

**WRITTEN TESTIMONY OF
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OVERSIGHT AND GOVERNMENT REFORM
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Good morning, Chairman Chaffetz, Ranking Member Cummings, and members of the committee. Thank you for inviting me to testify today on the Office of Inspector General's (OIG) oversight work of the U.S. Department of Labor (DOL). The views expressed in my testimony are based upon the independent and objective work of the OIG and are not intended to reflect the Department's position.

Mr. Chairman, I appreciate the opportunity to highlight some of the top management and performance challenges facing the Department. My testimony today will also focus on OIG issues relating to our oversight of the Department.

I would like to begin by commending the committee's bipartisan efforts toward the passage of the Inspector General Empowerment Act of 2016. Undoubtedly, the additional authorities and clarifications provided by the Act will greatly assist our oversight work. In particular, we are pleased with Congress' reaffirmation of OIG's authority to have unfettered access to records and information, which is essential to the independent work of OIGs.

I also want to take this opportunity to publicly highlight and commend the OIG staff who on a daily basis demonstrate the highest levels of professionalism and dedication to the OIG mission of promoting the efficiency and effectiveness of government programs; and of combating fraud, waste and abuse. Indeed, we see as one of our primary missions to ensure taxpayer value in the Department's programs. This high level of commitment and professionalism can be seen throughout the Inspector General community, and I appreciate the committee's interest in highlighting their efforts and in identifying any barriers that may exist in their work.

Providing a Safe Learning Environment at Job Corps Centers

Mr. Chairman, the first challenge I would like to highlight relates to one of the most important programs administered by the Department of Labor – the Job Corps program. The Job Corps program provides both residential and nonresidential education, training,

and support services to approximately 50,000 disadvantaged, at-risk youth, ages 16-24, at 126 Job Corps centers nationwide. As we have reported, Job Corps centers have been troubled by violence and other criminal behavior for years, and the program remains challenged in its efforts to provide a safe learning environment at its centers. In 2015, two students were killed at different Job Corps centers, allegedly by fellow students. In one case, a student was shot and killed in his dormitory room at the St. Louis (Missouri) Job Corps center. In the other case, a student was brutally killed next to the Homestead Job Corps center in South Florida, resulting in the center suspending operations and transferring students to other centers.

Prior to these serious incidents, our audits demonstrated that some Job Corps centers failed to report and investigate serious misconduct, including drug abuse and assaults, or downgraded incidents of violence to lesser infractions to keep students enrolled, creating an unsafe environment for students and staff. Our current review of safety and security throughout the Job Corps program has revealed additional concerns across the program. We found continuing problems with centers properly reporting serious misconduct to Job Corps and potentially criminal misconduct to law enforcement. In visits to 12 centers, we observed physical security weaknesses including inadequate security camera monitoring and security staffing.

Our work in this area has also revealed inconsistencies in Job Corps centers' interactions with law enforcement organizations at the federal, state, and local level. For 102 of 129 center locations, Job Corps had not determined which law enforcement organization had jurisdiction to enforce criminal laws and had not established policies to ensure center agreements with law enforcement adequately defined roles and responsibilities in areas such as collecting evidence and conducting strip searches. Confusion in these areas can result in delayed or compromised investigations and negatively affect necessary actions. Finally, Job Corps only required employee background checks for a small number of positions and had not considered background checks for many other positions that involve contact with students or how the results should be evaluated. We are completing our review and expect to issue our final report soon.

Monitoring and Managing Compounded Drug Medications in the FECA Program

Another issue of concern for the OIG is the Department's challenges in monitoring and managing the use and costs of pharmaceuticals, particularly compounded drug medications in the Federal Employees' Compensation Act (FECA) program. Compounded drug medications are drugs created by combining, mixing, or altering the ingredients of drugs to tailor them to individual patients. The FECA program, along with

other Federal government workers' compensation programs, has experienced a dramatic increase in the abuse and cost of compounded drug medications, particularly pain relief creams. We recognize that certain compounded drug medications can be beneficial and necessary for some patients. However, there is concern that these medications are not subject to approval by the Food and Drug Administration (FDA), and the FDA has repeatedly reported and testified on the unsafe practices associated with the manufacturing of some compounded drug medications.

Costs for compounded drug medications in the FECA program rose from approximately \$2 million in fiscal year (FY) 2011 to \$239 million in FY 2016, more than a hundredfold increase. During FY 2015 alone, compounded drug costs jumped from \$80 million to \$214 million, surpassing the costs of all other drugs billed to FECA (\$199 million). Our current investigations focus on significant fraud generally involving collusion between prescribing physicians and dispensing pharmacies. In one case alone we have identified potential fraud that involves nearly \$100 million.

We believe the Department needs to take a proactive approach in working with the FDA and other federal benefit programs to ensure only compounded drug medications that are medically necessary, effective, and safe are approved, and that the program pays a fair and reasonable price.

In addition to our work with the Department, my office is collaborating with other OIGs who have faced similar problems with compounded drug medications in an effort to identify best practices and programmatic changes that reduce susceptibility to fraud. Inspectors General and senior OIG officials from the Department of Defense, Department of Health and Human Services, the Department of Veterans Affairs and the U.S. Postal Service formed a working group last year to share effective methodologies in reducing risks and costs related to compounded drug medications. We are also currently conducting an audit to assess the adequacy of the Department's management of pharmaceuticals in all of its health benefit programs, with a particular emphasis on compounded drug medications and the use of opioids. The Computer Matching Act exemption included in the Inspector General Empowerment Act of 2016 should assist in both of these efforts.

