

February 2008

FEDERAL WORKERS' COMPENSATION

Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments



Highlights of [GAO-08-284](#), a report to congressional committees

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Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments

Why GAO Did This Study

In fiscal year 2006, the Federal Employees' Compensation Act (FECA) program paid over \$1.8 billion in wage loss compensation to federal employees who were unable to work after being injured on the job. Under the Comptroller General's authority to conduct evaluations on his own initiative, GAO examined (1) how effectively the Department of Labor's (Labor) Office of Workers' Compensation Programs (OWCP) manages the risk of improper FECA compensation payments; (2) what vulnerabilities to improper payments, if any, exist in OWCP's procedures for making FECA wage loss payments; and (3) how well OWCP ensures the recovery of identified FECA overpayments. To address these issues, GAO reviewed OWCP documents, analyzed data obtained from OWCP, reviewed a random and projectable sample of FECA claims files, visited five OWCP district offices, and interviewed OWCP headquarters and district officials.

What GAO Recommends

The Secretary of Labor should direct OWCP to, among other things, develop a strategy to ensure that the agency's efforts to prevent and monitor improper payments are properly balanced with its other priorities, take steps to reduce the most common causes of improper payments, and focus more attention on the recovery of overpayments. In its comments, Labor disagreed with many of GAO's findings and conclusions, but described several actions being taken by OWCP that are consistent with the recommendations in the report.

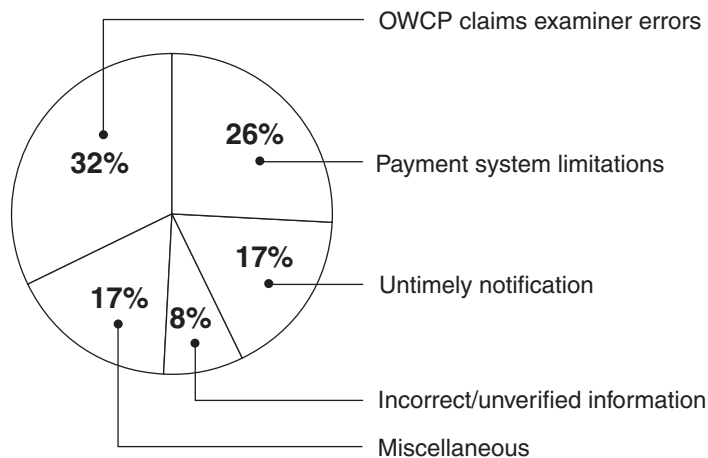
To view the full product, including the scope and methodology, click on [GAO-08-284](#). For more information, contact Daniel Bertoni at (202) 512-7215 or bertonid@gao.gov.

What GAO Found

OWCP has not established an effective strategy for managing improper payments in the FECA program. The agency does not sufficiently emphasize preventing, detecting, and recovering improper payments. None of the performance goals for the program addresses improper payments. Further, OWCP does not collect the information it needs to accurately assess the FECA program's risk of improper payments, such as information on their magnitude and causes. Without such data, it cannot focus on the most vulnerable areas.

The FECA program is vulnerable to improper payments for several reasons. First, OWCP relies on unverified, self-reported information from claimants that is not always timely or correct. From a review of a sample of claims files for overpayments identified by OWCP in 2006, GAO found that many occurred because claimants did not inform OWCP in a timely manner when they returned to work. Further, because OWCP generally does not require claimants' self-reported earnings to be verified and does not systemically match its data on FECA claimants with earnings data from other federal agencies, it may fail to identify cases of unreported earnings. An obstacle to conducting such matches, however, is that OWCP does not have the legal authority to access the database maintained by another federal agency with the most current earnings data. In addition, from GAO's file reviews, GAO found that both overpayments and underpayments were caused by OWCP errors and that many overpayments occurred when OWCP's payment-processing deadlines prevented payments from being quickly canceled when claimants returned to work or died.

Estimated Causes of Overpayments Identified by OWCP in 2006



Source: GAO analysis of a sample of FECA claims files.

Note: We could not make similar estimates for OWCP's 2006 underpayments due to data limitations.

Finally, OWCP does not ensure that overpayments are collected in a timely manner and misses some opportunities for recovering overpayments, such as deducting them from claimants' subsequent FECA payments.

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Abbreviations

DFEC	Division of Federal Employees' Compensation
DOD	Department of Defense
FECA	Federal Employees' Compensation Act
GS	General Schedule
HHS	Department of Health and Human Services
IPIA	Improper Payments Information Act of 2002
Labor	Department of Labor
OIG	Office of Inspector General
OMB	Office of Management and Budget
OPM	Office of Personnel Management
OWCP	Office of Workers' Compensation Programs
SSA	Social Security Administration
SSN	Social Security Number
Treasury	Department of the Treasury
USPS	United States Postal Service
VA	Department of Veterans Affairs

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United States Government Accountability Office
Washington, DC 20548

February 26, 2008

Congressional Committees

In fiscal year 2006, the Federal Employees' Compensation Act (FECA) program paid over \$1.8 billion in wage loss compensation to federal employees who were unable to work because of injuries sustained while performing their federal duties. Administered by the Department of Labor's (Labor) Office of Workers' Compensation Programs (OWCP), FECA covers over 2.7 million civilian federal employees in more than 70 different agencies, such as the U.S. Postal Service (USPS) and the Department of Homeland Security. OWCP bills the agencies that employ the injured workers for these wage loss compensation costs. The Improper Payments Information Act of 2002 defines an improper payment as any payment that should not have been made or was made in the wrong amount (including both overpayments and underpayments).¹ According to Labor, the FECA program experienced a low rate of improper payments in fiscal year 2006—0.04 percent. However, recent reports from several federal agencies' Offices of Inspectors General have found weaknesses in OWCP's internal controls that suggest the actual percentage of improper payments may be much higher.²

We addressed the following questions under the Comptroller General's authority to conduct evaluations on his own initiative as part of a continued effort to assist Congress in assessing OWCP's strategies for preventing, detecting, and recovering improper payments: (1) How effectively does OWCP manage the risks of improper compensation payments? (2) What vulnerabilities to improper payments, if any, exist in OWCP's procedures for making wage-loss-compensation payments under FECA? (3) How well does OWCP ensure the recovery of identified FECA overpayments?

¹Pub. L. No. 107-300, (2002).

²For example, see (1)Department of Labor, Office of Inspector General, *Mechanisms Used to Identify Changes in Eligibility Are Inadequate at the FECA District Office in Jacksonville, Florida*, 04-07-004-04-431 (Washington, D.C.: Sept. 28, 2007) and (2) Social Security Administration, Office of the Inspector General, *Federal Employees Compensation Act: A Nationwide Review of Federal Employees Who Received Compensation for Lost Wages for Periods When "Earned Wages" Were Reported on the Social Security Administration's Master Earnings File*, A-15-06-16037 (Baltimore, Md.: May 18, 2007).

