seq., respectively. The RRB also has administrative responsibilities for certain benefit payments under the Social Security Act and the Medicare program.

The RRB's central mission is to pay accurate and timely benefits. During fiscal year (FY) 2009, the RRB paid approximately \$10.5 billion in retirement and survivor benefits to 589,000 beneficiaries. RRB also paid roughly \$154.1 million in net unemployment and sickness insurance benefits to almost 24,000 unemployment insurance beneficiaries and 18,000 sickness insurance beneficiaries.

The RRB contracts with a separate Medicare Part B carrier, Palmetto GBA, to process the Medicare Part B claims of qualified railroad retirement beneficiaries. As of September 30, 2009, there were about 468,000 such beneficiaries enrolled in the Railroad Medicare Part B program. During FY 2009, Palmetto GBA paid over \$900 million in medical insurance benefits.



EXECUTIVE SUMMARY

Office of Inspector General

The Inspector General is appointed by the President with the advice and consent of the Senate.

The Inspector General is appointed by the President with the advice and consent of the Senate. He serves as an independent and objective voice to both the Board and the Congress. It is the Inspector General's responsibility to promote economy, efficiency, and effectiveness in RRB's programs. To that end, the Office of Inspector General (OIG) conducts audits/evaluations, management reviews, and inspections of RRB programs and operations. As a product of its efforts, the OIG offers recommendations for improvement to RRB management. The OIG also identifies and investigates cases of waste, fraud, and abuse in RRB programs. The OIG works closely with Federal prosecutors and makes the appropriate referrals for criminal prosecution, civil prosecution, or monetary recovery.

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; and San Diego, California. These domicile offices provide more effective and efficient coordination with other Inspector General offices and traditional law enforcement agencies with which the OIG works joint investigations.

Office of Audit

The Office of Audit (OA) conducts financial, performance, and compliance audits and evaluations of RRB 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, 2009 and 2008 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 a "Letter to Management" detailing matters related to internal control identified during the financial statement audit;
- published the results of their annual evaluation of the agency's information security program conducted pursuant to the requirements of the Federal Information Security Management Act of 2002; and
- examined the RRB's compliance with sections 2201(a) (1)-(5) and 2006(a) of the American Recovery and Reinvestment Act of 2009.

OA conducts financial, performance, and compliance audits and evaluations of RRB programs and operations.

In addition, OA began their audit of the RRB's Financial Interchange with the Social Security Administration and the Centers for Medicare and Medicaid Services. The OIG has retained the resources and expertise of a contractor to perform the evaluation of this complex statistical process. The RRB estimates that the Financial Interchange will comprise 35% to 40% of future income for the RRB trust funds over the next 75 years.

All audits completed during this reporting period are discussed in further detail on pages 5 through 11 and the full texts are available on our website at www.rrb.gov/oig.



Office of Investigations

OI focuses its efforts on identifying, investigating, and presenting RRB benefit fraud cases for prosecution.

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, retirement/survivor, or Railroad Medicare benefits. OI investigates railroad employers and unions when there is an indication that they have submitted false reports to the RRB. OI also investigates allegations regarding agency employee misconduct and threats against RRB employees. Investigative efforts can result in criminal convictions, civil penalties, recovery of program benefit funds, and/or administrative sanctions.

From October 1, 2009 through March 31, 2010, OI achieved:

- 5 arrests;
- 25 indictments and/or informations;
- 19 convictions;
- 10 civil judgments; and
- 34 referrals to the Department of Justice.

Defendants, in the aggregate, were sentenced to six months in prison, 56 years of probation, and 475 hours of community service. Based on OI investigations completed during this reporting period, the RRB established receivables totaling over \$1.6 million.

Representative fraud cases are discussed on pages 15 to 22.



Office of Inspector General for the Railroad Retirement Board

OCTOBER 1, 2009 - MARCH 31, 2010 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 RRB programs; and to detect and prevent fraud and abuse in such programs. Through the Inspector General, OA keeps Board Members and the Congress informed of current and potential problems and deficiencies in RRB operations. OA also tracks the status of progress towards corrective action.

Brief summaries of the audits completed during this semiannual reporting period follow.

Opinion on the Financial Statements – November 9, 2009¹

During this reporting period, OA completed its annual audit of the RRB's comparative financial statements for the fiscal years ended September 30, 2009 and 2008. 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, 2009 and 2008 and the financial condition of the Railroad Retirement program as of January 1, 2009, 2008, 2007, and 2006.

OA completed its annual audit of the RRB's comparative financial statements for the fiscal years 2009 and 2008.

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 considered internal control to determine its procedures for auditing the financial statements and to comply with Office of Management and Budget (OMB) audit

¹ The auditor's opinion is dated as of November 9, 2009, except for matters relating to the fair market value of the net assets of the National Railroad Retirement Investment Trust for which the date is November 16, 2009.



guidance, and not to express an opinion on internal control. The OA reported the following:

- The RRB has made progress on strengthening its information security program but this effort is not yet complete and information security remains an area of material weakness.
- During the third quarter of FY 2009, the agency implemented enhanced controls to address the weaknesses that, in the aggregate, were the basis for the OIG's assessment of a material weakness during the prior year. However, because these enhanced controls were not implemented until mid-year, they could not be relied upon to ensure the accuracy of accounting and reporting for FY 2009. Therefore, financial reporting continues to be classified as a material weakness.
- The RRB has corrected a previously reported significant deficiency by implementing procedures for the periodic reconciliation of the general ledger to one of the non-integrated benefit payment systems; however, the lack of such procedures for other non-integrated transaction flows has been identified as a material weakness in the current fiscal year.

Report on Compliance with Laws and Regulations

The 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.

The OA's tests of compliance with selected provisions of laws and regulations disclosed no instances of non-compliance that are reportable under 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 and they did not express an opinion.

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.

The following section summarizes each management and performance challenge discussed in this statement.

Providing Oversight of Invested Assets of the Railroad Retirement Act Program

During FY 2008, the OIG raised concerns about the effectiveness of oversight for the National Railroad Retirement Investment Trust (NRRIT), a multi-billion dollar investment enterprise. The legislation that created the trust precludes agency management and its Inspector General from exercising their traditional roles as stewards of program assets and independent watchdog, respectively. No other organization, public or private, has assumed what would otherwise be the OIG's oversight role.

On March 31, 2008, the OIG released a "Statement of Concern" discussing this issue in detail which is publicly available on OIG's website at www.rrb.gov/oig.

Preventing Fraud and Abuse in the Occupational Disability Program

Unlike the Social Security Act, the Railroad Retirement Act (RRA) permits certain railroad workers to qualify for an annuity if they are disabled from work in their regular railroad occupation. The threshold for qualification, which is lower than the standard for determining total and permanent disability under the Social Security Act, makes the occupational disability program susceptible to fraud and abuse.

