

**Office of Inspector General**  
■  
**Railroad Retirement Board**



**Semiannual Report to the Congress**  
■  
**April 1, 2023 – September 30, 2023**



UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

October 31, 2023

The Honorable Erhard R. Chorlé  
Chairman  
Railroad Retirement Board  
844 North Rush Street  
Chicago, Illinois 60611-1275

Dear Mr. Chorlé:

I am pleased to submit our *Semiannual Report to the Congress*. This report provides a descriptive summary of our activities and accomplishments during the period of April 1, 2023 through September 30, 2023. This report is submitted in accordance with Section 405 of the Inspector General Act of 1978, as amended. Section 405(c) of the Act requires that you transmit this report to the appropriate Congressional committees or subcommittees within 30 days.

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

Sincerely,

Original Signed

Martin J. Dickman  
Inspector General

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## INTRODUCTION

### Railroad Retirement Board

The Railroad Retirement Board (RRB) is an independent agency in the executive branch of the Federal Government. The RRB administers comprehensive disability, retirement-survivor, and unemployment-sickness insurance benefit programs for the nation's railroad workers and their families. These programs are codified under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA), respectively. In fiscal year 2022, the RRB paid retirement-survivor benefits of approximately \$13.5 billion to about 506,000 beneficiaries and paid unemployment-sickness benefits of approximately \$90.4 million to about 23,000 claimants.

Additionally, the RRB has administrative responsibilities for certain benefit payments under the Social Security Act, including the administration of Medicare benefits for qualified railroad workers and their dependents. Pursuant to statutory authority, the RRB, in consultation with the Centers for Medicare and Medicaid Services (CMS), awards and monitors a single nationwide Railroad Medicare Part B services contract. The RRB's Specialty Medicare Administrative Contractor (SMAC), Palmetto Government Benefit Administrators, LLC (Palmetto), processed more than 7.9 million Railroad Medicare claims and paid approximately \$923 million in Medicare Part B benefits for fiscal year 2022.

### Board Members

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

### Office of Inspector General

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

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

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

## EXECUTIVE SUMMARY

### Office of Audit

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

- completed its annual audit of the RRB's compliance with the Payment Integrity Information Act of 2019 (PIIA) (mandated);
- issued an audit of the RRB's 12(o) lien process; and
- published an audit pertaining to the RRB's records and information management program.

OA's activities, during this reporting period, are discussed in further detail on pages 4 through 9 of this report. All audits/reviews conducted during this semiannual reporting period were disclosed to the public on OIG's website at <https://www.rrb.gov/index.php/OurAgency/InspectorGeneral> and on Oversight.gov.

In general, reports that transmit non-releasable information have abstracts released publicly.

## Office of Investigations

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

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

From April 1, 2023 through September 30, 2023, OI achieved:

- 10 criminal convictions;
- 7 civil judgments; and
- almost \$97 million in financial accomplishments.<sup>1</sup>

Defendants, in the aggregate, were sentenced to 32.5 years in prison and 16 years of probation. Additional details regarding OI activities are discussed on pages 10 through 16.

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<sup>1</sup> The total amount of financial accomplishments may reflect fraud amounts related to programs administered exclusively by the Railroad Retirement Board (RRB) and fraud amounts from other federal programs, such as Medicare, which were included in the disposition resulting from the investigation. Judicial sentences associated with joint casework are not necessarily delineated by agency. If delineated, the associated RRB loss amount will be reflected in the calculation.

## **APRIL 1, 2023 – SEPTEMBER 30, 2023 ACCOMPLISHMENTS**

### **Office of Audit**

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

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

### **The Railroad Retirement Board Complied with the Payment Integrity Information Act for Fiscal Year 2022 (Report No. 23-04)**

#### **What OA Did**

Section 3353(a)(1)(A) of the PIIA requires each agency's Inspector General to assess annual compliance. Audit procedures included identification of criteria; and assessment of the accuracy and completeness of agency reporting, accompanying materials and related postings. OA conducted this audit in accordance with the performance audit standards established by Generally Accepted Government Auditing Standards (GAGAS).

The mandated objectives of this audit were to:

- determine whether the RRB complied with the PIIA for fiscal year 2022,
- evaluate the accuracy of RRB risk assessments and improper payment estimates,
- evaluate whether the RRB has correctly identified the causes of improper payments and whether the actions of the RRB to address those causes are adequate and effective,
- evaluate the adequacy of RRB action plans on how to address the causes of improper payments, and
- evaluate RRB efforts to prevent, reduce, and recover improper payments.

The scope of the audit was payment integrity reporting in the RRB's fiscal year 2022 Performance and Accountability Report (PAR) and accompanying materials.



## What OA Found

The RRB complied with the PIIA because it satisfied 10 payment integrity reporting requirements. OA determined the agency's payment integrity reporting was complete and accurate. A risk assessment was required for the RUIA program due to legislative changes and was reviewed during this audit.

As of August 31, 2022, RRB is no longer responsible for reporting payment integrity information for Railroad Medicare because of a written agreement between the Department of Health and Human Services (HHS), CMS, and RRB which clarifies that CMS will calculate and report Railroad Medicare program payment integrity data. However, OA determined that the Railroad Medicare payment integrity information is masked within the CMS and HHS reporting. Also, OA determined that the Railroad Medicare payment integrity sampling used by CMS could be improved. Finally, OA identified ineffective audit follow-up for Railroad Medicare payment integrity recommendations.

## What OA Recommended

To address the weaknesses identified in this audit OA made five recommendations related to Railroad Medicare payment integrity including transparency of reporting, sampling, and resolution of open audit recommendations.

RRB management did not concur with these recommendations. RRB's position was that CMS was solely responsible for calculating and reporting Railroad Medicare payment integrity information. RRB management also noted they had not concurred with prior OIG compliance audit recommendations related to Railroad Medicare improper payment reporting. For additional information regarding Railroad Medicare, see pages 18 - 21 of this report.

## **The Railroad Retirement Board's 12(o) Lien Process Does Not Have Sufficient Controls to Identify, Monitor, and Collect Liens (Report No. 23-05)**

### What OA Did

OA engaged RMA Associates, LLC (RMA), an independent public accounting (IPA) firm, to conduct an audit of the RRB's reimbursable sickness benefits, also known as 12(o) liens.<sup>2</sup> The last audit over this subject matter was conducted in 2012.

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<sup>2</sup> Independent public accounting (IPA) firms are non-federal accountants, auditors, and specialist contracted by OIGs to perform work as the auditor. The OIG is responsible for monitoring the IPAs work throughout the engagement. The IG Act requires OIGs to ensure that work of non-federal auditors adhere to generally accepted government auditing standards. The OIG's monitoring activities are reviewed as part of CIGIE's peer review program.

### **What the Independent Public Accounting Firm Did**

RMA conducted this audit in accordance with performance audit standards established by GAGAS. RMA is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in RMA's audit report.

The overall audit objectives were to determine whether the RRB had sufficient controls to identify, monitor, and collect 12(o) liens. The scope of the audit was RRB 12(o) liens from calendar years 2016 through 2021.

### **What the Independent Public Accounting Firm Found**

According to federal law, a railroad employee must reimburse the RRB for certain sickness benefits obtained over a period of time. RRB refers to its right to reimbursement as a 12(o) lien.

