

Office of Inspector General Railroad Retirement Board

SEMIANNUAL REPORT TO THE CONGRESS

April 1 - September 30, 2002



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UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

October 31, 2002

The Honorable Cherryl T. Thomas
Chair
Railroad Retirement Board
844 North Rush Street
Chicago, IL 60611-2092

Dear Ms. Thomas:

I am pleased to submit the Semiannual Report to the Congress on the activities of the Office of Inspector General (OIG) for the period April 1 through September 30, 2002. The report is submitted in accordance with section 5 of the Inspector General Act of 1978 (Public Law 95-452, 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.

This report provides the results of OIG monitoring projects, audits and investigations that were conducted during this semiannual reporting period. Correction of weaknesses identified in our reviews will ensure the security of agency information systems, the integrity of financial operations and the efficiency of agency programs.

The Office of Inspector General appreciates the continued support and cooperation extended to its auditors and special agents by Board management and agency employees.

Sincerely,

Martin J. Dickman
Inspector General

Enclosure

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All reports are available on our website: <http://www.rrb.gov/oig/Rrboig.htm>

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EXECUTIVE SUMMARY

This Semiannual Report describes the activities of the Office of Inspector General (OIG) at the Railroad Retirement Board (RRB) during the six month period ending September 30, 2002.

The OIG continued to monitor the implementation of the Railroad Retirement and Survivors' Improvement Act. Efforts focused on the setup activities of the National Railroad Retirement Investment Trust, an independent board of seven trustees responsible for investments that support railroad benefit programs. The Office of Audit also performed an evaluation of the RRB's control environment and the fiscal year 2002 evaluation of the agency's information security. Other audits examined document imaging activities, safeguards for the disclosure of social security numbers, the valuation of Railroad Retirement Act accounts receivable, and the operations of the agency's Audit and Compliance Section, the unit that conducts audits of railroad employers.

The Office of Investigations (OI) achieved 29 convictions, 20 indictments and informations, and \$2,656,646 in recoveries, restitutions, fines, civil damages, and penalties. During this reporting period, OI concluded an investigation of a railroad employer that identified underreporting of employees; the employer has agreed to pay a total of \$1.4 million in underpaid railroad employer payroll taxes to the RRB.

INTRODUCTION

Office of Inspector General

The Office of Inspector General (OIG) has the responsibility for promoting economy, efficiency and effectiveness in the programs of the Railroad Retirement Board. The office is also charged with the detection, prevention and elimination of fraud, waste and abuse in agency operations. To accomplish its mission, the OIG conducts audits, management reviews, and investigations.

The Railroad Retirement Solvency Act of 1983 established the Office of Inspector General at the Railroad Retirement Board by naming the agency as “one of such establishments” identified under Section 2 of the Inspector General Act of 1978. The Inspector General Act Amendments of 1988 added the RRB to the list of agencies covered by the Inspector General Act.

In fiscal year 2002, the OIG had 54 employees and an operational budget of \$6,261,000. The organization has three major components: the immediate office of the Inspector General, the Office of Audit, and the Office of Investigations. The office conducts operations from two locations: the headquarters of the Railroad Retirement Board in Chicago, Illinois, and an investigative field office in Philadelphia, Pennsylvania.

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Railroad Retirement Board

The Railroad Retirement Board (RRB) is an independent agency in the executive branch of the Federal government that is headed by a three member Board appointed by the President of the United States, with the advice and consent of the Senate. One member is appointed upon the recommendation of railroad employers, one is appointed upon the recommendation of railroad labor organizations, and the third, who is the Chair, is appointed to represent the public interest.

The agency administers comprehensive retirement-survivor and unemployment-sickness insurance benefit programs for the nation's railroad workers and their families, under the Railroad Retirement and Railroad Unemployment Insurance Acts. The RRB also has administrative responsibilities under the Social Security Act for certain benefit payments and Medicare coverage for railroad workers.

During fiscal year (FY) 2001, the RRB paid \$8.4 billion in retirement and survivor benefits to approximately 700,000 beneficiaries, while net unemployment and sickness insurance benefits of \$95 million were paid to almost 40,000 claimants. The RRB also administers its own Medicare Part B program through a single carrier, Palmetto GBA. The carrier made payments totaling \$762 million to provide medical insurance benefits for 590,000 beneficiaries.

SIGNIFICANT ISSUES

- **Monitoring of Investment Activities**

 - **Review of the Overall Control Environment**

 - **Evaluation of Information Security**
-
-

INVESTMENT ACTIVITIES

In the semiannual report for the period ending March 31, 2002, the OIG reported the enactment of the Railroad Retirement and Survivors' Improvement Act (RRSIA) on December 21, 2001. This legislation resulted in major changes in the structure and financing of railroad retirement benefits, as provided by the Railroad Retirement Act (RRA). The legislation established the National Railroad Retirement Investment Trust (Trust) and an independent board of seven trustees with the responsibility for the investments used to support RRA benefit programs. All trustees had been named as of May 15, 2002.

The Office of Inspector General continued its monitoring efforts of the agency's investment activities during this semiannual period to ensure the statutory obligations of the RRA and RRSIA are met. Most activity has focused on the initial setup of the Trust, with the appointment of trustees, a chief investment officer, an initial investment manager, an independent accounting firm to audit the Trust's financial statements for fiscal year 2002, and the establishment of

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investment policy objectives and guidelines. The Trust has provided detailed and timely information on these actions to agency management.

The RRB has established a tentative schedule for fund transfers to the Trust. The agency will, however, maintain a reserve of trust funds to pay short-term benefits and administrative expenses. The initial transfers will be in cash; future transfers will be made as obligations or cash, consistent with the terms of the statute.

The OIG has recommended that the RRB be very proactive in its monitoring, especially in these early stages of the Trust.

EVALUATION OF THE RRB'S CONTROL ENVIRONMENT

In the audits of the agency's financial statements since 1993, Arthur Andersen LLP, KPMG Peat Marwick, and the Office of Inspector General have cited the overall control environment of the Railroad Retirement Board as a material weakness. As a result of the findings, Board management directed agency reorganizations to address the identified deficiencies and to change the administrative structure. Agency management believed the weaknesses had been eliminated and did not include the overall control environment as a material weakness in the Federal Managers' Financial Integrity Act Reports for fiscal years 1997 through 2001.