The entitlement to occupational disabilities is established by Federal statute. That statute also requires the RRB to establish occupational disability standards with the cooperation of railroad labor and management. As a result, any successful reform initiative will require negotiation by both rail labor and rail management and possibly legislative change.

The OIG identified the most serious management challenges facing the RRB.



Office of Inspector General for the Railroad Retirement Board

Ensuring the Integrity of the Railroad Medicare Program

Qualified railroad retirement beneficiaries are covered under the Railroad Medicare program the same as persons covered under the social security system. RRB contracts with a separate carrier, Palmetto GBA (Palmetto), to process the Medicare Part B claims for its beneficiaries.

On September 25, 2009, OA published their report entitled *Audit of the Railroad Medicare Integrity Program at Palmetto Government Benefits Administrators*. This audit disclosed that Palmetto's Medicare Benefit Integrity Unit had very limited resources with which to perform proactive fraud investigations and data analysis. Auditors recommended that Palmetto work with the RRB and the Centers for Medicare and Medicaid Services to obtain the budget and staff resources needed to conduct proactive fraud investigations and data analysis.

Managing for the Security and Privacy of Information

Information technology security is a critical part of an effective privacy program. The RRB is still in the process of developing an information security management program that complies with Federal requirements. Although the agency is making progress, ensuring the security and privacy of agency-held information is a significant undertaking that can be expected to present a challenge during the near future. As the RRB moves toward compliance with the Federal Information Security Management Act of 2002, it will also strengthen its privacy program. Corrective action to strengthen the security and privacy of information remains pending the implementation of many prior OIG audit recommendations. This issue is discussed in more detail in Appendix D, Significant Matters.

Financial Accounting and Reporting

In the course of their financial statement audit, auditors observed that financial accounting controls could not be relied upon to ensure that material errors would be detected to prevent misstatements in financial reporting and that controls over financial statement preparation were not fully effective.

During FY 2009, RRB financial managers expressed their commitment to strengthening controls over financial accounting and reporting by updating existing procedures and controls as well as implementing new ones. Although progress has been made, improvements initiated during the second half of the fiscal year could not be considered fully effective during FY 2009 and some additional work remains to be done in this area.



Office of Inspector General for the Railroad Retirement Board

Preventing and Detecting Improper Payments

During FY 2008, the RRB recognized nearly \$53 million in new overpayments in its retirement, survivor, and disability benefit operations of which nearly 80% were associated with routine events: the death of an annuitant or administrative coordination of benefits with the Social Security Administration. Monitoring and reducing improper payments is inherently challenging in a business environment that pays benefits of such magnitude under complex entitlement and computational regulations. Preventing and detecting fraud in entitlement programs such as the RRA and Railroad Unemployment Insurance Act (RUIA), adds an additional layer of complexity.

Fiscal Year 2009 Financial Statement Audit Letter to Management – March 11, 2010

On March 11, 2010, the OA issued the *Fiscal Year 2009 Financial Statement Audit Letter to Management*. This letter transmits OA's memorandum on internal control communicating certain internal control matters that came to the OA's attention during the financial statement audit.

In addition to the previously discussed material weaknesses, the 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.

- Agency accounting procedures are not always updated in a timely manner.
- Personally identifiable information appears on the trial balance.
- Procedures for depositing railroad employers' contributions under the RUIA are not fully effective.
- Better coordination between the Bureau of Fiscal Operations and the Office of General Counsel would strengthen and expedite the financial statement preparation process.
- The RRB's Federal Managers' Financial Integrity Act assurance statement reported in the *Performance and Accountability Report* is inconsistent with the management control certifications and not fully supported.

Management has agreed to take action regarding all 13 audit recommendations offered



to strengthen internal control.

Fiscal Year 2009 Evaluation of Information Security at the Railroad Retirement Board – November 12, 2009

OA's evaluation entitled *Fiscal Year 2009 Evaluation of Information Security at the Railroad Retirement Board* was published on November 12, 2009. The objectives of this evaluation were to fulfill the requirements of the Federal Information Security Management Act of 2002 (FISMA) which include:

- evaluating the RRB's information security program, including the effectiveness of the information security policies, procedures, and practices of a representative subset of agency information systems and
- assessing the RRB's compliance with FISMA requirements and related information security policies, procedures, standards, and guidelines.

In their FY 2009 evaluation, OA concluded that the RRB has not yet achieved a fully effective information security program. The RRB has implemented all nine program elements required by FISMA; but the security program, as a whole, is undermined by significant deficiencies in access control and the internal control over the certification and accreditation review process. Additionally, some previously identified lesser deficiencies in the implemented FISMA elements continue to exist.

During FY 2009, the agency corrected previously reported significant deficiencies in risk assessments and periodic testing and evaluation, and completed their first National Institute of Standards and Technology compliant certification and accreditation program. However, an ineffective review process for contractor deliverables has resulted in a significant deficiency in internal control over the certification and accreditation process.

OA also observed that although the agency has corrected the significant deficiencies in risk assessments and periodic testing and evaluation, some weaknesses in those areas continue to exist. Additionally, they observed other areas where security program improvements should be made, such as the implementation of the RRB's agency-wide configuration policy.

Agency management concurred with all of OA's recommendations. The full text of OA's findings is located in the library section of OIG's website at www.rrb.gov/oig.



American Recovery and Reinvestment Act of 2009

OA examined RRB's assertion that it had complied with sections 2201(a)(1)-(5) and 2006(a) of the American Recovery and Reinvestment Act of 2009 (ARRA). Sections 2201(a)(1)-(5) provided a one-time \$250 economic recovery payment to qualifying railroad retirement program beneficiaries and section 2006(a) appropriated funding for a temporary increase in extended unemployment benefits under the RUIA. Auditors concluded that management's assertion that the RRB complied with the aforementioned requirements, is fairly stated, in all material respects.

During their examination pertaining to sections 2201(a)(1)-(5) of the ARRA, auditors noted that agency management had not fully documented all of its control activities over payments made pursuant to this section. Auditors offered a recommendation for corrective action and agency management concurred.

Both reports are available on our website and at www.Recovery.gov.

OA examined the RRB's assertion that it had complied with the ARRA.



Management Decisions and Implementation

The OIG tracks the implementation of its recommendations to RRB management. 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, 2009	1
Pending Management Decision for New Recommendations	0
Management Decision on Previous Recommendations	1
Recommendations Pending Management Decision on March 31, 2010	0

Corrective Action	
Recommendations Requiring Action on October 1, 2009	181 ²
Recommendations Issued During Reporting Period	20
Corrective Actions Completed During Reporting Period	56
Recommendations Rejected During Reporting Period	0
Final Actions Pending on March 31, 2010	145

² Previously reported pending recommendation has been accepted and has been added to this total.



