



DEPARTMENT OF LABOR

Fiscal Year 2000 Budget Request

for

Office of Inspector General

**Witness appearing before the
House Subcommittee on Labor-HHS-Education Appropriations**

**Charles C. Masten
Inspector General**

U.S. DEPARTMENT OF LABOR
Statement by
Charles C. Masten
Inspector General
on
Fiscal Year 2000 Budget Request for
Office of Inspector General
April 28, 1999

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify before you in my capacity as the Inspector General of the U.S. Department of Labor (DOL). I am pleased to appear before you today to discuss our Fiscal Year (FY) 2000 appropriations request and proposed activities.

BACKGROUND

The Office of Inspector General (OIG) was established at DOL by the Inspector General Act of 1978, as amended (IG Act) to provide independent, objective oversight of programs and operations. To carry out its mission, the OIG conducts audits, investigations, and evaluations to identify potential problems or abuses; develops and makes recommendations for corrective action; reviews legislative and regulatory initiatives; and informs the Secretary and the Congress of problems or concerns. The OIG at Labor is unique in that it is also responsible for carrying out a criminal investigations program to contribute toward the Government's effort to reduce the influence of organized crime and labor racketeering in unions and the workplace. The OIG administers its programs through four major components: the Office of Audit; the Office of Investigations; the Office of Analysis, Complaints, and Evaluations; and the Office of Management and Counsel.

The OIG's FY 2000 budget request totals \$55,496,000 and 445 full-time equivalent positions. This includes \$5,250,000 and 22 full-time equivalent positions to carry out four initiatives to address specific problems in the unemployment insurance and pension arenas and increase our work in the areas of financial management and Government Performance and Results Act implementation. Also included in this request is a modest increase to replace obsolete computer equipment.

I will focus my testimony today on the types of activities that we propose to fund in FY

2000, including areas where we plan to increase our attention. In keeping with the theme of this hearing, I will also discuss some key Government cross-cutting issues from the perspective of the Department of Labor.

FY 2000 PROPOSED ACTIVITIES AND ENHANCEMENTS

Mr. Chairman, as required for most Federal agencies, the context in which the OIG program is administered is the Government Performance and Results Act of 1993 (GPRA). In FY 1997, we began to organize our work based on our Strategic Plan goals, and I believe that this has served to improve the attention we give to key areas of the Department. Attached to my statement is a list of accomplishments for FY 1998 that helps illustrate how we are working to achieve our goals and to support the goals established by the Secretary for the Department.

Mr. Chairman, in FY 2000, we will focus our program activities on audits, investigations, and evaluations that will provide quality information regarding the effectiveness, efficiency, and integrity of key programs and operations. Our primary goal is to ensure that the information provided to DOL and Congress will be useful in their management or oversight of the Department. In addition, we will provide technical assistance to help DOL management address challenges and prevent problems from arising. Our proposal is to carry out activities and special initiatives in the areas of departmental management, employment and training, occupational safety and health, worker benefits, and labor racketeering. The following are examples of the types of activities we propose to conduct.

Maintaining a Strategic Management Focus

From a departmental management perspective, we will need to increase our audit attention in the areas of financial management and GPRA performance systems and data. The OIG has to meet a number of new responsibilities in these two areas. For example, we will have to expand the scope of the annual financial statement audit to assess DOL's compliance with new cost accounting standards. We will also provide oversight of work conducted by independent public accountants under the Single Audit Act. This type of oversight is important because it provides the Department and Congress with assurances that state-level audits are sufficient and reliable. This allows the decision makers to determine whether funds spent at the state and local level are

protected and used for their intended purpose. In addition, it will enable us to use the information produced from state-level audits to provide an opinion on the Department's financial statements for all DOL funds, including those spent below the Federal level. However, this type of work will entail conducting on-site reviews, which are costly and labor-intensive.

With respect to GPRA, we will provide audit services and assistance to the Department to help ensure that data systems produce timely, accurate, and meaningful information on the results and full costs of Federal programs and activities. In addition, we have been formally requested by the House leadership to implement the provisions contained in HR 2883, which was proposed in the 105th Congress. This requires the OIG to perform verification and validation of data sources and information systems that support agency performance plans and reports. In order to accomplish the additional financial management and GPRA work, our budget proposes an increase of \$2.5 million and 7 FTE.