To respond to these questions, we reviewed Labor's annual performance and accountability reports, the FECA procedures manual and internal controls, OWCP's accountability reviews, relevant agencies' Office of Inspector General reports, and applicable laws and regulations as well as interviewed officials at OWCP headquarters. We also reviewed the methodology used by Labor to estimate its risk of improper FECA payments and interviewed audit contractor staff who were involved in developing these estimates. In addition, we requested data from OWCP on the magnitude and causes of overpayments and underpayments. OWCP did not have data on causes or the number of improper payments that occurred in specific years, but it created a unique report for us that included all debts, including overpayments, that OWCP identified in fiscal year 2006. To assess the reliability of these data, we (1) reviewed existing documentation related to the data sources; (2) electronically tested the data to identify obvious problems with completeness or accuracy, such as missing or inconsistent data; and (3) interviewed knowledgeable agency officials about the data. We determined that the data were sufficiently reliable for the purposes of this report. We removed all debts that were not in final determination or terminated status and that were not related to wage-loss-compensation payments. We analyzed these data and reviewed the claims files for a random, projectable sample of these overpayments, as well as the 10 largest, to confirm whether they represented improper payments and to determine their causes and final outcomes. Because we discovered after reviewing these data that some of the debts included in OWCP's report either (1) were not improper payments or (2) were identified prior to fiscal year 2006, we excluded these debts from our analysis. We used the results from our file review to estimate the total dollar amount of improper overpayments identified by OWCP in 2006, and the percentage that were attributable to different causes. Although OWCP could not identify underpayments, it identified a subset of payments that included underpayments. We reviewed the claims files for a random sample of these payments for fiscal year 2006 to identify underpayments, estimate their dollar value, and obtain general information on their causes. However, because of limitations in the data, we could not develop estimates of the percentage of underpayments attributable to different causes for all 2006 underpayments. Estimates based on our claims file reviews are accurate to within plus or minus 10 percentage points at the 95 percent confidence level, unless otherwise noted. We also conducted site visits at 5 of OWCP's 12 district offices: Boston, Cleveland, Dallas, San Francisco, and Washington, D.C. We selected these offices based on variation in office size, internal audit results, organizational structure, and geographic location. Finally, we interviewed officials responsible for managing the FECA program at 10 federal agencies with varying FECA

caseload sizes. We conducted our work between September 2006 and January 2008 in accordance with generally accepted government auditing standards. See appendix I for more detailed information on our scope and methodology.

Results in Brief

OWCP lacks an effective strategy for managing the risks of improper payments because it has not (1) emphasized preventing, detecting, and recovering improper payments or (2) collected the information needed to assess the program's risk of improper payments. None of the agency's performance goals for the FECA program addresses improper payments. Instead, they emphasize the timely processing of claims and quickly returning claimants to work. While these are important goals, previous GAO work has shown that the risk of improper payments increases when agencies' goals and performance measures do not strike an appropriate balance between service delivery and the need to ensure payment accuracy. Further, OWCP program staff reported that detecting and recovering improper payments are often lower priorities than processing claims quickly. In addition, OWCP lacks useful information on the magnitude of improper payments or their causes, making it difficult to identify vulnerabilities that lead to payment errors or determine their impact on program operations. While Labor estimated that the FECA program made \$703,000 in improper payments in fiscal year 2006 by reviewing a sample of all payments made during the year, this estimate provides OWCP with limited information to use in identifying and managing the FECA program's risk of improper payments. For example, this estimate does not capture all types of improper payments and it does not include the improper payments that OWCP identified during the year, which we estimated to be \$13.3 million for 2006—\$7.1 million in overpayments and \$6.2 million in underpayments. Without comprehensive information on risks, OWCP may not be taking all of the precautions necessary to focus on its most vulnerable areas.

The FECA program is also vulnerable to improper payments because OWCP relies on self-reported eligibility information from claimants without verifying it, makes internal payment errors, cannot stop certain payments that OWCP knows to be in error, and receives inaccurate wage and benefits information from claimants' employing agencies. OWCP relies on claimants to inform it when they return to work, but our review of a sample of overpayments identified by OWCP in fiscal year 2006 found that an estimated 11 percent of overpayments occurred because claimants did not notify OWCP of their return to work in a timely manner. Further, because OWCP does not generally require claims examiners to verify claimants' self-reported earnings statements and

does not conduct systematic data matches with the Social Security Administration's (SSA) wage records, it may fail to identify cases of unreported outside earnings: a recent report by SSA's Office of Inspector General found that nearly 7 percent of claimants OWCP found to have no wage-earning capacity in 2004 actually had earnings that were reported to SSA. In addition, we estimated that 6 percent of the overpayments occurred when OWCP was not notified immediately after claimants died. Despite the fact that OWCP conducts monthly data matches with SSA's death records, we found instances in which the agency continued to send FECA payments to a claimant or a claimant's survivor for more than a year after the individual died. We also found that both overpayments and underpayments were caused by OWCP errors, such as when claims examiners made calculation errors, did not take timely action to stop payments after being notified that a claimant had returned to work or died, and or incorrectly reduced FECA payments. In one instance, OWCP paid a claimant for nearly 13 years after he returned to work, despite numerous notifications of the error by the claimant. In addition, about 26 percent of overpayments OWCP identified in 2006 occurred because limitations in its payment systems prevented it from quickly canceling payments when eligibility changes occurred, such as when claimants returned to work. In other instances, both underpayments and overpayments occurred when claimants' employing agencies provided inaccurate wage and benefits data to OWCP.

OWCP does not sufficiently ensure the recovery of FECA overpayments—specifically, it does not always process overpayments in a timely manner and misses opportunities for recovering them. Our analyses of OWCP data confirmed that overpayments are not always processed within OWCP's required 60-day time frame. For example, almost half of the identified overpayments listed in OWCP's September 2007 debt report were over 6 months old, but OWCP had not yet notified the claimants of the overpayments. Claims examiners in several district offices we visited told us that they sometimes delayed processing and recovering identified overpayments to focus on other tasks, such as paying initial claims quickly. OWCP cannot recover overpayments until the required overpayment notices have been issued and past GAO work suggests that overpayments are less likely to be repaid if they are not confirmed and processed promptly. While OWCP does not track the recovery status of overpayments, based on our review of 2006 overpayments that OWCP waived or pursued, we estimated that about 71 percent were repaid or were in the process of being collected. However, although many of them were collected, claims examiners missed opportunities to recover other overpayments. In one case, for example, a claims examiner made a \$29,000 payment to a claimant while a \$10,000 overpayment that had

been discovered 12 months earlier was still pending. Claims examiners can miss such opportunities when their focus on paying initial claims is not adequately balanced with an emphasis on recovering overpayments, when they are not completely familiar with OWCP's recovery processes, or when OWCP's data system does not alert them to recover overpayments from claimants' subsequent FECA payments.

We are making several recommendations to the Secretary of Labor to help OWCP strengthen its efforts to prevent and address improper FECA payments. Specifically, we recommend that the Secretary of Labor direct OWCP to (1) develop a management strategy to ensure that preventing and monitoring improper payments is properly balanced with the need to quickly process and pay claims; (2) take specific steps to reduce the most common causes of improper payments; (3) develop a legislative proposal to obtain the legal authority to enter into a data-matching agreement with the Department of Health and Human Services in order to identify individuals who are receiving FECA payments and have earnings reported in the National Directory of New Hires, and (4) focus more attention on the recovery of FECA overpayments. In its comments, Labor disagreed with many of GAO's findings and conclusions; however, the agency described several actions being taken by OWCP that are consistent with the recommendations in the report.

Background

The FECA program provides wage loss compensation and payments for medical treatment to federal employees who are injured in the performance of their federal duties.³ During fiscal year 2006, OWCP made over \$1.8 billion in wage-loss-compensation payments to injured federal employees ("claimants") and processed approximately 20,000 new wage loss claims. At the end of fiscal year 2006, over 55,000 claimants were receiving regular monthly wage-loss-compensation payments from OWCP.

Federal agencies use their own annual appropriations to reimburse Labor for wage-loss-compensation payments made to their employees each year, while most of the program's administrative costs are covered by direct appropriations from the Congress. For fiscal year 2008, Labor requested that the Congress provide \$93.4 million in administrative funding for the FECA program and sought an additional \$52.3 million from certain federal

³5 USC §8101, et seq.

agencies for administrative purposes.⁴ In total, this funding would provide 895 full-time equivalent positions for the FECA program.

