

Semiannual Report to the Congress



Office of Inspector General for the Railroad Retirement Board

October 1, 2008 to March 31, 2009



UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

April 30, 2009

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, 2008 through March 31, 2009. 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 2008 Financial Statements, issuing an unqualified opinion. In addition we:

- reported the results on our audit of the agency's internal control over accounts payable;
- prepared a briefing entitled *Retirement Experience of the Employees of the Long Island Rail Road Under the Railroad Retirement Act*; and
- developed an oversight plan for the American Recovery and Reinvestment of 2009.

Our criminal investigators achieved 29 criminal convictions, 16 indictments and informations, 12 civil judgments and over \$5 million in monetary accomplishments.

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,

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 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 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 administers Medicare Part B, the physician service aspect of the Medicare program, for qualified railroad beneficiaries.

The agency's central mission is to pay accurate and timely benefits. According to fiscal year (FY) 2008 statistics, RRB paid \$10.1 billion in retirement and survivor benefits to 598,000 beneficiaries. RRB also paid \$80 million in net unemployment and sickness insurance benefits to 30,000 claimants. During FY 2008, the Railroad Medicare Part B carrier, Palmetto GBA, paid approximately \$844 million in medical insurance benefits for 480,678 beneficiaries.

The RRB is an independent agency in the executive branch of the Federal government.

The RRB paid \$10.1 billion in retirement and survivor benefits.



Office of Inspector General

The Inspector General is an independent and objective voice.

The Inspector General is a Presidential Appointee, with Senate confirmation, who 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 the 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 conducts audits and investigations related to RRB programs and operations.

The OIG has three operational components: the immediate Office of the Inspector General; the Office of Audit; and the Office of Investigations. The OIG conducts operations from several locations: the headquarters of the RRB in Chicago, Illinois; an investigative field office in Philadelphia, Pennsylvania; and domicile investigative offices in Arlington, Virginia and San Diego, California.

The health and welfare of our nation's railroad workers and their families rely on the economy, efficiency and effectiveness of the RRB's programs.



EXECUTIVE SUMMARY

Office of Audit

The Office of Audit (OA) conducts financial, performance and compliance audits and evaluations of RRB programs. In addition, the OA develops the OIG's response to audit-related requirements and requests for information. During this reporting period, the OA:

- issued its opinion on the RRB's financial statements for the prior fiscal year and the related reports on internal control and compliance in a single document published with agency financial statements in the RRB's *Performance and Accountability Report*;
- prepared the Inspector General's statement of *Management and Performance Challenges Facing the Railroad Retirement Board* for publication in the RRB's *Performance and Accountability Report*;
- published a "Letter to Management," detailing matters related to internal control identified during the financial statement audit;
- reported the results of its audit of internal control over accounts payable;
- prepared a briefing entitled *Retirement Experience of the Employees of the Long Island Rail Road Under the Railroad Retirement Act*, and
- developed an oversight plan for the American Recovery and Reinvestment Act of 2009.

All audits and other publicly available documents completed during this reporting period are discussed in further detail on pages 6 through 13.

The OA conducts financial, performance and compliance audits.

The OA published six key documents during the semiannual period.



Office of Investigations

The OI investigates and refers cases for prosecution.

The Office of Investigations (OI) focuses its efforts on identifying, investigating and presenting RRB benefit fraud cases for prosecution. The OI conducts investigations throughout the United States relating to the fraudulent receipt of RRB disability, unemployment, sickness, retirement/survivor or Railroad Medicare benefits. The OI investigates railroad employers and unions when there is an indication that they have submitted false reports to the RRB. The 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, 2008 through March 31, 2009, the OI achieved:

- 29 convictions;
- 16 indictments and/or informations;
- 12 civil judgments;
- \$5 million in monetary accomplishments;
- 3 arrests; and
- 48 referrals to the Department of Justice.

RRB defendants, in the aggregate, were sentenced to 20 years in jail, 82 years of probation and 960 hours of community service. The RRB received \$263,684 in investigative recoveries from completed cases. RRB benefits that are overpaid due to fraud and can be recouped through RRB administrative recovery action are expressed as investigative recoveries.

Examples of fraud cases closed during this reporting period are discussed in more detail on pages 17 to 27.



Current Caseload

The OI's current caseload totals 445 matters, representing almost \$15.8 million in fraud against the RRB. The potential fraud losses by case type are listed below.

Type of Case	Number of Cases	Percentage of Cases	Potential Fraud Losses
Disability	217	49%	\$8,062,356
Unemployment/Sickness	80	18%	\$527,168
Retirement	40	9%	\$1,689,768
Medicare	35	8%	\$3,961,011
Other	28	6%	\$550,447
Spouse/Dependent	19	4%	\$884,679
Representative Payee	12	3%	\$123,251
Railroad Employer	9	2%	\$0*
Employee	2	0.4%	\$0*
Threats	2	0.4%	\$0
Commercial Fraud	1	0.2%	\$0*

*Potential fraud losses are undetermined at this time.

The OI's current caseload totals 445 matters, representing almost \$15.8 million in fraud against the RRB.



OCTOBER 1, 2008 THROUGH MARCH 31, 2009 ACCOMPLISHMENTS

Office of Audit

The OIG provides independent oversight of the RRB

Congress established the OIG to provide independent oversight of the RRB. Within the OIG, the mission of the OA is: (1) to promote economy, efficiency and effectiveness in the administration of RRB programs; and (2) to detect and prevent fraud and abuse in such programs. Through the Inspector General, the OA keeps Board Members and the Congress informed of current and potential problems and deficiencies in RRB operations. The OA also tracks the status of progress towards corrective action.

Details regarding audits and other publicly available documents completed during this semiannual reporting period follow.

Opinion on the Financial Statements – November 6, 2008¹

Congressional report language for the FY 1997 appropriations law directed the OIG to conduct the annual audit of the RRB's financial statements in-house with limited contractual assistance.

The OA issued an unqualified opinion on the RRB's financial statements.

During October 1, 2008 through March 31, 2009, the OA completed its audit of the RRB's comparative financial statements for the fiscal years ended September 30, 2008 and 2007. 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, 2008, and 2007; and the financial condition of the Railroad Retirement program as of January 1, 2008, 2007 and 2006.

¹ The auditor's opinion is dated as of November 6, 2008, except for matters relating to the fair market value of the net assets of the NRRIT for which the date is November 17, 2008.



Report on Internal Control

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

- Significant deficiencies in program management and access controls make the agency's information security program a source of material weakness in internal control.
- Financial accounting controls cannot be relied upon to ensure that material errors will be detected to prevent misstatements in financial reporting. This condition, previously reported as a significant deficiency, has been reclassified as a material weakness.
- RRB's current accounting procedures do not provide for periodic reconciliation of the general ledger with the benefit payment systems in which those transactions originate which is a significant deficiency in internal control.
- RRB management has completed action to strengthen controls over the social insurance fund balance.

Auditors identified weaknesses and significant deficiencies in internal control.

Testing disclosed no instances of reportable non-compliance.

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 most serious management challenges facing the agency are:

- Oversight for the NRRIT
- Occupational Disabilities
- Financial Reporting
- Information Security
- Safeguarding Privacy
- Improper Payments

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

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 the 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 the statement.