In addition to these activities, we will also provide oversight of DOL information technology activities, including assisting the Department to address any remaining Y2K issues that may affect business continuity.

A Prepared Workforce

To enhance performance and accountability of employment and training programs, we will focus our resources on the Department's effectiveness in implementing two major components of the Nation's job training system: the Welfare-to-Work program – a key component of welfare reform – and the Workforce Investment Act (WIA), which replaces the Job Training Partnership Act as the Nation's major job training program.

With respect to the Welfare-to-Work program, we will conduct activities to determine the Department's effectiveness and efficiency in helping the hardest-to-serve become self-sufficient. Preliminary work conducted by my office has identified weaknesses in the administration of the program. For example, our review of 35 competitive grants identified a number of problems that can impact the program's efficiency and integrity. Specifically, we identified financial management control weaknesses, a general absence of written policies and procedures for the implementation of the program, and other programmatic compliance issues, such as potential FLSA violations and

the use of program money as venture capital. Therefore, we plan to provide close attention to this critical program of the Department.

In terms of WIA, we will provide consultation assistance to the Department to identify and remove impediments to the successful implementation of the law. For example, we will assess the Department's ability to convert to a one-stop career system -- a key component of the new job training system.

Quality Workplaces

In the area of safety, health, and workplace standards, we plan to evaluate the effectiveness of certain aspects of mine safety and health enforcement. Moreover, we will continue our focus on the integrity of those individuals administering DOL's safety and health programs. We will also evaluate the effectiveness of selected Office of Federal Contract Compliance program operations.

A Secure Workforce

To safeguard the integrity and efficiency of workplace benefit programs we will devote audit attention to evaluate DOL's effectiveness in monitoring pension plan investment activities, provide oversight of initiatives to streamline the ERISA reporting process, and evaluate the process used by hospitals to handle excess FECA payments. From an investigative perspective, we will focus on fraud against the FECA, Black Lung, and Longshore and Harbor Workers' Programs by claimants or medical providers.

In FY 2000, we plan to increase our attention to weaknesses in the Unemployment Insurance (UI) Program, which provides economic security to workers and their families who lose their jobs through no fault of their own. Over the past few years, we have identified numerous weaknesses that affect the integrity of this multi-billion dollar program. In most instances, the states are not in position or do not have the jurisdiction to effectively address these weaknesses. Among our concerns are: the proliferation of multi-state schemes to defraud the state UI Programs, a void in enforcement at the state level, loss of contributions due to the inability of states to search for hidden wages by employers who misclassify workers as independent

contractors; and the increased vulnerability of the telephone initial claims system. These weaknesses result in substantial losses to the UI Trust Fund. For example, the Department of Labor estimates that overpayments alone comprise approximately \$500 million in annual losses, of which only half is eventually recovered.

To address these integrity issues, we are proposing an increase of \$1.25 million and 8 FTE to conduct a comprehensive, nationwide UI integrity initiative. Through this initiative, we will conduct high-impact criminal investigations to target and investigate schemes used to defraud the UI program including: multi-state fictitious and fraudulent employer schemes, collection of UI benefits by groups of illegal aliens, the use of fraudulent social security numbers, schemes to avoid payment of UI taxes, and employee-leasing schemes.

We will also conduct audits to identify and correct systemic weaknesses and provide technical assistance to DOL to implement safeguards in the system. Finally, we will provide fraud detection and investigative training to state government benefit payment control, tax, and internal security personnel to improve the consistency and effectiveness of monitoring efforts by the States.