RMA determined that: 1) RRB's process to identify, monitor, and collect all 12(o) liens did not comply with federal regulations, 2) RRB did not have sufficient policies or procedures over its liens, 3) RRB did not ensure all 12(o) lien information was entered into its financial management system in a timely manner, and 4) RRB did not ensure all liens were collected. These issues occurred because RRB lacked comprehensive controls to identify, monitor, and collect all 12(o) liens. The findings detailed in RMA's audit are similar to a prior OIG audit conducted in 2012. In particular, the OIG recommended that RRB implement a comprehensive tracking system for 12(o) liens. Though this recommendation was closed in 2013, the condition returned during RMA's audit.

As a result, RRB could not determine the value of potential reimbursable sickness benefits. RMA determined that \$358.8 million of net sickness benefits paid in fiscal years 2016 through 2021 could have been potentially characterized as a 12(o) lien. The \$358.8 million are considered questioned costs.

### **What the Independent Public Accounting Firm Recommended**

To address weaknesses identified in this audit, RMA made 21 recommendations concerning the lack of controls, the inability to determine the financial magnitude, the failure to comply with federal regulations, the inability to establish 12(o) lien receivables timely, or ensure collection. RRB management concurred with 19 recommendations and did not concur with 2 recommendations.

## **Audit of the Railroad Retirement Board's Records and Information Management Program (Report No. 23-06)**

### **What OA Did**

OA engaged RMA, an IPA, to conduct an audit of the RRB's records and information management program. The last audit over this subject matter was conducted in 2017.

### **What the Independent Public Accounting Firm Did**

RMA conducted this audit in accordance with performance audit standards established by GAGAS. RMA is responsible for the audit report and the conclusions expressed therein. OIG does not express any assurance on the conclusions presented in RMA's audit report.

The overall audit objectives were to determine whether the RRB had sufficient internal controls over its records and information management program and had taken action to address previous audit recommendations.

The scope of the audit was the RRB's records and information management program and activities from fiscal years 2018 through 2022.

### **What the Independent Public Accounting Firm Found**

RMA determined that the RRB's records and information management program were compliant with some federal regulations and determined that the RRB was taking steps to ensure compliance with meeting the June 30, 2024 deadline of transitioning to electronic records. RMA, however, determined that the RRB:

- did not fully ensure that agency records were maintained and preserved per federal statutes and regulations,
- had not fully implemented its records and information management program process improvements as identified in its fiscal year 2021 Federal Managers' Financial Integrity Act report, and
- had not fully implemented audit recommendations from 2017.

Additionally, RMA determined that some of the RRB's internal controls were not implemented or operating effectively as required by RRB's policies and procedures.

These issues primarily occurred due to understaffing, workload, and other priorities. As of April 2023, the RRB increased its records and information program staffing by five full-time employees.

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As a result of these issues, the RRB did not achieve full compliance with federal records management requirements and faced an increased risk of its records being unlawfully or accidentally removed, defaced, altered, or destroyed. The RRB may also struggle with inefficient and untimely reduction in the number of its records, potentially increasing data storage costs.

### **What the Independent Public Accounting Firm Recommended**

To address weaknesses identified in this audit, RMA made seven recommendations concerning failure to implement prior audit recommendations, lack of effective internal controls, and noncompliance with federal regulations. RRB management concurred with all seven recommendations.

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### Management Decisions and Implementation

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

Management Decisions	
Requiring Management Decision on April 1, 2023	0
Pending Management Decision for New Recommendations	0
Management Decision on Previous Recommendations	0
Recommendations Pending Management Decision on September 30, 2023	0

Corrective Actions	
Recommendations Requiring Action on April 1, 2023	463
Recommendations Issued During Reporting Period	33
Corrective Actions Completed During Reporting Period	19
Final Actions Pending on September 30, 2023	477

The Inspector General Empowerment Act of 2016 requires additional details pertaining to outstanding and unimplemented recommendations. This information, including the associated potential cost savings, regarding the 477 open audit recommendations is incorporated into this report by reference and may be accessed in the library section of OIG's website.<sup>3</sup> This report is titled *Open or Unimplemented Audit Recommendations and Cost Savings as of September 30, 2023*.

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

## Office of Investigations

OI's primary objective is to investigate and refer for prosecution or for monetary recovery action cases of fraud, waste, and abuse in the RRB's programs. OI also seeks to prevent and deter program fraud by reporting systemic weaknesses identified through investigative work. To maximize the impact of its resources, OI pursues cooperative investigative activities in coordination with other law enforcement agencies such as HHS OIG, the Social Security Administration OIG, the Office of Personnel Management (OPM) OIG, and the Federal Bureau of Investigation.

### Current Caseload

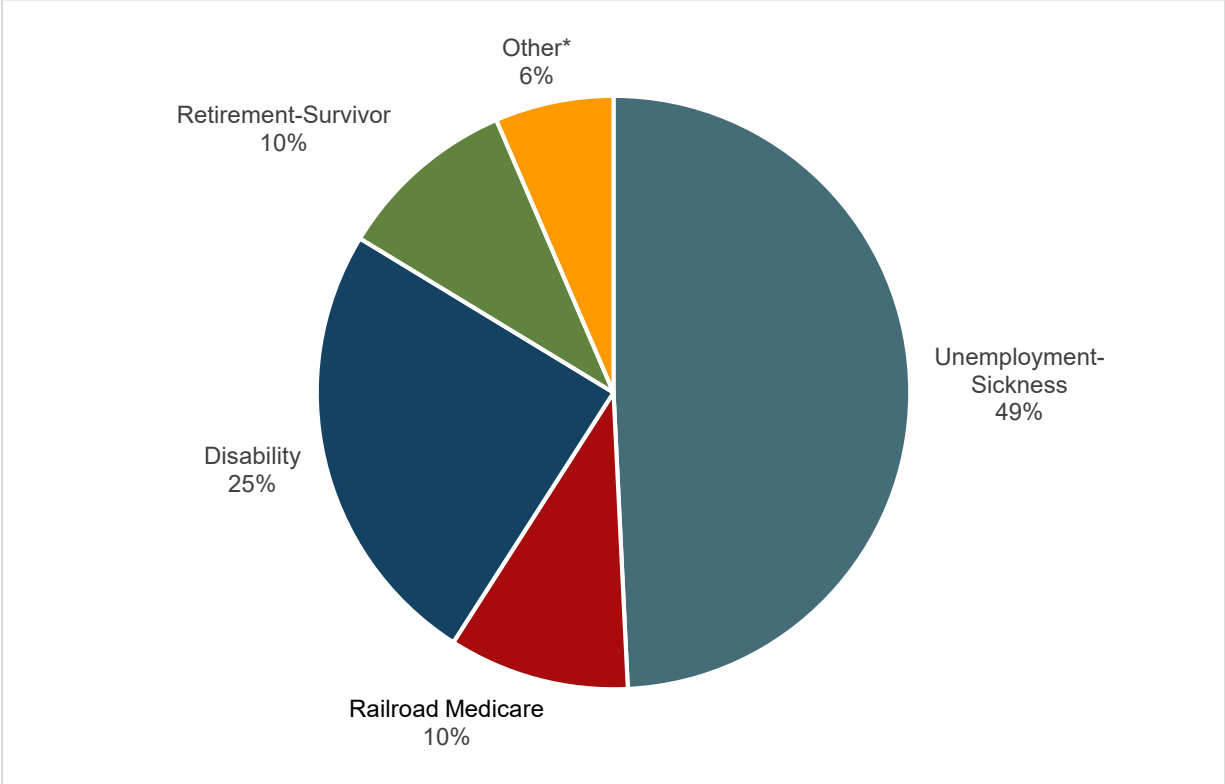
During this reporting period, OI opened 59 new investigative cases.<sup>4</sup>

Current Caseload	
Investigative Cases Open as of April 1, 2023	340
Investigative Cases Closed During Reporting Period	74
Investigative Cases Opened During Reporting Period	59
Investigative Cases Open as of September 30, 2023	325

As of September 30, 2023, OI's investigative caseload totaled 325 matters. The chart on the following page reflects the distribution of OI cases open at the end of the reporting period.