OIG auditors examined the seven factors that affect the control environment of a Federal agency, as determined by the General Accounting Office. Their review identified inadequacies related to three of the seven factors: the communication of management's philosophy, the agency's organizational

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structure, and the delegation of authority and responsibility. As a result, they concluded that the weaknesses resulted from the implementation of the three member Board governing body that prevents a cohesive management philosophy, whose members are involved in daily operations, and one that fragments responsibility.

Because the Board Members represent different constituencies, they have divergent views and tend to function as chief executives, with different management philosophies and operating styles. There is no recognizable agency wide philosophy or operating style.

In 1999, the Board approved creation of an Executive Committee, under the direction of a Senior Executive Officer, and comprised of six top agency executives. The Committee was directed to oversee day-to-day operations, make recommendations to the Board Members on policy and issues, promote coordination and communication, and address problems concerning cross-organizational internal control issues. However, the creation of the Committee does not address the overall control problems. Each member of the Committee reports directly to the Board; the fundamental internal relationships remain unchanged.

Auditors stated the current structure is inherently flawed because it lacks a single chief executive officer. The Board continues to be significantly involved in daily operations, approving travel plans and vouchers of key executives, requisitions over \$100,000, personnel appointments above the GS-13 level, and personnel appointments at any level when four or more similar positions are being filled. Auditors also identified instances in which the agency had experienced difficulties in resolving financial accounting and reporting issues resulting from the lack of an effective organizational structure.

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The auditors recommended that the three Board Members limit their participation in agency affairs, focus on high level policy-setting, and vest responsibility for daily management to a newly created Chief Executive Officer. The Board Members disagreed with the review findings and the auditors' recommendation. The Members stated that the agency is well run and that the organizational weaknesses described in the OIG report do not exist.

FISCAL YEAR 2002 EVALUATION OF INFORMATION SECURITY

In accordance with the provisions of the Government Information Security Reform Act (GISRA), the RRB prepared and submitted an action plan, including target dates for implementation, to remedy any significant deficiencies in information security. As of June 2002, the original 15 planned corrective actions had been increased to 16, and the agency had reported full implementation in six areas. The OIG disagreed that sufficient action has been completed for the weakness concerning the need for a formal security training and awareness program.

The OIG conducted a review of the RRB's information security during FY 2001, and identified significant deficiencies in program management and access controls, making the agency's information security program a source of material weakness in internal control over financial reporting. The agency's Management Control Review Committee agreed with the OIG's findings. As a result, the agency is preparing an expanded action plan.

To fulfill GISRA requirements for an annual Inspector General security evaluation, auditors recently completed an evaluation of the RRB's information system security program and practices during FY 2002. They monitored agency implementation efforts for recommended actions contained in prior OIG

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audit reports as well as evaluations performed by independent contractors. The agency's Bureau of Information Services (BIS) has implemented, or plans to implement, most of the recommendations for improved information security resulting from the earlier reviews. Of 102 items, BIS personnel have implemented 50, rejected 10 and targeted the remaining 42 for completion in the next 18 months.

It is important to note that the major changes that will be required to eliminate significant deficiencies will take some time. Basic security awareness training was provided to most employees but fell short of providing an ongoing program of security awareness or enhancing the skills of those involved with the design and implementation of the security program. Similarly, action to strengthen access controls is largely dependent on the reconfiguration of hardware and software that support mainframe and end-user computing. These changes can only be implemented as part of the larger long-term planning process. In addition, the impact of the recently appointed Security Officer and the newly created Risk Management Group may not become evident for months or years.

During this review, auditors also identified weaknesses related to service level agreements concerning data backup, the lack of backup for a Local Area Network server, and the lack of documentation for decisions related to the disaster recovery contract. BIS management has agreed to take action to address the problem areas.

On September 16, 2002, in accordance with Office of Management and Budget (OMB) Memorandum 02-09, the Executive Summary reports from the RRB and the OIG on information security at the agency were forwarded to OMB.

OFFICE OF AUDIT

The Office of Audit (OA) conducts reviews to promote economy, efficiency, and effectiveness in the administration of RRB programs, and to detect and prevent waste, fraud, and abuse in such programs. Through the Inspector General, the office ensures that the Board Members and Congress are informed of current and potential problems in the RRB's programs and operations, and advised of recommended improvements, as well as the status of corrective actions. OA examines programmatic, financial, and administrative aspects of RRB operations.

During this reporting period, OA issued its fiscal year 2002 evaluation of the RRB's information security, as required by the Government Information Security Reform Act, as well as an evaluation of the agency's control environment. Auditors also performed reviews of document imaging activities, controls over the disclosure of social security numbers, valuation of Railroad Retirement Act accounts receivable, and the operations of the RRB's Audit and Compliance Section, the unit that conducts external audits of railroad employers.

In addition to the reports described under the Significant Issues section of this report, summaries of other audits and reviews are contained in the following pages.

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Review of the Audit and Compliance Section in the RRB's Bureau of Fiscal Operations

The RRB's Audit and Compliance Section (ACS) conducts external audits of employers to ensure compliance under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA), and verifies the accuracy of reported compensation and contributions. Although the section does not have the authority to audit taxes under the Railroad Retirement Tax Act, its staff reviews the compensation amounts on which these payroll taxes are based. ACS also gathers, verifies and analyzes the activities of employers and employees in support of the agency's coverage determinations. This work ensures that employees who work in the railroad industry receive the retirement and insurance benefits of coverage.

In calendar year 2001, railroads reported nearly \$28.5 billion in total compensation to the RRB, and for fiscal year 2001, they paid approximately \$4.7 billion in railroad retirement taxes and \$50.7 million in RUIA contributions.

The auditors' assessment of the effectiveness of ACS indicated the section is generally performing its work in accordance with Board approved operating procedures. However, changes are needed in conducting audits of railroad employees to ensure more frequent audits of the larger railroads and consistent compliance with auditing standards and procedures. Improvements are also necessary to ensure timely coverage decisions, accurate reporting of the status of coverage cases, effective use of reports that assess the status of coverage cases, and the adequate documentation of procedures.