Oversight for 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. Recent turmoil in the national financial markets makes this matter an acute concern since the NRRIT holds and invests substantially all program assets upon which the retirement, survivor and disability programs rely for future solvency. 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 in the OIG's internet library (<http://rrb.gov/oig/library.asp>).



Occupational Disabilities

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 employers and railroad employees. As a result, any successful reform initiative will require negotiation by both rail labor and rail management and possibly legislative change.

Financial Accounting and Reporting

Although the OA observed notable efforts to strengthen internal control over financial accounting and reporting during FY 2007, the RRB has been unable to sustain the improvements during FY 2008. The inability to correct, or sustain correction, of a significant deficiency is an indicator of material weakness.

Information Technology Security

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, this is a significant undertaking and can be expected to present a challenge during the coming years. The OIG identified this challenge through its ongoing oversight required by the Federal Information Security Management Act of 2002 (FISMA). This issue is discussed in more detail in Appendix D, Significant Matters.

Safeguarding Privacy

Information technology security is a critical part of an effective privacy program. As the RRB moves toward compliance with FISMA, it will also strengthen its privacy program. Corrective actions remain pending on many prior OIG audit recommendations concerning privacy issues.

The occupational disability program is susceptible to fraud and abuse.



The financial statement audit disclosed deficiencies in internal control over financial accounting and reporting.

Improper Payments

During FY 2007, the RRB paid nearly \$10 billion in retirement, survivor and disability benefits under the provisions of the RRA. Monitoring and reducing improper payments is inherently challenging in a business environment that makes benefit entitlement payments of such magnitude under complex entitlement and computational regulations.

Letter to Management – March 24, 2009

On March 24, 2009, the OA issued the *Fiscal Year 2008 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.

During the financial statement audit, the OA detailed the following areas of weakness in internal control that, in the aggregate, represent a material weakness:

- Transaction Documentation;
- Controls Over Report Preparation;
- Controls to Ensure Compliance with Requirements;
- Review and Approval of Vouchers; and
- Quality Assurance Process for Voucher Preparation.

The OA also identified several areas of control weakness which were not considered to be material weaknesses or significant deficiencies:

- Separation of Duties;
- Password Protection;
- Controls Over Social Insurance Reporting; and
- Calculation of Medicare Premium Penalty Rates.

Management has agreed to take action regarding all 13 audit recommendations offered to strengthen internal control.



Audit of Internal Control Over Accounts Payable – March 31, 2009

The OA's report entitled *Audit of Internal Control Over Accounts Payable* was issued on March 31, 2009. The objective of this audit was to determine whether internal control was adequate to ensure that accounting for non-benefit, non-payroll, administrative expenses was complete, accurate and timely.

The audit disclosed that internal controls over payments were not adequate to ensure that accounting for non-benefit, non-payroll administrative expenses was complete, accurate and timely because the controls were either not sufficient or not operating as designed. Auditors recommended that management strengthened controls in the following areas:

- Segregation of Duties;
- Payment Authorization;
- Medical Vendor Payment Functions;
- Audit Trails;
- Payment Documentation;
- Management Control and Related Reviews;
- Confidentiality of Employees' Social Security Numbers;
- Policies and Procedures; and
- Electronic Receivers.

In addition, they identified opportunities for improvement in the following areas:

- Timeliness of Payments; and
- Prompt Payment Act Quality Assurance Reviews.

Management has agreed to take action regarding all 18 audit recommendations offered in this report.



Retirement Experience of the Employees of the Long Island Rail Road Under the Railroad Retirement Act

On November 24, 2008, the Inspector General issued a briefing 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 Long Island Rail Road (LIRR) within the context of the railroad retirement program as a whole.

The disability experience of Long Island Rail Road retirees was much different than that of the railroad retirement population as a whole.

Older railroad workers who have met the age and service requirements of the RRA may retire under the RRA's non-disability provisions. Younger railroad workers may be entitled to benefits under the disability provisions of the RRA. Similar to the Social Security Act, the RRA provides retirement benefits to individuals who are disabled from all employment. Unlike the Social Security Act, the RRA also provides benefits to individuals who are occupationally disabled. These provisions provide benefits to persons who are disabled from the work they perform in the railroad industry, but who might otherwise find employment elsewhere.

The OIG analyzed all benefits awarded to former railroad workers during calendar years 1990 to 2007. During that period the RRB made 242,435 benefit awards to the employees of 1,238 railroad employers. The disability experience of LIRR retirees was much different than that of the railroad retirement population as a whole.

During the period under analysis, annuities were awarded to 5,033 LIRR retirees, an average of 280 per year. About 65% of LIRR retirees were awarded annuities by reason of occupational disability, more than twice the 25% rate experienced by the railroad retirement program as a whole.

In addition, the OIG's analysis shows a continuous, steep, increase in the proportion of occupational disability retirements among LIRR retirees which is not seen among retirees of other railroads. The OIG has shared these analytical results with the RRB, interested Congressional offices and the General Accountability Office (GAO).



American Recovery and Reinvestment Act of 2009

On March 6, 2009, the OIG published its plan for oversight of RRB implementation of the provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act). The Recovery Act, signed into law on February 17, 2009, establishes 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 Railroad Retirement Act, totaling approximately \$135 million;
- 13 additional weeks of unemployment benefits for certain railroad workers who exhaust their rights to the benefits normally provided under the Railroad Retirement Unemployment Insurance Act, not to exceed \$20 million; and
- \$1,480,000 to fund the additional administrative costs anticipated in connection with payment of additional benefits.

The Recovery Act does not provide any supplemental funding for oversight activity by the OIG.

The OIG developed a Recovery Act oversight plan articulating a plan of action for monitoring agency implementation of the Recovery Act on an ongoing basis. The OIG's objective is to provide RRB management with information that will assist them in ensuring compliance, transparency and fiscal accountability.

The OIG's Recovery Act oversight plan is available in the OIG's website library.

As a result of its oversight initiative, the OIG suggested that RRB management include fraud alert warnings in benefit letters being mailed out in connection with the Recovery Act.

The OIG issued a plan for oversight of the RRB's implementation of the American Recovery and Reinvestment Act of 2009.



Management Decisions and Implementation

The OIG tracks the status of corrective actions for all audit recommendations. Office of Management and Budget 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.

The OIG tracks the implementation of its recommendations to RRB management.

Management Decisions	
Requiring Management Decision on October 1, 2008	1
Pending Management Decision for New Recommendations	0
Management Decision on Previous Recommendations	0
Recommendations Pending Management Decision on March 31, 2009	1

In their September 30, 2008 *Fiscal Year 2008 Evaluation of Information Security at the Railroad Retirement Board*, the OA recommended that the Bureau of Information Services (BIS) develop a comprehensive plan for testing and evaluation of the agency's contractor operations. BIS has taken this recommendation under advisement and is waiting for RRB's General Counsel to verify which agency contracts should be considered for certification and accreditation as information systems in compliance with FISMA requirements.

Corrective Action	
Recommendations Requiring Action on October 1, 2008	164
Recommendations Issued During Reporting Period	31
Corrective Actions Completed During Reporting Period	38
Recommendations Rejected During Reporting Period	0
Final Actions Pending on March 31, 2009	157



Office of Investigations

The OI focuses its efforts and resources on RRB benefit program fraud. The OI's primary objective is to identify, investigate and refer for prosecution and monetary recovery action, cases of waste, fraud and abuse in RRB programs. The OI also seeks to prevent and deter program fraud by reporting systemic weakness in RRB operations and processes which it identifies through investigative work. In order to maximize the effect of its resources, OI continues to pursue cooperative investigative activities in coordination with other Inspectors General and law enforcement agencies, such the Federal Bureau of Investigation, the U.S. Secret Service, the Internal Revenue Service, and the Postal Inspection Service.