USPS pays more in FECA compensation than any other federal agency. In 2004, USPS paid approximately \$852 million in wage loss compensation. During this same period, the Departments of Navy and Army paid the second and third highest amounts in FECA wage loss compensation to injured civilian employees of their agencies, approximately \$245 and \$177 million dollars, respectively.

Claims Management

Claims examiners at OWCP's 12 district offices determine applicants' eligibility for FECA benefits and process claims for wage loss payments. FECA divides work-related injuries into two categories: "traumatic injuries" and "occupational illnesses or diseases." Traumatic injuries are wounds or other conditions that occur within a single day or work shift, such as when an employee slips at work and sprains his ankle. An occupational illness or disease is a physical condition produced by the work environment over a period longer than one workday or shift, such as carpal tunnel syndrome. In this report, we use the term "injuries" to refer to both workers who have sustained traumatic injuries and workers who have experienced an occupational illness or disease.

FECA regulations specify complex criteria for computing compensation payments. Using information provided by the employing agency and the claimant on a claims form, OWCP calculates compensation based on a number of factors, including the claimant's rate of pay, deductions for health and life insurance benefits, the claimant's marital status, and whether or not the claimant has dependents. In addition, claimants cannot receive FECA benefits at the same time they receive certain other federal disability or retirement benefits. For example, claimants cannot receive both FECA wage-loss-compensation payments and disability payments from the Department of Veterans Affairs (VA) for the same injury. Further, claimants cannot receive federal retirement benefits paid through the Office of Personnel Management (OPM) concurrently with FECA benefits and must elect to receive one or the other.⁵ However, a claimant can

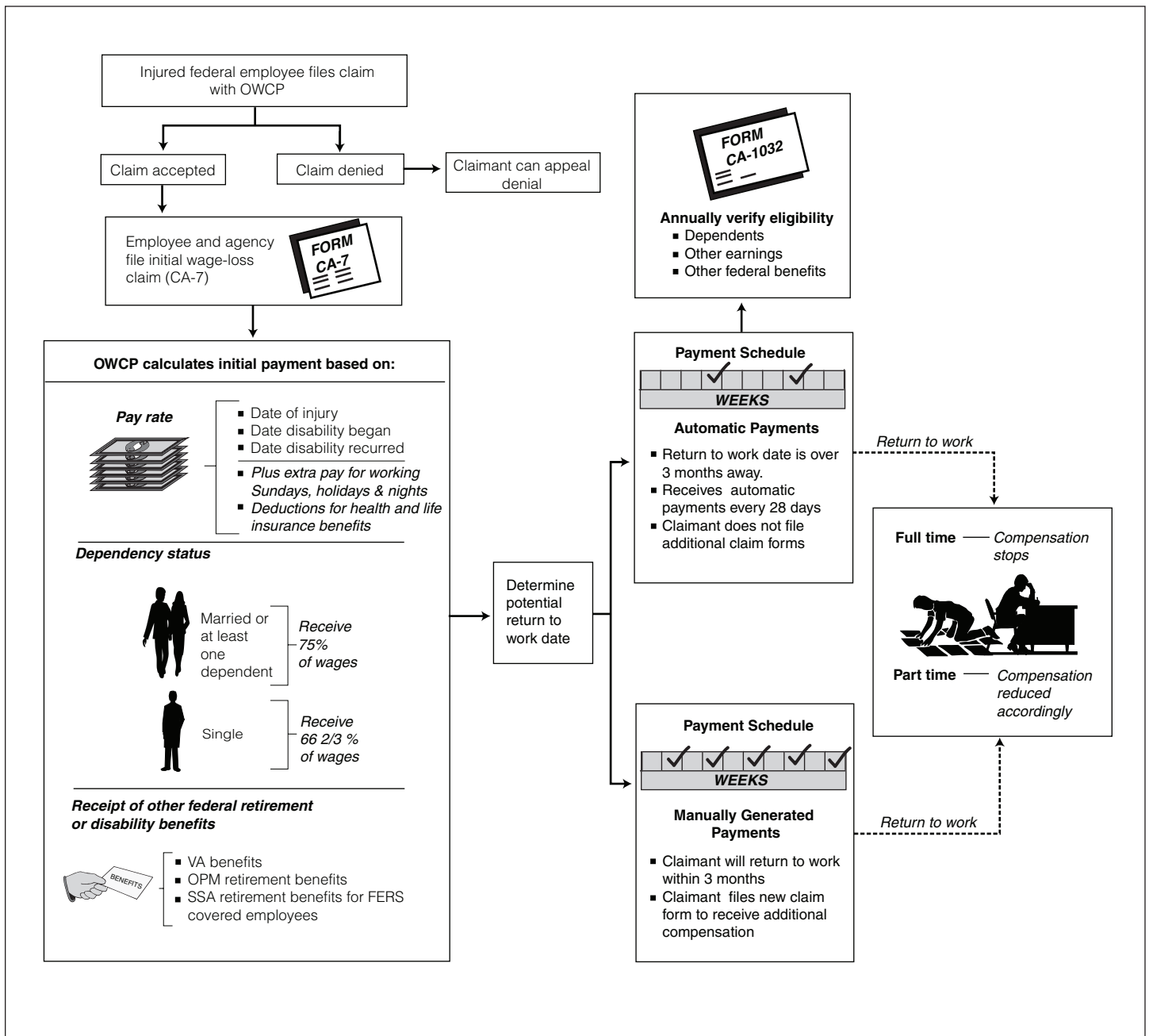
⁴Several mixed-ownership government corporations, such as USPS and the Tennessee Valley Authority, are required to provide additional funds to cover their "fair share" of the costs for administering the program for their employees. See 5 USC §8147(c).

⁵FECA claimants are not required to retire at a certain age and can continue to receive FECA wage-loss-compensation payments for as long as they remain eligible.

receive both FECA and SSA retirement benefits, although the claimant's FECA wage-loss-compensation payments should be reduced by the amount of SSA retirement benefits attributable to federal service.⁶ Similarly, a claimant can receive both FECA and SSA disability benefits, although SSA is required to reduce the level of disability benefits it pays by the amount of FECA wage loss compensation received by the claimant. Figure 1 details the process for filing and calculating claims for wage loss compensation under the FECA program.

⁶For claimants covered under the Civil Service Retirement System, none of their SSA retirement benefits are based on federal service. Therefore, their FECA benefits are not reduced by the amount of SSA retirement benefits that they receive. However, for FECA claimants covered under the Federal Employees Retirement System, a portion of their SSA retirement benefits is based on their federal service. The Civil Service Retirement System was replaced by the Federal Employees Retirement System, and almost all federal employees hired after 1983 are covered by the Federal Employees Retirement System.

Figure 1: FECA Claims Process



Source: GAO analysis; images, Art Explosion.

Based on various eligibility factors, the amount of wage loss compensation OWCP pays claimants varies widely. For example, a claimant who earned \$2,500 per month (\$30,000 a year), paid \$67 a month for health insurance benefits, and had no dependents would receive approximately \$1,600 a month in FECA wage loss compensation. A married claimant who earned \$8,500 per month (\$102,000 a year) and paid \$150 a month for health insurance benefits would receive approximately \$6,050 a month in FECA compensation.⁷

Compensation payments are issued on a monthly or weekly basis. Claimants who are expected to experience wage loss for longer than 3 months receive automatic monthly payments as long as their eligibility for wage loss compensation continues. Alternatively, claimants who are expected to recover more quickly and return to work within 3 months are required to file new claims forms each payment cycle in order to prove that they were off work and receive manually generated payments.⁸ OWCP provides wage loss compensation until claimants can return to work in either their original positions or other suitable positions that meet medical work restrictions. If claimants return to work but do not receive wages equal to that of their prior positions—such as claimants who return to work part-time—FECA benefits cover the difference between their current and previous salaries.⁹

FECA regulations require claims examiners to verify annually that claimants who are receiving automatic monthly compensation payments remain eligible for compensation. This verification process relies almost entirely on information provided by claimants on a form that OWCP mails them each year. Claims examiners are responsible for following up and

⁷Minimum and maximum monthly payments are set by law (5 USC §8112(a)). The minimum monthly FECA payment is 75 percent of the basic monthly pay for a GS-2, step 1 employee (\$18,700 per year as of Jan. 1, 2007). The maximum monthly FECA compensation payment cannot exceed 75 percent of the basic monthly pay for a GS-15, step 10 employee (\$121,000 per year as of Jan. 1, 2007).

