

**Railroad Retirement Board-Office of Inspector General  
Semiannual Report to the Congress  
April 1, 2000 - September 30, 2000**

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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, 2000.

The OIG continued its monitoring of agency activities related to information systems which are critical to the delivery of customer service and agency operations. The OIG requested that the National Security Agency (NSA) conduct an information systems security assessment. As a result of the review findings, the RRB Chief Information Officer has developed action plans to address the weaknesses identified by the NSA assessment team. Four recommendations concerning a backup communication line, systems access and security issues were rejected.

The Office of Audit issued eight reports concerning financial statement reporting for the financial interchange, benefit payment accuracy, internal controls and information technology activities. An audit concerning debt recoveries resulted in approximately \$235,000 in benefit payments previously returned by the Department of the Treasury being credited to debtor accounts.

The Office of Investigations achieved 31 convictions, 14 indictments and information, and \$2.1 million in recoveries, restitutions, fines, civil damages and penalties. A joint investigation with the Internal Revenue Service resulted in the conviction of a railroad employer who had denied benefits to over 100 railroad workers during their work careers, and potentially impacted their eligibility for retirement benefits under the Railroad Retirement Act.

## ***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 2000, the OIG had 58 employees and an operational budget of \$5,380,000. 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 its 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) 1999, the RRB paid \$8.2 billion in retirement and survivor benefits to approximately 748,000 beneficiaries, while net unemployment and sickness insurance benefits of \$69 million were paid to almost 34,000 claimants. The RRB also administers its own Medicare Part B program through a single carrier, United HealthCare Corporation. The carrier made payments totaling \$671 million to provide medical insurance benefits for 688,000 beneficiaries.

## **SIGNIFICANT ISSUES**

### **INFORMATION SYSTEMS SECURITY**

A major priority for the Office of Inspector General (OIG) has been the ongoing monitoring of the Railroad Retirement Board's (RRB) activities related to information systems – the preparation of the agency's strategic Information Resources Management plan and the Information Technology Capital plan, the development of new computer systems, the transition to the Year 2000, key technology purchases, systems integration, and document imaging, as well as current and planned initiatives in computer security and access control.

The RRB's automated information systems are critical to the delivery of high quality customer service and the management of agency operations. In order to ensure proper controls are in place concerning computer security and integrity, the OIG requested that the National Security Agency (NSA) conduct an information systems security assessment of the RRB's mainframe and virtual local area network systems. An assessment team reviewed the current security posture of the agency's critical information which included benefit payment, beneficiary information, earnings records, tax receipt records/contribution records, computer system information, financial records/payroll, tax reporting system, personnel records, and the financial interchange. The assessment process was designed to analyze existing operating procedures to determine if critical information is vulnerable to compromise or exploitation by potential adversaries.

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The NSA team commended the RRB for its thorough contingency plan, the regularity and storage of mainframe backups and its comprehensive new user account process. The team also identified five areas of concern that could result in potential security weaknesses: (1) inconsistent and insufficient auditing on the firewall, virtual local area network and mainframe; (2) inconsistent and insufficient access controls; (3) lack of ongoing security awareness and training; (4) inadequate sessions controls with no warning banners or security alert message; and (5) the port used for remote maintenance on the mainframe system is open at all times. The team issued nineteen recommendations for corrective action.

In order to address the weaknesses cited by the NSA team, the Chief Information Officer has developed an Anti-Virus Action Plan, a Computer Security Action Plan and a Password Security Action Plan. The majority of corrective actions are scheduled for completion by mid-2001.

RRB management rejected four recommendations which addressed the need for an additional back-up system, systems access and security issues. One of the recommendations concerned a continuously open port on the RRB's mainframe computer that is connected to an outside vendor. The rejection of this item demonstrates management's significant lack of security awareness concerning information technology systems as well as its responsibilities under the Privacy Act concerning care of its record systems. The importance of this security weakness is compounded by the fact that the RRB's systems are linked to the Department of the Treasury, the Health Care Financing Administration, and the Social Security Administration.

During this semiannual reporting, OIG auditors examined the RRB's compliance with the Administration's Critical Infrastructure Protection Policy. This audit also

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identified delays in the updating of agency computer security plans. Results of this review can be found on page 12 of this report.

## **INVESTMENT ACTIVITIES**

During this semiannual reporting period, the OIG continued to monitor the activities of the Investment Committee. The OIG has previously questioned the Committee's practice of selling higher yielding securities while increasing the balance in Par Value Specials, short term Treasury-based securities. During the past six months, there were no sales of marketable securities; the Committee approved only one sale of a Treasury security during fiscal year 2000. Additional purchases were completed, but these were financed from the invested cash balances. Only once in the past one and a half years has the market value of the agency's portfolio exceeded the book value. The OIG will continue to monitor the investment activity as interest rates return to more conventional yield patterns and as the final status of pending legislation is determined.

### **Pending Legislation**

The OIG began reviewing pending legislative changes to the Railroad Retirement Act during the preceding semiannual period. One of the proposals would create a Railroad Retirement Account Investment Board and eliminate the current Investment Committee. The OIG has addressed specific concerns to each Board Member, and continues to review proposed legislation. In addition, we have responded directly to questions raised by Congressional oversight committees. The proposed legislation provides for the transfer of investment responsibility from the Investment Committee to a separate trust to be administered by trustees who are independent of the agency.