Investigative Accomplishments

Action	October 1, 2008 – March 31, 2009
Convictions	29
Civil Judgments	12
Indictments/Informations	16
Investigative Recoveries ¹	\$263,684
Restitution and Fines	\$4,231,449
Community Service Hours	960
Civil Damages and Penalties	\$545,450
Civil Complaints	5
Arrests	3
Department of Justice Referrals	48

¹ RRB benefits that are overpaid due to fraud and can be recouped through RRB administrative recovery action are expressed as investigative recoveries.



Investigative Caseload Data

During this semiannual reporting period, the OI reviewed 226 matters. The major referral sources for these matters reviewed are listed below:

The OI reviewed 226 matters from a variety of sources.

Source of Referral	Percentage
RRB Headquarters	35%
Department of Justice	21%
Hotline	16%
HHS-OIG	6%
OIG Developed	6%
Other	6%
RRB Field Office	5%
Other Federal Agencies	2%
Palmetto	2%
Railroad Employers	1%

Thirty-five percent of the OI's case referrals, for this period, came from RRB's headquarters in Chicago, Illinois.

Investigative Tools

To gather evidence and further investigations, Special Agents have a wide range of investigative tools including the Federal Grand Jury procedure, the Inspector General Subpoena and the Trial Subpoena. The following table summarizes the use of these investigative tools.

Type of Subpoena	Number Served
Inspector General Subpoena	45
Federal Grand Jury Subpoena	35
Trial Subpoena	4



REPRESENTATIVE INVESTIGATIONS OCTOBER 1, 2008 – MARCH 31, 2009

Disability Investigations

The 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 investigations often involve sophisticated schemes to hide disqualifying work activities from the RRB.

During this reporting period, the OI obtained nine convictions and four civil judgments in disability fraud cases. The defendants received sentences totaling five months of jail, 26 years of probation and 160 hours of community service. They were ordered to pay \$771,483 in restitution, \$12,125 in fines and \$107,985 in civil damages/penalties.

Descriptions of several cases completed during this reporting period follow.

Disability Annuitant Sentenced to Six Months of Probation for Cashing Duplicate Benefit Checks

The RRB referred this case to the OIG after discovering that the annuitant had attempted to cash a duplicate RRB disability benefit check. The OI's investigation revealed that the RRB disability annuitant contacted his local District Office to report that his monthly disability check had been confiscated by a cashier at a check cashing facility. The OI determined that the cashier confiscated the check because the annuitant had attempted to cash a duplicate benefit check. Further review of the annuitant's payment history, revealed that the annuitant had a history of requesting duplicate RRB annuity checks.

During an interview with Special Agents, the annuitant confessed to requesting and cashing duplicate RRB benefits checks. The annuitant was arrested and charged with theft in the State of Illinois. He pled guilty and was sentenced to six months of probation.

The OI obtained nine convictions and four civil judgments in disability cases.

The defendants were ordered to pay a total of \$891,593 to the government.



Routine Traffic Stop Leads to RRB Fraud Case

The OI received this case referral from the Illinois State Police. During the course of a routine traffic stop, an Illinois State Police Officer found the driver, a young woman, in possession of multiple identification documents which bore identity information for a male. The Officer also found a document in the vehicle which indicated that the male subject was receiving RRB disability benefits. When questioned, the driver admitted that the identity documents belonged to her deceased father. The OI's investigation revealed that the RRB disability annuitant died on June 10, 2005 and that his daughter continued to collect his disability annuity totaling \$23,357 through April 2006.

This case was referred to the United State Attorney's Office (USAO) for the Northern District of Illinois. The daughter entered into a 24 month Pre-Trial Diversion Agreement with the USAO for violation of Theft of Government Funds. She agreed to make an initial \$15,000 lump sum payment and to pay the remaining \$8,357 by the end of the agreement.

Disability Annuitant Repays \$72,000 Lump Sum

Special Agents investigated an RRB disability annuitant who owned and operated his own railroad consulting business. Their investigation revealed that during the period of May 2003 through February 2006 the annuitant earned wages in excess of the allowable amount established by the Railroad Retirement Act. The annuitant's failure to report his income to the RRB caused him to fraudulently receive \$102,971 in disability payments. The annuitant admitted to owing his own business and specifically structuring his salary to avoid detection by the RRB.

This case was referred to the USAO for the Eastern District of Wisconsin. The USAO filed an information against the annuitant for violations of Failure to Report, False Claims and Statements. He pled guilty and was sentenced to 12 months of probation, ordered to pay \$72,000 in restitution and assessed a \$7,225 fine. The annuitant paid full restitution in the amount of \$72,000 at the time of his sentencing.



Disability Annuitant Defrauded the DOL and the RRB

The U.S. Department of Labor, Office of Inspector General (DOL-OIG) discovered that the target of a DOL disability fraud investigation was also receiving an RRB disability annuity. A joint investigation was conducted by DOL-OIG, the United States Postal Inspection Service, the United States Postal Service, Office of Inspector General and the RRB-OIG. This investigation, which included surveillance and the execution of a search warrant, determined that the annuitant materially participated in the day-to-day operation of a sole proprietorship and actively concealed his income from the DOL and the RRB. The annuitant fraudulently received DOL worker's compensation benefits and an RRB disability annuity for a period of more than seven years.

The USAO for the District of Massachusetts filed an eight count indictment against the annuitant for Mail Fraud, Making False Statements to Obtain Federal Employee Compensation and False Statements. The annuitant pled guilty and entered into a plea agreement agreeing to three years of probation with the first six months served as electronic monitoring home confinement, \$185,000 in restitution to be divided between DOL (\$123,500) and RRB (\$61,500), a \$2,000 fine and a special assessment of \$800.

Disability Annuitant Hid Self-Employment Activities

Special Agents investigated a self-employed RRB disability annuitant who owned and operated a painting business. The annuitant initially reported that the business belonged to his spouse but the OI's investigation revealed that the annuitant actually performed the physical labor and managed the day-to-day operations of the business. The annuitant admitted that he paid his spouse a salary in order to avoid reporting self-employment income to the RRB. The annuitant failed to report his work and earnings to the RRB and fraudulently received RRB disability payments.

This case was referred to the USAO for the Eastern District of Virginia. The USAO filed a civil complaint against the annuitant and his spouse for violations of the False Claims Act. They entered into a Settlement Agreement and Consent Judgment agreeing to repay \$110,000.



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. The 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 unemployment or sickness insurance benefits on the same days they received wages from a private employer.

The OI obtained seven convictions and six civil judgments in UI and SI fraud cases.

During this reporting period, the OI obtained seven convictions and six civil judgments for UI and SI fraud. Defendants in these cases received, in the aggregate, 18 years of probation and were ordered to pay \$57,536 in restitution, \$4,225 in fines and \$58,999 in civil damages/penalties.

