

GAO

Report to the Chairman of the
Subcommittee on Workforce Protections,
Committee on Education and the
Workforce, House of Representatives

October 1999

**INTERNAL
CONTROLS**

**Oversight of
Longshore Special
Fund Needs
Improvement**





United States General Accounting Office
Washington, D.C. 20548

Accounting and Information
Management Division

B-283563

October 29, 1999

The Honorable Cass Ballenger
Chairman, Subcommittee on Workforce Protections
Committee on Education and the Workforce
House of Representatives

Dear Mr. Chairman:

On February 24, 1999, you requested that we review certain issues concerning financial reporting and internal controls related to the Special Fund established by the Longshore and Harbor Workers' Compensation Act (LHWCA). This Special Fund was designed to encourage employers to hire disabled maritime workers by limiting an employer's liability should a disabled worker sustain a second injury. Funded primarily by annual assessments levied by the Department of Labor (DOL) on self-insured employers and insurance carriers subject to LHWCA, the Special Fund is audited annually. However, the audited financial statements do not address the potential unfunded liability faced by this program, which has been estimated to be as high as \$2.5 billion.

This report addresses (1) the feasibility of actuarially calculating the unfunded liability of the LHWCA Special Fund, (2) whether controls exist to prevent inappropriate claims from being referred to the Special Fund, (3) whether recipient data are matched against other agencies' databases to reduce the risk of payments being made to ineligible recipients, (4) whether there are equitable distributions of assessments among the insurance carriers/self-insured employers as compared to their claim levels, and (5) the status of changes to the Longshore computer systems.

Results in Brief

Although an estimate of \$2.5 billion has been characterized as the potential unfunded liability of the LHWCA Special Fund, this is not a sound actuarial estimate. The DOL official who developed this estimate said that he prepared it for discussion purposes. It was a simple arithmetic projection based on the benefits paid as of December 1998 and did not include all of the elements of an actuarial projection, such as cases reported but not yet paid, historical payment trends, established mortality assumptions, and cost-of-living adjustments. In addition, the estimate did not take into consideration expected future revenue from annual assessments, which,

according to the official, would eliminate this estimated unfunded liability. While it is theoretically feasible to actuarially calculate the unfunded liability of the Special Fund, the time and expense involved in performing such a calculation may not be warranted, given that (1) there is no provision under LHWCA for financing the Special Fund with appropriated funds, (2) under LHWCA, neither the United States nor the Secretary of Labor is liable for compensation payments in the amount greater than the money deposited in or belonging to the Special Fund, and (3) participating employers and insurance carriers are now required to disclose their future liabilities related to this fund in the notes to their financial statements, acknowledging that they are responsible for any future liability of this fund.

Internal controls have been established by DOL to prevent inappropriate cases from being referred to the Special Fund. For example, DOL has procedures that require each case be reviewed by various levels of DOL officials who are knowledgeable about the requirements of LHWCA to ensure that, prior to the case's acceptance into the Special Fund, (1) the recipient had a preexisting permanent impairment, (2) the second injury was job related, and (3) the combination of the two injuries/disabilities worsened the initial impairment.

At the time of our review, DOL management had not matched its recipient data in the Special Fund database against data in other agencies' databases, such as the Social Security Administration's (SSA) death index. However, DOL's Office of the Inspector General (OIG) officials told us that as part of the Special Fund's fiscal year 1999 financial statement audit, the OIG, in cooperation with SSA, would be performing a match of the recipient data in the Special Fund database with SSA's death index to determine whether benefit payments were made to deceased individuals. Regularly performing matches with this database should reduce the risk of paying benefits to deceased individuals.

DOL is susceptible to the risk that the distribution of assessments among participating self-insured employers and insurance carriers will not be proportional to their claim levels as intended by LHWCA. The formula used to calculate the Special Fund's annual assessment is prescribed by statute, with the intention of arriving at prorated assessments. However, the data used as the basis for computing the annual assessment are self-reported by the self-insured employers and insurance carriers, which increases the risk of inaccurate claim information. Inaccurate reporting of claim information would lead to the distribution of the assessments not reflecting the true prorated activities of the participating companies. Beginning in fiscal year

1992, DOL annually performed a limited number of audits of the self-reported data. These audits disclosed instances of underreporting that resulted in disproportionate distributions of assessments among the self-insured employers and insurance carriers. In addition, we found that cases in which a recipient's former employer (the employer who referred the case to the Special Fund) became insolvent and was no longer in existence were not monitored, therefore presenting the risk that benefit payments could be made to ineligible recipients.