## **OFFICE OF AUDIT**

The Office of Audit (OA) conducts reviews to promote economy, efficiency, and effectiveness in the administration of RRB programs, and detect and prevent waste, fraud, and abuse in such programs. Through the Inspector General, the office ensures that the Board Members and the U.S. 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 eight reports related to agency information technology activities, financial statement reporting for the financial interchange, internal controls, and benefit payment accuracy.

As a result of a review of internal controls concerning debt recoveries, approximately \$235,000 in benefit payments previously returned by the Department of the Treasury were credited to debtor accounts.



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**Review of the Assessment of Interest, Penalties and Administrative Charges on Benefit Overpayments**

During Fiscal Year (FY) 1998, the Railroad Retirement Board (RRB) established \$51.7 million in new receivables on benefit overpayments which primarily resulted from payments made after an annuitant's death, coordination problems with the Social Security Administration and failure of annuitants to report earnings. The agency also established \$34.1 million in RUIA benefit overpayments which were mostly caused by payments by railroad employers for on the job injuries when an employee had received RUIA sickness insurance benefits or by retroactive retirements to days which overlapped days for which unemployment or sickness benefits had already been paid.

Auditors conducted a review of benefit overpayments for which the RRB had receivable activity in FY 1998 to determine if the agency had assessed interest, penalties and administrative charges on such debts in accordance with laws and regulations. An examination was made of the charges on applicable debts for fiscal years 1997, 1998 and the first half of FY 1999. The RRB assessed only \$1.4 million in charges in FY 1998, a relatively low figure, because the majority of benefit overpayments did not meet the statutory requirements for such charges. The Board Members made a policy decision in 1993 to waive the assessment of interest and penalties on such debts. A majority of the Board also decided to extend the blanket waiver to any case in which the debtor was at fault for the overpayment. The policy, however, conflicted with RRB regulations which require the agency to consider the debtor's fault in causing the overpayment, effect of the debtor's reliance on the incorrect payment, ability to repay the entire debt, and undue hardship.

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Auditors recommended that the Board Members take action to remove the conflict between RRB regulations and the policy requiring the blanket waiver of interest charges. A majority of the Board Members concurred with the recommendation and directed the agency's General Counsel to draft regulatory changes to conform with the current Board policy. Auditors also identified minor errors related to assessing interest and discussed the issues with RRB management. As a result, new procedures were put in place to ensure the agency correctly assesses interest.

**Review of Financial Statement Reporting for the Financial Interchange**

The financial interchange (FI) is a series of annual funds transfer between the RRB and the Social Security Administration (SSA), the RRB and the Health Care Financing Administration (HCFA), and the RRB and the Department of the Treasury. In 1951, the Congress enacted legislation that established the FI between the Railroad Retirement and Social Security systems as an additional funding source for the RRB. When the Medicare Program was enacted in 1965, HCFA became a party to the FI. The FI is intended to place SSA's Old Age, Survivors and Disability Insurance Trust Funds and HCFA's Hospital Insurance Trust Funds in the same position in which they would have been if railroad employment had been covered by the Social Security and Federal Insurance Contribution Acts. In FY 1999, the RRB reported financing sources totaling \$9.6 billion, of which 32% were attributable to the FI.

The FI transfer amounts are determined after the financial statements for the preceding year have been published. For financial reporting purposes, the RRB estimates FI receivables and payables in accordance with traditional accrual accounting principles. Under this method, revenues are recognized when earned

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and expenses are recognized when a liability is incurred. This method contrasts with cash basis accounting in which revenues are recorded when received in cash and expenditures are recorded when paid. Beginning in FY 1994, independent public accountants and the OIG have cited the estimate used to accrue FI receivables as a reason for disclaiming an opinion on the RRB's financial statements. A change in accounting methodology to report FI transactions using the cash basis of accounting would eliminate this criticism of the agency's financial reporting.

In order to determine the feasibility of a change in accounting methodology, the OIG recommended that the agency request an interpretation of current Federal accounting standards as they apply to the FI from the Accounting and Auditing Policy Committee (AAPC) of the Federal Accounting Standards Advisory Board (FASAB). The AAPC reviewed the facts and discussed the issues at an open meeting on September 14, 2000 that included representatives from both the agency and the OIG.

Auditors also recommended that, as part of the financial statement preparation process, the RRB's Bureau of Fiscal Operations (BFO) inquire about pending events that could alter the value of the FI receivables and payables and make disclosures as appropriate. BFO concurred and will inquire about pending events when preparing the financial statements.

Auditors included a recommendation that BFO review and revise the narrative presentation of FI information published with the financial statements to better communicate the role of the FI as a key financing source. BFO agreed to work with OIG auditors on the narrative presentation.

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**Review of Tier I Reductions for Other Disability Benefits**

Under the provisions of the Railroad Retirement Act (RRA), a regular annuity is composed of tier I benefits, based upon railroad and non-railroad earnings, and tier II earnings which are computed using railroad compensation only. In addition to the tier I and tier II benefits, individuals who were considered vested under both the RRA and the Social Security Act at the end of 1974 may be entitled to an additional benefit known as the Vested Dual Benefit. A supplemental annuity may be available to career railroad employees who worked in the railroad industry prior to October 1981 and meet certain service-related requirements.

The Social Security Act, as amended, limits the amount of disability benefits payable under that Act when the recipient has concurrent entitlement to other disability benefits. The RRB's Bureau of Law has determined that these provisions of the Social Security Act also apply to the tier I portion of disability benefits awarded under the RRA.

As of May 2000, the RRB had approximately 125 annuities subject to reduction as a result of concurrent entitlement to other disability benefits. The reduction for other disability benefits ends when the annuitant reaches age 65, the age at which non-disabled individuals become entitled to full, unreduced benefits under the Social Security Act.