⁸OWCP refers to claimants who receive automatic monthly payments as being on the “periodic roll” and those who receive manually generated payments as being on the “daily roll.”

⁹In general, OWCP continues to pay claimants the difference between their current salary and the salary they were earning at the time of their injury for as long as this difference exists and their medical work restrictions remain the same. OWCP would not continue to pay this difference for claimants who quit their job without good cause (for example, if they quit because they did not like the work hours).

taking necessary action to ensure that the forms are completed and returned, and can suspend compensation payments if a claimant fails to submit the form within the specified time period. Once returned, claims examiners review the forms for indications that a claimant's eligibility has changed and adjust the compensation payments accordingly. For example, if a married claimant indicates that he divorced his wife and does not have any other dependents, the claims examiner should reduce his wage-loss-compensation payment from three-quarters of his salary to two-thirds of his salary.

Improper Payments

The Improper Payment Information Act enacted in 2002 requires the heads of federal agencies to annually review all programs and activities they administer, identify those that may be susceptible to significant improper payments, and estimate and report the annual amount of improper payments in those programs and activities. The Office of Management and Budget (OMB) defines significant improper payments as payments in any program that exceed both 2.5 percent of total payments and \$10 million annually. In addition, OMB has previously identified other programs, including the FECA program,¹⁰ as being at a high risk of improper payments because its total payments exceed \$2 billion annually.¹¹ Because of this high risk designation, Labor must annually estimate the improper payment rate for the FECA program and report this rate in its *Performance and Accountability Report*, as well as identify the causes of improper payments and report the corrective actions it plans to take to address them.

Overpayment Recovery

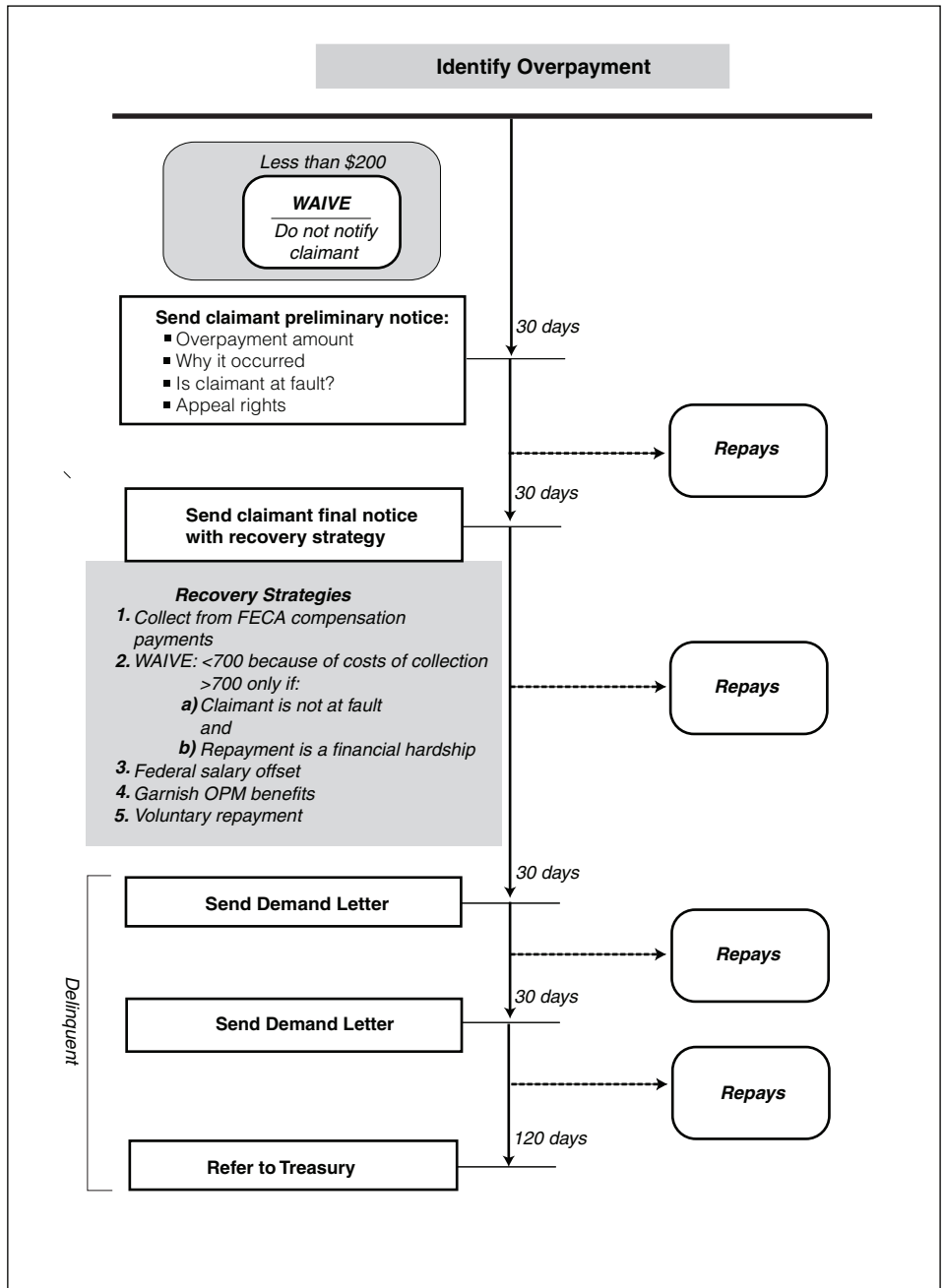
Once an overpayment has been identified by OWCP, the actions taken to recover it depend on the amount of the overpayment. Because of the administrative costs associated with recovering overpayments, OWCP allows claims examiners to waive overpayments less than \$200 without taking any action to recover them. For overpayments \$200 or greater,

¹⁰Office of Management and Budget, *OMB Circular No. A-11 (2002)*, Appendix C, "Section 57-5." However, *OMB Circular No. A-123* provides that agencies with this high-risk designation are not permanently subject to the improper payment reporting requirements if the program has documented a minimum of 2 consecutive years of improper payments that are less than \$10 million annually.

¹¹In fiscal year 2006, the FECA program made over \$1.8 billion in wage-loss-compensation payments and paid \$668 million for claimant medical and rehabilitation services, for a total of approximately \$2.5 billion in benefits.

claims examiners must send a notice of the overpayment (called a “preliminary notice”) to the claimant within 30 days. The claimant then has 30 days to respond to the preliminary notice and contest the overpayment. If a claimant does not repay the overpayment or appeal the overpayment decision within 30 days of the preliminary notice, claims examiners must issue an additional notice (called the “final notice”) that provides a recovery strategy to the claimant, such as a suggested repayment schedule. As shown in figure 2, the recovery options available to claims examiners depend on whether the claimant continues to receive FECA or other federal compensation payments, the amount of the overpayment, and whether the claimant was found to be at fault in the creation of the overpayment. If the debt is delinquent for 180 days and the claimant has not responded to two additional letters from OWCP demanding repayment, the claims examiner is required to refer the debt to the Department of the Treasury (Treasury) for recovery.

Figure 2: FECA Overpayment Process



Source: GAO analysis.