Office of Investigations

OI focuses its efforts and resources on RRB benefit program fraud. OI's primary objective is to identify, investigate, and refer for prosecution or monetary recovery action cases of waste, fraud, and abuse in RRB programs. OI also seeks to prevent and deter program fraud by reporting systemic weaknesses in RRB operations and processes identified through investigative work. 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.

Investigative Accomplishments

Action	October 1, 2009 – March 31, 2010
Referrals to the Department of Justice	34
Indictments/Informations	25
Arrests	5
Convictions	19
Civil Complaints	8
Civil Judgments	10
Restitution and Fines	\$716,119
Civil Damages and Penalties	\$686,228
Investigative Recoveries ³	\$258,790
Community Service Hours	475

³ RRB benefits that are overpaid due to fraud and can be recouped through RRB administrative recovery action are expressed as investigative recoveries.

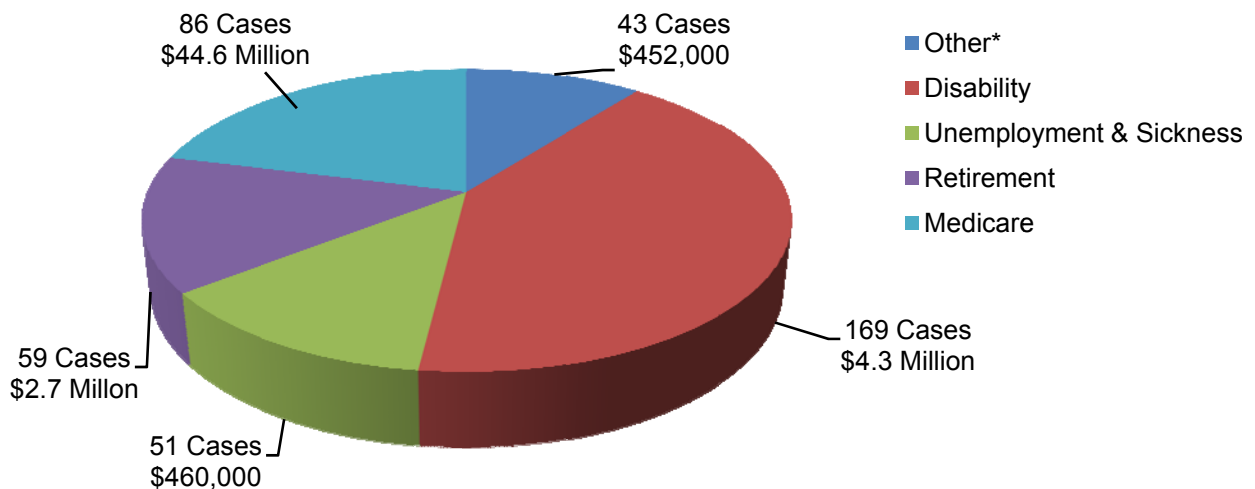


Current Caseload

During this semiannual reporting period, OI reviewed 326 matters and opened 137 new cases.

Investigative Caseload Data	
Investigative Cases Open as of October 1, 2009	374
Investigative Cases Opened During Reporting Period	137
Investigative Cases Closed During Reporting Period	103
Investigative Cases Open on March 31, 2010	408

OI's current caseload totals 408 matters, representing more than \$52.5 million in potential fraud. The chart below reflects the distribution of OI cases and the potential fraud losses by the RRB's major program areas.



**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.*



Representative Investigations October 1, 2009 – March 31, 2010

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.

During this reporting period, OI obtained eight convictions and four civil judgments in disability fraud cases. The defendants received sentences totaling 25 years of probation; 100 hours of community service; and were ordered to pay over \$705,000 in restitution, fines, and civil damages/penalties.

OI obtained eight convictions and four civil judgments in disability fraud cases.

Descriptions of representative cases completed during this reporting period follow.

Pastor Fraudulently Collected More Than \$58,000 in Disability Benefits

OI initiated this investigation of an RRB disability annuitant based upon a computer wage match with the State of West Virginia that identified individuals who may have collected RRB disability benefits on the same days they had earnings reported to the state. OI's investigation revealed that during the period of July 2004 through August 2007 the annuitant failed to report his employment as a Pastor.

During an interview conducted by Special Agents, the annuitant claimed that he had mailed the RRB a letter notifying them of his employment and had assumed that his employment did not affect his entitlement since the RRB subsequently approved his early Medicare. The annuitant was unable to produce a copy of this letter. The annuitant further stated that in 2007 he had told an RRB representative that he was not working but claimed that he actually meant that he did not perform any physical labor. The annuitant's failure to report his income to the RRB caused him to fraudulently receive over \$58,000 in disability payments.

This case was referred to the United States Attorney's Office for the Southern District of West Virginia. The United States Attorney's Office filed a civil complaint against the annuitant for violations of the False Claims Act. He entered into a consent judgment and was ordered to pay full restitution plus interest.



Annuitant Reported Earnings under Spouse's Social Security Number

OI Special Agents investigated an RRB disability annuitant who failed to report that he was employed by two law firms which represented injured railroad employees. In order to avoid detection by the RRB, the annuitant reported his wages under his spouse's social security number. The annuitant's failure to report his income to the RRB caused him to fraudulently receive approximately \$35,000 in disability payments.

This case was referred to the United States Attorney's Office for the Western District of Texas. The subject was indicted by a Federal Grand Jury and subsequently pled guilty to Failure to Report Information. He was sentenced to one year of probation, full restitution, and a fine.

Disability Annuitant Owned and Operated Construction Firm

Special Agents investigated an RRB disability annuitant who owned and operated his own construction business. Their investigation revealed that from 2005 through 2007 the annuitant worked dozens of small and large construction jobs and earned wages in excess of the allowable amount established by the RRA. The annuitant's failure to report his income to the RRB caused him to fraudulently receive approximately \$20,000 in disability payments.

This case was referred to the United States Attorney's Office for the Eastern District of Wisconsin. The United States Attorney's Office filed an information against the annuitant for violations of Failure to Report to the RRB. The U.S. District Court rendered judgment against the claimant and sentenced him to three years of probation, full restitution, and a special assessment fee. Additionally, the annuitant amended his Internal Revenue Service tax returns for 2005 through 2007 to accurately reflect the true income from his construction business.



Unemployment and Sickness Insurance Investigations

Unemployment Insurance (UI) and Sickness Insurance (SI) benefit fraud involves individuals claiming and receiving UI or SI benefits while working and receiving wages, in violation of Federal law, from an employer. 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.

In the aggregate, UI and SI defendants received four months of prison, 25 years of probation, and 175 hours of community service.

During this reporting period, OI obtained nine convictions and five civil judgments for UI and SI fraud cases. Defendants in these cases received, in the aggregate, four months of prison, 25 years of probation, and 175 hours of community service. They were ordered to pay over \$109,000 in restitution, fines, and civil damages/penalties.