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

Sickness Insurance Claimant Forged Doctor's Signature

The OI initiated an investigation of an RRB sickness insurance claimant based upon a referral from the National Passenger Railroad Corporation (Amtrak), Office of Inspector General. The subsequent joint investigation revealed that the claimant falsified medical documentation and forged her doctor's signature in order to receive both medical leave from Amtrak and RRB sickness insurance benefits. The claimant fraudulently received \$7,280 in RRB benefits.

The defendants were ordered to pay a total of \$120,760 to the government.

This case was referred to the USAO for the District of Maryland. The USAO filed a single count information against the claimant for making False Statements. The claimant pled guilty and was sentenced to 36 months of probation and restitution in the amount of \$7,280.



Sickness Insurance Claimant to Pay Treble Damages

The OI initiated an investigation of an RRB sickness insurance claimant based upon an agency referral. The RRB had conducted a computer wage match with the State of Florida. The wage match identified claimants who may have collected RRB administered sickness insurance benefits on the same days they received wages from a private employer.

The OI determined that beginning January 2007 through June 2007 the claimant applied for RRB sickness insurance 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 \$5,016 in sickness insurance benefits.

This case was referred to the USAO for the Southern District of Georgia. The RRB claimant entered into a Settlement Agreement for violations of the False Claims Act. He agreed to pay treble damages in the amount of \$15,048 plus a \$570 administrative penalty.

Unemployment Insurance Claimant Failed to Report Wages

The OI initiated this investigation of an RRB unemployment insurance claimant based upon an agency referral. The RRB had conducted a computer wage match with the State of Illinois. The wage match identified claimants who may have collected RRB administered unemployment insurance benefits on the same days they received wages from a private employer.

The OI determined that beginning March 2007 through October 2007 the claimant applied for RRB unemployment insurance 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 \$10,368 in unemployment insurance benefits.

This case was referred to the USAO for the Northern District of Illinois. The USAO filed an information against the claimant for Theft of Public Money. The claimant was sentenced to two years of probation, restitution in the amount of \$10,368 and a special \$25 assessment fee.



Retirement/Survivor Benefit and Representative Payee Investigations

The OI obtained 11 convictions and two civil judgments in retirement/survivor and representative payee fraud cases.

The Railroad Retirement Act provides retirement benefits for qualified railroad workers and their families. RRB retirement/survivor benefit and representative payee fraud typically involves the theft and/or fraudulent cashing of retirement benefit checks by someone other than the authorized RRB annuitant. A second common retirement benefit fraud scenario involves an individual failing to report information to the RRB that may disqualify the annuitant from receiving benefits. During this reporting period, the OI obtained 11 convictions for these types of fraud cases. The defendants received sentences totaling almost 15 years in prison and 30 years of probation. They were also ordered to pay \$1,149,305 in restitution and \$200 in fines. The OI had two civil judgments worth \$378,466 in damages and penalties.

Examples of cases completed during this reporting period follow.

Individual Robs Bank after her Mother's RRB Annuity is Stopped

The agency referred this case to the OI based upon a mortality match between the Social Security Death Index and the agency's beneficiary database. This match indicated that an RRB beneficiary in current pay status had actually passed away in October 1998.

The OI's investigation revealed that the annuitant's daughter fraudulently collected her mother's RRB widow annuity benefits through a joint checking account from November 1998 through January 2007. It was further determined that after her mother's RRB benefits were suspended, the daughter robbed the bank where the joint checking account was located. She was subsequently charged and sentenced for this bank robbery in State Court.

The defendants were ordered to pay a total of \$1,527,971 to the government.

This case was referred for criminal prosecution to the USAO for the Southern District of Texas. The USAO filed an indictment charging the daughter with Wire Fraud and Theft of Government Funds. She pled guilty to one count and was sentenced to five years of probation, \$108,627 in restitution and a \$100 special assessment. She was also ordered to participate in a mental health program.



Individual Steals Lifesavings from Widow

This case was initiated based upon a referral from an RRB District Office. The OI's investigation revealed that during the period of January 2005 through June 2007 an individual had embezzled approximately \$392,000 from an 87 year old RRB widowed spouse annuitant. The OI determined that the defendant had submitted a forged RRB Change of Address form which caused the RRB to redirect the annuitant's checks to the defendant's personal residence. Additionally, the defendant utilized a fraudulent Power of Attorney to cash approximately \$20,000 worth of RRB checks and to steal money from multiple bank accounts owned by the annuitant. The OI's investigation revealed that the defendant used the stolen money to purchase luxury vehicles and property for herself. After the defendant's arrest, the RRB annuitant was found abandoned and unable to walk, talk or care for herself.

The defendant was tried in Cook County, Illinois District Court. She was found guilty on eight out of 12 counts for various financial crimes including Financial Exploitation of the Elderly/Disabled and was sentenced to 13 years of incarceration. During a parallel proceeding in Illinois Probate Court, the defendant was ordered to pay \$297,000 in restitution to the annuitant's estate.

Annuitant's Girlfriend Steals \$40,430 in Benefits

A California woman failed to report the death of her live-in boyfriend and fraudulently collected \$40,430 in RRB retirement benefits. The OI's investigation revealed that the annuitant passed away in November 2003; however, RRB continued to issue annuity checks in his name until January 2005. Through the use of subpoenas and document analysis, Special Agents determined that the annuitant's former live-in girlfriend converted the annuitant's RRB benefits for her own personal use.

This case was referred to the USAO for the Central District of California. The subject pled guilty to violating Theft of Public Money and was sentenced to five years of probation, 800 hours of community service, \$40,430 in restitution and a \$100 special assessment.



Representative Payee Misuses RRB Benefits

Based upon an RRB District Office referral, the OI initiated an investigation against an individual who received RRB survivor benefit funds, from June 1997 through November 2003, as a representative payee to care for her disabled nephew. The OI's subsequent investigation revealed that the nephew had not lived with his aunt since turning 18 in 1997 and was not aware that his aunt was receiving benefits on his behalf. In fact, the nephew was unaware that she had set up a bank account to receive direct deposits of his RRB benefit checks. The nephew indicated that he had received some money from his aunt during this time period but that she considered it a loan and he paid her back.

This case was referred to the USAO for the Southern District of Ohio. A felony information was filed against the aunt for Theft of Public Money. Judgment was rendered against her and she was sentenced to 5 months in prison, 5 months of home confinement, 3 years of probation, \$72,895 in restitution and a \$100 special assessment.

Nursing Home Notifies RRB of Potential Case

A nursing home staff member notified the RRB that survivor annuity funds were not being used for the benefit of an elderly patient who was an RRB annuitant. Subsequent investigation determined that from September 2002 through January 2004, the annuitant's daughter, in her capacity as representative payee, had used the annuity funds for her own personal expenses.

This case was referred to the USAO for Western District of Virginia. The daughter pled guilty to Theft of Public Money and False Statements and was ordered to serve 18 months in prison, three years of supervised release, ordered to pay \$6,209 in restitution to the nursing home and assessed a \$100 fee.



Railroad Medicare Investigations

The Railroad Medicare program is a major area of RRB responsibility. The agency enrolls railroad beneficiaries for Medicare coverage and collects premiums for Part B supplemental medical insurance. RRB also selects and monitors the single nationwide Medicare Part B Carrier. The current Part B Carrier is Palmetto GBA (Palmetto). During FY 2008, Palmetto paid approximately \$844 million in benefits.