Auditors conducted this review to assess the accuracy of the tier I related to an annuitant's entitlement to other disability benefits. As a result, auditors identified cases that had not been adjudicated in accordance with agency procedure and recommended the development of controls to ensure accuracy. They further

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recommended that a review be conducted of annuities subject to reduction for other disability benefits as well as previously assessed overpayments.

Management concurred with the findings and has initiated corrective action.

**Review of the RRB's Compliance with the Critical Infrastructure Assurance Program**

In May 1998, the Administration issued a policy on Critical Infrastructure Protection PDD-63, which called for a national effort to ensure the security of the nation's critical infrastructures, and established the Critical Infrastructure Assurance Office (CIAO). Critical infrastructures, physical and cyber-based systems essential to the minimum operations of the economy and government, include telecommunications, banking, finance, energy, transportation and essential government services. Auditors conducted this review as part of a study by the President's Council on Integrity and Efficiency. The objective was to assess the adequacy of the RRB's critical infrastructure assurance program in the context of the PDD-63.

PDD-63 requires every Federal department and agency to develop and implement a plan by May 2000 for protecting its own critical infrastructures. The policy directed each agency to appoint a Chief Infrastructure Assurance Officer, identify cyber-based mission essential infrastructure and perform vulnerability assessments, establish an emergency management program, establish a recovery and business resumption plan and establish effective protection coordination with foreign, state and local governments and industry.

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Guidance issued by the CIAO focused on action required by agencies deemed to be Primary and Secondary agencies. The RRB was not specifically named to immediately establish a plan. However, the CIAO subsequently advised that all Federal agencies should comply with PDD-63. Auditors determined that the RRB was not in full compliance and recommended that the agency follow CIAO guidance. Auditors also recommended that the agency update its computer security plans; eight plans had not been updated since March 1995 and the remaining plan was last updated in 1997. RRB procedures require complete reviews and updates every two years. RRB management agreed to take corrective action.

**Review of the Processing of Automated Receivables, Reclamations and Credits System Referrals**

The Railroad Retirement Act requires that an individual's entitlement to an annuity ends with the month preceding the month of death. In July 1995, the RRB implemented the Automated Receivables, Reclamations and Credits (ARRC) system which establishes receivables on the agency's Program Accounts Receivables system for benefit payments released after an annuitant's death, initiates reclamation through the Department of the Treasury, and posts cash receipts and returned payment credits for payments returned by Treasury. ARRC does not have the capability to mechanically process cases involving annuitants who died prior to July 1995 or have no date of death recorded in the RRB's automated systems.

During FY 1999, the ARRC system identified and established approximately \$31.6 million in receivables, and produced approximately 7,400 referrals for manual processing. Manual processing involves ensuring that payments are

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stopped, determining which payments were issued and not returned after annuitants have died, establishing proper debts, and initiating recovery.

Auditors conducted this review to determine if agency personnel were handling ARRC referrals properly. The review indicated that the RRB should improve the effectiveness and efficiency of processing ARRC referrals. Auditors recommended that procedures and time frames be implemented for following up on requests for annuitant date of death information and repayment of benefit checks issued to representative payees of deceased annuitants. The report also cited problems with the recovery of non-recurring benefit payments issued in the month of death of an annuitant. Management agreed with all the report recommendations and has initiated corrective action.

### **Review of Information Technology Contracts**

The RRB has used various contractors to install, maintain, and upgrade systems software and hardware. The agency has endorsed the use of contractor assistance on specific projects in which the agency staff either lacks the necessary expertise or is unable to perform the work within the designated time frame. During the fiscal year 2000-2004 period, the RRB expects to consider the use of contractors for several information technology (IT) capital initiatives, including IT architecture design, system integration and support services, computer security vulnerability assessment, document imaging, communications upgrades and local area network server review and assessment.

The RRB's Contracting Officer and his Technical Representative (COTR) must follow the provisions of the Federal Acquisition Regulations, the RRB's Board Orders and agency Administrative Circulars. In addition, the agency's Automated

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Data Processing (ADP) Steering Committee approves all requisitions for IT equipment and outside services costing more than \$2,500. In FY 1999, the agency committed \$7.7 million for contracts costing \$25,000 or more, including \$3.3 million for IT activities.

This audit examined the agency's compliance with both Federal and agency regulations and the adequacy of the RRB's contractual oversight efforts. Auditors determined improvements were needed to ensure full compliance with applicable regulations. Specifically, the report recommended that (1) either benefit-cost analyses be performed on all future IT projects as required or an exemption obtained from the ADP Steering Committee, (2) post implementation reviews be completed on two major projects costing over \$3 million, (3) specific guidance and procedures be issued for acceptance of hardware, software and service acquisitions, and (4) the duties and responsibilities of the COTR be included in Basic Board Order No.5, Procurement, Property, Supplies and Service.

Agency managers concurred with the findings and have initiated corrective action.



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**Review of Internal Control Over Financial Accounting for  
Debt Recoveries**

In FY 1999, the RRB established new receivables due from the public totaling \$80.9 million including principle and interest. As of September 30, 1999, the agency reported a pending balance of \$53.1 million in uncollected receivables. Debt in which collection is considered doubtful comprised 29% of that total. Auditors performed this audit to assess the adequacy of financial accounting controls related to debt recoveries in FY 2000.