OWCP Lacks an Effective Strategy for Managing the Risks of Improper FECA Compensation Payments

OWCP has not established an effective strategy for managing improper FECA payments. The agency does not sufficiently emphasize preventing, detecting, and recovering improper payments. Program staff reported that they focused on the aspects of the claims process that are regularly tracked and measured by managers and said preventing, detecting, and recovering improper payments are often lower priorities. In addition, OWCP lacks the data needed to accurately assess the program's risk of improper payments. The agency does not collect data on the magnitude or causes of improper payments, making it difficult to identify vulnerabilities that lead to payment errors, implement procedures to prevent them, or evaluate their effectiveness.

OWCP Does Not Emphasize Preventing, Detecting, or Recovering Improper Payments

For the past 5 years, none of the national goals established for the FECA program have addressed improper payments but have focused primarily on improving service delivery. Two of the five national goals set time frames for returning claimants to work; two focus on minimizing medical and compensation costs, and the fifth goal addresses improving customer service by quickly responding to claimant and agency inquiries. Past GAO work has shown that emphasizing the prevention, detection, and recovery of improper payments at the managerial level by establishing goals for reducing improper payments is a key aspect of an effective strategy for managing improper payments.¹²

Similarly to the national goals, OWCP's performance goals for its district offices emphasize timely case management, but do not focus on payment accuracy. None of the 21 performance goals for district offices contained in OWCP's fiscal year 2007 operational plan address preventing or detecting improper payments, although one focuses on recovering delinquent overpayments. As table 1 illustrates, the majority of OWCP's performance goals for district offices either support the national goals for the program or focus on quickly adjudicating claims and processing payments. While one goal requires district offices to quickly process wage-loss-compensation payments, OWCP has not established a corresponding goal to ensure that these payments are accurate. Although quickly processing claims and payments are important goals, previous GAO work has shown that the risk of improper payments increases when these goals are not balanced with an emphasis on payment accuracy.¹³ In commenting on

¹²GAO, *Executive Guide, Strategies to Manage Improper Payments: Learning from Public and Private Sector Organizations*, [GAO-02-69G](#) (Washington, D.C.: October 2001).

¹³GAO, *Executive Guide, Strategies to Manage Improper Payments: Learning from Public and Private Sector Organizations*, [GAO-02-69G](#) (Washington, D.C.: October 2001).

this report, Labor reported that it has included a new measure on the timeliness of processing overpayments in its 2008 operational plan for the FECA program.

Table 1: National and District Office Performance Goals for the FECA Program

Strategic goal	Reduce the consequences of work-related injuries				
National goals for the FECA program for fiscal years 2003–2008 (targets listed are for fiscal year 2007)	Return claimants to work quickly	Minimize compensation and medical costs	Improve customer service		
	<ol style="list-style-type: none"> For USPS claimants, achieve a lost-production-days rate of 129.8 days. For claimants from all other agencies, achieve a lost-production-days rate of 49 days. 	<ol style="list-style-type: none"> Produce \$8 million in savings by returning claimants receiving long-term wage loss compensation to work. Keep the inflationary trend in FECA medical costs below the nationwide trend. 	<ol style="list-style-type: none"> Achieve targets for 4 of 5 communications performance areas, such as reducing average call response times. 		
District office workload and performance goals (21 goals established for fiscal year 2007)	<p>3 goals for quickly returning claimants to work:</p> <ol style="list-style-type: none"> For claimants who have received wage loss compensation for 12 months, return them to work within 156 days, on average. Of the claimants assigned nurses to aid in their recovery, return 6,440 to work. For claimants unable to return to the jobs they held when injured, return 550 to work by training them for new positions. 	<p>1 goal for compensation cost savings:</p> <ol style="list-style-type: none"> Achieve resolutions (such as returning claimants to work) in 2,342 claims for long-term wage loss compensation. 	<p>5 goals for providing quality and timely customer service:</p> <ol style="list-style-type: none"> Authorize 95% of medical referrals within 3 days. Review 95% of incoming mail within 3 days. Respond to 90% of priority written inquiries within 14 days. Respond to 90% of general written inquiries within 30 days. Improve communications efforts, such as: <ul style="list-style-type: none"> —Keep callers waiting for ≤3 min —Respond to 65% of telephone calls the same day. 	<p>11 goals for accepting claims and processing benefits quickly, including:</p> <ul style="list-style-type: none"> —Process 90% of claims for traumatic injuries within 45 days. —Process 85% of claims for basic occupational illnesses within 90 days. —Process 85% of wage-loss claims for payments within 14 days. 	<p>1 goal focused on collecting delinquent overpayments:</p> <ol style="list-style-type: none"> Resolve or refer to Treasury for collection 95% of debts that are 180 days delinquent.^a

Source: GAO analysis of Labor data.

Note: We reviewed the following documents: Labor’s fiscal year 2007 performance and accountability report, Labor’s fiscal year 2008 performance budget, and OWCP’s 2007 operational plan.

⁹In 2007, OWCP resumed measurement of and created a separate report to identify and track delinquent overpayments that have been referred to Treasury. However, data were not yet available to monitor the success of these efforts at the time of our review.

Several district office staff we interviewed reported that they focused most of their attention on aspects of the claims process that are regularly tracked and measured by OWCP, whereas tasks such as identifying and processing improper payments are given lower priority. In a recent report by Labor's Inspector General, officials in one district office stated that claims examiners' primary focus was to process claims and that time constraints prevented examiners from focusing on efforts to prevent and detect improper payments, such as confirming claimant eligibility information on a regular basis.¹⁴

While OWCP officials monitor payment accuracy as part of their biennial reviews of the district offices, the results are not incorporated into Labor's annual assessment of the FECA program's risk of improper payments, nor are they considered by outside auditors when they evaluate the program's internal controls.¹⁵ Each OWCP district office undergoes a review every other year, during which OWCP officials review a sample of claims files to evaluate a comprehensive range of district office operations—such as the appropriateness of decisions to accept or deny claims and the accuracy of payments—against program-wide performance standards. For example, a sample of initial payments is reviewed to ensure that they are accurate, based on the appropriate pay rate from the employing agency, and are properly certified by a second claims examiner.

However, permissible error rates are high—the permissible error rate for payment accuracy is 20 percent—and district offices with error rates that exceed the acceptable rate are not always required to implement corrective actions to address the identified deficiencies.¹⁶ Five of the six

¹⁴Department of Labor, Office of Inspector General, *Mechanisms Used to Identify Changes in Eligibility Are Inadequate at the FECA District Office in Jacksonville, Florida*, 04-07-004-04-431 (Washington, D.C.: Sept. 28, 2007).

¹⁵Labor's assessment of the FECA program's risk of improper payments is based on a statistical estimate of the amount of improper payments made by the program during the fiscal year. When evaluating the program's internal controls, outside auditors verify that OWCP conducted accountability reviews but do not factor the results of the reviews into their evaluation.

¹⁶In reviewing initial payments, a sampled payment that was not properly certified would be considered an error, even if the actual payment was correct.

district offices OWCP reviewed in fiscal year 2006 failed to meet the standard because over 20 percent of their payments were either inaccurate or lacked documentation to support the amount paid; one office had an error rate of 43 percent.¹⁷ However, only three of the offices were required to take corrective action to ensure that their future payment calculations are accurate. OWCP officials told us that offices with error rates slightly below the standard may not be required to develop corrective action plans if they have already taken steps to address the particular issue. They noted, however, that a corrective action plan is required whenever an office misses the performance standard by a large margin. Further, in commenting on this report, Labor also noted that findings from several review items may be combined into a single corrective action plan; as a result, formal remedies for payment accuracy may be in place even though they were not specifically cited in the reports reviewed by GAO.