Reducing Improper Payments

Another concern for the OIG is the Department's ability to prevent or mitigate improper payments, particularly in the Unemployment Insurance (UI) program. As the Department has reported to the Office of Management and Budget (OMB), in 2015 the UI program had the seventh-highest amount of reported improper payments (\$3.5 billion) among all

federal programs. For FY 2016, the UI improper payment rate increased to 11.65 percent from 10.7 percent in FY 2015 and remained above OMB's threshold of 10 percent. While the biggest cause for improper payment in FY 2016 was work search at 37 percent, fraud continues to be a significant threat to the integrity of the UI program, as identity thieves and organized criminal groups have found ways to exploit program weaknesses.

As we have reported, the Department needs to employ cost benefit and return on investment analyses to evaluate the impact of its improper payment reduction strategies for UI. The OIG has also made several recommendations on actions the Department should take to address systemic weaknesses that make the UI program more susceptible to fraudulent activity. In addition, the Department needs to continue pursuing legislation to allow states to use a percentage of recovered UI overpayments to invest in prevention, detection, and recovery strategies.

The OIG continues to conduct audits to examine efforts to prevent or mitigate improper UI payments, such as examining how states verify unemployment eligibility at the initiation of a claim, and how they subsequently determine when a claimant has returned to work.

Additional Significant Concerns

Mr. Chairman, I want to briefly mention other significant concerns relating to the Department of Labor. One concern relates to the Department's progress in implementing the Digital Accountability and Transparency Act of 2014 (DATA Act). As you know, the DATA Act requires federal agencies to report financial and spending data in accordance with data standards established by the Treasury and OMB and make the data available on a public website developed by the Treasury by May 2017. Based on our assessment in September 2016, we reported concern that the Department was not on track to effectively implement the DATA Act requirements by May 2017 because it could not demonstrate that key tasks have been completed.

We also remain concerned with the foreign labor certification program, which is intended to permit U.S. businesses to hire foreign workers when necessary to meet their workforce needs while protecting the jobs and wages of U.S. workers. DOL is statutorily required to certify H-1B applications unless it determines them to be "incomplete or obviously inaccurate." Given this fact, it is not surprising that OIG investigations have shown the H-1B program to be susceptible to significant fraud and abuse, particularly by dishonest immigration attorneys, labor brokers, employers, and organized criminal enterprises. Our investigations have revealed schemes in which

fraudulent applications were filed with DOL on behalf of individuals and fictitious companies, and unscrupulous businesses seeking to acquire foreign workers.

Finally, we are concerned about labor trafficking. As part of our foreign labor certification investigations, we have seen numerous instances of unscrupulous employers misusing foreign labor certification programs administered by the Department to engage in labor trafficking. The victims are often exploited for economic gain. The fear of losing their job and deportation allows employers to force workers to work for far less than the appropriate prevailing wage, and to sometimes house these workers in inadequate conditions. This causes significant harm to U.S. workers as the payment of proper prevailing wages is vital to ensuring that U.S. workers are not displaced by foreign workers.

To better combat labor trafficking, the OIG has partnered with the Department of Justice and other law enforcement agencies on Anti-Trafficking Coordination Teams (ACTeams). I believe that a multi-agency approach is vital in combating human trafficking. We have also received authority via a special deputation agreement with the Department of Justice Civil Rights Division and the FBI to provide our agents with expanded authority to conduct labor trafficking investigations when they relate to a DOL program and ACTeams. This expanded authority ensures that we are able to fully investigate labor trafficking offenses related to DOL programs.

Providing Access to Electronic Data

Mr. Chairman, with regards to OIG access to data, one area of significant concern for my office relates to the Department's ability to provide timely access to its many electronic data systems. This challenge has been particularly acute for systems managed by contractors. We have encountered delays gaining access to data from contractors and the Department has incurred increased costs from outsourcing data management. The Department needs to ensure that contracting for third-party systems specifically provides for the Department, along with the OIG, to have timely access to those systems and the data they contain.

Last year, we signed a memorandum of understanding (MOU) with the Department which establishes a comprehensive framework for OIG access to electronic data systems. Pursuant to this MOU, we have entered into agreements with the Office of Workers' Compensation Programs to obtain FECA data, and we plan to enter into additional agreements with other DOL agencies this year.

Providing access to electronic data is also an area where additional congressional action could enhance the OIG's ability to combat improper payments. Current law does not permit the OIG to directly obtain data from the National Directory of New Hires (NDNH), and the OIG cannot use its subpoena authority to obtain NDNH records. Granting the OIG statutory access to NDNH data would provide the OIG with a valuable tool for both audits and investigations. For example, OIG auditors could use these records to verify the eligibility of Workforce Innovation and Opportunity Act participants and verify reported outcomes. In addition, OIG investigators could use these records to investigate employer fraud schemes in the UI program, claimant fraud in the FECA program, and prevailing wage violations by federal contractors and employers of temporary foreign workers under foreign labor certification programs administered by the Department.

Conclusion

Mr. Chairman, thank you for calling this hearing and for the committee's continued support for the work of OIGs. This concludes my prepared statement. I look forward to continuing our productive relationship with this committee and the Department in our shared goal of improving the efficiency and effectiveness of the Department of Labor's programs and operations.

I would be pleased to answer any questions you or the other members of the committee may have.