In FY 2000, we will also continue our efforts to reduce the influence of organized crime and labor racketeering in the workplace. In carrying out the OIG Labor Racketeering Program, we will give priority to organized crime influence or manipulation of labor unions, union-affiliated employee benefit plans, and labor-management relations. In particular, we plan to increase our work in the pension arena, focusing on selected service providers to pension plans. To this end, our budget includes a proposed increase of \$1.5 million and 7 FTE to carry out a pro-active investigative probe in this area, which our casework has identified as being especially vulnerable to labor racketeering activity and abuses. Abuses by service providers are particularly egregious in that they can result in large dollar losses in pension assets, since they can potentially affect more than one plan. Another reason for expanding the resources to fight the threat of organized crime to union pension plans is that our work in this area has proven to be highly cost-effective.

Mr. Chairman, this initiative will establish, for the first time, coordinated scrutiny by Federal, state, and local law enforcement entities to such abuses. Moreover, the Department of Justice has identified pension abuses as a priority and is carrying out an initiative to eradicate

these abuses through a joint effort with the OIG and other Federal law enforcement agencies. The additional funding will enable us to address a fundamental problem in the pension arena and fully participate in this effort.

CROSS-CUTTING ISSUES

Mr. Chairman, I will now discuss those oversight issues that cut across the various OIGs under this appropriation and in which the Subcommittee expressed interest. I will briefly touch on three of these issues: financial management, performance measurement and reporting, and information technology.

Financial Management

Mr. Chairman, financial management is an area where the Department has made significant progress over the last several years. As you are aware, we provided the Department with clean audit opinions on its financial statements for the last two fiscal years. Currently our major concerns involve improvements that are needed at the agency-level. Currently, five important subsidiary systems of the Department do not comply with Federal financial management and accounting standards. These systems pertain to accounting for back wages, safety and health penalties, and Job Corps' investment in property. As we have for over a decade, we are working with the Department to effect the needed changes in this area.

Performance Measurement and Reporting

The Department has implemented its Strategic Plan and annual performance plan, per the requirements of GPRA. The Department put forth a great deal of effort in preparing and refining these plans. In addition, the Department is working to meet cost accounting requirements. Now the Department, like most agencies across government, is faced with measuring and reporting its program results. In this area, Mr. Chairman, the Department faces a number of challenges. The Department's ability to produce useful information on the results and full costs of its programs will be determined by its ability to establish quality cost accounting and performance measurement systems and to verify results data provided by states and other sources below the Federal level. Even with the good efforts that we see under way now, it will take a number of years for the Department to address these issues.

Information Technology Management

Mr. Chairman, information technology is a high-cost, critically important resource. Information residing in DOL computers is used to pay benefits, target enforcement efforts, compile labor statistics and make other decisions that affect the health, safety, and economic security of Americans. Information technology is also integrally linked to, and will be key to the success of GPRA. Currently, the Department's major effort in this area has appropriately been on resolving the Year 2000 computer problem. However, as the Department becomes more dependent on the use of IT resources to carry out its mission and daily operations, effective stewardship by the Chief Information Officer over such resources will also need to be ensured. This includes establishing an IT architecture for the Department as a whole and identifying and mitigating risks to avoid cost overruns, delays, and failures on IT projects. In addition, it is important to audit the life-cycles of system development efforts to ensure they meet their intended objectives at acceptable costs.

OIG Reporting Requirements

Finally, Mr. Chairman, I would like to update you on the issue of monetary recoveries resulting from our work, which cuts across the OIGs under this appropriation. Pursuant to this Subcommittee's request, we have worked with the Department of Justice (DOJ) to obtain information on recoveries and, in the past few months, progress has been made. We recently received, for the first time, a report on recoveries obtained from criminal cases of the Department of Labor. We have analyzed the data and met with DOJ about establishing a system to identify those recoveries that pertain to our efforts. We are continuing to work with them to this end, so that we may be even more responsive to the Subcommittee's request in the future. Similarly, we are also working with our Department to obtain the level of information requested on recoveries resulting from our audits.

Mr. Chairman, this concludes my prepared statement. I would like to thank you for the opportunity to testify today. I would be pleased to answer any questions you or the other members of the Subcommittee may have.

BIOGRAPHICAL SKETCH
CHARLES C. MASTEN
Inspector General
Department of Labor

Charles C. Masten was sworn in as the fifth Department of Labor Inspector General on December 16, 1993. Mr. Masten originally joined the U.S. Department of Labor, Office of Inspector General on September 23, 1991, as the Deputy Inspector General.