With respect to the Longshore computer systems, DOL officials told us that changes to enhance accountability and functionality were planned or had recently been completed. At the time of our review, DOL was developing a new automated system to address an OIG recommendation related to internal control weaknesses¹ regarding the reporting and authorization of payments to rehabilitation service providers. According to DOL, the system was implemented in September 1999. In addition, since July 1998, two of DOL's computer systems used for the LHWCA program were upgraded in order to comply with requirements related to the Year 2000 (Y2K) computing problem and to provide user-friendly enhancements such as drop-down menus and icons.

In order to reduce the risk of Special Fund payments being made to deceased or otherwise ineligible recipients and of assessments being disproportionately distributed among participating self-insured employers and insurance carriers, we are recommending that DOL (1) implement a regular program of matching recipient data from the Special Fund to SSA's death index, (2) develop and implement procedures to adequately monitor the continuing eligibility of certain cases, and (3) develop and implement a more comprehensive plan to provide increased audit coverage of LHWCA payment data submitted by self-insured employers and insurance carriers.

We made recommendations to the Secretary of Labor to reduce the risk of (1) Special Fund payments being made to deceased or otherwise ineligible recipients and (2) disproportionate distribution of assessments among the self-insured employers and insurance carriers. In commenting on a draft of this report, DOL generally agreed with our findings and recommendations.

¹The internal control weaknesses and related recommendations were initially cited in DOL/OIG's fiscal year 1997 consolidated financial statement audit report.

Background

LHWCA, which was enacted in 1927, established a federal compensation system for longshore and other specific classes of workers whose injuries occur upon navigable waters of the United States or adjoining facilities such as piers and dry docks. Section 44 of LHWCA established the Special Fund. The National Office of the Longshore Programs (NOLP), which is administered by the Office of Workers' Compensation Programs (OWCP), within the Employment Standards Administration of DOL, has administrative responsibility for the Special Fund. The Special Fund encourages employers to hire workers who have suffered a previous partial permanent disability by limiting the employers' liability in the event of a second injury. The Special Fund is used primarily for these "second-injury" payments, whereas, the self-insured employer and/or insurance carrier is responsible for the first injury payments. The Special Fund also extends benefits to dependents if any work related injury results in an employee's death.

When eligible workers sustain a second injury, employers are responsible for the first 104 weeks of compensation payments, before payments can be made from the Special Fund. The Special Fund is primarily (approximately 98 percent during fiscal year 1998) funded by annual assessments levied by the Secretary of Labor on self-insured employers and insurance carriers subject to LHWCA. Other funding, about \$2 million, is generated annually from investments in short-term U.S. Treasury bills. Miscellaneous fines and penalties provide additional sources of revenue; however, these are not material to the operation of the fund. DOL's OIG annually audits the Special Fund.

According to DOL officials, there are approximately 850 self-insured employers and insurance carriers authorized to participate in the LHWCA Special Fund program. Of those, 27 companies are responsible for 70 percent of the annual assessments for the Special Fund. Furthermore, the three largest self-insured employers are responsible for 15 percent of the Special Fund's annual assessment.

In calendar year 1998, DOL officials calculated a total assessment of \$119 million that they allocated to 483 of the 850 authorized self-insured employers and insurance carriers. The companies' total prior year LHWCA benefit payments are used as the basis for the allocation of the annual assessment. If a company reports that it did not make any LHWCA payments in the prior year, and no second injury payments were made from

the Special Fund on its behalf in the same year, the company is excluded from the current year's annual assessment.

According to DOL's fiscal year 1998 audited financial statements, the Special Fund had assets consisting of \$50 million in U.S. Treasury bills as of September 30, 1998. In addition, the fund collected approximately \$117 million in revenue during fiscal year 1998, \$115 million from the assessments and about \$2 million from interest on investments. The financial statements also indicated an accounts receivable balance of \$2 million, which represented unpaid annual assessments and overpayments to recipients. Administrative services for operating the Special Fund are funded through direct federal appropriations.