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

UI Claimant Failed to Report Wages

The OI initiated this investigation of an RRB UI claimant based upon an agency referral. Subsequent OI investigation determined that during February 2007 through November 2007 the claimant applied for RRB UI benefits on the same days she was working for a private employer. The claimant failed to report her work and earnings to the RRB and fraudulently received over \$8,000 in UI benefits.

This case was referred to the United States Attorney's Office for the Central District of California. The annuitant pled guilty to a class A misdemeanor and entered into a plea agreement agreeing to three years of probation, 75 hours of community service, full restitution, and a special assessment.

UI Claimant Imprisoned for Four Months

OI initiated this investigation of an RRB UI claimant based upon an agency referral. OI determined that beginning February 2008 through October 2008 the claimant applied for RRB UI benefits on the same days he was working for a private employer. The claimant failed to report his work and earnings to the RRB and fraudulently received over \$9,600 in UI benefits.



This case was referred to the United States Attorney's Office for the Western District of Virginia. The United States Attorney's Office filed an information against the claimant for False and Fraudulent Claims. The claimant pled guilty and was sentenced to four months of prison, three years of supervised release, and full restitution.

SI Claimant Ordered to Repay Over \$9,000

OI initiated this investigation of an RRB SI claimant based upon an agency referral. OI determined that beginning May 2006 through February 2007 the claimant applied for RRB SI benefits on the same days he was working for a private employer. The claimant failed to report his work and earnings to the RRB and fraudulently received over \$9,000 in SI benefits.

This case was referred to the United States Attorney's Office for the District of Delaware. The United States Attorney's Office filed a civil complaint against the claimant for violation of the False Claims Act. The claimant signed a stipulation and consent order agreeing to pay full restitution.

Retirement/Survivor Benefit 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 and/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 convictions for these types of fraud cases. The defendants, in the aggregate, received sentences totaling six years of probation and were also ordered to pay almost \$288,000 in restitution.

Examples of cases completed during this reporting period follow.



Retirement Annuitant Fails to Report his Return to Work in the Railroad Industry

Special Agents investigated a retirement annuitant who failed to report his return to work with his former railroad employer. The annuitant filed for railroad retirement benefits in July 2002 after he was discharged from his position in the railroad industry. The annuitant was approved and began receiving railroad retirement benefits.

Defendants in retirement cases were ordered to pay almost \$288,000 in restitution.

In July 2003, the RRB contacted the annuitant regarding an incorrect calculation which caused the annuitant to receive an overpayment of more than \$6,000. The annuitant met with an agency official in August 2004 to request an overpayment waiver. The annuitant appealed the overpayment collection claiming that it would cause him a financial hardship. During the course of this appeal, the annuitant failed to report his return to work in the railroad industry.

OI's investigation revealed that in December 2003, the annuitant was reinstated by his previous railroad employer. The annuitant did not report his reinstatement and continued to collect his retirement annuity. The annuitant's failure to report his work and earnings to the RRB caused him to fraudulently receive over \$45,000, including the overpayment amount, in RRB retirement benefits.

This case was referred to the United States Attorney's Office for the District of Columbia. The annuitant was indicted on Fictitious or Fraudulent Statement, Theft of Public Money, Wire Fraud, and Criminal Forfeiture. He pled guilty to Wire Fraud and was sentenced to two months of prison, three years of supervised release, and full restitution.

Annuitant's Son Steals Over \$240,000 in RRB Benefits

An annuitant's son failed to report her death to the RRB and fraudulently collected over \$240,000 in RRB widow's benefits. OI's investigation revealed that the annuitant had passed away in June 1979; however, RRB continued to issue annuity checks in her name until August 2006. Special Agents determined that the son had forged his mother's signature on the RRB benefit checks and converted the annuitant's RRB benefits for his own personal use.

This case was referred to the United States Attorney's Office for the District of Massachusetts. The subject was indicted and pled guilty to Theft of Government Funds. He was sentenced to three years of probation, 200 hours of community service, and full restitution.



Railroad Medicare Investigations

OI currently has 86 active Medicare investigations with an estimated fraud loss of over \$44.6 million.

Qualified railroad retirement beneficiaries are covered under the Railroad Medicare program the same as persons covered under the social security system. The RRB enrolls railroad beneficiaries for Medicare coverage and collects premiums for Part B medical insurance. The RRB also selects and monitors the single nationwide Medicare Part B Carrier contract. During FY 2009, the RRB's Medicare contractor paid over \$900 million in medical insurance benefits.

According to a conservative estimate by the National Health Care Anti-Fraud Association® "3% of all health care spending—or \$68 billion—is lost to health care fraud....Other estimates by government and law enforcement agencies place the loss due to health care fraud as high as 10 percent of our nation's annual health care expenditure—or a staggering \$226 billion—each year. And the cost of health care will only continue to rise, which means the price tag associated with health care fraud will rise too unless we can work together to combat it."⁴

All of OI's active Medicare cases are being worked jointly with the OIG offices of the U.S. Department of Health and Human Services, the Office of Personnel Management, and other agencies responsible for investigating healthcare fraud. Interagency cooperation is imperative to effective law enforcement especially among agencies responsible for investigating healthcare fraud.

During this reporting period, OI obtained one civil judgment worth \$300,000 in damages. OI currently has 86 active Medicare investigations with an estimated fraud loss of over \$44.6 million and an additional 33 Medicare referrals under review.

Health Care Fraud Prevention and Enforcement Action Team

During this reporting period, several individuals have pled guilty to a variety of Medicare fraud schemes including billing for medically unnecessary durable medical equipment, providing a less expensive product than what was actually paid for by Medicare, and falsifying certificates of medical necessity.

⁴ "Consumer Alert: The Impact of Health Care Fraud on You!" Anti-Fraud Resource Center, 2010, National Health Care Anti-Fraud Association, Apr. 1, 2010
<http://www.nhcaa.org/eweb/DynamicPage.aspx?webcode=anti_fraud_resource_centr&wpscode=TheProblemOfHCFraud>.



These guilty pleas are the results of a cooperative effort with various other Federal and local law enforcement agents as members of the *Medicare Fraud Strike Force* in Houston, Texas. The Houston Strike Force is the fourth phase of the Department of Justice and the Department of Health and Human Services' *Health Care Fraud Prevention & Enforcement Action Team* (HEAT). OI currently has one Special Agent assigned full-time to HEAT activities in Houston, Texas.

OI currently has one Special Agent assigned full-time to HEAT activities in Houston, Texas.

Clinic Owner Signs Consent Judgment

A joint investigation revealed that the owner/president of a medical clinic employed nurse practitioners to examine, diagnose, and treat patients while billing Medicare as if the services were performed by licensed physicians.