<sup>4</sup> An investigative case may include multiple subjects.

### Investigative Caseload by Case Type



\*Other case type is a combination of various types of cases involving matters such as misconduct by RRB employees, false reporting by railroad employers, and others.

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### Investigative Accomplishments and Statistics

Action	April 1, 2023 – September 30, 2023
Total Number of Investigative Reports Issued	53
Total Number of Persons Referred to the Department of Justice for Criminal Prosecution	85
Total Number of Persons Referred to State or Local Prosecuting Authorities for Criminal Prosecution	4
Indictments/Informations During Reporting Period (Original Prosecutive Referral Made Prior to April 1, 2023)	9
Subpoenas Issued	89
Criminal Convictions	10
Civil Judgments	7
Restitution and Fines	Almost \$6.9 Million
Civil Damages and Penalties	More Than \$90 Million

A description of the metrics used for developing the data for the above table follows.

The total number of investigative reports issued includes both prosecution reports and investigative case summary letters submitted to prosecutors.

The total number of persons referred for prosecution includes both individuals and business entities such as corporations.

Restitution and fines may reflect the full amount of restitution and fines ordered including losses to other programs such as Medicare. The associated RRB amount will be reflected if delineated by the Court.

Civil damages and penalties may reflect the full amount of civil damages and penalties ordered including losses to other programs such as Medicare. The associated RRB amount will be reflected if delineated by the Court.



### **Investigative Case Summaries**

Brief descriptions of representative matters referred to prosecutorial authorities and the resulting convictions are summarized on pages 13 through 16. OI does not have any substantiated senior government employee misconduct cases or incidents of whistleblower retaliation to report.

### **Disability Investigations**

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

During this reporting period, OI obtained the following two disability fraud convictions.

#### **Disability Annuitant Ordered to Pay Almost \$100,000 in Restitution**

OI investigated a disability annuitant who failed to report his earnings and self-employment to the RRB.

This case was referred to the United States Attorney's Office for the Northern District of Illinois which filed an indictment against the annuitant. The annuitant subsequently pleaded guilty and was sentenced to five years of probation and ordered to pay almost \$100,000 in restitution.

#### **Federal Jury Convicts Disability Annuitant of Wire Fraud**

OI investigated a disability annuitant who failed to report his earnings and self-employment to the RRB.

This case was referred to the United States Attorney's Office for the Northern District of Illinois which filed an indictment against the annuitant. The annuitant pleaded not guilty. The annuitant was subsequently convicted by a federal jury after a week-long trial and was sentenced to 30 months in prison, 2 years of probation, and almost \$280,000 in restitution.

## **Unemployment-Sickness Insurance Investigations**

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

During this reporting period, OI obtained four criminal convictions and five civil judgments for UI-SI fraud cases. Defendants in these cases received, in the aggregate, sentences totaling two years in prison, one year of probation, and were ordered to pay almost \$180,000 in restitution, fines, and civil damages.

Descriptions of representative UI-SI benefit fraud cases from this reporting period follow.

### **UI Claimant Sentenced to Probation and Full Restitution**

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of June 2019 through July 2020, the claimant applied for UI benefits on the same days he was working and being paid by a private employer. The claimant submitted a total of 42 false claims and received more than \$24,000 in fraudulent UI benefits including enhanced UI benefits under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

This case was referred to the United States Attorney's Office for the Middle District of Pennsylvania which filed an indictment against the claimant. He subsequently pleaded guilty and was sentenced to one year of probation and ordered to pay full restitution.

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

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of April 2018 through May 2019, the claimant applied for UI benefits on the same days he was working and being paid by a private employer. The claimant submitted a total of 28 false claims and received more than \$18,000 in fraudulent UI benefits.

This case was referred to the United State Attorney's Office for the Middle District of Alabama which filed an indictment against the claimant. He subsequently agreed to pay full restitution under a pretrial diversion agreement with the United States Attorney's Office.

### **UI Claimant Signs Consent Judgment to Settle Civil Fraud Charges**

OI investigated a UI claimant based upon a referral from the RRB. OI's investigation determined that during the period of August 2019 through February 2021, the claimant applied for UI benefits on the same days he was working and being paid by a private employer. The claimant submitted a total of 42 false claims and received more than \$51,000 in fraudulent UI benefits including enhanced UI CARES Act benefits.

This case was referred to the United States Attorney's Office for the Western District of Louisiana. The United States Attorney's Office filed a civil complaint against the claimant for violating the False Claims Act. This case was settled through a consent judgment with the claimant agreeing to pay more than \$56,000.

### **Railroad Medicare Investigations**

All of OI's active Railroad Medicare cases are being worked jointly with either HHS OIG, OPM OIG, or other agencies responsible for investigating health care fraud. Interagency cooperation is imperative to effective law enforcement especially among agencies responsible for investigating the complexities of health care fraud committed against multiple federal agencies.

During this reporting period, OI obtained four criminal convictions and two civil judgments in Railroad Medicare related fraud cases. Defendants in these cases received, in the aggregate, sentences totaling 28 years in prison, 8 years of probation, and were ordered to pay more than \$96 million in restitution, fines, and civil damages.<sup>5</sup>

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

#### **Doctor Sentenced in Health Care Fraud Case**

An OI Special Agent participated as a member of a multi-agency team investigating allegations of fraudulent billing practices by a licensed medical doctor. The investigation revealed wide-ranging health care fraud including falsified records and the illegal use of adulterated medical devices.

This case was referred to the United States Attorney's Office for the Eastern District of North Carolina which filed an indictment against the doctor. The doctor was subsequently convicted after a 14-day jury trial. She was sentenced to 25 years in

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<sup>5</sup> OI's Railroad Medicare fraud cases are typically joint investigations and the associated sentences are not necessarily delineated by agency. Therefore, these totals may reflect the full amount of restitution, fines, damages, or penalties ordered including losses to other health care programs. The associated Railroad Medicare amount will be reflected if delineated by the Court.

prison, 3 years of probation, and approximately \$5.7 million in restitution with the vast majority (almost \$5.1 million) being paid to Medicare, including Railroad Medicare.