Scope and Methodology

To determine the feasibility of actuarially calculating the unfunded liability of the Special Fund, we reviewed relevant statutes and regulations and interviewed DOL officials, including the Chief Actuary. In addition, we reviewed the components of actuarial liabilities for other programs, such as DOL's federal employees' compensation and the Department of Veterans Affairs' future compensation disability benefits. To determine what controls exist to prevent inappropriate cases from being referred to the Special Fund, we interviewed DOL officials and an insurance company president. We also reviewed DOL's procedures related to the referral of cases to the Special Fund. To determine whether recipient data are matched against other agencies' databases, we interviewed DOL officials. To determine if the assessments were distributed on a pro-rata basis, we reviewed the mandated formula and DOL's most recent calculation of the annual assessment. We also discussed this issue with managers of self-insured employers, an insurance company president, and an attorney who represents employers affected by LHWCA. To determine the status of changes to the Longshore computer systems, we discussed the changes with a DOL official. In addition, we examined DOL's audited consolidated financial statements for fiscal years 1997 and 1998, and the Special Fund's audited financial statements for fiscal years 1996 and 1997.²

We did not (1) audit the data underlying DOL's calculation of the annual assessment or (2) test the controls that prevent inappropriate cases from

²The Special Fund's fiscal years 1996 and 1997 audit report was the most recent audit report issued, as of August 1999. DOL/OIG conducted an audit of the Special Fund for fiscal year 1998; however, the report had not been issued as of August 30, 1999.

being referred to the Special Fund. We performed our work from April 1999 through September 1999 in accordance with generally accepted government audit standards. We requested written comments from the Secretary or her designee. The Assistant Secretary for Employment Standards at Labor provided us with written comments, which are discussed in the “Agency Comments” section and are reprinted in appendix I.

Calculation of the Unfunded Liability

In an effort to determine the cumulative amount of future Special Fund benefit payments of self-insured employers and insurance carriers over the average life expectancy of current recipients, a DOL official developed a simple arithmetic projection based on the benefits paid as of December 1998. Although the resulting estimate of \$2.5 billion has been characterized as the estimated unfunded liability of the LHWCA Special Fund, it does not include all of the elements of an actuarial projection, such as cases reported but not yet paid, historical payment trends, established mortality assumptions, or cost-of-living adjustments. In addition, it does not take into consideration estimated future revenue from annual assessments, which, according to the official, will eliminate the liability.

While it would be theoretically feasible to calculate the unfunded liability of the Special Fund using an actuarially sound methodology, the time and expense involved in performing such a calculation may not be warranted given that (1) there is no provision under LHWCA for financing the Special Fund with appropriated funds, (2) under LHWCA, neither the United States nor the Secretary of Labor is liable for compensation payments in the amount greater than the money deposited in or belonging to the Special Fund, and (3) self-insured employers and insurance carriers are required to disclose their future liabilities for second injury fund assessments in their annual financial statements, acknowledging that they are responsible for any future liability of the fund.³

The \$2.5 billion estimate described above was developed for discussion purposes by the NOLP official responsible for the day-to-day administration of the Special Fund. The estimate was a projection of future

³American Institute of Certified Public Accountants Statement of Position 97-3, “Accounting by Insurance and Other Enterprises for Insurance-Related Assessments.” This Statement of Position was issued on December 10, 1997, and is effective for fiscal years beginning after December 15, 1998.

Special Fund payments based on the workers' compensation benefits paid as of December 1998, which resulted in a \$2.5 billion estimate of the Special Fund's future obligations. This estimate was not developed for financial reporting purposes because the NOLP official understood that there was no unfunded liability for the federal government related to the Special Fund. Rather, his interest arose after the American Institute of Certified Public Accountants issued Statement of Position 97-3, which requires the Special Fund's self-insured employers and insurance companies to disclose their unfunded liability related to the Special Fund. To determine how much these companies might cumulatively disclose, the official created a projection of current payments using arbitrary life expectancies of 21 years for post-1972 cases and 11 years for the pre-1972 cases to estimate the Special Fund's future obligations. The official also determined that the expected future revenue from assessments, related to these December 1998 cases, would offset the estimated future obligations.