Medicare fraud consists of diverse schemes including billing for services not rendered, submitting charges for a greater level of service than was actually performed, billing for an entirely different service than was actually performed, billing for medically unnecessary services and other fraud activities.

All of the OI's active Medicare cases are being worked jointly with the U.S. Department of Health and Human Services, the Office of Personnel Management or other agencies responsible for investigating healthcare fraud. Interagency cooperation is imperative to effective law enforcement. To that end, the OI continued its outreach efforts to identify healthcare fraud matters which resulted in the Railroad Medicare program being defrauded. One activity that produced significant results was a data match with the Department of Health and Human Services, Office of Inspector General (HHS-OIG). The HHS-OIG matched summary claims data from Palmetto with its open case information and identified 256 cases in which it appears the Railroad Medicare program had paid fraudulent claims. The HHS-OIG management has instructed their investigators to contact the OI, to coordinate investigative activities and ensure that Railroad Medicare claims information is included in fraud loss calculations for those cases. As of March 31, 2009, the OI has received 13 referrals from the HHS-OIG as a result of this data match.

The OI currently has 35 pending Medicare cases with an estimated loss of more than \$3.9 million, and an additional 47 Medicare referrals under review.

The OI currently has 35 Medicare cases with an estimated loss of more than \$3.9 million.



Medicare Provider Sentenced to 57 Months in Prison and \$2,236,575 in Restitution

This case was initiated based upon a referral from the HHS-OIG. A joint investigation revealed that an ambulance service provider submitted claims for advanced life support services when the patient's medical condition did not require that level of service. During the course of this investigation, Special Agents discovered that the provider had failed to report employment taxes to the Internal Revenue Service and had embezzled funds from his employees' benefit plan.

This case was referred to the USAO for the Southern District of Illinois. The provider was indicted by a Federal Grand Jury for violating a variety of Federal statutes including False Statements Regarding Health Care Matters, Embezzlement from an Employee Health Plan, Mail Fraud, Health Care Fraud, Failure to Pay Over Employment Taxes and False Statement to the Department of Veteran Affairs. The provider pled guilty and was sentenced to 57 months in prison, three years supervised release and restitution in the amount of \$2,236,575.



Civil Enforcement Results

The OI also pursues 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. Some of these civil actions are pursued under the Department of Justice's Affirmative Civil Enforcement (ACE) program which provides a fast track prosecution mechanism.

During this period, a total of 12 civil judgments were entered by U.S. District Courts for RRB fraud cases that will result in \$545,450 being repaid to the government.

The ACE program continues to provide an efficient means to address fraud against RRB programs, particularly where the fraud losses are below the financial guidelines for criminal prosecution. It is an effective way to return fraud losses to the RRB's trust funds and it also creates a deterrent against future fraud.

The following is an example of an ACE case.

Unemployment Claimant to Pay Double Damages

The OI initiated an investigation of an RRB unemployment insurance claimant based upon an agency referral. The RRB had conducted a computer wage match with the State of Illinois. The wage match identified claimants who may have collected RRB administered unemployment insurance benefits on the same days they received wages from a private employer.

The OI determined that during the period of November 2007 through April 2008 the claimant applied for RRB unemployment benefits on the same days he was working for a private employer. His failure to report these wages caused the RRB to pay him \$5,073 in unemployment insurance benefits he was not eligible to receive.

This case was referred to the USAO's ACE unit for the Northern District of Illinois. The USAO filed a civil complaint for violation of the False Claims Act. The annuitant entered into a consent judgment agreeing to repay double damages in the amount of \$10,146.

Twelve civil fraud judgments will result in \$545,450 being repaid to the government.



Hotline Contacts

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

The OIG received 442 Hotline contacts during this reporting period. The following table summarizes the subsequent Hotline referrals for the period October 1, 2008 through March 31, 2009.

Referral or Other Activity	Number of Hotline Contacts
RRB District or Regional Office	218
Other (Hang Ups, Misdirected Calls, Disconnections, etc.)	101
Calls with Insufficient Information to Make Appropriate Referrals	53
OIG – Office of Investigations	42
Railroad Medicare Carrier/ Durable Medical Equipment Carrier	9
Other Federal Agencies	7
RRB Bureaus	7
Disposition Not Yet Determined, Additional Information is Being Obtained	4
Caller Attempting to Contact a Railroad or Referred to a Railroad	1

The OIG received 442 Hotline contacts during this reporting period.

Hotline tips accounted for 16% of the OIG's case referrals during this reporting period.



OTHER OVERSIGHT ACTIVITIES

Railroad Medicare Benefit Integrity

The OIG's previous *Semiannual Report to the Congress* identified several notable areas of concern regarding Palmetto's benefit integrity operations. On September 26, 2008, the OIG sent a memorandum to both agency management and the Centers for Medicare and Medicaid Services (CMS) detailing these concerns. To date, the OIG has not received a formal response addressing these concerns.

Pursuant to provisions in the Health Insurance Portability and Accountability Act of 1996, CMS transferred all fraud and abuse work, with the exception of Railroad Medicare claims, from Carriers and Fiscal Intermediaries to Program Safeguard Contractors (PSC). RRB's Medicare Part B contractor, Palmetto, still performs these functions based upon a cost reimbursement contract. Both the RRB and CMS are signatories on this contract: RRB administers the contract and CMS funds it.

Palmetto performs contract functions, including benefit integrity, to the extent they are funded by the contract. The funding for benefit integrity activities is less than what one would expect for a high risk program such as Medicare. The OIG believes that many of these concerns relate directly to CMS's failure to invest adequate resources in Railroad Medicare benefit integrity.

In 2007, CMS announced that it would transition all PSC work to Zoned Program Integrity Contractors (ZPIC). The procurement for ZPIC contracts is currently underway. It is unclear, at this point, how the ZPIC contracts will affect Railroad Medicare benefit integrity operations. The OIG understands that the current statement of work for ZPICs does not address Railroad Medicare Part B claims. The OIG believes that it is imperative that CMS provide adequate funding for Railroad Medicare benefit integrity operations and that CMS address the issue of ZPICs with the Railroad Retirement Board.

The OIG continues to have concerns about the effectiveness of the benefit integrity process for the Railroad Medicare program.

The OIG alerted the RRB and CMS to critical issues.



Occupational Disability Program

The occupational disability benefit program is susceptible to fraud and abuse.

The RRB occupational disability program is a unique benefit for railroad employees with generous benefits and a low threshold for eligibility. The agency approves over 98% of applicants. The OIG has expressed its concerns that this program has qualities that render it susceptible to fraud and abuse.

In previous *Semiannual Reports to the Congress*, the OIG has highlighted its proactive oversight of the occupational disability program. For example, based on a recommendation from the OIG, the RRB has made changes to forms and correspondence requiring annuitants to provide more information when they are engaged in self-employment work or have an affiliation with a corporation. Agency personnel notified the OIG that the revised forms are capturing the intended information and more specifically some annuitants are reporting their corporate ownership/involvement activity.

The OIG continues to evaluate the occupational disability program.

Occupational Disability Program Secondary Medical Screening and Forms G-251a and G-251b

On October 10, 2008, the OIG issued a memorandum to the Board's Chairman recommending changes to the RRB's disability program. These recommendations were proposed as a way to improve the adjudication accuracy for occupational disabilities.