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The Chief Financial Officer generally agreed with the report recommendations and will direct that corrective actions be taken. However, he did point out that the ability to increase the number of employer audits and the audit frequency was dependent on the availability of additional staff resources.

Review of the RRB's Controls Over the Access, Disclosure and Use of Social Security Numbers by Third Parties

To address concerns about perceived sharing of personal information and occurrences of identity theft, the General Accounting Office (GAO) studied how and to what extent agencies use individuals' Social Security Numbers (SSNs), and what safeguards are employed for records and documents. As a result of GAO's findings at other Federal agencies, OIG auditors performed an assessment of RRB controls over such information and found that improvements should be made.

The RRB's policy includes notification to all individuals who apply for benefits that their SSNs may be disclosed. The review disclosed that the RRB made legal and informed disclosures of SSNs to Federal and state agencies, contractors, insurance companies, universities, researchers and railroads. The RRB also released SSNs of deceased beneficiaries to non-government entities and non-contractors.

Auditors recommended that the agency strengthen some controls over contractors' access and use of SSNs and controls over access to SSNs maintained in the RRB's databases. An unannounced inspection of one private contractor that provides medical opinions for 8,000 RRB disability claims each year disclosed non-compliance with the terms of the contract. The contract provided that the firm would use a locked, dedicated suite for

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RRB work, provide fireproof cabinets and maintain an inventory control system with up-to-the-minute status on each claim file. Although none of these provisions were being met at the time of the inspection, the contractor took immediate action to correct all identified problems. The RRB has agreed to conduct periodic reviews of the contractor's facility during calendar year 2002.

The RRB also used the services of another contractor to produce and mail over 700,000 annual tax statements and approximately 300,000 service and compensation records to RRB beneficiaries in fiscal year 2001. The RRB's inspection of the contractor's location was limited and did not include review of all security procedures. Auditors recommended, and program managers concurred, that additional steps must be taken to ensure all information is adequately protected.

Auditors also recommended that improvements be made in controls over access to SSNs maintained in agency databases. Each year, managers are asked to review a security audit and provide feedback on the access needs of the individuals in the report. However, the report lists only RRB employees. The Chief Information Officer agreed that all users, including non-RRB employees, should be included in future reports.

Valuation of Railroad Retirement Act (RRA) Accounts Receivable

The RRB's balance sheet for the fiscal year ended September 30, 2001 reported net receivables due from the public of \$43.4 million, of which 73% were established under the provisions of the RRA. This review examined the valuation of the RRA debt as reported.

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Auditors selected a random sample of 1,000 RRA accounts receivable and estimated the value of each sample item on an individual basis, and estimated that 28% of the sample would not be fully collected. A projection of the sample results to the population of all RRA program debt with an uncollected balance as of September 30, 2001, estimated the value of this debt at \$30.4 million. This figure compared favorably with the \$30.2 million reported in the agency's financial statements. Auditors concluded that the RRB's allowance for uncollectible accounts reduced the gross amount of RRA receivables to a reasonable amount at the close of fiscal year 2001. However, they could not ensure that the methodology used to compute the allowance would produce reliable results in subsequent years because changes in RRB debt recognition and record maintenance policies may affect the accuracy of future results.

Auditors identified several control weaknesses in the agency's automated systems that support debt recovery and resulted in receivables recognized before a debt had been incurred, erroneous receivables, and inconsistencies between the debt recovery and benefit payment records. Recommendations were issued to program managers to modify systems and procedures to eliminate the problems. The Chief Financial Officer has agreed to exclude any prematurely recorded receivables from the RRB's September 30, 2002 financial reports, and to modify the Automated Receivables, Reclamations and Credits system to eliminate erroneous receivables. The Office of Programs will address the remaining weakness concerning inconsistencies between records by conducting an analysis of the cases identified during the OIG review.

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Follow-up Review of Document Imaging - Railroad Unemployment Insurance Act (RUIA) Programs

The RRB has used document imaging to retain sickness insurance applications and beneficiary tax statements since the early 1990s. In mid-1999, the agency replaced the original system with more modern technology, and in March 2000, completed expansion of the system to allow wider access to selected information within the agency. The OIG conducted a review of the RUIA document imaging system and reported that the RRB needed to strengthen controls to ensure the reliability of the system. Seventeen recommendations for system improvement were provided to program managers to improve system reliability and to reduce the risk of improper destruction of paper documents.

Auditors performed this follow-up review to determine if the current system contains completed, legible electronic facsimiles of documents, and if the original paper documents are retained in accordance with applicable laws and regulations. Although program managers had taken action to address previous weaknesses in these areas, problems remain. Current procedure is not adequate to ensure all pages of a document are scanned, and that all scanned pages are legible. It does not specifically state that a paper document must be compared to the resulting image. Responsible staff were unaware that pages containing only a date stamp must be scanned.

In addition, current controls do not ensure that the original paper documents are retained for mandated time periods. The agency's Records Disposition Authority provides that certain documents and attached correspondence be retained for six years and three months (long-term retention) after the close of the benefit year, and any documents not specifically designated for long-term retention may be destroyed after 60 days (short-term retention).

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The auditors' review of 482 original paper documents scanned in October 2001 identified approximately 2% that had been incorrectly scheduled for short-term, rather than long-term, retention. Auditors also determined that all documents could not be retrieved directly from the appropriate filing location.

All recommended corrective action, including updating operating procedures and providing additional training to all staff involved in document imaging work, has been completed by program management.

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AUDITS: MANAGEMENT DECISIONS AND IMPLEMENTATION

The Office of Inspector General maintains the open audit follow-up system to track 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.

Management Decisions

Recommendations requiring a management decision on April 1, 2002	1
New recommendations issued during this period	
pending a management decision	0
Previous recommendations for which a management	
decision was made	<u>1</u>
Number of recommendations pending a management decision	
on September 30, 2002	0

Corrective Actions

Prior recommendations requiring action on April 1, 2002	99
New recommendations issued during this period	22
Recommendations for which corrective actions	
were completed from April 1, 2002 - September 30, 2002	<u>- 49</u>
Recommendations pending final action on September 30, 2002	72

OFFICE OF INVESTIGATIONS

The Office of Investigations (OI) focuses on RRB benefit program fraud. 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. Through its investigations, OI also seeks to prevent and deter program fraud. In order to maximize the effect of its resources, OI continues to pursue cooperative investigative activities and coordination with other Inspectors General and law enforcement agencies, which include the Social Security Administration-Office of Inspector General, the Federal Bureau of Investigation, the U.S. Secret Service, the Internal Revenue Service, and the Postal Inspection Service.