OWCP Lacks the Information Needed to Accurately Assess the FECA Program's Risk of Improper Payments

OWCP lacks the information that it needs to accurately assess the FECA program's risk of improper payments. Previous GAO work has shown that agencies must know the magnitude of improper payments and the causes of these errors in order to assess program risks and take actions to address them.¹⁸ A risk assessment entails a comprehensive review and analysis of program operations to determine where vulnerabilities exist and what those vulnerabilities are and to measure their potential or actual impact on program operations. Information on the magnitude and causes of improper payments form the foundation upon which management can determine the nature and type of corrections needed and give management baseline information for measuring progress in reducing improper payments. Without this information, a program is vulnerable to improper payments because managers may not be taking all of the precautions necessary to ensure that payments are accurate.

First, OWCP does not collect or use available data to determine the magnitude of improper payments or their causes, making it difficult to

¹⁷For three of these district offices, virtually all of the errors were payment calculations. For one office, one-third of the errors were payments calculations, while most of the remaining errors involved discrepancies between the pay rate provided by the employing agency and the pay rate used for the FECA calculations. For the last office, almost all the errors were due to the fact the case file lacked sufficient information to determine if the payment was calculated correctly.

¹⁸GAO, *Executive Guide, Strategies to Manage Improper Payments: Learning from Public and Private Sector Organizations*, [GAO-02-69G](#) (Washington, D.C.: October 2001).

identify vulnerabilities that lead to payment errors and determine their impact on program operations. For example, although the reports OWCP uses to manage the program list the amount of debts—including potential overpayments—for collection purposes, OWCP does not analyze the data to identify the magnitude of improper overpayments that occur during a particular year or whether they are increasing or decreasing over time. In addition, OWCP does not collect data on the magnitude of underpayments identified each year because of limitations in its data systems. Further, although agency officials cited several potential causes for improper payments, the agency does not collect aggregate information on how frequently these errors occur. As a result, the only way to determine why an overpayment or underpayment occurred is to review the information in each claims file. While OWCP began using a new data system in 2005 that has increased the amount and quality of data available on improper payments, program officials told us that they have no plans to collect data on the causes of improper payments. Without accurate data on improper payment risks, OWCP cannot target its resources towards preventing or reducing the errors that are the most prevalent or costly, nor can it monitor the effectiveness of its efforts to prevent such errors. In commenting on this report, Labor stated that it is (1) developing codes to track the reasons for overpayments and (2) considering a method to collect information on the reasons for underpayments.

Further, while Labor is required to annually estimate the magnitude of improper payments in the FECA program, its estimate provides OWCP with limited information to identify and address program vulnerabilities. Labor estimated that the FECA program made \$703,000 in improper payments in fiscal year 2006 based on a review of claims files for a sample of all payments made during the year and determined that the program had a low risk of improper payments because this estimate did not exceed \$10 million and 2.5 percent of program payments—the threshold that federal guidance defines as high risk.¹⁹ While Labor followed the required guidance in developing this estimate, it may be understated because it does not include certain types of improper payments that recent audits

¹⁹The Improper Payment Information Act requires federal agencies to annually estimate the amount of improper payments in programs that agencies have identified as susceptible to improper payments. OMB guidance requires agencies to obtain this estimate using statistically valid techniques. Labor based its estimate on a review of a sample of 102 wage-loss-compensation payments made that year in which it found 1 overpayment that totaled \$228. From this review, Labor projected that the FECA program made \$703,000 in improper payments in fiscal year 2006. This estimate is intended to be a gross total of overpayments and underpayments in the program. In fiscal year 2007, Labor estimated that the FECA program made \$2.6 million in improper payments.

suggest may be fairly prevalent in the program. For example, Labor’s estimate would fail to catch improper payments that occurred because the information in the claims files that it reviewed—such as information on a claimant’s work status—was inaccurate. If a claimant returned to work but failed to notify OWCP, this information would not be reflected in the claims file. A 2007 SSA Inspector General audit of the FECA program found that claimants failed to report approximately \$12.6 million in wages to OWCP in 2004, suggesting that they had returned to work and were no longer eligible for wage loss compensation—but had not notified OWCP.²⁰

Labor is not required to include the amount of improper payments that OWCP identified during the fiscal year in its estimate and OWCP does not track these data.²¹ However, these data provide comprehensive information on the FECA program’s risk of improper payments that is useful in managing the program. From our analysis of potential overpayments and underpayments, we estimated that OWCP identified \$13.3 million in improper payments in fiscal year 2006 (\$7.1 million in overpayments and \$6.2 million in underpayments), some of which occurred in prior fiscal years.²² From our review of the claims files, we

²⁰Social Security Administration, Office of the Inspector General, *Federal Employees Compensation Act: A Nationwide Review of Federal Employees Who Received Compensation for Lost Wages for Periods When “Earned Wages” Were Reported on the Social Security Administration’s Master Earnings File*, A-15-06-16037 (Baltimore, Md.: May 18, 2007).

²¹To ensure consistency in the error rates reported by the agencies, OMB requires agencies to provide an improper payment rate based on a statistical sample of payments projected to the universe of payments made that year. OMB does not require agencies to include the amount of improper payments identified each year in their estimates. Following federal guidance, Labor’s 2006 estimate is of the dollar value of improper payments made during the fiscal year and does not include any payments from previous fiscal years (such as 2004 or 2005) that OWCP identified as improper in fiscal year 2006.

²²In reviewing claims files from OWCP’s list of the \$9.9 million in overpayments identified and finalized by OWCP in 2006, we found that it included overpayments that we did not consider to be improper, as well as overpayments from time periods outside our purview. Therefore, in order to estimate the magnitude of improper overpayments identified by OWCP in 2006, we reviewed the claims files for a sample of potential overpayments that it identified that year. Similarly, because OWCP’s data systems do not have the ability to distinguish underpayments from other payments made, we reviewed the claims files for a sample of potential underpayments in order to estimate the magnitude of improper underpayments identified by the agency that year. Based on the results of both of these reviews, we estimated that OWCP identified approximately \$13.3 million in improper payments in 2006. The 95 percent confidence interval for this estimate ranged from \$10.4 million to \$16.2 million. Whereas Labor estimated the magnitude of improper payments that OWCP made in fiscal year 2006, we estimated the magnitude of improper payments that OWCP identified during the fiscal year.

found that many of the improper payments spanned multiple fiscal years and some were not identified until several years after they occurred. Without comprehensive information on improper payments identified each year or trends in these payments over time, it is difficult for OWCP to identify vulnerabilities in the program that can lead to improper payments.

OWCP's Dependence on Unverified Information, Internal Errors, and System Limitations Leaves FECA Vulnerable to Improper Payments