The review determined that internal control over debt recovery accounting is not adequate to ensure the reliability of financial reporting and the safeguarding of accounts receivable. Errors in the recording of debt recovery transactions included returned benefit payments not credited to debtor accounts, erroneously credited recoveries, delayed recording of recoveries and abnormal balances in the general ledger unapplied cash accounts. Through examination of these errors, auditors identified weaknesses in the related internal controls.

The report included specific recommendations to strengthen internal control in the areas of weakness. Auditors also recommended that the Chief Financial Officer organize a cross-organizational workgroup to study the debt recovery control environment and make recommendations for further improvement. Management has agreed to take either the OIG's recommended action or has proposed an alternative course of action. As a result of this audit, approximately \$235,000 in benefit payments previously returned by the Department of the Treasury were credited to debtor accounts.

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## **AUDITS: MANAGEMENT DECISIONS AND IMPLEMENTATION**

Through a Memorandum of Understanding, the Director of Administration transferred the responsibility for managing the open audit follow-up system to the Office of Inspector General. This system tracks the status of corrective actions for all audit recommendations. Procedures are in place to ensure that the agency is in compliance with all applicable regulations. 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, 2000	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, 2000	0

### **Corrective Actions**

Prior recommendations requiring action on April 1, 2000	71
New recommendations issued during this six month reporting period	51
Recommendations for which corrective actions	
were completed from April 1 - September 30, 2000	<u>- 30</u>
Recommendations pending final action on September 30, 2000	92

## **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 (SSA-OIG), the Federal Bureau of Investigation (FBI), the U.S. Secret Service, the Internal Revenue Service, the Postal Inspection Service and the Defense Criminal Investigative Service.

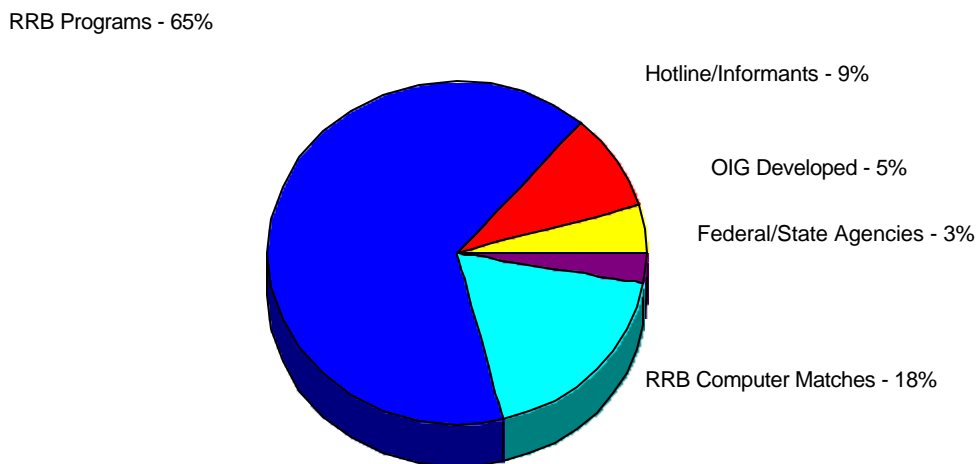
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<b>INVESTIGATIVE ACCOMPLISHMENTS</b>	<b>04/01/00 - 09/30/00</b>	<b>FY 2000</b>
Convictions	31	66
Civil Judgements	18	45
Indictments/Informations	14	35
Investigative Recoveries	\$ 478,206	\$ 1,054,972
Restitutions and Fines	\$ 1,203,582	\$ 1,575,074
Civil Damages and Penalties	\$ 436,721	\$ 898,788
Potential Economic Loss Prevented (PELP)	0	\$ 426,551
Community Service Hours	590	1094
Disciplinary/Administrative Action	0	1
Civil Complaints	15	36
Criminal Complaints	4	8
Arrests	1	2
Subpoena Service:		
Inspector General	5	17
Federal Grand Jury	51	68
Trial	30	30
Program Fraud Civil Remedies Act Referrals	4	6
U.S. Attorney Referrals	177	397

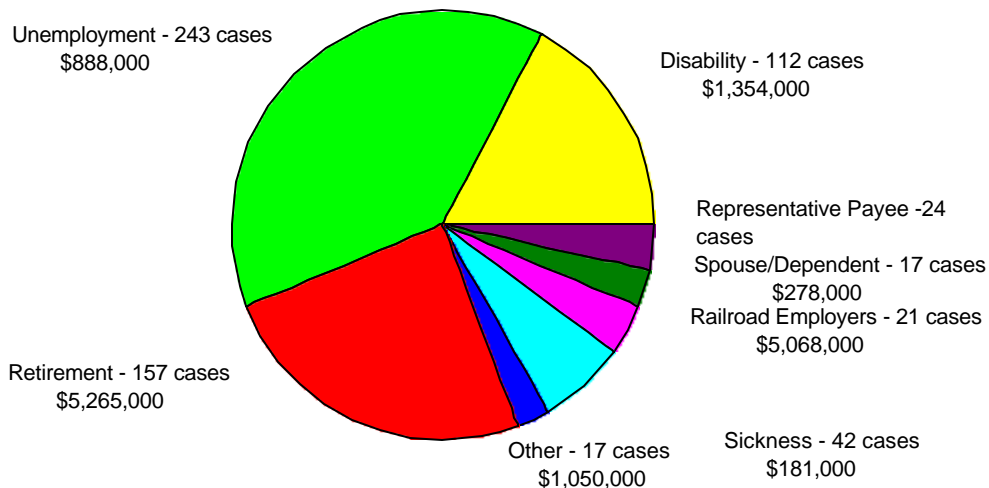
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**INVESTIGATIVE CASES**

During this semiannual period, OI opened 160 investigations and closed 154 cases. The major sources of case referrals are illustrated below.