### **Home Health Agency Owner Pleaded Guilty to Medicare Fraud**

An OI Special Agent participated as a member of a multi-agency team investigating allegations into the medical billing practices of a home health agency. The investigation determined that the owner billed for medically unnecessary services in addition to violating the Anti-Kickback Statute.

This case was referred to the United States Attorney's Office for the Southern District of Texas which filed an information against the doctor. She subsequently pleaded guilty and was sentenced to two years in prison, three years of supervised release, and ordered to pay more than \$190,000 in restitution.

### **Qui Tam Lawsuit Settled for a Historic \$85.4 Million**

An OI Special Agent worked cooperatively as a member of a multi-agency team investigating allegations contained in a qui tam lawsuit prosecuted by the U.S. Attorney's Office for the Southern District of Texas.<sup>6</sup> The investigation determined that the subject cardiac imaging provider violated the Anti-Kickback Statute and the Physician Self-Referral Law.

The U.S. Attorney's Office entered into a \$85.4 million settlement agreement with the provider to resolve the lawsuit. OI contributed to the overall outcome of this case which was the largest single district civil settlement for the Southern District of Texas.

### **Hotline Contacts**

The OIG's hotline provides an open line of communication for individuals to report suspected criminal activity and mismanagement/waste of RRB funds. During this reporting period, the hotline received 1,441 contacts in the following manner: 19 percent by telephone and 81 percent by email. These hotline contacts resulted in two referrals to OI.

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<sup>6</sup> A qui tam is a type of whistleblower lawsuit brought by an individual (known as a relator) on behalf of the government.

## **OTHER OVERSIGHT ACTIVITIES**

### **Coronavirus Aid, Relief, and Economic Security Act**

The CARES Act, signed into law on March 27, 2020, boosted UI-SI benefits for railroad workers impacted by the COVID-19 pandemic. To fund these enhanced benefits, RRB received appropriations of \$475 million plus access to remaining funds previously appropriated under the American Recovery and Reinvestment Act of 2009 and the Worker, Homeownership, and Business Assistance Act of 2009. The RRB was also appropriated an additional \$5 million to prevent, prepare for, and respond to coronavirus, including the purchase of information technology (IT) equipment to improve the mobility of the workforce and provide for additional hiring or overtime hours as needed to administer the RUIA.

### **Consolidated Appropriations Act, 2021**

On December 27, 2020, the President signed into law H.R. 133 (Consolidated Appropriations Act, 2021), which included Subchapter III – Continued Assistance to Rail Workers Act of 2020. This subchapter extended the UI-SI benefits, although at a lower rate, that were payable under the CARES Act. The RRB also received a nominal amount for rebates and COVID-related tax administration issues.

### **American Rescue Plan Act of 2021**

The American Rescue Plan Act of the 2021 (ARPA) was signed on March 11, 2021. ARPA extended, once again, enhanced UI-SI benefits for railroad workers impacted by the COVID-19 pandemic. ARPA appropriated the RRB an additional \$2 million to pay for the enhanced benefits and an additional \$27.975 million to prevent, prepare for, and respond to coronavirus. ARPA designated \$21.175 million to supplement the RRB's IT investment initiative and \$6.8 million for additional hiring and overtime bonuses. The OIG received \$500,000 for audit, investigatory, and review activities.

The OIG provides oversight to all aspects of the agency's responsibilities, which includes monitoring the implementation of significant provisions of laws, regulations, and major projects to identify at-risk situations. As part of OIG's oversight of the agency's implementation of COVID-19 legislation, we have issued a monitoring plan, three Management Information Reports, and two audit reports including audit report 22-10, *The Railroad Retirement Board Did Not Have Detailed Project Plans to Expend Information Technology Modernization Funds*.<sup>7</sup> Our oversight efforts remain in progress.

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<sup>7</sup> Railroad Retirement Board (RRB) Office of Inspector General (OIG), *The RRB Did Not Have Detailed Project Plans to Expend Information Technology Modernization Funds*, Report No. 22-10 (Chicago, IL: June 29, 2022).

As of September 30, 2023, OI had 131 open UI-SI investigative cases involving enhanced COVID-19 pandemic related benefits.

### **Audits/Reviews Not Disclosed to the Public**

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

### **OPERATIONAL ISSUES**

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

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

During this semiannual reporting period, the OIG did not encounter any reportable instances of independence interference. However, the OIG's auditors and the IPA firms, contracted by the OIG, did encounter slow response times to requests for information. This resulted in some of our contracted audits having to be modified to extend the period of performance. Additionally, as explained in the following section, RRB management's denial of its ownership of the Railroad Medicare program and lack of responsiveness to recommendations regarding this program impact our oversight responsibilities.

### **Railroad Medicare**

At the end of fiscal year 2022, approximately 459,773 qualified railroad retirement beneficiaries were enrolled in Medicare Part A, and 442,615 were also enrolled in Medicare Part B. During fiscal year 2022 and on behalf of the RRB, Palmetto processed more than 7.9 million Railroad Medicare claims and paid approximately \$923 million in benefit payments to providers for Part B services. CMS transferred/reimbursed RRB for total expenses of \$38.3 million in Railroad Medicare program costs during fiscal year 2022, a total increase of 15 percent from the prior fiscal year. Of that amount, approximately \$23.3 million, a 27 percent increase from the prior fiscal year, was transferred to fund the RRB's Palmetto contract, and \$15.0 million, a 1 percent increase, was sent to the RRB for reimbursable expenses incurred for administering the program. At the time of this report, no information was available to explain the extraordinary contract funding increase. CMS paid the RRB for these administrative services through an existing and ongoing cost reimbursement agreement, interagency agreement, and memorandums of understanding (MOU). This total expense covered

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both direct and indirect costs for the RRB, the RRB OIG, and the cost of its Palmetto contract.

Although the RRB and Palmetto benefit from a significant amount of resources for their administration of the Railroad Medicare program, RRB management maintains that CMS is responsible for the Medicare program as a whole and that the RRB's Medicare responsibilities were limited overall. This posture is reflected in various agency responses and their non-concurrence with a vast majority of previous audit recommendations. Out of the 84 open unimplemented audit recommendations aimed at improving Railroad Medicare program integrity, RRB management concurred with 2 recommendations and did not concur with 82 recommendations. This lack of answerability raises serious program management and program integrity concerns.

Additionally, RRB management contends that if RRB publishes Railroad Medicare payment integrity information, it would result in duplicative reporting. OIG disagrees. OIG auditors continued to report that the RRB did not publish payment integrity information or improper payment data for Railroad Medicare and determined that Railroad Medicare improper payment data was not transparent in the HHS' fiscal year Agency Financial Report. Thirty-four of OA's previously reported Railroad Medicare recommendations related to improper payment reporting, spanning fiscal years 2019 through 2023, remain open.

RRB management's position was that "[t]he [RRB] has consistently acknowledged its responsibilities under the Social Security Act to administer certain provisions of the Medicare program for the railroad [industry], including the administration of the [SMAC] contract with [Palmetto]. RRB does not issue Medicare payments to beneficiaries or providers directly. Notwithstanding the Agency's specified Medicare responsibilities for railroad annuitants, the [CMS], a component of the [HHS], administers the Medicare program as a whole." OA disagrees and previously stated that under the RRB's November 2012 SMAC contract and April 2013 MOU, the RRB was responsible for SMAC contract administration, oversight, and payment integrity reporting for the Railroad Medicare program.