During this reporting period, OI identified a potential agency systemic issue concerning annuitants who return to work in the railroad industry, but fail to notify the RRB. Annuitants cannot receive an annuity for any month in which they return to service for a railroad employer. The Railroad Retirement Act requires railroad employers to report creditable compensation and service for each employee annually to the RRB. The agency uses computer matches that compare a listing of annuitants and employees with service months reported by railroad employers to identify violators. However, OI identified three annuitants who returned to work for a railroad employer, but were not identified by the computer matches. The annuitants were overpaid approximately \$300,000 over nine years, and are currently being prosecuted for not reporting their return to railroad service to the RRB. OI forwarded the information to the Director of Programs to determine why the computer matches failed to identify the violators. No response has been received to date.

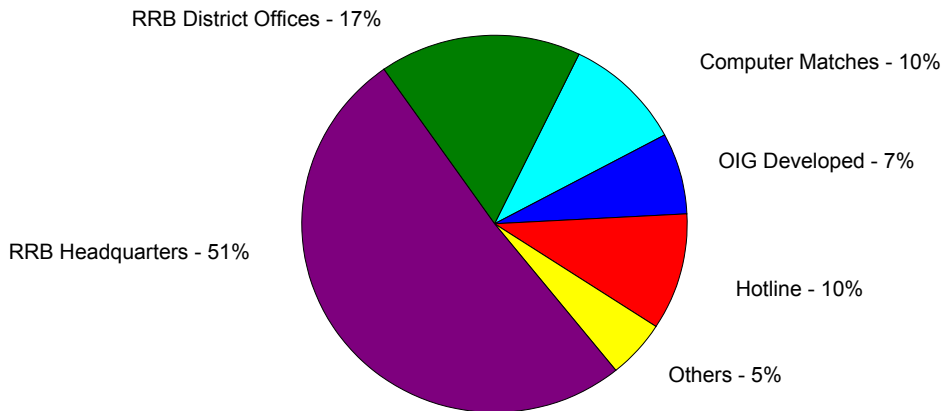
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INVESTIGATIVE ACCOMPLISHMENTS	04/01/02 - 09/30/02	FY 2002
Convictions	29	53
Civil Judgements	12	36
Indictments/Informations	20	37
Investigative Recoveries	\$ 147,106	\$ 229,664
Restitutions and Fines	\$ 568,745	\$ 853,864
Civil Damages and Penalties	\$ 1,940,795	\$ 2,146,591
Potential Economic Loss Prevented (PELP)	0	0
Community Service Hours	290	698
Disciplinary/Administrative Action	1	1
Civil Complaints	4	7
Criminal Complaints	3	5
Arrests	2	3
Subpoena Service:		
Inspector General	9	13
Federal Grand Jury	22	40
Trial	0	9
Program Fraud Civil Remedies Act Referrals	1	1
U.S. Attorney Referrals	115	231

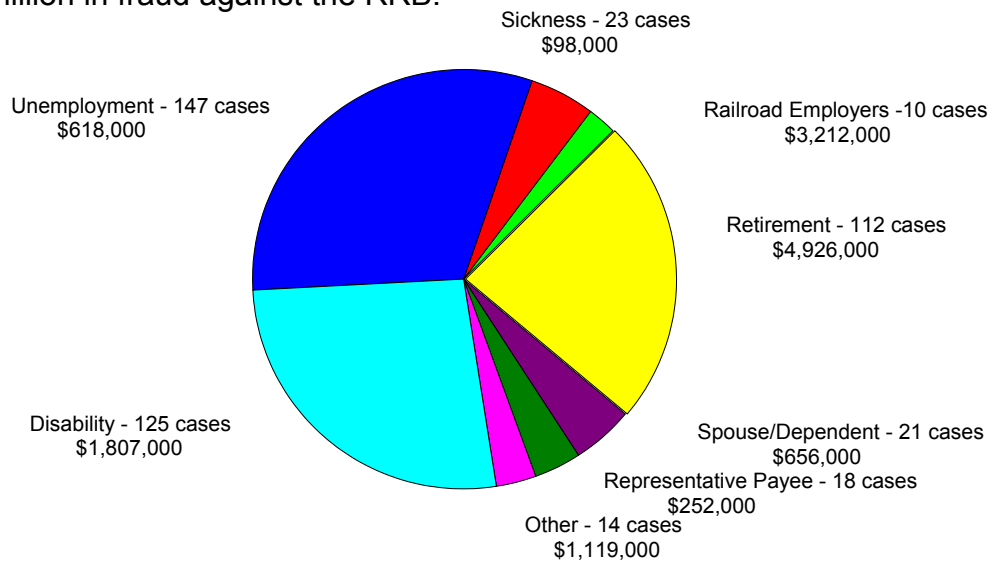
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INVESTIGATIVE CASES

During this semiannual period, OI opened 110 investigations and closed 144 cases. The major sources of case referrals are illustrated below.



OI's current caseload totals 470 criminal matters, representing approximately \$13 million in fraud against the RRB.



REPRESENTATIVE INVESTIGATIONS

Railroad Employer Fraud

OI investigates cases involving false reporting by railroad employers. Such cases are often worked jointly with the Internal Revenue Service under the direction of the Department of Justice Tax Division attorneys. These cases can involve complex fraud schemes which result from collusion among railroad employers, retired railroad workers and third party employers. These schemes have a substantial impact on the agency's trust funds because the retirees are receiving benefits to which they are not entitled and, at the same time, the employers are not submitting contributions to the trust funds as required.

By law, railroad employers are required to advise the agency of changes in their operations, organization or ownership that would affect their status for coverage under the Railroad Retirement and Railroad Unemployment Insurance Acts. The OIG has found that, due to a minimal policing of employers by the agency, it is very easy for employers to assign employees to affiliated business entities and report them as being covered under the Federal Insurance Contributions Act. Some employers have transferred employees to temporary employment agencies or payroll servicing companies to carry out the fraud.