Although DOL has the expertise necessary to calculate the unfunded liability, it does not have an actuarial model developed for this calculation. According to DOL's Chief Actuary, the process of developing an actuarially sound estimate could take up to 9 months and the cost would be in excess of \$150,000. He stated that the process would require an actuary to create experience tables using at least 12 years of data on the payments already made from the Special Fund, including (1) the ages of the injured workers, (2) the nature of the injuries, and (3) the dates of death or cessation of payments by the fund. The actuary would then use the experience tables to develop the actuarial model that would calculate the estimated unfunded liability.

Pursuant to enactment of authorizing legislation, the federal government may assume liabilities for which it has no prior legal responsibility in order to provide for the public's general welfare. Statement of Federal Financial Accounting Standards (SFFAS) No. 5 refers to these actions as "government-acknowledged events." Although the costs of government-acknowledged events may ultimately become the responsibility of the federal government, according to SFFAS No. 5, the cost should not be reported on the face of the financial statements until the criteria for

recognizing the liability have been met.⁴ Since, at this time, the criteria have not been met, no unfunded liability should be recorded on the Special Fund's financial statements.

If, in the future, either (1) the federal government assumes responsibility for liabilities over and above the Special Fund's assets, thereby meeting SFFAS No. 5 criteria for reporting the liability, or (2) it is determined that calculating the unfunded liability would assist the Congress in overseeing the soundness of the Special Fund, an actuarial estimate of the unfunded liability may be warranted.

Controls Over Referral of Cases

The Department of Labor has established controls over the referral of cases to the Special Fund. These controls include several levels of review for each case referred to the Special Fund to ensure that the cases meet the mandated criteria. To be accepted into the Special Fund, a case must meet three conditions: (1) there must have been a preexisting permanent impairment, not necessarily work related, (2) the second injury must have occurred on the job, and (3) the combination of the two injuries/disabilities must have worsened the initial impairment. Employers can apply to the Director of their district office to have the injured workers' cases transferred to the Special Fund, after the employers have paid 104 weeks of compensation payments to the injured workers. Eligibility for the Special Fund is determined first by a DOL District Director or, in cases of dispute, an Administrative Law Judge. If the Director or Judge determines that the case is eligible, a Compensation Order is issued, which requires that the Special Fund assume responsibility for future payments to the injured worker. Compensation Orders issued by the District Director are forwarded to the national office for final approval by a Claims Examiner. If the application is denied, the self-insured employer or insurance carrier may appeal.

The NOLP official told us there is a strong incentive for companies not to submit invalid claims since annual assessments are calculated, in part, based on the number of cases that each company has in the Special Fund.

⁴According to SFFAS No. 5, the federal entity should not record the liability and expense until the following two criteria have been met: (1) the Congress has appropriated or authorized (i.e., through authorizing legislation) resources and (2) an exchange occurs or nonexchange amounts are unpaid as of the reporting date (e.g., payments to beneficiaries), whichever applies.

In addition, since self-insured employers and insurance carriers must pay the first 104 weeks of benefits prior to referring the cases to the Special Fund, they take steps to detect fraudulent claims through monitoring efforts such as surveillance, reevaluation, and verification of the status of the beneficiary's condition.

Data Matching

At the time of our review, DOL's management was not matching the Special Fund's recipient information with any other federal agency's databases. However, plans were underway to perform a match with SSA's death index, which will reduce the risk of deceased individuals being issued benefit payments from the Special Fund. This kind of matching procedure is used in the DOL/OWCP Black Lung Program, which has an agreement with SSA to provide the death index database to DOL on a monthly basis. DOL matches the death index against Black Lung recipient data to determine whether any of the Black Lung recipients are deceased. Once the match has been completed, Black Lung officials provide the database to officials of the Federal Employees Compensation Act (FECA) program, who then perform a comparison of FECA recipient data to the death index. According to the OWCP official responsible for ensuring that the comparison is performed for FECA, the matching procedure produces about 30 matches each time.

We were told by the OIG that prior year financial statement audits of the Longshore Special Fund uncovered payments made to deceased individuals. Accordingly, the OIG added a new procedure to the fiscal year 1999 audit program to detect such payments. The OIG provided SSA a data file containing Special Fund recipient information that SSA will match against its death index.