This case was referred to the United States Attorney's Office for the Southern District of West Virginia. A civil complaint was filed against the owner/president and he signed a Consent Judgment agreeing to pay \$300,000 plus interest. Several criminal informations have also been filed in this case.

Retired Nurse Convicted by Jury

Information regarding fraud schemes perpetrated by a nurse patient recruiter was discovered during the execution of search warrants conducted by HEAT. A federal criminal complaint was filed against the nurse and she was arrested by HEAT agents including agents from OI, Health and Human Services, and the Federal Bureau of Investigation.

Subsequent investigation revealed that the owner of a durable medical equipment (DME) company paid the nurse a kickback equaling 10% of the amount Medicare paid for each claim. Part of this scheme involved a high-dollar Medicare code for enteral nutrition supplies. This code requires each patient to have a feeding tube. The nurse's referral forms indicated that each patient had a feeding tube when in fact none of the patients had feeding tubes and were not eligible to receive these supplies.

The nurse also submitted claims for high-end rigid orthotic or "ortho" kits when in fact she conspired with the company's owner to actually supply inexpensive soft, over-the-counter supplies to the patients. When two Medicare beneficiaries refused the inexpensive replacement products, the nurse offered them \$100 to accept the products.



This case was referred to the United States Attorney's Office for the Southern District of Texas. The nurse was indicted on one count of Conspiracy to Commit Health Care Fraud and six counts of Health Care Fraud. She was convicted on all counts during a criminal jury trial and is currently awaiting sentencing.

The DME owner was also indicted on identical counts and is currently awaiting sentencing.

Civil Enforcement Results

OI had a total of 10 civil judgments totaling over \$686,000 in damages and penalties.

OI 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 allows the government to recover up to treble damages as well as \$5,500 to \$11,000 for each false claim submitted.

During this semiannual period, a total of 10 civil judgments were entered by U.S. District Courts for RRB fraud cases totaling over \$686,000 in damages and penalties. Some of these civil actions are pursued under the Department of Justice's Affirmative Civil Enforcement (ACE) program which provides an efficient means to address fraud against RRB programs, particularly where the fraud losses are below the financial guidelines for criminal prosecution. ACE is an effective way to return fraud losses to the RRB's trust funds and it also creates a deterrent against future fraud.



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 1,185 contacts during this reporting period. The following table summarizes Hotline referrals for the period October 1, 2009 through March 31, 2010.

Referral or Other Activity	October 1, 2009 – March 31, 2010
RRB District or Regional Office	751
Other (Hang Ups, Misdirected Calls, Disconnections, etc.)	304
Office of Investigations	66
Other Federal Agencies	39
Calls with Insufficient Information to Make Appropriate Referrals	16
RRB Bureaus	4
Local or State Agencies	2
Disposition Not Yet Determined, Additional Information is Being Obtained	2
Referred to a Railroad	1



OTHER OVERSIGHT ACTIVITIES

The OIG prepares monthly ARRA progress reports.

American Recovery and Reinvestment Act of 2009

During this semiannual period, the OIG continued its ongoing effort to provide oversight tailored to fit the RRB's responsibilities under the ARRA.

The ARRA, signed into law on February 17, 2009, established general requirements for management and reporting which are applicable to all Federal agencies and appropriates funding from the general fund of the U.S. Treasury to pay benefits to railroad workers and retirees as follows:

- a one-time \$250 payment to most individuals who receive benefits under the RRA, totaling approximately \$135 million and
- 13 additional weeks of unemployment benefits for certain railroad workers who exhaust their rights to the benefits normally provided under the RUIA, not to exceed \$20 million.

The RRB also received \$1,480,000 to fund the additional administrative costs anticipated in connection with the payment of additional benefits. However, it did not provide any supplemental funding for oversight activity by the OIG.

During this reporting period, OA examined RRB's compliance with the relevant sections of the ARRA and published their results as discussed on page 11 of this report. The OIG also contributed to the national effort to ensure a transparent ARRA 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 web page.

In addition, OI reviewed 18 agency case referrals involving fraudulent receipt of extended ARRA funded unemployment benefits and one case referral involving the one-time \$250 ARRA payment to railroad retirement annuitants.



Occupational Disability Program

The RRB's occupational disability program is a unique benefit available only to qualifying railroad workers. The qualification standards for this benefit are much different, and some would say more lenient, than those needed to qualify for a total and permanent disability under the Social Security Act. The OIG continues to devote investigative and audit resources to the oversight of this and other agency programs.

The national spotlight was turned on the RRB's occupational disability program in September 2008 when the *New York Times* reported that nearly every career employee of the Long Island Rail Road (LIRR) applies for and receives disability benefits soon after retirement.⁵

In October 2008, the RRB adopted Board Order 08-63 which described a five-point plan for greater oversight of the occupational disability claims of LIRR employees. As part of its five-point plan, the RRB began utilizing secondary medical screening on all occupational disability applicants received from LIRR applicants.

On November 24, 2008, the Inspector General issued a briefing document entitled *Retirement Experience of the Employees of the Long Island Rail Road Under the Railroad Retirement Act*. This document provided an analysis of the retirement experience of employees of the LIRR within the context of the railroad retirement program as a whole.

In September 2009, the Government Accountability Office (GAO) reported that in FY 2007 "LIRR workers applied for occupational disability benefits at a rate 12 times higher than workers from other commuter railroads" and that "the RRB approved the claims of all workers at the same rate – near 100%."⁶

⁵ Bogdanich, Walt. "A Disability Epidemic Among a Railroad's Retirees." *New York Times*, 20 Sept. 2008.

⁶ United States Government Accountability Office, *Review of Commuter Railroad Occupational Disability Claims Reveals Potential Program Vulnerabilities*, GAO-09-821R (Washington, D.C.: Sept. 9, 2009).



Office of Inspector General for the Railroad Retirement Board

Pursuant to a subsequent Congressional request, GAO initiated “a systematic review of RRB’s occupational disability program.”⁷ In a February 4, 2010 letter to the House Committee on Transportation and Infrastructure Ranking Member John L. Mica and the House Subcommittee on Railroads, Pipelines, and Hazardous Materials Ranking Member Bill Shuster, GAO reported they “found that no other rail employers in [GAO’s] analysis had the consistently high rates of occupational disability awards that existed at LIRR for calendar years 2004 to 2007, the most current data available at the time of [GAO’s] review.”⁸

The implementation of OIG recommendations would provide disability examiners with additional information.