OI continues to review the results of audits conducted by the agency's Audit and Compliance Division to identify fraud matters related to railroad employers. OI currently has 10 open cases involving allegations related to railroad employers. The description of a railroad employer investigation that was concluded during this reporting period follows.

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- Based on a referral from the RRB's Audit and Compliance Division (ACD), OI initiated an investigation of a railroad employer in Kansas. ACD was conducting an audit of railroads owned and operated by the employer, as well as coverage issues related to two companies that conduct railroad-related business. An allegation had been made that the employer was not properly reporting service and compensation for its employees to the RRB. After the audit was completed, ACD received information that the companies were paying wages under FICA, although the employees were performing railroad-related work. The case was then referred to OI.

The OI investigation found that many of the employees of one railroad-related business were performing track maintenance, locomotive/car repair and administrative functions almost exclusively for railroads controlled by the railroad employer. These employees were, as alleged, reported under FICA, not the Railroad Retirement Act, as required because the work performed was for covered railroads owned and operated by the employer.

When interviewed by OI special agents, the employer stated he and his family owned the railroad companies performing the cited railroad work. As a result, the employer had under reported as many as 145 employees in one year. During calendar years 1996 through 2000, the employer had underreported \$6.2 million in compensation. When the case was presented, the U.S. Attorney's Office and the employer reached an agreement that the individuals working for the two railroads should have been considered covered under the RRA. The employer signed a consent judgement and agreed to pay the RRB a total of \$1.4 million of underpaid railroad employer payroll taxes for calendar years 1996 through 2000. These funds will be paid over a five year period.

Retirement Benefit Investigations

RRB retirement fraud typically involves the theft and fraudulent cashing of U.S. Treasury checks, or the illicit conversion of U.S. Treasury electronic fund transfers, by someone other than the authorized RRB annuitant. During this reporting period, OI obtained twelve convictions and eight civil judgements for retirement fraud. Defendants received one year and one day imprisonment, 15 years probation, one year house arrest, and were ordered to pay \$438,707 in restitution, \$159,534 in penalties and \$222,287 in damages. The RRB will recover \$143,587 in overpayments as a result of OIG investigations of retirement benefit programs.

Examples of recent retirement cases follow.

- OI conducted another investigation referred by the RRB Huntington, West Virginia District Office when no verification could be obtained for a change of address request from an RRB annuitant.

Special agents determined that the retirement annuitant had died in August 1994, but his niece had failed to notify the RRB. From September 1994 through January 1999, she used 53 months of annuity benefits issued to her uncle. She endorsed the checks with her uncle's name, and stated that she was the power of attorney for him. In January 1999, she sent a change of address form to the RRB allegedly on behalf of her uncle. The agency notified the OIG, and special agents interviewed the woman who admitted she had, in fact, forged the checks.

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On August 14, 2002, a Civil Judgement was entered against the niece, and she was ordered to repay \$64,662 to the RRB. She must also pay interest in the amount of 1.67% per year. A lien has been filed that will attach to any real property that she may acquire in the future.

- OI agents initiated an investigation based on a referral from the RRB Atlanta District Office that reported several unsuccessful attempts to locate an annuitant. The agents determined that the annuitant had died on December 29, 1986, but no notification was sent to the RRB.

As a result, the RRB continued to issue retirement benefits for ten years after the annuitant's death. The funds were electronically transferred into an account held jointly by the annuitant and his daughter. When interviewed, the daughter stated she thought her brother had notified the RRB about her father's death. An analysis of bank records indicated that she had used the annuity funds to pay her personal obligations.

On November 28, 2001, the daughter was indicted on charges of violating Title 18 U.S.C., Section 641, Theft of Government Funds, by a Federal Grand Jury. She subsequently requested a trial by jury. On February 22, 2002, a Federal jury found her guilty; she was later sentenced to six months of house arrest, five years probation, and ordered to make full restitution of \$119,748 to the RRB.

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- The RRB District Office in Philadelphia referred a case to the OIG concerning a woman who acted as a representative payee for her father. When she failed to respond to an inquiry concerning the location of her father, District Office personnel suspected the daughter had provided false information in order to receive benefits to which she was not entitled.

OI agents conducted a preliminary investigation that revealed that the Social Security Administration (SSA) had suspended benefits to the RRB annuitant in August 1983. SSA also indicated that they did not receive any inquiries about their suspension action. A review of Medicare records revealed that the RRB annuitant had last utilized benefits in 1979.

During an interview with OI special agents, the woman confessed that she had not reported the death of her father on August 5, 1982 to the RRB. She also confessed that she had a third party pose as her father during a congratulatory meeting with RRB District Office personnel for the annuitant's 100th birthday in June 1993. In addition, the woman had filed false forms to the RRB and changed bank account information for direct deposits of the annuity funds. The investigation indicated an overpayment of \$75,425.

On April 8, 2002, a Judgement in a Criminal Case was entered against the woman for a violation of Title 18 U.S.C., Section 1343, Wire Fraud (one count), and she was sentenced to five years of probation and ordered to make restitution to the RRB in the amount of \$8,475.

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 from an employer, in violation of Federal law. The primary source of UI/SI fraud cases remains state computer matching programs that compare RRB beneficiaries with individuals for whom wages have been reported.

During this reporting period, OI obtained 29 convictions and 24 civil judgements for UI and SI fraud. Defendants in these cases received, in the aggregate, 38 years and seven months probation and seven months house arrest. They were ordered to pay \$164,471 in restitution, \$126,554 in damages, \$10,075 in fines, \$63,282 in civil penalties and to perform 290 hours of community service. The RRB will also be able to recover an additional \$38,546 as a result of OI investigations.

Based on information developed from the state wage matching programs, the RRB's Sickness and Unemployment Insurance Division referred the cases described below to OI for follow-up investigation. In all the cases, the initial allegations indicated that the subjects had collected unemployment insurance benefits while working for private employers.

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- One referral concerned an unemployment claimant in Virginia who was collecting unemployment insurance benefits while employed. This individual had previously been arrested and/or convicted of heroin possession and larceny.

Investigation indicated that, from April 15, 2000 through January 20, 2001, the claimant received benefits while employed by three separate employers. He failed to reveal his employment to the RRB, collected benefits on 242 days while he was employed, and submitted 21 false claims to the agency.