For over three years, OA has been requesting that the RRB and CMS obtain a new MOU outlining the claimed responsibilities. On August 31, 2022, a new MOU was finally signed by CMS and the RRB outlining each agency's responsibilities for Railroad Medicare. According to the new MOU, CMS is responsible for calculating and reporting the improper payment rate and improper payment reporting for the RRB's SMAC, Palmetto. Therefore, RRB is no longer responsible for reporting Railroad Medicare improper payment information effective August 31, 2022. However, OA's outstanding recommendations related to Railroad Medicare improper payment reporting were not addressed by this new MOU.

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As outlined in OA's most recent and previous payment integrity reports, there has been no public transparency regarding the improper payment rate of the Railroad Medicare program for many years. Four years of improper payment information is unknown to the public and the Congress, including Palmetto's fiscal year 2022 performance in processing over 7.9 million claims to pay various providers approximately \$923 million. As stated, the new MOU does not outline who is responsible for taking corrective action on past recommendations made by OA and does not mitigate prior issues identified by OIG auditors and investigators.

RRB and CMS' actions are noted; however, past payment integrity reporting recommendations should be implemented as required by laws and regulations. For example, in one of OA's past payment integrity reports, OA had a finding regarding the inadequacy of the Comprehensive Error Rate Testing sampling approach for Railroad Medicare. OA determined the sample size used to calculate the improper payment rate was too small to provide an accurate rate that the RRB could rely on to determine SMAC vulnerabilities; prepare medical review strategies; and use as a driver to reduce improper payments. OA's review of nonpublic internal reports substantiated this determination by revealing an unreliable and ever fluctuating Railroad Medicare improper payment rate (which ranged from 2 percent up to 13.7 percent).

OIG continues to disagree with RRB management that the RRB is not responsible for the oversight of its Railroad Medicare program, which costs the public approximately \$38 million per year (\$23.3 million for the Part B contract and \$15 million for RRB administrative expense). We stand by the recommendations made in our associated audit reports, many of which remain open. It is the OIG's position that until CMS absorbs the complete administration of the Railroad Medicare program, including contract oversight of Palmetto, the RRB should implement Railroad Medicare related audit recommendations. If not, the Railroad Medicare program will continue to lack transparency and in this weakened state of control, payment integrity will remain vulnerable, as no agency would be held accountable for maintaining effective oversight of the SMAC contract.

More recently and during the course of fiscal year 2022 audit fieldwork, we obtained cost per claim information directly from CMS and Palmetto and determined that the RRB pays a far greater claims processing fee than the fee paid by CMS. As it stands, the RRB is authorizing that Palmetto be paid approximately three times the amount, to process one Railroad Medicare Part B claim, as compared to the average processing fee that CMS pays its contractors nationwide. This is a significant difference considering the almost eight million claims processed by Palmetto. OIG provided this information to RRB management on June 16, 2022.

Additionally, during a ten-year period (fiscal years 2013 through 2022), CMS paid the RRB approximately \$141 million in Railroad Medicare administrative costs plus funded an additional \$183 million for the Palmetto contract. The more than \$38 million in



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Railroad Medicare costs unnecessarily expended at a premium amount each year could be put to much better use if remedial budgetary oversight action is taken.

Due to the RRB's indifference to oversight of the Railroad Medicare program and the waste of maintaining it as a separate program, there is no practical reason for its existence. Total Railroad Medicare program elimination should be strongly considered as a necessary means for strengthening federal financial integrity and curbing wasteful government spending.

### **LEGISLATIVE & REGULATORY REVIEW**

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

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## APPENDICES

<i>Appendix</i>	<i>Title</i>	<i>Page No.</i>
<b>A</b>	<b>Office of Inspector General Reports and Other Publicly Available Papers Issued</b>	<b>23</b>
<b>B</b>	<b>Audit Reports with Questioned Costs or with Recommendations that Funds be Put to Better Use</b>	<b>24</b>
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<b>G</b>	<b>Legal References</b>	<b>40</b>

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

- *The Railroad Retirement Board Complied with the Payment Integrity Information Act for Fiscal Year 2022* (Report No. 23-04)
- *The Railroad Retirement Board’s 12(o) Lien Process Does Not Have Sufficient Controls to Identify, Monitor, and Collect Liens* (Report No. 23-05)
- *Audit of the Railroad Retirement Board’s Records and Information Management Program* (Report No. 23-06)

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

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

	Audit Reports With Questioned Costs	Amount of Questioned Costs	Amount of Unsupported Costs
A. For which no management decision had been made by April 1, 2023	0	\$0	\$0
B. Which were issued from April 1, 2023 through September 30, 2023	1	\$358,800,000	\$358,800,000
Subtotal (A + B)	1	\$358,800,000	\$358,800,000
C. For which a management decision was made between April 1, 2023 through September 30, 2023	1	\$358,800,000	\$358,800,000
(i) dollar value of disallowed costs (agreed to by management)	0	\$0	\$0
(ii) dollar value of costs not disallowed (not agreed to by management)	0	\$0	\$0
D. For which no management decision had been made by September 30, 2023	0	\$0	\$0

	<b>Audit Reports With Recommendations That Funds Be Put to Better Use</b>	<b>Dollar Value</b>
A. For which no management decision had been made by April 1, 2023	0	\$0
B. Which were issued from April 1, 2023 through September 30, 2023	0	\$0
Subtotal (A + B)	0	\$0
C. For which a management decision was made between April 1, 2023 through September 30, 2023	0	\$0
(i) dollar value of recommendations agreed to by management	0	\$0
(ii) dollar value of recommendations not agreed to by management	0	\$0
D. For which no management decision had been made by September 30, 2023	0	\$0

## Appendix C – Significant Matters

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

### ***Financial Management***

Since fiscal year 2013, RRB has not received an unmodified (clean) opinion on its annual agency wide financial statements because auditors have not been permitted to communicate with the RRB's component auditor (the National Railroad Retirement Investment Trust's ((NRRIT) auditor), as required by financial statement audit guidance. As reported in the RRB's fiscal year 2022 financial statements, the NRRIT held approximately \$23 billion of the RRB's \$31 billion (74 percent) in assets.

For its fiscal year 2022 financial statements, the RRB received a disclaimer of opinion and separately received an additional disclaimer of opinion on its internal controls over financial reporting for the first time.<sup>8</sup> Disclaimers are issued when the independent financial statement auditor cannot express an opinion. Besides the lack of access to the NRRIT, the other primary reasons for the fiscal year 2022 disclaimers were due to the RRB's inability to provide sufficient appropriate evidential matter to the auditors. Overall, the RRB's fiscal year 2022 financial statement audit included nine material weaknesses and one instance of noncompliance.

The material weaknesses encompass the inability to communicate with the NRRIT's auditor and deficient internal controls at the agency-wide level. During the fiscal year 2022 financial statement audit, OIG's contracted IPA firm identified similar concerns surrounding scope limitations, IT environment, financial reporting, and compliance with laws and regulations.