OI's current caseload totals 633 criminal matters, representing over \$14.3 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 21 open cases involving allegations related to railroad employers.

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- After receiving a complaint from a railroad worker, the OIG conducted a joint investigation with the Internal Revenue Service/Criminal Investigations Division concerning a Utah based railroad owner who was not reporting service and compensation information to the RRB. The owner and the chief operating officer were also responsible for failing to pay approximately \$500,000 in employment taxes. This scheme denied benefits to over 100 rail workers during their work careers and potentially impacted their eligibility for retirement benefits under the Railroad Retirement Act.

As a result of this investigation, the Department of Justice, Tax Division, brought an indictment charging the owner and chief operating officer with violations of the Internal Revenue Code, and conspiracy. During this reporting period, both individuals pleaded guilty to violations charged in the indictment. The owner also entered a guilty plea on behalf of the corporation.

The railroad owner was sentenced to two years probation and was fined \$40,000. The owner also paid restitution in the amount of \$540,000, and fines, penalties and interest totaling \$250,000 on behalf of the corporation. Sentencing for the chief operating officer is pending.

## **Retirement Benefit Cases**

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 four convictions for retirement fraud. Defendants received 12 years probation, four months house arrest, ten months in jail, were ordered to pay \$123,181 in restitution and perform 50 hours of community service. The RRB will recover \$371,374 in overpayments as a result of OIG investigations.

Examples of recent retirement cases follow.

- OI opened an investigation in June 1998 after the RRB's Houston District Office made numerous unsuccessful attempts to contact an RRB annuitant. Special agents discovered that the annuitant had died in August 1994, but his wife failed to notify the RRB of his death and continued to withdraw funds from their bank account. The investigation determined that she had fraudulently withdrawn \$34,104 after her husband's death.

She was indicted by a Grand Jury, and, on May 1, 2000, was convicted on one count of Title 18, Section 641, Theft of Public Money. She was sentenced to five years probation and ordered to pay restitution of \$34,104.



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- OI received another referral from the RRB's Charlotte, South Carolina District Office because of undeliverable mail addressed to an RRB annuitant. The OI investigation determined that the annuitant had, in fact, died on March 27, 1989. From April 1989 through April 1996, the RRB continued to issue monthly annuity payments via electronic funds transfer into a bank account shared by the annuitant and her son. The son admitted to OI special agents that he had withdrawn and spent his mother's annuity benefit funds totaling \$63,232. On July 11, 2000, he was sentenced to four months in prison, four months of home confinement, and three years supervised release. He was also ordered to make full restitution to the RRB of \$63,232.
  
- The RRB's Debt Recovery Division contacted OI concerning an RRB annuitant who had died on July 1, 1997. Between his death and January 1, 1999, benefit checks totaling \$22,318 were deposited into his bank account. OI agents determined that the annuitant's son had fraudulently withdrawn the RRB funds. He was subsequently convicted on July 20, 2000 on one count of Title 18, Section 641, Theft of Public Money. He was sentenced to six months in prison, three years probation and ordered to pay restitution of \$22,318 to the RRB.

## **Unemployment and Sickness Insurance Cases**

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 21 convictions and 15 civil judgements for UI and SI fraud. Defendants in these cases received, in the aggregate, 41 years and two months probation, five years suspended sentences, 3½ years imprisonment, and nine months house arrest. They were ordered to pay \$94,948 in restitution, \$3,550 in fines, \$59,455 in damages, \$36,959 in civil penalties and to perform 540 hours of community service. The RRB will also be able to recover an additional \$40,491 as a result of OI investigations.

Examples of typical cases involving individuals fraudulently receiving unemployment or sickness insurance benefits follow.

- A referral from the RRB's Sickness and Unemployment Benefits Division indicated that an individual collected unemployment insurance benefits on the same days he worked for a private employer. OI investigation revealed that the subject had collected unemployment benefits for 361 days while he was also employed.

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He had submitted 31 false claims to the RRB, resulting in the theft of \$12,879 in benefits. On April 18, 2000, the subject was sentenced to five years of probation and ordered to pay the RRB a total of \$14,766, representing the falsely claimed benefits, interest and penalties.

- A state computer matching program with the State of Illinois identified an individual who was working while receiving sickness insurance benefits from the RRB. During an interview with OI special agents, the subject admitted that he was working while collecting benefits totaling \$8,721. On August 22, 2000, he signed a Stipulation for Compromise Settlement agreeing to make full restitution of \$8,721 to the RRB and pay a penalty of \$8,279.
  
- Another state wage match identified an individual who was employed at K-Mart Corporation while collecting unemployment insurance benefits totaling \$3,584. The subject admitted to falsely claiming the benefits, but declined to sign a voluntary statement on the facts of the case. The case was then submitted to the U.S. Attorney's Office which attempted to negotiate a settlement requiring repayment of the benefits and damages. The subject refused to consider any repayment over the original amount and refused to cooperate further. On May 18, 2000, an order of default judgement was entered against the subject in Federal District Court in the amount of \$10,752 plus interest.

## **Disability Cases**

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 four convictions and three civil judgements for disability fraud. Defendants in these cases were sentenced to five months imprisonment, 13 years probation, and eight months house arrest. They were also ordered to pay \$86,402 in restitution, \$48,291 in damages, and \$7,000 in civil penalties. An additional \$66,341 in overpayments will be recovered as a result of OI investigations concerning disability fraud cases.