On August 7, 2002, a Judgement in a Criminal Case was entered against the subject for a violation of Title 45 U.S.C., Section 359(a), Failure to Report Information to the RRB. He was sentenced to five years of probation and ordered to pay full restitution of \$9,766 to the RRB.

- OI initiated an investigation of another unemployment claimant in Arkansas who possibly claimed benefits while working as a driver for a private firm. OI special agents confirmed that the individual had claimed benefits in the same quarter that he was employed.

The subject entered into a pre-trial diversion agreement with the U.S. Attorney's Office for violations of 18 U.S.C., Section 1001, False Statements. He was ordered to make full restitution of \$8,764 to the RRB and will be subject to 18 months of supervision.

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- OI agents determined a third unemployment claimant in Nevada worked as a laborer for a casino while claiming benefits. When questioned, he stated he was using the money to assist family members in the Philippines.

The claimant was indicted by a Federal Grand Jury on nine counts of 18 U.S.C., Section 1001, Making Materially False, Fictitious or Fraudulent Statements to the U.S. Government. He pleaded guilty to a superceding information charging him with one count of 18 U.S.C., Section 641, Theft of Public Money, for which he was sentenced to five years of probation, ordered to perform 40 hours of community service, and to make full restitution of \$5,232 to the RRB.

- A state wage match with the State of Michigan identified an individual who worked while collecting sickness insurance benefits. Investigation revealed that the claimant had been employed as a diesel electrician until suffering a job injury. He subsequently filed for, and received, sickness benefits from the RRB. OI agents discovered that he also was employed as a cashier for a drug store chain, and had submitted 17 false claims for benefits. He was indicted by a Federal Grand Jury for violation of 18 U.S.C., Section 1001, Making False Statements. The U.S. Attorney's Office subsequently filed an information for Theft of Government Funds. The claimant was sentenced to three months home confinement and three years of probation, and ordered to make \$7,176 restitution to the RRB.

Disability Investigations

The OIG also conducts fraud investigations relating to the RRB's disability program, which typically involves larger financial amounts and more sophisticated schemes. During this reporting period, OI obtained three civil judgements and seven criminal convictions for disability fraud. Defendants in these cases were sentenced to six months imprisonment, eight months house arrest, and 15 years probation. In addition, they were ordered to pay \$157,909 in restitution, \$4,000 in fines, and \$125,720 in civil damages and penalties. An additional \$38,849 in overpayments will be recovered as a result of OI investigations concerning disability fraud cases.

OI opened investigative cases based on a project conducted by the OIG's Office of Audit. Auditors reviewed claim files of RRB occupational disability recipients and compared the information with social security histories to determine if annuitants were employed while receiving disability benefits. An RRB disability benefit is not payable for any month in which an annuitant earns over \$400 per month. Descriptions of two cases of this type follow.

- An RRB District Office in Illinois had issued a questionnaire to one annuitant inquiring if he had worked in any capacity since 1988; he responded that he had not. OI special agents conducted surveillance and observed the subject opening and closing an automobile detailing establishment daily as well as personally detailing cars. His business also performed significant work for a local car dealership.

The special agents interviewed the claimant who admitted he had owned and operated the detailing business from 1988 through 1998.

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He also admitted to reporting the profits from his business under his wife's social security number until their divorce. He then reported the income under his mother's social security number. The income generated from his business totaled approximately \$20,000 per year.

The claimant pleaded guilty to two counts of violating 18 U.S.C., Section 1001, Making False Statements and one count of 18 U.S.C., Section 641, Theft of Public Money. He was sentenced to one year and one day in prison, two years probation and ordered to pay restitution of \$130,407. In addition, the RRB terminated his benefits resulting in a savings of \$367,389, the amount he would have received until eligible for full retirement benefits at age 65.

- OI agents investigated an individual in Michigan who had owned and operated a business with his wife. When filing an application for disability benefits, he claimed that the business operations had been turned over to his wife. The business had contracts with Amtrak to clean passenger cars at various sites across the United States. Interviews, grand jury subpoenas and surveillance of the company operations clearly indicated that the annuitant was actively involved in daily operations.

Investigation also showed that he reported his earnings under his wife's social security number. When confronted by OI special agents, the couple admitted that the husband was, in fact, responsible for management decisions, directing employees and negotiating contracts.

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On September 12, 2002, he pleaded guilty to violation of 18 U.S.C., Section 641, Theft of Government Funds, and was sentenced to two years probation and ordered to pay criminal restitution of \$8,629 to the RRB, a fine of \$2,000 and a special assessment of \$100.

He and his wife also signed a consent judgement with the U.S. Attorney's Office, Eastern District of Michigan, that they violated Title 31, Section 3729-3733, False Claims Act. They both agreed to repay \$92,000 to the RRB in a civil judgement, in quarterly payments of \$25,000 plus annual interest of 6%.

An example of a typical disability case is described below.

- The RRB's District Office in St. Louis referred a case involving an individual who was allegedly working for various employers while collecting RRB disability benefits. OI special agents conducted numerous interviews, analyzed bank records and determined the claimant was employed as a courier for private employers.

In order to conceal his employment and continue to fraudulently collect RRB benefits, he used the social security numbers of his wife and daughter. He collected benefits from July 1997 through March 1999, resulting in the theft of \$31,796 in government funds. He was indicted for violating 18 U.S.C. Section 1001, Making False Statements, and, on April 9, 2002, was sentenced and ordered to serve six months in Federal prison, to make full restitution to the RRB, and to serve two years probation.

AFFIRMATIVE CIVIL ENFORCEMENT (ACE) PROGRAM

OI continues to pursue prosecution of cases under the Department of Justice's Affirmative Civil Enforcement Program. This program involves "fast track" civil prosecution of cases under the provisions of the Title 31, U. S. Code, Sections 3729-3733, The Civil False Claims Act. This statute allows the government to recover up to triple damages as well as \$5,000 to \$10,000 for each false claim submitted.

The Department of Justice is frequently obtaining double damages through these civil false claims prosecutions. The judgements obtained in these cases also provide the agency with an efficient and effective basis to pursue their collection activities.