In connection with the occupational disability program, the OIG has made the following recommendations to the RRB’s Board members:

- All future occupational disability applicants should be sent for a secondary medical screening prior to adjudication.
- The RRB should require the applicant’s immediate supervisor to complete and certify all RRB Forms G-251a or G-251b. These forms are used by the RRB to request information from railroad employers regarding job duties performed by applicants; however, in a large percentage of cases the employers fail to return the forms or provide the requested information.
- The RRB should amend current disability annuitant reminder forms to include an annual questionnaire requiring a certified response from all disability annuitants. If the disability annuitant fails to return the signed certification form within a reasonable timeframe, then their disability annuity should be suspended.
- The RRB should amend their current self-employment/corporate involvement verification form to require more thorough and complete information. The Board is currently working with the OIG to develop a more comprehensive form.

The implementation of these recommendations would provide disability examiners with additional information to consider in their adjudication process, resulting in better supported decisions.

⁷ United States Government Accountability Office, Use of the Railroad Retirement Board Occupational Disability Program across the Rail Industry, GAO-10-351R (Washington, D.C.: Feb. 4, 2010).

⁸ Id.



OUTREACH ACTIVITIES

In addition to audit and investigative activities, OIG staff members perform outreach 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.

OI staff members participated in a variety 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 Department of Health and Human Services, Office of Inspector General; the Office of Personnel Management, Office of Inspector General; 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, members of the OI staff 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 any cases. They also provide an opportunity for the OI Special Agents to become familiar with the most recent fraud schemes.

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

OI staff members participate in Medicare fraud task forces throughout the country.



OPERATIONAL ISSUES

The operational issue addressed, impacts the OIG's ability to effectively carryout its oversight role. This issue would have to be remedied with legislative change.

National Railroad Investment Trust

The National Railroad Retirement Investment Trust (NRRIT) was established by the Railroad Retirement and Survivors' Improvement Act of 2001 (RRSIA) to manage and invest Railroad Retirement assets. As of January 31, 2010, the RRB's investments in the NRRIT were valued at approximately \$22.8 billion.

Although the Trust is a tax-exempt entity independent of the Federal government, the RRSIA requires that the Trust report to the RRB. This office has previously expressed concerns about the RRB's passive relationship with the NRRIT and has identified the RRB's oversight in this area as a critical issue. However, the RRSIA does not provide the OIG with oversight authority to conduct audits and investigations of the NRRIT. This office believes that independent oversight of the Trust's operations is necessary to ensure that sufficient reporting mechanisms are in place and to ensure that the Trustees are fulfilling their fiduciary responsibilities.

LEGISLATIVE & REGULATORY REVIEW

The Inspector General Act of 1978, as amended, requires the Inspector General (IG) to review existing and proposed legislation and regulations relating to the programs and operations of the agency. The agency neither proposed nor finalized any legislation or regulations during this reporting period.

During this reporting period, the IG sent correspondence to a variety of Senators and Representatives, the Attorney General, and the Secretary of Health and Human Services regarding vulnerabilities in the Medicare program. Specifically, the current Medicare fraud detection system of "pay and chase" is antiquated and a software system utilizing real-time analysis may provide a more effective and efficient means to identify and prevent fraud. There are currently three bills pending before the Congress which the IG believes represent steps in the right direction. They are the Seniors and Taxpayers Obligation Protection Act of 2009 (S. 975) and the Prevent Health Care Fraud Act of 2009 (H.R. 4222 and S. 2128). Recently the IG sent correspondence to each cosponsor expressing support for their legislation and respectfully requesting that each bill be amended to specifically name the Railroad Medicare program.



Office of Inspector General for the Railroad Retirement Board

APPENDICES

Appendix	Title	Page No.
A	Office of Inspector General Reports and Other Publicly Available Documents Issued	30
B	Audit Reports with Questioned Costs or with Recommendations that Funds Be Put to Better Use	31
C	Report on Receivables, Waivers, and Recoveries	32
D	Significant Matters	34
E	Management Reports	35
F	Reporting Requirements	41
G	Acronyms	42
H	Legal Citations	43

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

- *Management and Performance Challenges Facing the Railroad Retirement Board*, October 16, 2009⁹
- *Opinion on the Financial Statements of the Railroad Retirement Board for the Fiscal Year ending September 30, 2009*, November 9, 2009¹⁰
- *Fiscal Year 2009 Evaluation of Information Security at the Railroad Retirement Board*, November 12, 2009
- *Fiscal Year 2009 Financial Statement Audit Letter to Management*, March 11, 2010
- *Examination of Management’s Assertion of Compliance with the Economic Recovery Payment Provisions of the American Recovery and Reinvestment Act of 2009*, March 18, 2010
- *Examination of Management’s Assertion of Compliance with the Extended Unemployment Benefit Payment Provisions of the American Recovery and Reinvestment Act of 2009*, March 24, 2010

All audits and other publicly available documents are available on our website at www.rrb.gov/oig.

⁹ Published as pages 111 – 115 of the Railroad Retirement Board’s Fiscal Year 2009 *Performance and Accountability Report*.

¹⁰ Published as pages 99 – 106 of the Railroad Retirement Board’s Fiscal Year 2009 *Performance and Accountability Report*.

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, 2009	0	0	0
B. Which were issued from October 1, 2009 through March 31, 2010	0	0	0
Subtotal (A + B)	0	0	0
C. For which a management decision was made between October 1, 2009 through March 31, 2010	0	0	0
(i) dollar value of disallowed costs	0	0	0
(ii) dollar value of costs not disallowed	0	0	0
D. For which no management decision had been made by March 31, 2010	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, 2009	0	0
B. Which were issued from October 1, 2009 through March 31, 2010	0	0
C. Subtotal (A + B)	0	0
(i) dollar value of disallowed costs	0	0
(ii) dollar value of costs not disallowed	0	0
D. For which no management decision had been made by March 31, 2010	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 OIG requires the reporting of additional information concerning actual collections, offsets, and funds put to better use achieved as a result of 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
10/1/09 – 3/31/10	\$581,425

Appendix C – Continued

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		\$30,584
99-16	\$48,000,000	\$48,000,000			\$14,800,000
99-17	\$11,000,000	\$11,000,000			\$1,604,545
00-16	\$235,000	\$235,000			\$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			\$761,151
05-03	\$1,800,000	\$1,800,000	\$4,587,453	\$337,700	\$1,718,252
05-06	\$10,000	\$10,000			\$42,915
05-07	\$1,070,000	\$1,070,000	\$50,581		\$51,229
05-10	\$2,600,000	\$2,600,000	\$311,000		
06-04	\$257,000	\$257,000			
06-05	\$2,100	\$2,100			
06-06	\$200,000	\$200,000	\$13,712		\$20,369
09-02	\$600,000	\$600,000			\$265,672

¹¹ Both overpayments and underpayments are included in this column.

Appendix D – Significant Matters

The OIG has identified deficiencies in controls over financial reporting and information security as significant matters. A summary of the issues and related recommendations for corrective action follow.