Calculation of Assessments

The formula for calculating the annual assessments against insurance carriers and self-insured employers is prescribed by statute.⁵ The formula requires DOL to (1) estimate the probable expenses of the Special Fund for the upcoming calendar year and the amount of payments required to maintain adequate reserves in the fund and (2) allocate a portion of the annual assessments to the individual insurance carriers and self-insured employers based on each company's share of the prior year's total LHWCA

⁵33 U.S.C. § 944 (c) (2).

related payments made by all employers subject to LHWCA, and each company's share of the prior year's second injury payments made by the Special Fund. The allocation process was designed to result in a prorated distribution of the annual assessment to the individual companies based on their activities under LHWCA. However, inaccurate reporting by companies has resulted in disproportionate distributions of assessments among the insurance carriers and self-insured employers. In addition, inadequate monitoring of certain Special Fund cases by DOL may have contributed to some companies paying more than their true prorated share of the annual assessments.

Underreporting was disclosed by DOL audits conducted during fiscal years 1992 through 1998. The process for allocating the annual assessment to the applicable self-insured employers and insurance carriers relies on the accuracy of LHWCA payment information obtained from these companies. However, the lesser the amount of LHWCA payments a company reports, the lower that company's portion of the assessments will be.

DOL contracts with an Independent Public Accounting firm (IPA) to perform a few audits (seven to eight audits a year) of the data reported on the Report of Payments (Form LS-513)⁶ submitted by the self-insured employers and insurance carriers. During fiscal years 1992 through 1997, the audits performed by the IPA generated \$27 million in collected reassessments due to underreporting. According to a DOL official, an additional \$4 million in assessments was recovered as a result of the fiscal year 1998 audits. The overall annual assessments are reduced by the amount of the reassessment collections received in the same year, which results in lower assessments for the individual self-insured employers and insurance carriers. Broader audit coverage (for example, covering the 27 companies that represent 70 percent of the assessments) would most likely generate more reassessments due to identification of underreporting, resulting in lower future assessments. In addition, as self-insured employers and insurance carriers become aware of these audits, they are likely to report their payment data more accurately, which should result in future distributions of assessments more accurately reflecting prorated activity under LHWCA.

⁶All self-insured employers and insurance carriers authorized to participate in the Special Fund are required to submit a Form LS-513 "Report of Payments" annually, indicating the total amount of payments they made related to LHWCA. During fiscal year 1998, 483 companies were assessed.

The NOLP official told us that the self-insured employers and insurance carriers are primarily responsible for monitoring the continued eligibility of the Special Fund beneficiaries. As previously discussed, these companies have an incentive to monitor the cases that they submit to the Special Fund because they must pay the first 104 weeks of benefits, and the payments related to their cases in the Special Fund are directly proportional to their share of the annual assessment. Their monitoring efforts include surveillance, reevaluation, and verification of the status of the beneficiary's condition. The self-insured employers and insurance carrier we spoke with stated that such monitoring takes place. According to DOL regulations, if a change in the recipient's condition is disclosed and a self-insured employer or insurance carrier intends to pursue a modification of the award of compensation, the company must involve DOL. The NOLP official stated that compensation awards have been reduced based on the review of evidence submitted by the self-insured employers and insurance carriers; however, this rarely occurs.

Because DOL relies on the monitoring activities of the self-insured employers and insurance carriers, DOL performs only minimal monitoring of the Special Fund's active cases. According to a NOLP official, all Special Fund recipients are required to submit a Report of Earnings (LS-200) to DOL annually. Recipients are required to report all earnings during the period specified on the LS-200. The NOLP official stated that although DOL does not verify the accuracy of the information submitted, it does enforce the requirement for each recipient to report. If the LS-200 is not completed and returned, DOL suspends the recipient's benefit payments. When requested, DOL will provide the self-insured employers and insurance carriers copies of the LS-200 forms.

The officials we spoke to expressed concern regarding the lack of adequate monitoring of the "orphaned" cases.⁷ There are about 500 of these "orphaned" cases, which, according to DOL officials, account for about \$10 million to \$12 million in benefits annually. Since the companies that referred these cases to the Special Fund are no longer in existence, the only monitoring of the "orphaned" cases occurs when DOL verifies that each recipient submitted an LS-200. This lack of adequate monitoring increases the likelihood of payments being made to ineligible recipients. The cost of

⁷"Orphaned" cases are those in which the former employer (company that referred the case to the Special Fund) has become insolvent or is no longer in existence, and beneficiaries continue to receive payments.

any resulting improper payments becomes an additional burden to the companies responsible for contributing to the annual assessment because these payments are included in the total annual assessment and allocated to the self-insured employers and insurance carriers. The NOLP official recognized the need for additional monitoring of “orphaned” cases, but stated that DOL does not have the resources to do so.