The OIG recommended that all future occupational disability applicants be sent for a secondary medical screening prior to adjudication. It was noted that in most instances, the RRB very often relies solely on medical information submitted by the applicant's doctor. The OIG believes that the secondary screening will not only ensure proper medical review but that it may also identify possible instances where there is collusion between the applicant and their doctor.



The OIG has found that the RRB rarely receives completed RRB Forms G-251a and G-251b. These forms are used by the RRB to request information from railroad employers regarding job duties performed by disability applicants. Lack of information regarding the duties performed by the applicant could lead to improper adjudication of occupational disabilities. The OIG recommended that the RRB require the disability applicant's immediate supervisor to complete and certify all RRB Forms G-251a or G-251b submitted in support of the railroad worker's application. The OIG further recommended that the RRB not adjudicate disability claims without these forms. The OIG strongly believes if these forms are completed by the applicant's immediate railroad supervisor, they would provide valuable information for disability examiners.

The implementation of these recommendations would provide disability examiners with more precise information and support more accurate adjudication of occupational disability annuities.

Occupational Disability Program Integrity Process

On March 2, 2009, the OIG issued a memorandum to the Board recommending changes to the RRB's disability program integrity process. As part of their program integrity efforts, the RRB sends out annual Disability Reminder Notices to disabled annuitants. These forms advise annuitants that they are required to report certain information that would impact the annuitant's benefit eligibility such as improved medical condition, any work (including self-employment or volunteer work at a family owned business), receipt of wages or anything of value for work performed by the annuitant, and various other events which could affect the annuitant's disability benefits. Currently, these forms serve only as reminders. Annuitants are not required to submit a report or any sort of certified response unless one or more of the described events have occurred or will occur. The annuitant is directed to contact their local RRB District Office to report any such events.

While the mailing of these forms to the annuitants certainly provides them with annual notice of their reporting responsibilities and potential criminal penalties, the OIG does not believe that this process enforces the reporting requirements strongly enough. The OIG recommends that the RRB amend the current disability reminder forms to include an

Medical screening will strengthen the claims evaluation process.

The current annual disability reminder process could be improved.



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annual questionnaire form requiring a certified response from all disability annuitants. The OIG also recommends if the disability annuitant fails to return the signed certification form within a reasonable timeframe, that their disability annuity be suspended.

The OIG believes the implementation of this recommendation would increase the number of individuals who accurately report work/earnings or other information which may affect their eligibility. It would also help to prevent and deter fraud. This recommendation is currently pending agency review.



OUTREACH

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

Office of Inspector General

On October 7, 2008, Former President George W. Bush signed the Emmett Till Unsolved Civil Rights Crime Act of 2007. This Act authorizes Inspectors General and their staffs to offer assistance to the National Center for Missing and Exploited Children (National Center). The RRB's Inspector General is working with Inspectors General from the Office of Personnel Management and the Nuclear Regulatory Commission to coordinate the joint efforts of staff from the Inspector General community and the National Center to investigate cases of missing and exploited children.

On December 2, 2008, 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.

Office of Audit

The RRB's occupational disability program has recently received attention from the national media and Congress. As a result of this increased interest, the OA responded to many requests for information about the RRB as well as supporting the efforts of other audit organizations charged with reporting on the RRB's disability program.

- The OA staff provided support to the Government Accountability Office (GAO) in their ongoing audit of the RRB's disability program. The OA provided background information about the disability program, coordinated case files for GAO's review, and responded to questions about the RRB's program and the OIG's case review experience.

The Inspector General made a presentation to students majoring in Government Oversight and Inspection at John Jay College of Criminal Justice in New York.

The OA responds to request from members of Congress and other Federal agencies relating to RRB's programs and operations.



- The OA served as liaison for the Social Security Administration's OIG, facilitating their evaluation of the impact of disability processing on the Social Security trust funds. The OA provided background information, organized meetings and responded to questions about the RRB's disability benefit programs and financing provisions.

The OA staff also attend meetings of key agency committees and project teams to maintain current information about new projects and existing initiatives. The OA representative compiles and maintains a file of committee activities and decisions which are used by OIG staff when assessing agency programs.

Information Technology Steering Committee - This committee provides ongoing assessment of all new and existing IT projects, identifies critical issues and frames them from management and technical perspectives.

Information Security and Privacy Committee - This committee was established to facilitate compliance with FISMA and is involved in managing privacy issues for the agency.

National Toll-Free Telephone Service Project - When complete, the National Toll-Free Telephone Service project will establish a single toll-free telephone number to facilitate public contact with agency personnel. This project will replace the existing system with a combined voice and data system.

Office of Investigations

On March 3, 2009, the Assistant Inspector General for Investigations and a Special Agent provided a presentation to about 30 HHS-OIG Special Agents at their regional training conference in Charleston, South Carolina. The HHS-OIG requested this presentation to familiarize their staff with the Railroad Medicare program and OI's staff/operations.

On March 17, 2009, an OI staff member met with the Legal Programs Coordinator and the Health Care Fraud Coordinator for the Executive Office of United States Attorneys. They discussed the RRB-OIG's successful usage of the Department of Justice's ACE program and national coordination of Railroad Medicare cases. The OIG greatly



appreciates the Department of Justice's continued support of its investigative efforts.

Additionally, OI staff 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 Investigations, various State Police, 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.

The OI is an active member of the National Health Care Anti-Fraud Association.

OI staff participated in a variety of Medicare related meetings including several task forces.



OPERATIONAL ISSUES

The two operational issues addressed, involve areas which impact the OIG's ability to effectively carryout its oversight role. These issues would have to be remedied with legislative change.

Reimbursement to the Agency

Current appropriations law requires the OIG to reimburse the RRB for indirect costs that include office space, equipment, communications, supplies, maintenance and administrative services. This process requires the use of agency and the OIG's resources for reconciliation and accounting that could be better utilized for improving agency operations. The OIG is the only Federal Office of Inspector General that cannot negotiate a service level agreement with its parent agency. Removal of the current language would permit negotiations between the RRB and the OIG for a more efficient way to address the issue of support costs.

Removal of the current appropriations language would permit negotiations between the agency and the OIG for a more efficient way to address the issue of support costs.

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 February 28, 2009, the RRB's investments in the NRRIT were valued at approximately \$18.3 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 requires the Inspector General to review existing and proposed legislation and regulations relating to the programs and operations of the agency. The OIG has no comments for this reporting period.