Examples of disability cases follow.

- Based on a referral from the RRB's Disability Benefits Section, OI initiated an investigation of a disability annuitant who received disability benefits in the same calendar quarter that he was employed by a private employer. Results of the investigation determined that the subject had worked for the YMCA and as an administrator for the Kansas City Neighborhood Association, a federally funded government program. He earned in excess of his disability earnings restrictions which resulted in an overpayment of \$86,402. The subject pleaded guilty to one count in violation of 18 U.S.C., Section 641, Theft of Public Money. He was sentenced to five months in prison, five months home confinement, three years probation and ordered to make restitution of \$86,402.

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- Based upon anonymous complaint, OI investigated an RRB disability annuitant who received disability benefits while working at different construction companies. The complaint indicated that the subject was using his wife's social security number when he was employed at the companies. The investigation determined that the complaint was accurate; the subject had earned in excess of his disability earnings restrictions, and had been overpaid \$38,387.

The subject pleaded guilty to one count of 18 U.S.C. Section 641, Theft of Public Money. He was sentenced to three months home detention, five years probation and ordered to pay restitution of \$38,387. The subject's wife also pleaded guilty to one count of Title 45 U.S.C. Section 231(l), Failure to Report to the RRB. She was sentenced to three years probation and ordered to pay restitution of \$38,387.

- OI initiated an investigation of a former railroad employee based upon an anonymous referral that indicated that the subject was concealing his employment and wages. Title 45, U.S.C., Section 231A(e)(4), establishes monthly and annual earnings limitations for individuals who are receiving a disability annuity. In addition, all work activity must be reported to the RRB. The OI investigation revealed that the subject collected disability benefits from January 1998 through July 1999 while he was employed. He had concealed his wages by having his employer annotate that his payroll checks were actually rental payments. He was sentenced to two years probation and ordered to pay a fine of \$5,000. Prior to sentencing, he made full restitution of \$31,325 to the RRB.

## **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.

During this reporting period, a total of 18 civil judgements under the ACE program were entered by Federal district courts which will result in the return of \$436,721 to the government when the funds are collected.

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.

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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 who desire to report suspected criminal activity, conflict of interest, mismanagement, and waste of RRB funds.

	<b><u>04/01/00 - 09/30/00</u></b>
<b>Total Contacts:</b> (Telephone Calls and Letters)	755
<b>Referred to:</b> RRB-OIG, Office of Investigations	77
RRB Bureaus/Offices	492
Other Federal Agencies	9
United Health Care Corporation/Durable Medical Equipment Regional Carriers	9
Other (misdirected calls, follow up calls to agents , etc.)	168

## **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.

The RRB issued a proposed rule to adopt regulations pertaining to the finality of decisions under the Railroad Unemployment Insurance Act. Although this regulation purports to provide finality for the Board's decisions, it does not do so. The regulation lists several conditions for reopening a final decision, but also states that the Board is not required to follow the regulation. The regulation specifies that the Board may either reopen cases that do not meet the criteria or may not reopen decisions that meet the listed criteria. The rule does not (1) provide adequate administrative finality for agency decisions, (2) promote equal treatment for entities and persons subject to the regulation, or (3) increase the economy and efficiency of the administration of the agency's programs. The Board proposed this regulation to conform to a similar regulation for decisions rendered under the Railroad Retirement Act, but that regulation is similarly flawed.

The agency also amended its disability regulations to discontinue its current policy of conducting continuing disability reviews for medical recovery of disability annuitants in cases in which medical improvement is not expected. This regulation is consistent with OIG audit recommendations.

OIG comments on proposed legislation drafted by rail labor and rail management can be found under Significant Issues on page 6.



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***APPENDIX A - OIG REPORTS ISSUED***

- P Review of the Assessment of Interest, Penalties, and Administrative Charges on Benefit Overpayments, Report No. 00-09, April 5, 2000
  
- P Review of the Year 2000 Project, Report No. 00-10, May 11, 2000
  
- P Review of Financial Statement Reporting for the Financial Interchange, Report No. 00-11, May 30, 2000
  
- P Information Systems Security (INFOSEC) Assessment Report, June 28, 2000
  
- P Review of Tier I Reductions for Other Disability Benefits, Report No. 00-12, August 4, 2000
  
- P Review of the RRB's Compliance with the Critical Infrastructure Assurance Program, Report No. 00-13, August 9, 2000
  
- P Review of the Processing of Automated Receivables, Reclamations and Credits (ARRC) System Referrals, Report No. 00-14, August 11, 2000
  
- P Review of Information Technology Contracts, Report No. 00-15, September 15, 2000
  
- P Review of Internal Control Over Financial Accounting for Debt Recoveries, Report No. 00-16, September 29, 2000

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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, 2000	0	0	0
B. Which were issued from April 1, 2000 through September 30, 2000	0	0	0
Subtotals (A + B)	0	0	0
C. For which a management decision was made from April 1, 2000 through September 30, 2000	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, 2000	0		0
Reports for which no management decision was made within six months of issuance	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, 2000	0	
B. Which were issued from April 1, 2000 through September 30, 2000	1	\$ 235,000
Subtotals (A + B)	1	\$ 235,000
C. For which a management decision was made from April 1, 2000 through September 30, 2000	1	
(i) dollar value of recommendations that were agreed to by management		\$ 235,000
(ii) dollar value of recommendations that were not agreed to by management		0
D. For which no management decision had been made by September 30, 2000	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**			

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

\*\*This figure represents returned payments not applied to benefit overpayments.