Changes to Longshore Computer Systems

In addition to paying the second injury benefits, the Special Fund is available for paying the costs of certain rehabilitation services. DOL is currently developing an automated computer system to strengthen existing controls over the reporting and authorization of payments made from the Special Fund to rehabilitation service providers in response to DOL/OIG reported weaknesses identified in the Special Fund’s fiscal year 1997 financial statement audit report, dated May 14, 1998. The reported weaknesses pertain to the controls over the national office’s final authorization for payment when bills are submitted by the district offices. Specifically, the weaknesses identified were (1) bills submitted for payment to the national office were not compared to a list of valid recipients or authorized service providers, (2) the total amount of rehabilitation bills submitted by the district offices was not compared to the total amount of rehabilitation bills paid by the national office, and (3) bills paid were not compared to the available amounts obligated by the Rehabilitation Specialist. According to the OIG’s audit report, these weaknesses may have contributed to the fraudulent payment of more than \$500,000 to fictitious rehabilitation vendors over a 4-year period.

The OIG recommended strengthening internal controls for recording, authorizing, and paying for rehabilitation service costs by implementing an automated rehabilitation payment system. The recommendation stated that at a minimum, the system should include the following controls: (1) compare bills submitted to a centralized list of eligible recipients and authorized service providers, with adequate controls over the ability to add recipients/vendors to the list, (2) compare the amount of bills submitted by the district offices to the amount paid by the national office, and (3) ensure that amounts obligated and accounts payable are timely and accurately reported and that payments do not exceed amounts obligated.

DOL management, in its response to the audit report, agreed with the OIG’s recommendation. DOL is currently developing a computer system to be used by NOLP, which we were told will allow the national office to view amounts approved and obligated by the district offices for rehabilitation

services before payments are authorized. We were also told that the system will compare bills submitted for payment to a list of eligible providers. According to DOL, the system was implemented in September 1999.

The Longshore and Harbor Workers' Compensation Program currently uses two computer systems: (1) the Longshore Special Fund System (LSFS) and (2) the Longshore Case Management System (LCMS). These systems were originally developed and implemented in 1985. In response to changing technology and the Y2K problem, DOL has instituted changes to both systems. LSFS is a benefit payments system, which is also used to allocate the annual assessments to the applicable insurance carriers and self-insured employers. LCMS is a management case tracking system. Employers are required to report all LHWCA claims to a district office within 10 days of the date of an employee's injury or death, or within 10 days of the date the employer becomes aware of the injury or death. Once reported, the case is entered into LCMS. The district offices use the LCMS to monitor the timeliness of the insurance carriers' and self-insured employers' compensation payments to beneficiaries.

Both of these systems were upgraded to mitigate Y2K problems and accommodate new, user-friendly technology. The upgraded LSFS was placed in service in July 1998 and the upgraded LCMS was implemented in March 1999. These upgraded systems serve the same purposes as the old systems, with the added advantages of modern hardware and software in order to comply with requirements related to the Y2K computing problem. Additionally, these systems were upgraded with new, user-friendly enhancements, such as drop-down menus, icons, and toolbars.

Conclusions

While DOL has procedures related to reducing the risk of inappropriate cases being referred to the Special Fund, DOL has not developed and implemented adequate procedures to reduce the risk of improper payments being made to deceased or otherwise ineligible recipients. However, DOL plans to match Special Fund recipient data with SSA's death index to identify payments being made to deceased recipients. Until DOL establishes sufficient monitoring of "orphaned" cases and expands its auditing of payment data submitted by self-insured employers and insurance carriers to detect underreporting, DOL cannot guarantee that the distribution of assessments among employers and carriers will accurately reflect their activity under LHWCA.

Recommendations

We are making recommendations to the Secretary of Labor to reduce the risk of (1) Special Fund payments being made to deceased or otherwise ineligible recipients and (2) disproportionate distribution of assessments among the self-insured employers and insurance carriers.