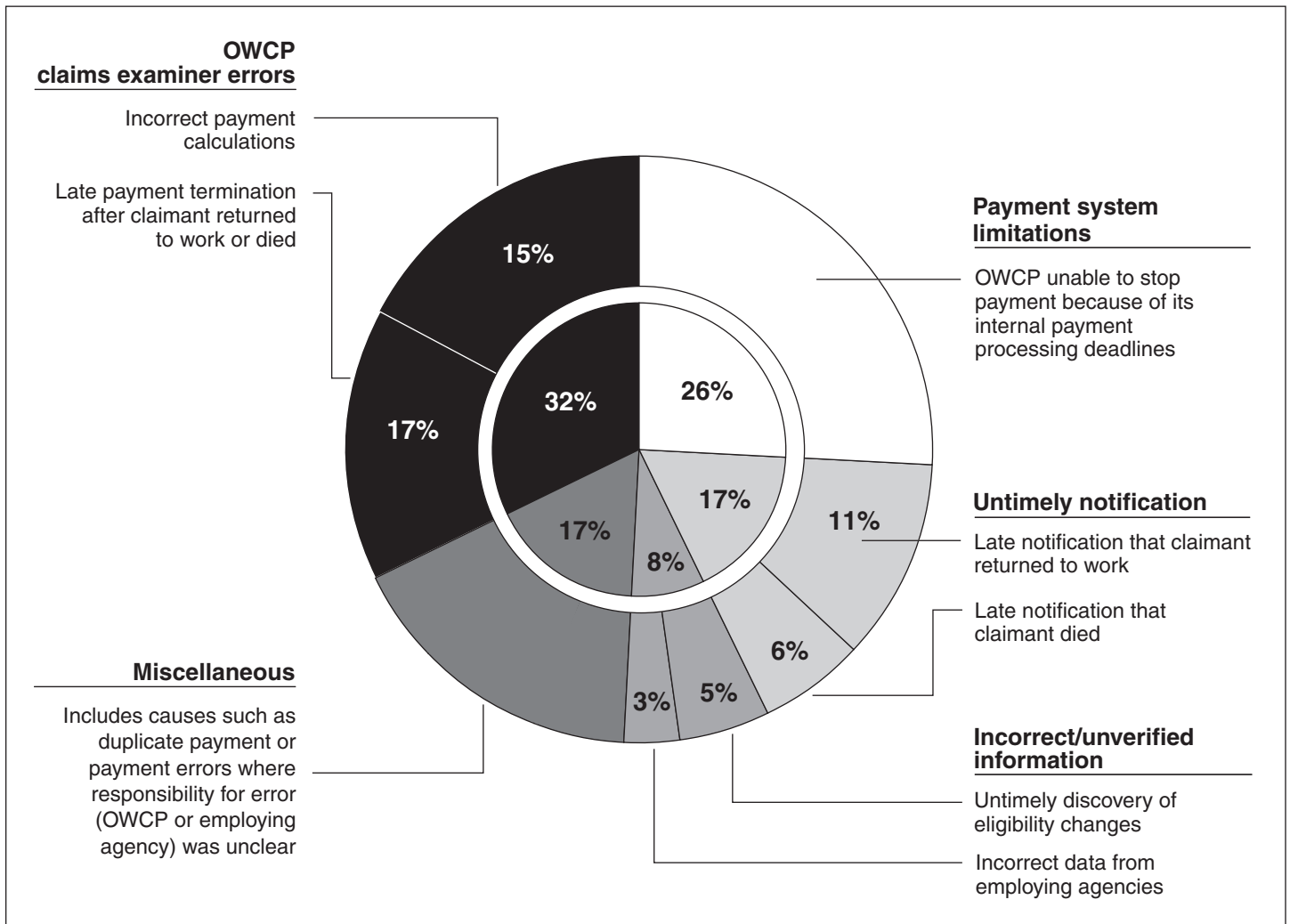
The FECA program is vulnerable to improper payments because OWCP relies on unverified self-reported eligibility information from claimants, makes internal payment errors, cannot stop certain payments, and receives inaccurate wage and benefits information from claimants' employing agencies. To identify the causes of improper payments and to estimate the total dollar values of improper overpayments and underpayments identified by OWCP in fiscal year 2006, we selected a sample of overpayments and another sample of potential underpayments and reviewed the selected claims files. Based on our overpayment file review, we estimated the causes of all overpayments identified by OWCP in 2006.²³ We also collected information on the causes of underpayments, but were unable to estimate their prevalence because of limitations in OWCP's data.²⁴ We found that overpayments commonly occurred when claimants failed to notify OWCP in a timely manner when they returned to work, or when family members did not quickly notify OWCP that a claimant had died. In other instances, overpayments occurred because

²³OWCP provided a list of all debts identified in the FECA program in fiscal year 2006, which included potential overpayments. From the information provided, we excluded debts that (1) were not in final determination or terminated status or (2) were unrelated to wage-loss-compensation payments. From this revised data, we selected a random sample of wage loss compensation overpayments and reviewed the claims file for each debt to identify the cause of the overpayment and its recovery status. After reviewing the claims files, we excluded overpayments that (1) were not improper payments or (2) were repayments of debts identified prior to our fiscal year 2006 time frame. After completing our analysis, we estimated the total dollar amount of improper overpayments identified by OWCP in 2006, and the percentage of improper overpayments that were attributable to different causes. See appendix 1 for additional information on our methodology.

²⁴Because OWCP was unable to identify its universe of underpayments, we sampled from a universe of different types of payments, including reimbursements when claimants were underpaid. Given this limitation in the universe, we could not estimate both the magnitude of underpayments and the frequency of different causes using a reasonable sample size. We designed a sampling methodology to allow us to develop a total dollar value estimate of underpayments and were therefore unable to estimate the prevalence of causes of underpayments with sufficient precision. See appendix I for additional information on our methodology.

claimants did not report earnings to OWCP. Claims examiners created improper overpayments and underpayments when they made payment calculation errors. They also overpaid claimants when they did not promptly stop payments after being notified that a claimant had returned to work or died. In addition, overpayments occurred because OWCP's administrative payment processing deadlines prevented claims examiners from quickly canceling some payments after being notified of changes in claimants' eligibility status. Finally, both overpayments and underpayments occurred when claimants' employing agencies provided inaccurate wage and benefits data to OWCP. Figure 3 shows the causes we identified from our review of the claims files for overpayments.

Figure 3: Estimated Percentage of Fiscal Year 2006 Overpayments by Cause



Source: GAO analysis of a sample of FECA claims files.

OWCP Relies on Claimants to Provide Key Eligibility Information

The FECA program is vulnerable to improper payments because it relies on claimants to report key eligibility information, such as when they return to work at their agencies or earn wages from other employment, and does not verify that the data are timely or accurate.

Late or No Notice When Claimants Return to Work

Some overpayments occur because OWCP relies on claimants—rather than their employing agencies—to inform it when they return to work, and claimants do not always do so in a timely manner. From our review of

Late or No Notice When
Claimants or Their
Survivors Die

claims files from a sample of the overpayments identified by OWCP in 2006, we estimated that about 11 percent of all of OWCP's 2006 overpayments occurred because claimants did not immediately notify OWCP when they returned to work. In some of these instances, claimants did not notify OWCP that they had returned to work at all—instead, their employing agencies notified OWCP. Until 1999, OWCP required employing agencies to submit a notification form when claimants returned to work.²⁵ However, OWCP discontinued use of this form, and agencies are no longer required to notify OWCP when a claimant returns to work. Officials from one employing agency told us that they would like OWCP to reinstate use of the notification form in order to better ensure that wage-loss-compensation payments are terminated when claimants return to work.²⁶ In commenting on this report, Labor noted that it is working to allow agencies to use its online system to notify OWCP electronically when a claimant returns to work.

OWCP is also not always notified in a timely manner of the death of claimants or their survivors who were receiving survivor benefits. From our review of the claims files for OWCP's 2006 overpayments, we estimated that about 6 percent of all overpayments occurred when a claimant or survivor died but OWCP was not quickly notified. OWCP relies on claimants' survivors to inform the agency when claimants die. Among the overpayments we reviewed, survivors usually notified OWCP within a few months of a claimant's death. However, in a few situations, the claims examiners were never informed of the death but became aware of it through other means, such as when the annual forms they sent to the claimant were returned to OWCP as undeliverable or after an investigation by the claimant's employing agency. In one claim we reviewed, OWCP paid a claimant for more than a year after he died, until a U.S. Postal Service investigation uncovered that the claimant was dead, and the claimant's cousin had fraudulently accessed his bank account and withdrawn the funds. In addition, OWCP is not always notified in a timely manner of the death of survivors—such as a spouse or eligible dependent of a deceased

²⁵Although the OWCP headquarters officials we interviewed were unsure when this form was discontinued, a DOD official told us OWCP stopped using the form in 1999.