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

During this reporting period, a total of 7 civil judgements under the ACE program were entered by Federal district courts which will result in the return of \$1,517,926 (\$1,446,138 in damages and \$71,788 in penalties) to the government when the funds are collected.

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HOTLINE CALLS

The Office of Inspector General 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, conflict of interest, mismanagement, and waste of RRB funds.

	<u>04/01/02 -</u>	<u>FY 2002</u>
	<u>09/30/02</u>	
Total Contacts: (Telephone Calls and Letters)	600	1,271
Referred to: RRB-OIG, Office of Investigations	20	49
RRB Bureaus/Offices	276	652
Other Federal Agencies	12	25
RRB Medicare Carrier/Durable Medical Equipment Regional Carriers	14	21
Other (misdirected calls, follow up calls to agents, etc.)	190	373
Calls for which there was insufficient information to substantiate an allegation or to make a referral	88	151

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, and to make recommendations in the semiannual report concerning the impact on the economy and efficiency of the agency's administration of its programs and on the prevention of fraud and abuse.

During this reporting period, the agency amended its regulation concerning the effective period for an application for an annuity or lump sum. The amended regulation allows a spouse to file an early application for benefits along with the employee's application. This change positively impacts the economy and efficiency of the administration of the agency's programs.

APPENDIX A

REPORTS ISSUED

- Management Information Report - Evaluation of the Control Environment at the Railroad Retirement Board, August 1, 2002
- Follow-up Review of Document Imaging - Railroad Unemployment Insurance Act Programs, August 8, 2002
- Valuation of Railroad Retirement Act Accounts Receivable, August 19, 2002
- Review of the Railroad Retirement Board's Controls Over the Access, Disclosure, and Use of Social Security Numbers by Third Parties, August 26, 2002
- Fiscal Year 2002 Evaluation of Information Security at the Railroad Retirement Board, August 27, 2002
- Review of the Audit and Compliance Section in the RRB's Bureau of Fiscal Operations, September 17, 2002

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APPENDIX B

**INSPECTOR GENERAL ISSUED REPORTS
WITH QUESTIONED COSTS**

	<u>Number</u>	<u>Questioned Costs</u>	<u>Unsupported Costs</u>
A . For which no management decision had been made by April 1, 2002	0	0	0
B. Which were issued from April 1, 2002 through September 30, 2002	0	0	0
Subtotals (A+ B)	0	0	0
C. For which a management decision was made from April 1, 2002 through September 30, 2002	0	0	0
(i) dollar value of disallowed costs		0	0
(ii) dollar value of costs not disallowed		0	0
D. For which no management decision had been made by September 30, 2002	0	0	0
Reports for which no management decision was made within six months of issuance	0	0	0

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**INSPECTOR GENERAL ISSUED REPORTS
WITH RECOMMENDATIONS THAT
FUNDS BE PUT TO BETTER USE**

	<u>Number</u>	<u>Dollar Value</u>
A. For which no management decision had been made by April 1, 2002	1	\$ 520,000
B. Which were issued from April 1, 2002 through September 30, 2002	0	
Subtotals (A + B)	1	\$ 520,000
C. For which a management decision was made from April 1, 2002 through September 30, 2002	1	\$ 520,000
(i) dollar value of recommendations that were agreed to by management	0	
(ii) dollar value of recommendations that were not agreed to by management		\$520,000
D. For which no management decision had been made by September 30, 2002	0	
Reports for which no management decision was made within six months of issuance	0	

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APPENDIX C

REPORT ON RECEIVABLES, WAIVERS, AND RECOVERIES

The FY 1999 appropriations language for this office requires the reporting of additional information concerning actual collections, offsets and funds put to better use achieved as a result of Inspector General activities. Figures are to be provided for each semiannual period and as a cumulative number.

Office of Audit

<u>Report</u>	<u>Funds to be Put To Better Use</u>	<u>Funds Agreed by Management</u>	<u>Receivables Established</u>	<u>Waivers</u>	<u>Recoveries To Date</u>
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			
99-17	\$ 11,000,000	\$ 11,000,000			
00-16	\$ 235,000	\$ 235,000			\$ 253,846**

* This figure includes monies owed to the agency and overpayments which must be refunded.

**This figure represents returned payments credited to debtor accounts.

Office of Investigations

Recoveries realized by the RRB resulting from court ordered restitution and civil damages

October 1, 1998 - March 31, 1999	\$ 344,465
April 1, 1999 - September 30, 1999	\$ 511,190
October 1, 1999 - March 31, 2000	\$ 495,402
April 1, 2000 - September 30, 2000	\$ 542,732
October 1, 2000 - March 31, 2001	\$ 457,015
April 1, 2001 - September 30, 2001	\$ 533,341
October 1, 2001 - March 31, 2002	\$ 403,384
April 1, 2002 - September 30, 2002	\$ 382,459

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APPENDIX D - RRB MANAGEMENT REPORTS*

**MANAGEMENT REPORT ON FINAL ACTION
ON AUDITS WITH DISALLOWED COSTS FOR
THE SIX MONTH PERIOD ENDING SEPTEMBER 30, 2002**

	<u>Number</u>	<u>Disallowed Costs</u>
A. Audit reports, with management decisions, on which final action had not been taken at the beginning of the period.	0	0
B. Audit reports on which management decisions were made during the period.	0	0
C. Total audit reports pending final action during the period. (A + B)	0	0
D. Audit reports on which final action was taken during the period.		
1. Recoveries		
(a) Collections	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.	0	0

* The information contained in this section has been provided by RRB management.

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**MANAGEMENT REPORT ON FINAL ACTION ON AUDITS
WITH RECOMMENDATIONS TO PUT FUNDS TO BETTER USE
FOR THE SIX MONTH PERIOD ENDING SEPTEMBER 30, 2002**

	<u>Number</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	\$ 59,537,141 *
B. Audit reports on which management decisions were made during the period.	0	0
C. Total audit reports pending final action during the period. (A + B)	4	\$ 59,537,141
D. Audit reports on which final action was taken during the period.		
1. Value of recommendations implemented.	1	\$ 400,945
2. Value of recommendations that management concluded should not or could not be implemented.	0	0
3. Total of 1 and 2.	1	\$ 400,945
E. Audit reports needing final action at the end of the period (C - D.3).	3	\$ 59,136,196

* Comprised of the following amounts: \$48,000,000 from Audit Report 99-16, "Financial Interchange: Status of Prior Recommendations for Change;" \$10,606,200 from Audit Report 99-17, "Review of Supplemental Annuities;" \$400,945 from Audit Report 00-12, "Review of Tier 1 Reductions for Other Disability Benefits;" and \$529,996 from Audit Report 01-11, "Review of the Quality of the Debt Recognition and Collection Process for Railroad Retirement Act Overpayments."