**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

(The OIG is continuing to consult with Department of Justice officials to obtain additional information from their systems regarding civil damages and penalties that are deposited to the Department of the Treasury miscellaneous account.)

***APPENDIX D* - PREVIOUSLY REPORTED SIGNIFICANT  
RECOMMENDATIONS ON WHICH CORRECTIVE ACTION HAS  
NOT BEEN COMPLETED**

**AUDITS OF THE FINANCIAL STATEMENTS FOR FY 1993 (JULY 15,  
1994), FY 1994 (JANUARY 13, 1995), FY 1995 (APRIL 23, 1996), FY 1996  
(JANUARY 10, 1997), FY 1997 (FEBRUARY 27, 1998), FY 1998  
(MARCH 5, 1999), and FY1999 (FEBRUARY 18, 2000)**

The RRB has not implemented necessary changes to fully address weaknesses cited in the audits of the agency's financial statements for fiscal years 1993-1999.

- C Financial Interchange - The current timetable for the settlement process prevents the timely and accurate preparation of annual financial statements. Auditors recommended a change in accounting principle to record and report on the financial interchange during the year of settlement. The matter was referred to the Accounting and Auditing Policy Committee (AAPC) of the Federal Accounting Standards Advisory Board. The AAPC reviewed the facts and discussed the issues with the OIG and RRB officials. The OIG will consider information obtained during the discussions in its audit of the agency's FY 2000 financial statements.
  
- C Overall control environment of the agency - Although the RRB has implemented several reorganizations, agency operations have not changed significantly. Agency managers do not seek assistance across organizational lines to resolve problems related to financial accounting and reporting. The creation of a single chief executive is needed to ensure issues are resolved on a timely basis.

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**APPENDIX E - RRB MANAGEMENT REPORTS\***

**MANAGEMENT REPORT ON FINAL ACTION**  
**ON AUDITS WITH DISALLOWED COSTS FOR**  
**THE SIX MONTH PERIOD ENDING SEPTEMBER 30, 2000**

	<u>Number of</u> <u>audit reports</u>	<u>Disallowed</u> <u>costs</u>
A. Audit reports, with management decisions, on which final action had not been taken at the beginning of the period.	<u>0</u>	\$ <u>0</u>
B. Audit reports on which management decisions were made during the period.	<u>0</u>	\$ <u>0</u>
C. Total audit reports pending final action during the period. (A + B)	<u>0</u>	\$ <u>0</u>
D. Audit reports on which final action was taken during the period.		
1. Recoveries		
(a) Collections and offsets	<u>0</u>	\$ <u>0</u>
(b) Property	<u>0</u>	\$ <u>0</u>
(c) Other	<u>0</u>	\$ <u>0</u>
2. Write-offs	<u>0</u>	\$ <u>0</u>
3. Total of 1 and 2	<u>0</u>	\$ <u>0</u>
E. Audit reports needing final action at the end of the period © - D.3)	<u>0</u>	\$ <u>0</u>

\*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, 2000**

	<u>Number of audit reports</u>	<u>Funds to be put to better use</u>
A. Audit reports, with management decisions, on which final action had not been taken at the beginning of the period.	<u>3</u>	\$ <u>59,806,200</u> <sup>1</sup>
B. Audit reports on which management decisions were made during the period.	<u>1</u>	\$ <u>235,000</u> <sup>2</sup>
C. Total audit reports pending final action during the period. (A + B)	<u>4</u>	\$ <u>60,041,200</u>
D. Audit reports on which final action was taken during the period.		
1. Value of recommendations implemented (completed)	<u>0</u>	\$ <u>0</u>
2. Value of recommendations that management concluded should not or could not be implemented (completed)	<u>0</u>	\$ <u>0</u>
3. Total of 1 and 2	<u>0</u>	\$ <u>0</u>
E. Audit reports needing final action at the end of the period © - D.3)	<u>4</u>	\$ <u>60,041,200</u>

<sup>1</sup>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;" and \$1,200,000 from Audit Report 00-02, "Review of RRB and SSA Exchange of Death Information."

<sup>2</sup>Audit Report 00-16, "Review of Internal Control Over Financial Accounting for Debt Recovery."

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**MANAGEMENT STATEMENT ON RESOLVED AUDIT REPORTS  
OVER TWELVE MONTHS OLD WITH FINAL ACTION PENDING  
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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>
Audit of the RRB's FY1993 Financial Statements	07/15/94	None	None	Corrective actions on the remaining recommendations depends upon continued development of an automated system for survivor benefits, with a target completion date in Fiscal Year 2001.
Audit of the RRB's FY1994 Financial Statements	01/13/95	None	None	The agency completed implementation of the sole remaining recommendation effective October 20, 2000.
Review of Initial Claims Processing (96-15)	09/20/96	None	None	Planned enhancements in Fiscal Year 2001 to an on-line processing system under development will include provisions for advance evidence collection.
Review of Quality Assurance Activities (97-06)	01/22/97	None	None	The agency centralized its quality assurance staff on July 31, 2000, and the remaining recommendation will be addressed as the agency develops an overall quality plan to guide their efforts.
Review of Non-Priority Correspondence Handling (97-09)	03/13/97	None	None	The Office of Programs is evaluating options for tracking correspondence, including the agency's imaging system and PC-based applications.