#### Scope Limitations

- Lack of Access to National Railroad Retirement Investment Trust Audit Results

The RRB is required to report NRRIT's assets in its annual financial statements, even though the Railroad Retirement and Survivors' Improvement Act of 2001 (the Act) states that the NRRIT is not a department, agency, or instrumentality of the Federal Government, and is not subject to Title 31 of the U.S. Code. Further, the Act requires that the NRRIT shall annually engage an independent qualified public accountant to audit the financial statements of the NRRIT, and shall transmit the audited financial statements, together with an Annual Management Report, to Congress, and the

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<sup>8</sup> The independent financial statement auditor issued its report on November 15, 2022.

Executive branch. There is no other legal basis or requirement for NRRIT to provide financial information to another party outside of that which is specified in the Act.

The audit scope over the fiscal year 2022 RRB's financial statements was materially limited because the procedures under the American Institute of Certified Public Accountants (AICPA) AU-C Section 600, Part B Special Considerations - Audits of Group Financial Statements (Including the Work of Component Auditors), which requires the establishment of ongoing communication between group management responsible for conducting the audit and other auditors (component auditors) who perform work on the financial information that will be used as audit evidence for the group audit, could not be performed by the financial statement auditor.

RRB management continued to not concur with this finding or take corrective action. According to RRB management, the RRB has no authority to compel the NRRIT auditors to provide their work to RRB. Management further cites Statement of Federal Financial Accounting Standards 47, Reporting Entity, reasoning that NRRIT is an independent, non-government entity that must be included in RRB's financial statements. That position supports NRRIT auditors providing minimal information to the RRB and the RRB's financial statement auditors. Yet, the RRB does not appear to pursue legislative change that would ensure compliance with AICPA requirements and provide transparency of almost 74 percent of the assets reported on RRB's balance sheet. The significance of NRRIT on the RRB's balance sheet should serve as a basis for RRB resolving this issue rather than just vocalizing constraints to the RRB's financial statement auditors. OIG will continue to cite this issue and the need for corrective action.

- Timeliness of Evidential Matter

RRB was not able to provide the required and necessary evidential matter in a timely manner during the audit engagement. Documentation delays included the RRB's:

- PAR,
- Federal Managers' Financial Integrity Act Statement of Assurance,
- financial statements,
- trial balance, and
- benefits due and payable.

Initially, RRB did not have a process or mechanism in place to properly communicate with the appropriate person or group of persons that could respond timely to auditor requests. In numerous instances, RRB requested due dates to be extended or did not provide the requested evidential matter timely, causing further delays.

RRB's inability to provide sufficient and appropriate audit evidence timely resulted in a disclaimer of opinion on RRB's financial statements. The RRB did not concur with this finding or the auditor's recommendations for corrective action, stating that they

substantially met all of the auditor's due dates. However, the RRB was late responding to a significant number of auditor requests also known as provided by auditee (PBAs) during the audit. A total of 62 PBAs were marked as overdue over the course of the audit.

- Statement of Assurance Reporting

As part of RRB's agency-wide internal controls reporting, RRB provided auditors with a draft version of management's assurances for fiscal year 2022. Within the draft, RRB reported a modified statement of assurance with one material weakness related to the net asset value of NRRIT reported on RRB's consolidated balance sheet. RRB was unable to adequately support the modified statement of assurance due to the concentration of assets reported under NRRIT. RRB's total asset balance as of September 30, 2022, was \$31 billion and NRRIT made up \$23 billion of that balance.

Per the 2002 MOU between RRB, NRRIT, the U.S. Department of the Treasury, and OMB, the NRRIT internal control environment is beyond RRB's authority. Thus, RRB is not able to assess that the internal control environment was designed, implemented, and operating effectively, for almost 74 percent of the assets reported in the balance sheet.

RRB management did not concur with the finding or the auditor's recommendation for corrective action, stating its inability to obtain NRRIT's evidential matter to support NRRIT financial information that is reported within RRB's financial statements. As noted in the remaining material weaknesses, there are additional control deficiencies that are significant enough for management to provide no assurance in its Federal Managers' Financial Integrity Act statement at this time.

### Information Technology Environment

- Ineffective Information Technology Controls Over Financial Reporting

RRB relies extensively on IT systems to initiate, authorize, record, process, summarize, and report financial transactions in the preparation of its financial statements. Internal controls over these financial reporting systems are essential to ensure the integrity, confidentiality, and reliability of critical data while reducing the risk of errors, fraud, and other illegal acts. RRB's IT controls were not effective. IT policies and documentation were formalized but not consistently implemented in the following areas:

- security management,
- access controls,
- configuration management,
- segregation of duties, and
- contingency planning.



As a result, it was determined that RRB has not implemented the necessary IT internal controls over its financial reporting systems to mitigate the risk of material misstatement. Without effective IT controls over financial reporting, financial systems cannot be relied on, and RRB's financial statements may be materially misstated. RRB management did not concur with the finding, stating the auditors relied on the Federal Information Security Modernization Act of 2014 (FISMA) audit work as support for this finding.

### Financial Reporting

- Preparing and Reviewing Financial Reports

RRB management did not establish and maintain internal controls to achieve, among other objectives, reliable financial reporting. RRB's process for compiling its PAR, as well as preparing and reviewing its financial statements lacked sufficient controls. RRB's performance measure financial data, financial statements, and accompanying notes had:

1. prior year balances that did not agree with the reported prior year financial statements,
2. balances that did not agree with provided evidential matter,
3. note disclosures that were missing, incomplete, inaccurate, and/or misleading,
4. mathematical errors, and
5. formatting consistencies and/or errors.

RRB management did not concur with the finding or the auditor's recommendations for corrective action, stating that the financial statements were still subject to review and revision up through November 15, 2022. RMA, OIG's contracted IPA firm, obtained the draft PAR and noted 125 instances of non-compliances with OMB A-136, incomplete or missing note disclosures, mathematical errors, etc.

It is of significant concern that the RRB maintains the opinion that they have up until November 15<sup>th</sup> of each year to review and revise their PAR, even though the RRB's PAR must include *audited* [emphasis added] financial statements. This opinion completely disregards the requirement for audited financial statements and puts an undue hardship on any audit agency or IPA firm engaged to conduct an audit of the RRB's financial statements.

It should be noted that the submission due date for the PAR has not changed since fiscal year 2004. Additionally, unaudited interim financial statements are requested to be submitted on or before August 15<sup>th</sup> of each year. Therefore, it is reasonable to deduce that the RRB should have provided audited financial statements in its complete draft PAR to OMB's Office of Federal Financial Management and the appropriate OMB Resource Management Office no later than 10 business days before the final PAR.

- Lack of Corrective Action Plans

RRB did not have a process in place to maintain detailed corrective action plans. More specifically, RRB did not have corrective action plans related to its fiscal year 2021 financial statement audit material weaknesses and noncompliance findings.

RRB management did not concur with the finding or the auditor's recommendations for corrective action, stating that they have a process for preparing corrective action plans related to the internal control program. However, when asked in meetings, RRB management had stated on several occasions that they did not maintain corrective action plans for any findings related to the financial statement audit.