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**MANAGEMENT STATEMENT ON RESOLVED AUDIT REPORTS
OVER TWELVE MONTHS OLD WITH FINAL ACTION PENDING
AS OF SEPTEMBER 30, 2002**

<u>Report</u>	<u>Date</u>	<u>Disallowed Costs</u>	<u>Funds to be put to better use</u>	<u>Reason action has not been completed</u>
Review of Quality Assurance Activities (97-06)	01/22/97	None	None	The remaining recommendation will be addressed as the agency develops a long-term quality assurance plan during FY 2003.
Review of Non-Priority Correspondence Handling (97-09)	03/13/97	None	None	The Office of Programs hopes to finish evaluating options for correspondence tracking in FY 2003 in order to close the remaining recommendation.
Review of Duplicate Postings of Railroad Compensation (97-19)	07/31/97	None	None	Needed programming changes to suppress duplicate earnings referrals are scheduled for completion in FY 2003, which should address the last open recommendation.
Review of Overpayments SSA Transfer Cases (97-22)	08/25/97	None	None	Preliminary tests of programming changes to automate non-death termination cases revealed the need for added modifications, which have been requested.
Vested Dual Benefits Appropriations (98-15)	06/16/98	None	None	The agency will review the feasibility of benefit component accounting as part of its overall strategic planning process for information technology.

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<u>Report</u>	<u>Date</u>	<u>Disallowed Costs</u>	<u>Funds to be put to better use</u>	<u>Reason action has not been completed</u>
Review of Computer Problem and Change Management Process (99-05)	02/12/99	None	None	The Bureau of Information Services is analyzing a recent reorganization of the agency's help desk in order to address the remaining open recommendation.
Review of Railroad Unemployment Insurance Act Contributions (99-14)	09/21/99	None	None	The agency is making programming changes to automate the reconciliation process for unemployment insurance reports and payments in phases. Results from the initial phase will determine how quickly the overall project can be completed.
Financial Interchange: Status of Prior Recommendations for Change (99-16)	09/28/99	None	\$48,000,000	The agency continues to provide information to the Social Security Administration in support of revising Financial Interchange calculations to reflect unrecovered overpayments.
Review of Supplemental Annuities (99-17)	09/30/99	None	\$10,606,200	The agency requested additional information on private pensions from some railroad employers and hopes to complete action on the remaining recommendations in FY 2003.

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<u>Report</u>	<u>Date</u>	<u>Disallowed Costs</u>	<u>Funds to be put to better use</u>	<u>Reason action has not been completed</u>
Review of Internal Controls Over Fixed Assets (00-01)	10/05/99	None	None	The agency purchased and installed new software to improve its fixed asset tracking system. It will be reviewed in conjunction with the agency's next financial statement audit.
Information Systems Security (INFOSEC) Assessment Report	06/28/00	None	None	The agency has implemented nine recommendations, and is working to close out the remaining six.
Review of the RRB's Compliance with the Critical Infrastructure Assurance Program (00-13)	08/09/00	None	None	The agency completed a preliminary review of computer security plans and is in the process of updating them for all systems to address the remaining open recommendation.
Review of the Processing of Automated Receivables, Reclamations and Credits (ARRC) System Referrals (00-14)	08/11/00	None	None	Testing of system changes to improve recovery of representative payee overpayments indicated a need for further programming, which has been requested.
Review of Information Technology Contracts (00-15)	09/06/00	None	None	An evaluation of recent upgrades to the agency's wide-area network should close the remaining recommendation.

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<u>Report</u>	<u>Date</u>	<u>Disallowed Costs</u>	<u>Funds to be put to better use</u>	<u>Reason action has not been completed</u>
Review of Internal Control Over Financial Accounting for Debt Recoveries (00-16)	09/29/00	None	None	Final action on the three remaining open recommendations is contingent on completion of programming changes to automated systems and development of related procedures.
Review of Document Imaging - Railroad Unemployment Insurance Act Programs (01-01)	11/17/00	None	None	The agency hopes to close the remaining recommendation in FY 2003, as backup capabilities for local area network servers are being enhanced in stages.
Audit of the RRB's FY 2000 Financial Statements (01-03)	02/23/01	None	None	The Bureau of Information Services is improving documentation for mainframe problem reports/resolution to address the remaining open recommendation.
Timeliness of Desk Audit and Vacancy Announcement Processing by the Bureau of Human Resources (01-08)	06/28/01	None	None	The Bureau of Human Resources has established timeliness goals and is in the process of tracking performance to close the remaining recommendation.
Site Security Assessment for the RRB	07/20/01	None	None	The Bureau of Information Services has closed out eight recommendations, and is in the process of addressing the four remaining ones.

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<u>Report</u>	<u>Date</u>	<u>Disallowed Costs</u>	<u>Funds to be put to better use</u>	<u>Reason action has not been completed</u>
Review of the RRB's Contract with Comprehensive Health Service, Inc. For Disability Examinations Services (01-10)	08/07/01	None	None	The agency completed action on four recommendations and plans to close the remaining one in FY 2003.
Review of the Quality of the Debt Recognition and Collection for RRA Overpayments, (01-11)	08/09/01	None	\$ 529,996	The agency hopes to develop and implement added quality control measures in FY 2003 to address the report's recommendation.
Security Controls Analysis	08/17/01	None	None	The Bureau of Information Services closed 30 recommendations and is currently addressing the remaining 8.

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APPENDIX E - REPORTING REQUIREMENTS

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REPORT

FRAUD, WASTE AND ABUSE



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1-800-772-4258**

E-mail: Hotline@oig.rrb.gov

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

**Write: RRB-OIG Hotline Officer
844 North Rush Street
Chicago, IL 60611-2092**