APPENDICES

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APPENDIX A

OFFICE OF INSPECTOR GENERAL REPORTS AND OTHER PUBLICLY AVAILABLE DOCUMENTS ISSUED

- *Management and Performance Challenges Facing the Railroad Retirement Board*, October 17, 2008¹
- *Opinion on the Financial Statements of the Railroad Retirement Board for the Fiscal Year ending September 30, 2008*, November 6, 2008²
- Office of Inspector General's Briefing entitled *Retirement Experience of the Long Island Rail Road Under the Railroad Retirement Act*, November 24, 2008
- Office of Inspector General's *Oversight Plan American Recovery and Reinvestment Act of 2009*, March 6, 2009
- *Fiscal Year 2008 Financial Statement Audit Letter to Management*, March 24, 2009
- *Audit of Internal Control Over Accounts Payable*, March 31, 2009

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

¹ Published as pages 105 – 109 of the Railroad Retirement Board's Fiscal Year 2008 *Performance and Accountability Report*

² Published as pages 93 – 101 of the Railroad Retirement Board's Fiscal Year 2008 *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, 2008	0	0	0
B. Which were issued from October 1, 2008 through March 31, 2009	0	0	0
Subtotal (A + B)	0	0	0
C. For which a management decision was made between October 1, 2008 through March 31, 2009	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, 2009	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, 2008	0	0
B. Which were issued from October 1, 2008 through March 31, 2009	1	\$600,000
C. Subtotal (A + B)	1	\$600,000
(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, 2009	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 Inspector General 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
10/1/08 – 3/31/09	\$523,072

APPENDIX C - CONTINUED

OFFICE OF AUDIT

Report	Funds to be put to better use	Funds Agreed by Management	Receivables Established	Waivers	Recoveries to Date ¹
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			\$13,300,000
99-17	\$11,000,000	\$11,000,000			\$1,604,545
00-16	\$235,000	\$235,000			\$235,846
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	\$4,738,668	\$282,075	\$1,471,583
05-06	\$10,000	\$10,000			\$42,915
05-07	\$1,070,000	\$1,070,000	\$300.52		\$6,658.82
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			

¹ 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.

Current Reporting Period

During the current semiannual period, the OIG identified a material weakness in internal control over financial reporting. As a result, financial accounting controls cannot be relied upon to ensure that material errors will be detected to prevent misstatements in financial reporting. Although agency managers worked to strengthen controls during FY 2007, the improvement was not sustained and the condition deteriorated during FY 2008.

The OIG has recommended action to strengthen controls in the following areas:

- | | | |
|---|------------------|---------------------------|
| • Compliance with requirements | February 9, 2007 | Report # 07-01, #11 |
| • Transaction documentation | March 6, 2008 | Report #08-01, #11 |
| • Report preparation, and | March 6, 2008 | Report #08-01, #9 |
| • Journal voucher preparation and recording | March 24, 2009 | Report #09-02, #2, #3, #4 |

Prior Reporting Period

During FY 2008 the OIG evaluated information security pursuant to the provisions of the Federal Information Security Management Act (FISMA) and concluded that the RRB has not yet achieved an effective FISMA-compliant security program.

The OIG has recommended corrective action in the following areas:

- | | | | |
|---|--|-------------------------------|----------------------------|
| • Certification and accreditation of information systems. | September 30, 2004 | Report #04-11, #9 | |
| | September 30, 2008 | Report #08-05, #1 | |
| | • Access controls | February 5, 2002 | Report #02-04, #13, 20, 21 |
| | | September 7, 2004 | Report #04-08, #1 |
| | | June 7, 2005 | Report: DSD LAN, #6, #7 |
| | | June 7, 2005 | Report: DSD SCAN, #6 |
| | | June 7, 2005 | Report: DSD Web #16 |
| | | July 14, 2005 | Report #05-08, #10 |
| | | September 27, 2007 | Report #07-08, #1 |
| | • Implement an effective risk assessment process | July 14, 2005 | Report #05-08, #4 |
| September 30, 2008 | | Report #08-05, #2 | |
| • Implement a testing and evaluation program | February 5, 2002 | Report #02-04, #3 | |
| | December 27, 2002 | Report #03-02, #1, #2, #3, #4 | |
| | September 27, 2007 | Report #07-08, #2 | |

APPENDIX E – RRB MANAGEMENT REPORTS

THIS APPENDIX WAS PREPARED BY RRB MANAGEMENT

MANAGEMENT REPORT ON FINAL ACTION ON AUDITS WITH DISALLOWED COSTS

FOR THE 6-MONTH PERIOD ENDING MARCH 31, 2009	<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.	1	\$ 2,835 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)	1	\$ 2,835
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. Write-offs	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)	1	\$ 2,835

1. Identified in Audit Report 05-09, "Review of Internal Control Over Budget Execution."

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, 2009

	<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	\$ 3,072,100 ¹
B. Audit reports on which management decisions were made during the period.	1	\$ 600,000 ²
C. Total audit reports pending final action during the period. (A + B)	5	\$ 3,672,100
D. Audit reports on which final action was taken during the period.		
1. Value of recommendations implemented (completed)		\$ 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	\$
E. Audit reports needing final action at the end of the period (C - D.3)	5	\$ 3,672,100
1. Comprised of the following amounts: \$1,800,000 from Audit Report 05-03, "Evaluation of the RRB's Processing of Disability Earnings Cases," \$1,070,000 from Audit Report 05-07, "Evaluation of Survivor Annuity Work Deductions at the Railroad Retirement Board," \$2,100 from Audit Report 06-05, "Review of Compliance with Provisions of the Railroad Retirement Act Governing the Initial Award of Benefits," and \$200,000 from Audit Report 06-06, "Review of the Termination and Suspension of Benefits Paid Under the Railroad Retirement Act."		
2. Comprised of \$600,000 from Audit Report 09-02, "Fiscal Year 2008 Financial Statement Audit Letter to Management."		

APPENDIX E – CONTINUED

MANAGEMENT STATEMENT ON RESOLVED AUDIT REPORTS OVER 12 MONTHS OLD WITH FINAL ACTION PENDING AS OF MARCH 31, 2009

Report	Date	Disallowed costs	Funds to be put to better use	Reason action not completed
Review of Non-Priority Correspondence Handling (97-09)	3/13/97	NONE	NONE	The Office of Programs is using a new system implemented in FY08 to track correspondence and should close the remaining recommendation in FY09.
Information Systems Security (INFOSEC) Report	6/28/00	NONE	NONE	The agency has upgraded its security capabilities and hopes to close the last open recommendation in FY09.
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 22 recommendations and hopes to close the remaining 6 in FY09.
Evaluation of the Self-Assessment Process for Information System Security (03-02)	12/27/02	NONE	NONE	Information Services has completed one certification and accreditation review with contractor support and scheduled them for other major systems in FY09.
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 two recommendations in FY09 and FY10.
Review of the Systems Development Life Cycle for End-User Computing (03-10)	9/8/03	NONE	NONE	Information Services is using system and procedural changes to address and close the remaining item in FY09.
Review of Accounts Receivable Established Under the Railroad Unemployment Insurance Act (04-06)	7/29/04	NONE	NONE	Sampling procedures currently under development by Programs should close the last recommendation early in FY09.

APPENDIX E – CONTINUED

MANAGEMENT STATEMENT ON RESOLVED AUDIT REPORTS OVER 12 MONTHS OLD WITH FINAL ACTION PENDING AS OF MARCH 31, 2009

Report	Date	Disallowed costs	Funds to be put to better use	Reason action not completed
Review of Mainframe Access Controls at the Application Level – RRB-Developed Applications Controlled by ACF2 and IDMS (04-08)	9/7/04	NONE	NONE	Since a formalized quality assurance program is cost prohibitive for these applications, Information Services is developing alternative approaches.
Fiscal Year 2004 Evaluation of Information Security at the Railroad Retirement Board (04-11)	9/30/04	NONE	NONE	Information Systems has closed eight of nine recommendations, and plans to close the last one in FY09.
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.
Evaluation of the RRB's Processing of Disability Earnings Cases (05-03)	2/11/05	NONE	\$1,800,000	A review of almost 17,000 cases from 2001 indicated most did not require adjustment. Thus far, 606 cases have been adjusted with the remaining 73 targeted for completion in FY09.
Review of Internal Control Over the Actuarial Projection Process (05-04)	5/5/05	NONE	NONE	The Chief Actuary has developed a workforce development plan, with needed revisions expected to close the remaining open item.
Review of Customer Service Performance Measures for Timeliness of Initial Railroad Retirement Annuity Payments (05-05)	5/17/05	NONE	NONE	System changes being implemented should address the three remaining open recommendations in FY09.
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.
Evaluation of Survivor Annuity Work Deductions at the Railroad Retirement Board (05-07)	7/14/05	NONE	\$1,070,000	A major database conversion project delayed work on the last open item but it should be completed early in FY09.
Review of Access Controls in the End-User Computing General Support System (05-08)	7/18/05	NONE	NONE	Information Services has closed 12 of 15 recommendations in this confidential report. The remaining three are targeted for completion in FY09.
Review of Internal Control Over Budget Execution (05-09)	9/6/05	\$2,835	NONE	Fiscal Operations instituted procedures that have closed out one of the two items. Documentation has been submitted for review to the OIG.