To reduce the risk of Special Fund payments being made to deceased or otherwise ineligible recipients, we recommend that the Secretary of Labor direct the Assistant Secretary for Employment Standards Administration to take the following actions.

- Implement a regular program of matching recipient data from the Special Fund to the SSA's death index. The match should be done monthly, in conjunction with the match of the Black Lung and the FECA recipient data match with SSA's death index.
- Develop and implement procedures to adequately monitor the continuing eligibility of the "orphaned" cases. The monitoring techniques employed should be similar to those used by self-insured employers and insurance carriers.

To help achieve the intended prorated distribution of assessments among the self-insured employers and insurance carriers, we recommend that the Secretary of Labor direct the Assistant Secretary for Employment Standards Administration to develop and implement a more comprehensive plan to expand DOL's auditing of LHWCA payment data submitted by self-insured employers and insurance carriers.

Agency Comments and Our Evaluation

In written comments on a draft of this report, DOL generally agreed with our observations and recommendations for improving the internal controls over the Special Fund. DOL plans to implement matching procedures in October 1999 in concurrence with our recommendation. DOL supports the recommendation for expansion of the auditing of LHWCA payments. While DOL views additional monitoring of "orphaned" cases as a challenge, it said it will look for ways to increase monitoring efforts in this area.

We are sending copies of this report to Senator James M. Jeffords and Senator Edward M. Kennedy, and to Representative William L. Clay, Representative William F. Goodling, and Representative Major R. Owens in their capacities as Chairmen or Ranking Minority Members of Senate and House Committees. We are also sending copies to the Honorable Alexis M. Herman, Secretary of Labor; the Honorable Jacob J. Lew, Director of the

Office of Management and Budget; and the Honorable Bernard E. Anderson, Assistant Secretary of the Employment Standards Administration of the Department of Labor. Copies will be made available to others upon request. If you have any questions or wish to discuss the issues in this report, please contact me at (202) 512-4476. Key contributors to this report are listed in appendix II.

Sincerely yours,

A handwritten signature in black ink that reads "Gloria L. Jarmon". The signature is written in a cursive, flowing style.

Gloria L. Jarmon
Director, Health, Education, and Human
Services Accounting and Financial Management Issues

Comments From the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210



OCT 5 1999

Mr. Jeffrey C. Steinhoff
Acting Assistant Comptroller General
United States General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Steinhoff:

Thank you for the opportunity to comment on your draft report entitled *Internal Controls: Oversight of Longshore Special Fund Needs Improvement*.

The United States Department of Labor, Employment Standards Administration is in general agreement with the observations and recommendations contained in your report. We support the recommendation for expansion of the audits of the Reports of Payments that provide the basis for the Special Fund assessment. While an expanded audit program would require additional funding, the Office of Workers' Compensation Programs' strategic plan commits the program to improving its audit process within existing resources.

The recommended effort to match records with SSA is already underway, and this will continue. We anticipate that matching will begin by October 1999.

Additional monitoring of the "orphaned" cases is also a severe challenge. We understand the industry's concern regarding these cases, and the Longshore program continues to look for ways to stretch resources to increase monitoring efforts.

Working to Improve the Lives of America's Workers

Appendix I
Comments From the Department of Labor

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The Longshore program has just hired an auditor whose first responsibility has been to centralize and personally resolve all pay/collect issues in cases where a Special Fund beneficiary has died. Consideration will be given to expanding this auditor's duties to include sample monitoring of the "orphaned" cases to evaluate the feasibility of this approach.

There is a minor inaccuracy on page 11, where it is stated that compensation orders (which award section 8(f) relief) are forwarded to the National Office for final approval. Procedurally, the Longshore National Office approves District Director orders prior to issuance, but Administrative Law Judge orders are not subject to National Office approval.

In summary, we agree with the GAO's observations and recommendations and will continue to pursue the program's ongoing efforts to address these issues. Again, thank you for the opportunity to comment on your draft report.

Sincerely,



Bernard E. Anderson

GAO Contact and Staff Acknowledgements

GAO Contact

Gloria L. Jarmon, (202) 512-4476

Acknowledgments

In addition to the contact named above, Alana Stanfield, Bonnie Derby, Suzanne Lightman, and David Engstrom made key contributions to this report.

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