Mr. Masten began his law enforcement career in 1973 when he was appointed Special Agent by the Federal Bureau of Investigation (FBI). He was assigned to the Memphis FBI Office where he worked white collar crimes, governmental frauds, bank robberies, and extortion matters.

In 1977, he was transferred to the Little Rock FBI Office where he served as Supervisory Special Agent for the White Collar Crime Program, Labor Racketeering, General Property Crime Program, Terrorism Program, Foreign Counter-Intelligence Program, Governmental Fraud Program, Fugitive Program, Civil Rights Program, and Anti-Trust Matters.

In 1985, he was assigned by the FBI to Washington, D.C., where he handled special inquiries relating to Presidential Appointees. In October 1987, he was promoted to Program Manager of three of the six FBI Security Programs. In conjunction with this assignment, he also served as an Inspector's Aide-in-Place where he conducted inspections of FBI field offices throughout the United States. These inspections included program audits and financial audits.

Prior to his tenure in the FBI, he served as a U.S. Naval Officer in Vietnam; he was an Assistant National Bank Examiner in the Sixth National Bank Region where he audited banks in Florida, Georgia, and South Carolina, and, he served as Chief Operations Officer of the Citizens Trust Bank in Atlanta, Georgia.

He graduated from Albany State College in 1965 with a B.S. degree in Business Administration and earned an MBA from the University of Arkansas in 1976. He has also completed studies in Finance, Accounting, Management, and Bank Operations at the Georgia State University, Memphis State University, and the University of Little Rock.

**U.S. DEPARTMENT OF LABOR
OFFICE OF INSPECTOR GENERAL
FY 1998 ACCOMPLISHMENTS**

OIG Goal 1: Optimize the use of funds appropriated for training and employment programs by enhancing program performance and accountability.

In the area of **employment**, the OIG has focused resources on DOL's foreign labor certification programs. An audit of the H-2A, temporary agricultural guest worker program found that the H-2A certification process was ineffective, resulting in recommendations to improve enforcement of program requirements. From an investigative perspective, a nursing home operator was sentenced to prison and ordered to make restitution of \$1.5 million in underpaid wages. Our financial review of a grantee identified that a Trust Fund was being inappropriately held and resulted in over \$6 million in funds being returned to the Government. In response to a congressional request, we audited a St. Louis, Missouri **job training** program and questioned nearly \$700,000 in total costs. We also audited JTPA services provided to welfare recipients to provide baseline data for use by the Department in evaluating services provided under the new Welfare-to-Work program. The OIG questioned over \$11.4 million in JTPA funds that had been funneled to Florida community colleges and school districts. We helped develop elements of a sustainable School-to-Work program, then conducted a performance audit, identified limitations, and recommended enhancements. We also participated in ETA's initiative to develop a set of cross-cutting goals and performance measures for the one-stop centers and workforce development system. In a joint effort with the Office of **Job Corps**, the OIG evaluated placement services provided to Job Corps students and identified and recommended implementation of best practices being used by successful placement contractors. We also issued consultation reports that assessed the validity of costs claimed by a number of contractors..

OIG Goal 2: Safeguard workers' and retirees' benefit programs by enhancing program performance and accountability