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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 EDM Suspended Transactions (97-15)	05/08/97	None	None	Agency staff is fine-tuning a recently developed PC-based system for controlling these cases.
RRB Disability Review Program (97-17)	07/10/97	None	None	The remaining recommendations will be addressed as the agency implements new regulations that took effect May 17, 2000.
Prepayment Verification Period Pilot Program (97-18)	07/31/97	None	None	The Office of Programs has taken steps to simplify cost accounting codes, including some related to program integrity, as part of efforts to identify the best approach for further improvement.
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 Fiscal Year 2002.
Vested Dual Benefits Appropriations (98-15)	06/16/98	None	None	The agency will review the feasibility of benefit component accounting in the context of the Strategic IRM Plan and studies of the agency's information technology architecture.
Accuracy and Timeliness of SSA Benefits Paid by the RRB (98-17)	07/27/98	None	None	Necessary computer programming changes have been made, subject to Office of Inspector General review.

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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 Accuracy of Vested Dual Benefits (98-23)	09/30/98	None	None	Necessary programming changes have been requested during Fiscal Year 2001 to ensure processing systems exclude erroneous data.
Accuracy of PREH Data and Controls over PREH Referrals (99-01)	10/14/98	None	None	The agency completed work on the two remaining recommendations effective October 25, 2000.
Review of Procedures for Correcting Errors in Service & Compensation Reporting Identified by the EDM System (99-04)	10/19/98	None	None	The agency is modifying a recently developed PC-based program to satisfactorily address the two remaining recommendations.
Review of Computer Problem and Change Management Process (99-05)	02/12/99	None	None	The agency plans to start electronic surveys of help desk customers in December 2000 in order to measure satisfaction with service provided.

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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>
Audit of the RRB's FY1998 Financial Statements (99-06)	03/05/99	None	None	To address this issue, the agency's Chief Financial Officer, Director of Fiscal Operations, and a representative of the Office of Inspector General met with the Federal Accounting Standards Advisory Board's Accounting and Auditing Policy Committee on September 14, 2000, to obtain definitive guidance on the accounting treatment of Financial Interchange transactions. That guidance has been provided and this issue will be revisited during the Fiscal Year 2000 financial statement audit.
Management Information Report - Payment and Case Accuracy Issues Related to the Financial Statement Audit (99-07)	03/24/99	None	None	The Office of Programs will address the two remaining recommendations in developing a quality assurance plan for the recent centralization of this function.
Management Information Report - Administrative Finality (99-11)	07/14/99	None	None	The remaining recommendation will be addressed by a revised administrative finality policy under development.

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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 Railroad Unemployment Insurance Act Contributions (99-14)	09/21/99	None	None	The agency is making necessary computer programming changes to automate the reconciliation of compensation reported for railroad unemployment insurance benefit purposes with compensation used to pay program contributions.
Financial Interchange: Status of Prior Recommendations for Change (99-16)	09/28/99	None	\$ 48,000,000	The agency is developing information on identifying recovered overpayments by tiers for possible submission to the Social Security Administration.
Review of Supplemental Annuities (99-17)	09/30/99	None	\$ 10,606,200	The agency should complete action on several recommendations in Fiscal Year 2001, while several others were deferred pending the possible enactment of proposed legislation.

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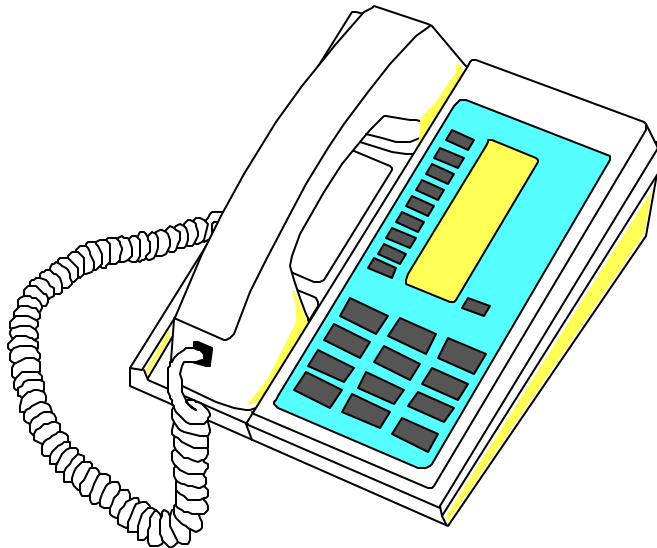
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## **APPENDIX F - REPORTING REQUIREMENTS**

<b>Inspector General Requirements</b>	<u>Page</u>
Section 4(a)(2) - Review of Legislation and Regulations	31
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Section 5(a)(2) - Recommendations With Respect to Significant Problems, Abuses, and Deficiencies	4
Section 5(a)(3) - Prior Significant Recommendations Not Yet Implemented	36
Section 5(a)(4) - Matters Referred to Prosecutive Authorities	19
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Section 5(a)(10) - Summary of Each Audit Report Over 6 Months Old For Which No Management Decision Has Been Made	None
Section 5(a)(11) - Description and Explanation for Any Significant Revised Management Decision	None
Section 5(a)(12) - Information on Any Significant Management Decisions With Which the Inspector General Disagrees	None
 <b>Management Requirements</b>	
Section 5(b)(1) - Comments Deemed Appropriate	Transmittal Letter
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# **REPORT**

## **FRAUD, WASTE AND ABUSE**



**Call the OIG Hotline:  
1-800-772-4258**

**E-mail: [Hotline@oig.rrb.gov](mailto: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**

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