Financial Reporting

The OIG previously identified internal control over financial reporting as a material weakness. As a result, financial accounting controls cannot be relied upon to ensure that material errors will be detected to prevent misstatements in financial reporting. RRB financial managers have worked to strengthen internal control over financial reporting during FY 2009. During the third quarter of FY 2009, the agency implemented enhanced controls to address the weaknesses that, in the aggregate, were the basis for the OIG's assessment of a material weakness during the prior year.¹² However, because these enhanced controls were not implemented until mid-year, they could not be relied upon to ensure the accuracy of accounting and reporting for FY 2009 and had not been in operation for a period of time sufficient to support an assessment of overall effectiveness.

Compliance with requirements	February 9, 2007	Report OIG: 07-01, #11
Report preparation	March 6, 2008	Report OIG: 08-01, #9
Transaction documentation	March 6, 2008	Report: OIG 08-01, #11
Journal voucher preparation and recording	March 24, 2009	Report: OIG 09-02, #2 and 4

Information Security

The OIG previously evaluated information security pursuant to the provisions of the Federal Information Security Management Act of 2002 (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.

Access Controls	February 5, 2002	Report OIG 02-04, #20 and 21
	June 7, 2005	Report DSD Web, #16
	September 27, 2007	Report OIG 07-08, #1
	March 24, 2009	Report OIG 09-02, #7 and 8
	September 30, 2009	Report OIG 09-05, #8, 11, 12, 15, 19, and 20
Internal Control Over Certification and Accreditation	September 30, 2009	Report OIG 09-06, #3, 4, and 6
	July 18, 2005	Report OIG 05-08, #4
	September 30, 2008	Report OIG 08-05, #2 and 7
	November 12, 2009	Report OIG 10-01, #1 and 5

¹² "Fiscal Year 2008 Financial Statement Audit Letter to Management," OIG Report No. 09-02, March 2009.

Appendix E¹³ – Management Reports

Final Action on Audits with Disallowed Costs

For the 6-Month Period Ending March 31, 2010	Number of <u>audit reports</u>	Disallowed <u>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

¹³ Appendix E was prepared by RRB management.

Appendix E – Continued

Management Report on Final Action on Audits with Recommendations to Put Funds to Better Use for the 6-Month Period Ending March 31, 2010

	<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.	4	\$2,602,100 ¹
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)	4	\$2,602,100
D. Audit reports on which final action was taken during the period.		
1. Value of recommendations implemented (completed)	1	\$1,800,000 ²
2. Value of recommendations that management concluded should not or could not be implemented (completed)	0	\$0
3. Total of 1 and 2	1	\$1,800,000
E. Audit reports needing final action at the end of the period (C - D.3)	3	\$802,100
1. Comprised of the following amounts: \$1,800,000 from Audit Report 05-03, "Evaluation of the RRB's Processing of Disability Earnings Cases," \$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," and \$600,000 from Audit Report 09-02, "Fiscal Year 2008 Financial Statement Audit Letter to Management."		
2. Audit Report 05-03, "Evaluation of the RRB's Processing of Disability Earnings Cases."		

Appendix E – Continued

Management Statement on Resolved Audit Reports Over 12 Months Old with Final Action Pending as of March 31, 2010

Report	Date	Disallowed costs	Funds to be put to better use	Reason action not completed
Fiscal Year 2000 Financial Statement Audit (01-03)	2/23/01	NONE	NONE	While help desk procedures have been upgraded, the Bureau of Information Services is still developing reports to close the last open recommendation.
Review of Information Security at the Railroad Retirement Board (02-04)	2/5/02	NONE	NONE	Information Services has closed 24 recommendations and hopes to close the remaining 4 in FY10.
Inspection of Unverified Records in the RRB's Employment Data Maintenance System (03-06)	3/20/03	NONE	NONE	Programs reviewed all 20,000 records and are using a recently implemented tracking system to close the last recommendation in FY10, however due to ARRA and WHBAA work, project extended to 12/31/2011 to be completed.
Review of RRB Compliance with Federal Laws and Regulations on Competitive Sourcing (05-02)	12/6/04	NONE	NONE	Information Services completed an initial feasibility study of sourcing information technology activities but continues to investigate alternate approaches and use contractor support.
Review of Internal Control Over the Actuarial Projection Process (05-04)	5/5/05	NONE	NONE	The Chief Actuary indicated that they are reviewing their options to best implement this recommendation.
Review of Customer Service Performance Measures for Timeliness of Initial Railroad Retirement Annuity Payments (05-05)	5/17/05	NONE	NONE	System changes are still being made to address the remaining open recommendation in FY11.
Review of LAN, LAN Security Scan and Web-based Applications (DSD)	6/7/05	NONE	NONE	These contractor-prepared confidential reports contained 45 recommendations, with two-thirds closed thus far.
Review of Access Controls in the End-User Computing General Support System (05-08)	7/18/05	NONE	NONE	Information Services has closed 14 of 15 recommendations in this confidential report. New risk assessment must be submitted for remaining case.
Fiscal Year 2005 Evaluation of Information Security at the Railroad Retirement Board (05-11)	9/28/05	NONE	NONE	Information Services continues to develop policies and procedures.

Appendix E – Continued

Management Statement on Resolved Audit Reports Over 12 Months Old with Final Action Pending as of March 31, 2010

Report	Date	Disallowed costs	Funds to be put to better use	Reason action not completed
Accuracy and Reliability of GPRA Performance Measures: Timeliness of Non-Disability Survivor Annuity Payments (06-03)	1/30/06	NONE	NONE	Programs have closed three of the seven recommendations. Work is delayed due to higher priority project. In addition further info is needed from OIG.
Review of Compliance with the Provisions of the Railroad Retirement Act Governing the Initial Award of Benefits (06-05)	4/12/06	NONE	\$2,100	Programs staff closed four of the five recommendations. Project is awaiting completion of AARP project.
Review of the Termination and Suspension of Benefits Paid Under the Railroad Retirement Act (06-06)	5/24/06	NONE	\$200,000	Programming work on a referral system is pending that should close out the remaining open recommendation.
Review of Incident Handling and Reporting at the Railroad Retirement Board (06-09)	8/24/06	NONE	NONE	Work continues on training material and progress has been made to updating of policies.
Fiscal Year 2006 Financial Statement Audit (07-01)	2/9/07	NONE	NONE	The agency has closed 19 of the 20 recommendations, with action on the final one to be verified as part of the FY08 financial statement audit. Submitted documentation to OIG for review. However OIG indicate they will evaluate implementation of this recommendation during FY2010 financial statement audit.
Audit of the DAISY/CHICO Component Application of the RRA Benefit Payment Major Application System (07-02)	3/9/07	NONE	NONE	Documentation was submitted to OIG for implementation on one recommendation and coordination with another agency is needed and resources were unavailable on the other two recommendations.
Audit of the State Wage Match Data Transmission Controls (07-04)	3/28/07	NONE	NONE	Coordination required with outside agencies. Programs plans to complete action to address the two remaining open recommendations in FY10.
Evaluation of the Railroad Retirement Board's Privacy Program (07-06)	7/30/07	NONE	NONE	New CPO was appointed. Additional funding and resources were needed. Of the 15 recommendation, 6 have been closed with the remainder targeted for completion during FY10.