- Open Obligations Not Timely Reviewed

The required due date for RRB's Open Obligations Review for Current and Prior Fiscal Years did not allow sufficient time for management to review, approve, and process any potential adjustments to the obligations. The due date for RRB's review is (1) after the due date that OMB requires the complete draft PARs to be submitted; and (2) the last day of the Governmentwide Treasury Accounting Symbol (GTAS) Period 12 revision window. More specifically, as part of the auditor's testing of open obligation balances, auditors received the memorandum with subject, "Open Obligations Review for Current and Prior Fiscal Years," dated October 5, 2022, and noted that the due date for responses was November 4, 2022. The inability of RRB to review open obligation balances in a timely manner may result in material transactions being recorded after financial reporting deadlines have passed.

RRB management did not concur with the finding or the auditor's recommendations for corrective action, stating that the third quarter review of open obligation is sufficient for adjusting the year-end balances. As reported above, management's due dates do not allow sufficient time for analysis over fourth quarter obligations.

- Unsupported Journal Entries

RRB did not have adequate processes in place to ensure its journal entries are properly supported. For example, RRB did not provide sufficient supporting documentation for eliminating entries posted in the third quarter of fiscal year 2022. There were approximately 60 eliminating entries totaling approximately \$2 billion.

Additionally, RRB failed to support journal vouchers because it does not maintain the budget fiscal year identity of its disbursements and budget authority. More specifically, RRB was not able to support a total of \$654 million in journal vouchers relating to disbursements and budget authority and may not be able to adequately support an additional \$30 million. These conditions were identified because RRB did not perform adequate analysis of transactions that are reclassified due to GTAS edit checks.

RRB management did not concur with the finding or the auditor's recommendations for corrective action, stating that the information requested was not clear and that no additional information or discussion on the topic of eliminating entries was requested. A meeting with RRB management was held on October 7, 2022, to try to gain a better understanding of what supporting documentation might be available since the eliminating entries are not posted within RRB's general ledger system. In that meeting, RRB management directed auditors to the agency's standard operating procedures for how eliminating entries should be calculated but could not provide supporting documentation for the individual transactions being tested. For the \$654 million journal vouchers, the only support provided or contained within RRB's general ledger system was the GTAS edit check showing that the trial balance had a fatal flaw prior to adjustment. There was no analysis documented to identify the root cause of why such entries were required.

- Financial Statement Analysis

RRB's current process related to its financial statement fluctuation analysis does not provide detailed level information to adequately explain why or how the differences occurred. RRB's inability to appropriately explain the cause of a fluctuation in its financial statements may lead to unreasonable balances and may indicate the existence of a risk of material misstatement due to control, fraud, or inherent risk. More specifically, RRB's financial statement fluctuation analysis did not:

1. document financial account balance fluctuation expectations based on its operating environment and compare those expectations to the identified significant balance fluctuations for reasonableness; and
2. specify the transactions, changes in operations, and trends that would provide insight into the root cause of the balance fluctuations.

RRB management did not concur with the finding or the auditor's recommendations for corrective action, stating that responses were provided to both auditors and OMB. The explanations provided to the auditors and OMB did not always address the underlying event that caused the fluctuations but summarized the activity by Treasury Fund Symbol or in broad statements.

### Compliance with Laws and Regulations

- Controls Over Railroad Service and Compensation

The RRB Audit and Compliance Section (ACS) did not completed any Class 1 railroad audits during fiscal year 2022. ACS conducts audits of railroad employers to determine whether creditable compensation and financial reporting requirements of the RRA and RUIA are being met. ACS determines whether compensation has been accurately reported to the RRB and they reconcile creditable compensation reported for RRA

purposes with taxable compensation reported to the Internal Revenue Service for Railroad Retirement Tax Act purposes.

The Division of Audit and Compliance Board Approval memorandum, April 30, 1993, Functional Statement, states that the Division of Audit and Compliance is responsible for conducting external audits of railroad employers to determine and ensure compliance with the financial reporting requirements of the RRA and RUIA; determines whether employers are properly reporting creditable compensation and all reports are filed in an accurate and timely manner; and reviews the activities of employers/employees to gather, verify, and analyze relevant information to enable the Board to make coverage determinations under the RRA and RUIA.

According to the RRB, ACS does not have enough staff to complete its audits of the railroad employers. The Audit Affairs and Compliance Division submitted a proposal to hire more staff.

Failure to monitor employer compensation effectively through railroad audits may lead to the inaccurate reporting of creditable service and taxable compensation. RRB management did not concur with the finding, stating that they have begun to hire more staff but have used them to comply with the requirements of OMB Circular A-123. In addition, RRB management states that they have mitigating controls in place to identify potential discrepancies. Auditors agreed with these statements; however, the condition still exists that no audits of Class 1 railroads have been completed and auditors consider the recommendation, which management concurred with when originally written, still open.

<b>Financial Controls and Reporting Issue Area</b>	<b>Date of Report</b>	<b>Audit Report and Recommendations</b>
Communication with the NRRIT's Auditor / Lack of Access to NRRIT Audit Results	March 31, 2015 through November 15, 2022	OIG Report 15-05, 8
Ineffective Standards for Internal Control	February 16, 2017 April 11, 2017 September 28, 2017 July 9, 2018	OIG Report 17-03, 2, 3 OIG Report 17-04, 5, 11,19 OIG Report 17-08, 2-7, 9-13 OIG Report 18-07, 2, 3, 6-8, 10
Information Security and Financial Reporting Controls	December 19, 2018  December 18, 2019  January 14, 2021  January 4, 2022 November 15, 2022	OIG Report 19-03, 9, 12, 18, 21, 24-27, 29-31 OIG Report 20-04, 3, 4, 7, 10-17 OIG Report 21-03, 2, 5, 7-10 OIG Report 22-04, 1-3, 5-10 OIG Report 23-01, 6
Compliance with Indirect Laws, Regulations, Contracts, Treaties, and International Agreements	November 15, 2019	OIG Report 20-02, 2, 3
Controls Over Railroad Service and Compensation	November 15, 2019 February 15, 2022	OIG Report 20-02, 4 OIG Report 22-05, 1-4
Timeliness of Evidential Matter	November 15, 2022	OIG Report 23-01, 1-4

<b>Financial Controls and Reporting Issue Area</b>	<b>Date of Report</b>	<b>Audit Report and Recommendations</b>
Statement of Assurance Reporting	November 15, 2022	OIG Report 23-01, 5
Preparing and Reviewing Financial Reports	November 15, 2022	OIG Report 23-01, 7-9
Lack of Corrective Action Plans	November 15, 2022	OIG Report 23-01, 10
Open Obligations Not Timely Reviewed	November 15, 2022	OIG Report 23-01, 11
Unsupported Journal Entries	November 15, 2022	OIG Report 23-01, 12, 13
Financial Statement Analysis	November 15, 2022	OIG Report 23-01, 14, 15

## Information Technology

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

Prior IT reports included recommendations for improvement, many of which continue to be open or unimplemented. OA's fiscal year 2022 FISMA compliance report was issued on January 18, 2023.<sup>9</sup>

Most recently on August 31, 2023, auditors reported the maturity of RRB's Information Security Program (ISP) to be not effective.<sup>10</sup> OIG's IPA firm reviewed the RRB's Agency Enterprise General Information System General Support System and determined that despite an overall not effective system, the RRB has sustained some of the prior year ratings, continued to improve on other ratings, and continued to make steady progress in improving their ISP.