A multi-state **Unemployment Insurance** fraud scheme was stopped with the conviction of an individual who defrauded several state UI programs by operating an interstate fictitious employer scheme in which 42 UI claims were filed using 15 false identities and social security numbers, and non-existent companies. Two individuals pled guilty for their role in a scheme to defraud the Washington State UI program of over \$125,900 in UI benefits. The scheme involved the filing of fraudulent employer quarterly reports of employee wages for two fictitious companies and then reporting that the "companies" had ceased their business operations. We also conducted a limited scope audit on the use of Social Security Number verification techniques. Through this review, we uncovered nearly 3,000 false UI claims totaling \$3.2 million. We worked with the Unemployment Insurance Service (UIS) to identify best practices used to conduct UI field tax audits. As a result of our findings, the UIS agreed to our recommendations to improve the evaluation field tax audits and the reporting of blocked claims audits. Annual financial audits indicate that the **Back Wage Collection and Disbursement System** fund balance has increased through the accumulation of undistributed back wages, which totaled \$40 million in 1998. An OIG audit projected that over 17,000 workers could be paid some \$5 million in back wages, if ESA would improve efforts to locate the workers and implement changes to ensure complete and accurate transactions in the future. Detection of weaknesses in the **Longshore and Harbor Workers' Compensation Act** funds through OIG's annual audit uncovered fraudulent payments of more than \$500,000 to fictitious rehabilitation vendors, and led to recommendations that internal controls over the payment process be improved. The OIG provided technical assistance to the FECA program in setting up a data base to track the results of OWCP's efforts to collect overpayments identified through its audit. We also successfully investigated claimant and medical provider fraud totaling more than \$15 million in the Black Lung, Longshore/Harbor Workers, and Federal Employees' Compensation Act programs. Our work resulted in successful prosecutions, such as that of a doctor in Texas who was convicted of defrauding numerous Federal

programs, including the FECA program, of \$1.7 million.

OIG Goal 3: Optimize the use of funds appropriated for worker protection and workplace safety programs by enhancing program performance and accountability.

Through our investigations and reviews, we continued our efforts to help protect the lives and health of miners. For example, as a result of an OIG **mine safety and health** investigation, a former MSHA inspector was convicted for falsifying inspection reports to cover his failure to conduct an underground inspection at a coal mine, which was followed by the death of one miner and the serious injury of another. We also conducted a review of the effectiveness of the inspection program in a district office and identified several areas for improvement needed both in the district office and in the inspections program nationwide. These include training inspectors nationwide in the identification of potential structural weaknesses and implementing policies regarding personal relationships between MSHA staff and mine employees to avoid conflicts of interest.

OIG Goal 4: Assist DOL in maintaining an effective management process.

We worked with the Department and GAO to resolve a long-standing qualification and issue to the Department its first clean audit opinion on the DOL financial statements. We also assisted the Department in its implementation of **GPRA** by evaluating individual agencies' strategic and performance plans, and providing agencies with information on how plans can be strengthened, based on the requirements of GPRA. In total we issued final consultative reports to 10 agencies. The OIG also conducted audits to establish a **Year 2000** (Y2K) baseline for the Department's 61 mission critical systems from which departmental and agency Y2K progress can be judged. We continue our efforts in the **employee integrity** area, by investigating allegations of DOL employees and contractors who have abused their positions. For example, our work resulted in the conviction of a contract employee who diverted almost \$525,000 in false claims for services not performed.

OIG Goal 5: Combat the influence of organized crime and labor racketeering in the workplace.

In our efforts to combat **organized crime** and **labor racketeering** in the workplace, the OIG conducted a number of significant high-impact investigations. One of our more significant cases includes the arrest and indictment of 16 members of the Lucchese, Gambino and Genovese organized crime families on labor racketeering and extortion charges. The investigation, which was conducted jointly with the FBI, targeted the historical control over the New York garment industry by organized crime. A major accomplishment resulting from our investigative support of the Government's effort to eliminate corruption in the Nation's four largest unions, was the resignation of the general president of the Hotel Employees and Restaurant Employees International Union. In an agreement with a monitor appointed by the Court, the general president also agreed to a number of financial stipulations and union involvement limitations. Our criminal investigations of **pension fraud** resulted in the conviction of a Long Island attorney and an accomplice for conspiracy, embezzlement, and money laundering of over \$525,000 from a pension trust. In another case, a Louisiana securities dealer, was sentenced to serve 60 months in a federal prison for his part in a scheme to embezzle over \$400,000 from the Teamsters Local 875 Pension Fund of New York. Another defendant in that case, a former official and trustee of the pension fund, was sentenced for receiving kickbacks and was ordered to pay over \$53,000 in restitution to the pension fund. Additional persons were indicted for receiving kickbacks to influence the pension fund to illegally invest almost \$10 million of the fund's money.