APPENDIX E – CONTINUED

MANAGEMENT STATEMENT ON RESOLVED AUDIT REPORTS OVER 12 MONTHS OLD WITH FINAL ACTION PENDING AS OF MARCH 31, 2009

Report	Date	Disallowed costs	Funds to be put to better use	Reason action not completed
Fiscal Year 2005 Evaluation of Information Security at the Railroad Retirement Board (05-11)	9/28/05	NONE	NONE	Information Services is developing policies and procedures needed to close the remaining two items early in FY09.
Accuracy and Reliability of GPRA Performance Measures: Timeliness of Non-Disability Survivor Annuity Payments (06-03)	1/30/06	NONE	NONE	Programs has closed three of the seven recommendations, with the remainder scheduled for completion in FY09.
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. The remaining one is being reevaluated in light of ongoing systems development and data optimization projects.
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	Information Services implemented two recommendations, with the remaining seven slated for completion in FY09 and one in FY10.
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.
Audit of the DAISY/CHICO Component Application of the RRA Benefit Payment Major Application System (07-02)	3/9/07	NONE	NONE	Action on two of the remaining three open recommendations requires programming changes, with the last one dependent on cooperation with another agency on Medicare premium collection.
Audit of the State Wage Match Data Transmission Controls (07-04)	3/28/07	NONE	NONE	Programs plans to complete action to address the two remaining open recommendations in FY09.
Evaluation of the Railroad Retirement Board's Privacy Program (07-06)	7/30/07	NONE	NONE	Of the 15 recommendation, 5 have been closed with the remainder targeted for completion during FY09.

APPENDIX E – CONTINUED

MANAGEMENT STATEMENT ON RESOLVED AUDIT REPORTS OVER 12 MONTHS OLD WITH FINAL ACTION PENDING AS OF MARCH 31, 2009

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	Three of the six recommendations have been closed, with the rest targeted for completion in FY09.
Fiscal Year 2007 Evaluation of Information Security at the Railroad Retirement Board (07-08)	9/27/07	NONE	NONE	One of the eight recommendations has been closed with the rest targeted for completion in FY09.
Audit of Controls to Safeguard Sensitive Personally Identifiable Information (07-09)	9/27/07	NONE	NONE	Of the 22 recommendations, 5 have been implemented with work on most of the remaining ones to be finished in FY09.
Fiscal Year 2007 Financial Statement Audit Letter to Management (08-01)	3/6/08	NONE	NONE	Of the 25 recommendations, 20 have been implemented with work on the remaining ones to be finished in FY09.

APPENDIX F

REPORTING REQUIREMENTS

Act Reference	Inspector General Reporting Requirements	Page(s)
Section 4(a) (2)	Review of Legislation and Regulations	37
Section 5(a) (1)	Significant Problems, Abuses and Deficiencies	7 – 12
Section 5(a) (2)	Recommendations With Respect to Significant Problems, Abuses and Deficiencies	43
Section 5(a) (3)	Prior Significant Recommendations Not Yet Implemented	43
Section 5(a) (4)	Matters Referred to Prosecutive Authorities	4, 15
Section 5(a) (5)	Instances Where Information Was Refused	None
Section 5(a) (6)	List of Audit Reports	39
Section 5(a) (7)	Summary of Each Significant Report	6 – 8
Section 5(a) (8)	Statistical Tables on Management Decisions on Questioned Costs	40
Section 5(a) (9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use	40
Section 5(a) (10)	Summary of Each Audit Report Over 6 Months Old for Which No Management Decision Has Been Made	14
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	44
Section 5(b) (3)	Statistical Table on Final Action to Put Funds to Better Use	45
Section 5(b) (4)	Statement on Audit Reports With Final Action Pending	46 – 49

APPENDIX G

ACRONYMS

Acronym	Description
ACE	Affirmative Civil Enforcement
BIS	Bureau of Information Services
CMS	Centers for Medicare and Medicaid Services
DOL	U.S. Department of Labor
DOL– OIG	U.S. Department of Labor, Office Inspector General
FISMA	Federal Information Security Management Act of 2002
FY	Fiscal Year
GAO	Government Accountability Office
HHS – OIG	U.S. Department of Health and Human Services, Office of Inspector General
LIRR	Long Island Rail Road
NRRIT	National Railroad Retirement Investment Trust
OA	United States Railroad Retirement Board, Office of Inspector General – Office of Audit
OI	United States Railroad Retirement Board, Office of Inspector General – Office of Investigations
OIG	United States Railroad Retirement Board, Office of Inspector General
OMB	Office of Management and Budget
PSC	Program Safeguard Contractor
RRA	Railroad Retirement Act
RRB	Railroad Retirement Board
RRSIA	Railroad Retirement and Survivors' Improvement Act of 2001
SI	Sickness Insurance
UI	Unemployment Insurance
USAO	United States Attorney's Office
ZPIC	Zoned Program Integrity Contractors

APPENDIX H

LEGAL CITATIONS

Federal:

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

Embezzlement from an Employee Health Plan – 18 U.S.C. § 664

Emmett Till Unsolved Civil Rights Crime Act of 2007 – P.L. 110-344

Failure to Pay Over Employment Taxes – 26 U.S.C. § 7202

Failure to Report, False Claims and Statements – 45 U.S.C. § 2311

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

False Statements – 18 U.S.C. § 1001 et. seq.

False Statements Regarding Health Care Matters – 18 U.S.C. § 1035

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

Freedom of Information Act – 5 U.S.C. § 552

Health Care Fraud – 18 U.S.C. § 1347

Health Insurance Portability and Accountability Act of 1996 –
P.L. 104 – 191

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

Mail Fraud – 18 U.S.C. § 1341

Making False Statements to Obtain Federal Employee
Compensation - 18 U.S.C. § 1920

Prompt Payment Act – P.L. 97-177, 31 U.S.C. § 3901 et. seq.

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

APPENDIX H – CONTINUED

LEGAL CITATIONS

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

Railroad Retirement and Survivors' Improvement Act of 2001 –
P.L. 107-90

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

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

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

Wire Fraud – 18 U.S.C. § 1343

State:

Financial Exploitation of the Elderly/Disabled -Illinois State Criminal
Statute 720-5/16-1.3(a)

Theft-Property – Illinois State Criminal Statue 720-5.0/16-1-A-1

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