Information Technology Issue Area	Date of Report	Audit Report and Recommendations
Information Security	January 4, 2022 June 29, 2022 January 18, 2023	OIG Report 22-04, 1-3, 5-10 OIG Report 22-10, 1 OIG Report 23-02, 1-4, 6-11

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<sup>9</sup> RRB OIG, *Performance Audit of RRB's Compliance with the Federal Information Security Modernization Act of 2014 for Fiscal Year 2022*, Report No. 23-02 (Chicago, IL: January 18, 2023).

<sup>10</sup> An IPA firm made this determination using the required fiscal year 2023 Core and Supplemental Inspector General Federal Information Security Modernization Act of 2014 Reporting Metrics. The IPA firm provided the RRB OIG with what is commonly known as the CyberScope report. This report was uploaded in the Department of Homeland Security's CyberScope Portal.

## ***Major Management Challenges***

The OIG annually identifies the most serious management and performance challenges facing the RRB. Identification of these challenges and evaluation of the agency's progress towards addressing them are based upon recent audits, reviews, investigations, follow-up activities, and issues of concern to the OIG.

For fiscal year 2022, OIG identified the following six major management and performance challenges facing the RRB.

- Improve Agency Disability Program Integrity
- Improve Information Technology Security and Complete System Modernization
- Improve Management of Railroad Medicare
- Improve Payment Accuracy and Transparency
- Financial Management and Reporting Issues
- Compliance Concerns Identified

For more information regarding the major management and performance challenges identified, see OIG Report No. 23-03, *Management and Performance Challenges Facing the Railroad Retirement Board for Fiscal Year 2022*.<sup>11</sup>

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<sup>11</sup> RRB OIG, *Management Information Report – Management and Performance Challenges Facing the Railroad Retirement Board for Fiscal Year 2022*, Report No. 23-03 (Chicago, IL: February 23, 2023).

## **Appendix D – Peer Reviews**

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

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

The results of OA's most recently completed peer review for the period ending March 31, 2021, was transmitted on September 20, 2021. OA received a peer review rating of pass. The system review report did not contain any recommendations. The U.S. Department of Commerce's OIG determined that the system of quality control for the audit organization of RRB OIG in effect for the period ended March 31, 2021 has been suitably designed and complied with to provide RRB OIG with reasonable assurance of performing and reporting in conformity with applicable professional standards and applicable legal and regulatory requirements in all material respects.

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

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

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

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

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



## Appendix E – Reporting Requirements

Act Section	Inspector General Reporting Requirements	Page(s)
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405(b)(3)	Previously Identified Significant Recommendations – Corrective Actions Not Completed	18 – 21 26 – 35
405(b)(4)	Matters Referred to Prosecutive Authorities and the Resulting Prosecutions/Convictions	12
405(b)(5)	Summary of Refusals by the RRB to Provide the OIG with Requested Information	—
405(b)(6)	Open or Unimplemented Audit Recommendations and the Associated Cost Savings	9
405(b)(7)	Summary of Each Significant Report	4 – 8
405(b)(8)	Statistical Table on Management Decisions on Questioned Costs	24
405(b)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put to Better Use	25
405(b)(10)	Prior Audit Reports with No Management Decision Made, No Establishment Comments, and Outstanding Unimplemented Recommendations	9
405(b)(11)	Description and Explanation for Any Significant Revised Management Decision	—
405(b)(12)	Information on Any Significant Management Decision with Which the Inspector General Disagrees	18 – 21 26 – 35
405(b)(13)	Information Described Under Section 804(b) of the Federal Financial Management Improvement Act of 1996	—
405(b)(14)	Peer Reviews	36
405(b)(15), (16)	Peer Reviews - Outstanding Recommendations	—
405(b)(17), (18)	Investigative Statistical Tables	12
405(b)(19)	Substantiated Investigations Involving Senior Government Employees	13
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<b>Act Section</b>	<b>Inspector General Reporting Requirements</b>	<b>Page(s)</b>
405(c)(1)	Comments by the Head of the Establishment	Required of RRB
405(c)(2), (3)	Management Statistical Tables	Required of RRB
405(c)(4)	Whistleblowers Settlement Agreements	Required of RRB
405(c)(5)	Agency Statement on Decided Unimplemented Recommendations	Required of RRB

## Appendix F – Acronyms

Acronym	Explanation
ACS	Audit Compliance Section
AICPA	American Institute of Certified Public Accountants
ARPA	American Rescue Plan Act of 2021
CARES Act	Coronavirus Aid, Relief, and Economic Security Act
CMS	Centers for Medicare and Medicaid Services
FISMA	Federal Information Security Modernization Act of 2014
GAGAS	Generally Accepted Government Auditing Standards
GTAS	Governmentwide Treasury Accounting Symbol
HHS	Department of Health and Human Services
ISP	Information Security Program
IPA	Independent Public Accounting Firm
IT	Information Technology
MOU	Memorandum of Understanding
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
OPM	Office of Personnel Management
PAR	Performance and Accountability Report
PBAs	Provided by Auditee
PIIA	Payment Integrity Information Act of 2019
RRA	Railroad Retirement Act
RRB	Railroad Retirement Board
RUIA	Railroad Unemployment Insurance Act
SI	Sickness Insurance
SMAC	Specialty Medicare Administrative Contractor
UI	Unemployment Insurance

## **Appendix G – Legal References**

American Recovery and Reinvestment Act of 2009 – P.L. 111-5  
American Rescue Plan Act of 2021 – P.L. 117-2  
Anti-Kickback Statute – 42 U.S.C. § 1320a-7b(b)  
Consolidated Appropriations Act, 2021 – P.L. 116-260  
Continued Assistance to Rail Workers Act of 2020 – P.L. 116-260  
Coronavirus Aid, Relief, and Economic Security Act – P.L. 116-136  
False Claims Act – 31 U.S.C. § 3729, et. seq.  
Federal Financial Management Improvement Act of 1996 – P.L. 104-208  
Federal Information Security Modernization Act of 2014 – P.L. 113-283  
Federal Managers’ Financial Integrity Act of 2019 – P.L. 97-255  
Inspector General Act of 1978, as amended – 5 U.S.C. § 401, et. seq.  
Inspector General Empowerment Act of 2016 – P.L. 114-317  
Payment Integrity Information Act of 2019 – P.L. 116-117  
Physician Self-Referral Law – 42 U.S.C. § 1395m  
Railroad Retirement Act – 45 U.S.C. § 231, et. seq.  
Railroad Retirement and Survivors’ Improvement Act of 2001 – P.L. 107-90  
Railroad Retirement Solvency Act of 1983 – P.L. 98-76  
Railroad Retirement Tax Act – P.L. 88-133  
Railroad Unemployment Insurance Act – 45 U.S.C. § 351, et. seq.  
Reports Consolidation Act of 2000 – P.L. 106-531  
Social Security Act – 42 U.S.C. § 301, et seq.  
Worker, Homeownership, and Business Assistance Act of 2009 – P.L. 111-92

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