Appendix E – Continued

Management Statement on Resolved Audit Reports Over 12 Months Old with Final Action Pending as of March 31, 2010

Report	Date	Disallowed costs	Funds to be put to better use	Reason action not completed
Audit of Federal Income Taxes Withheld from Railroad Retirement Annuities (07-07)	7/30/07	NONE	NONE	Coordination required with another org. Three of the six recommendations have been closed, with the rest targeted for completion in FY10.
Fiscal Year 2007 Evaluation of Information Security at the Railroad Retirement Board (07-08)	9/27/07	NONE	NONE	Policy and procedures still being developed. Two of the eight recommendations have been closed with the rest targeted for completion in FY10.
Audit of Controls to Safeguard Sensitive Personally Identifiable Information (07-09)	9/27/07	NONE	NONE	Coordination required with outside contractor on one recommendation. Of the 22 recommendations, 6 have been implemented with work plans still being developed for other recommendations to be finished in FY10.
Fiscal Year 2007 Financial Statement Audit Letter to Management (08-01)	3/6/08	NONE	NONE	OIG will reassess the implementation of the last two recommendations during the FY10 financial stmt audit. Of the 25 recommendations, 23 have been implemented.
Implementation of Selected Requirements for Gov't Charge Card Program (08-02)	05/14/08	NONE	NONE	Coordination required with outside contractor. Of the 5 recommendations, 4 recommendations have been implemented with work on the remaining one to be finished in FY10.
Evaluation of Information Security for the RRB's Financial Interchange Major Application – Abstract (08-03)	09/26/08	NONE	NONE	Documentation submitted to OIG for review on one recommendation and work continues on others. Of the 11 recommendations, 2 have been implemented with work on the remaining ones to be finished in 2010.
Fiscal Year 2008 Evaluation of Information Security at the RRB (08-05)	09/26/08	NONE	NONE	Coordination required with outside contractor on 1 recommendation and with another org on another recommendation. Of the 8 recommendations, 4 have been implemented with work on the remaining ones to be finished in FY10.

Appendix E – Continued
Management Statement on Resolved Audit Reports Over
12 Months Old with Final Action Pending as of March 31, 2010

Report	Date	Disallowed costs	Funds to be put to better use	Reason action not completed
Fiscal Year 2008 Financial Statement Audit Letter to Management (09-02)	03/24/09	NONE	NONE	Of the 13 recommendations, documentations for 9 were submitted to the OIG for implementation. Review and updating of documentations along with case reviews are currently being performed on remaining recommendations.
Audit of Internal Control Over Accounts Payable (09-03)	03/31/09	NONE	NONE	Of the 18 recommendations, 13 were implemented. Work continues on the remaining recommendations.

Appendix F – Reporting Requirements

Act Reference	Inspector General Reporting Requirements	Page(s)
Section 4(a) (2)	Review of Legislation and Regulations	28
Section 5(a) (1)	Significant Problems, Abuses, and Deficiencies	34
Section 5(a) (2)	Recommendations With Respect to Significant Problems, Abuses, and Deficiencies	34
Section 5(a) (3)	Prior Significant Recommendations Not Yet Implemented	34
Section 5(a) (4)	Matters Referred to Prosecutive Authorities	4, 13
Section 5(a) (5)	Instances Where Information Was Refused	None
Section 5(a) (6)	List of Audit Reports	29
Section 5(a) (7)	Summary of Each Significant Report	5 – 11
Section 5(a) (8)	Statistical Tables on Management Decisions on Questioned Costs	31
Section 5(a) (9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	31
Section 5(a) (10)	Summary of Each Audit Report Over 6 Months Old for Which No Management Decision Has Been Made	12
Section 5(a) (11)	Description and Explanation for Any Significant Revised Management Decision	None
Section 5(a) (12)	Information on Any Significant Management Decisions With Which the Inspector General Disagrees	None
Act Reference	Management Reporting Requirements	Page(s)
Section 5(b) (1)	Comments Deemed Appropriate	Transmittal Letter
Section 5(b) (2)	Statistical Table on Final Action on Disallowed Costs	35
Section 5(b) (3)	Statistical Table on Final Action to Put Funds to Better Use	36
Section 5(b) (4)	Statement on Audit Reports With Final Action Pending	37 – 40

Appendix G – Acronyms

Acronym	Explanation
ACE	Affirmative Civil Enforcement
AGA	Association of Government Accountants
ARRA	American Recovery and Reinvestment Act of 2009
DME	Durable Medical Equipment
FISMA	Federal Information Security Management Act of 2002
FY	Fiscal Year
GAO	Government Accountability Office
HEAT	Health Care Fraud Prevention & Enforcement Action Team
IG	Inspector General
LIRR	Long Island Rail Road
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
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 H – Legal Citations

American Recovery and Reinvestment Act of 2009 – P.L. 111-5

Conspiracy to Commit Health Care Fraud – 18 U.S.C. § 1349

Criminal Forfeiture – 18 U.S.C. § 2461 and § 981(a)(1)(C)

Failure to Report Information – 45 U.S.C. § 231(a)

Failure to Report to the RRB – 45 U.S.C. § 231(l)

False and Fraudulent Claims – 18 U.S.C. § 287

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

Federal Information Security Management Act of 2002 – 44 U.S.C. § 3531, et. seq.

Fictitious or Fraudulent Statement – 18 U.S.C. § 1001

Health Care Fraud – 18 U.S.C. § 1347

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

Inspector General Act Amendments of 1988 – 5 U.S.C. App. 3

Prevent Health Care Fraud Act of 2009 – H.R. 4222 and S. 2128, 111th Cong., 1st Sess. (2009)

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 – 45 U.S.C. § 231n(j)

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

Seniors and Taxpayers Obligation Protection Act of 2009 – S. 975, 111th Cong., 1st Sess. (2009)

Social Security Act – 42 U.S.C. § Ch. 7

Theft of Public Money/Government Funds/Government Property – 18 U.S.C. § 641

Wire Fraud – 18 U.S.C. § 1343

REPORT
FRAUD, WASTE, AND ABUSE



Call the OIG Hotline:

1-800-772-4258

E-mail: Hotline@oig.rrb.gov

The OIG cannot ensure confidentiality to persons who provide information via e-mail. Do not send information by e-mail that you do not want a third party to read.

**Write: RRB, OIG Hotline Officer
844 N. Rush Street
Chicago, Illinois 60611-2092**