²⁶OWCP also assigns nurses and vocational rehabilitation staff to work with certain claimants and these staff can also notify OWCP when a claimant returns to work.

claimant—who received survivor benefits.²⁷ One of the 10 largest overpayments identified in 2006, which totaled over \$130,000, occurred when the widow of a FECA claimant died and OWCP was not notified. OWCP continued to automatically deposit her FECA survivor benefit payments to her bank account every month for more than 2 ½ years after her death.

A recent report by SSA’s Inspector General found that nearly \$2 million in wage-loss-compensation payments were made in 2004 to claimants who died in 2003 or earlier.²⁸ OWCP headquarters officials told us the agency conducts monthly data matches for all FECA claimants with SSA’s death records to prevent long-term overpayments to claimants who died.²⁹ However, they acknowledged that there had been a recent 8-month lapse in these monthly data matches because OWCP’s contract with SSA for data matching services had temporarily expired. In addition, OWCP officials told us that, because they do not collect the social security numbers (SSNs) of claimants’ spouses or other eligible dependents who collect survivor benefits, they cannot conduct matches of their records against SSA’s death records for these individuals. Because OWCP does not conduct death matches for claimants’ spouses or other dependents, it cannot use this information to identify overpayments that occur when it is not notified that (1) a deceased claimant’s spouse or other dependent who was receiving survivor benefits died or (2) when a claimant’s spouse or dependents died—making the claimant ineligible to receive a higher wage-loss-compensation payment based on having a spouse or other eligible dependents.

²⁷If a claimant dies as a result of a work-related injury or illness, certain survivors, such as the claimant’s spouse, children, and dependent parents, are eligible for FECA compensation (known as death benefits). The law specifies the percentage of a claimant’s monthly salary that is due to each eligible survivor, but monthly payments for all survivors cannot exceed 75 percent of the claimant’s monthly salary.

²⁸Social Security Administration, Office of Inspector General, *Federal Employees’ Compensation Act: A Nationwide Review of Federal Employees Who Received Compensation for Lost Wages for Periods When “Earned Wages” Were Reported on the Social Security Administration’s Master Earnings File*, A-15-06-16037 (Baltimore, Md.: May 18, 2007). Because the SSA Inspector General did not review the specific cases to confirm that an improper payment had been made, it described these cases as potential overpayments.

²⁹In fiscal year, 2007, this data match identified 847 FECA claimants who were listed in SSA’s death records.

Unverified Self-Reported
Data on Earnings and Other
Federal Benefits

OWCP also relies on claimants to report whether they earn wages, which may affect their eligibility for wage loss compensation, but claims examiners generally do not verify this information. Unlike other federal agencies such as SSA and the Department of Veterans Affairs, OWCP does not conduct a systemic data match of its records against SSA's wage records to identify unreported earnings. Instead, OWCP conducts these matches on an ad-hoc basis for individual claimants if a claims examiner suspects that a claimant has unreported earnings.³⁰ Among claims in our sample of 212 overpayments, claims examiners only verified about 22 percent of claimants' annual earnings statements by comparing them to SSA's data between 2002 and 2007. Four of the seven cases of unreported earnings included in our review were not uncovered by OWCP, but by fraud investigations undertaken by the claimants' employing agencies. Further, a recent report by SSA's Inspector General found that, in 2004, about 7 percent of the approximately 1,800 claimants that OWCP determined to be unable to work at all actually had earnings that were reported to SSA.³¹

Beyond the limitations associated with OWCP's ad-hoc verification of individual claimants' earnings, the effectiveness of OWCP's verification process is undermined by the fact that the data are not current. OWCP officials told us that SSA's earnings data are about 2 years old. More current earnings data are available from another federal database, the National Directory of New Hires, a database maintained by the Department of Health and Human Services (HHS) to assist states in locating parents and enforcing child support orders. The database includes quarterly wage data for up to eight quarters, which can be compiled into annual data for matching purposes. OWCP could use these data to conduct systematic data matches with all of its claimants to identify those with unreported earnings. Before implementing such a match, OWCP and HHS would have to ensure that claimants' privacy and personal information

³⁰Without a systemic data match, OWCP must obtain a release from the claimant and send this release to SSA along with a request for earnings statements for the period covered in the release—a cumbersome and time intensive process.

³¹Social Security Administration, Office of Inspector General, *Federal Employees' Compensation Act: A Nationwide Review of Federal Employees Who Received Compensation for Lost Wages for Periods When "Earned Wages" Were Reported on the Social Security Administration's Master Earnings File*, A-15-06-16037 (Baltimore, Md.: May 18, 2007). Because the SSA Inspector General did not review the specific cases to confirm that an improper payment had been made, it described these cases as potential overpayments.

were protected. At present, OWCP does not have legislative authority to access the database. In the last several years, the Congress has authorized some expanded use of this database, allowing other benefit programs to obtain the data. For example, it has allowed SSA to use the database to establish individuals' eligibility for Supplemental Security Income and the Department of Education to use it to collect student loan repayments. OWCP officials told us they have sought access to the National Directory of New Hires, but did not provide us with any formal legislative proposals requesting such authority.

Some overpayments also occur because OWCP does not regularly verify whether claimants are receiving SSA retirement benefits. For FECA claimants in the current federal retirement system (those hired after 1983) who are also collecting SSA retirement benefits, OWCP is required to reduce their FECA payments by the amount of their SSA payments attributable to their federal service.³² However, during our interviews, some claims examiners reported that identifying these claimants is difficult. The Department of Defense, which has undertaken an initiative to ensure that FECA payments made to its former employees are correctly reduced by the amount of their SSA retirement benefits, has helped OWCP institute 230 of these reductions. However, in 2006, fewer than 30 FECA claimants from all other employing agencies had their payments reduced because of SSA retirement benefits. This small number suggests that OWCP has not undertaken a serious effort to identify and reduce the wage-loss-compensation payments of claimants receiving SSA retirement payments as required. Because the number of FECA claimants covered by the current federal retirement system will substantially increase as time goes on, it is likely that the risk of these improper payments will also substantially increase.

Errors by OWCP Claims Examiners Caused Overpayments and Underpayments

OWCP does not sufficiently ensure that its claims examiners correctly calculate payment amounts to claimants; promptly stop payments after they have been notified that a claimant has returned to work or died; make accurate decisions to deny, reduce, or terminate claimants' wage loss payments; or ensure that claimants file their annual eligibility and earnings statements.

³²As of fiscal year 2004, 70 percent of civilian federal employees were enrolled in the Federal Employees Retirement System, which covers employees hired since 1984. Thirty percent were enrolled in the Civil Service Retirement System, which covers employees hired prior to 1984.

Inaccurate Payment
Calculations by Claims
Examiners

While OWCP requires an experienced claims examiner to certify the accuracy of the first payment made on each claim before it is issued, many errors are still undetected. According to a 2006 internal audit by OWCP, about 14 percent of the initial payments sampled had calculation errors, and an additional 14 percent could not be verified because the claims file contained insufficient information to support the calculations made by the claims examiner. From our review of the claims files for OWCP's 2006 overpayments, we estimated that about 15 percent of all overpayments occurred because claims examiners made payment calculation errors; we also found that some underpayments were caused by incorrect payment calculations.

Calculation errors we found in our reviews of overpayments and underpayments included situations in which claims examiners incorrectly withheld health or life insurance premiums, paid claimants for the wrong amount of hours of lost wages, or paid claimants at the wrong rate. For example, several overpayments we reviewed occurred when claims examiners paid claimants twice for the same period. In addition, both overpayments and underpayments resulted when claims examiners withheld incorrect insurance premium amounts. For example, one underpaid claimant spent 4 years trying to get OWCP to stop incorrectly deducting premiums for family health insurance from the claimant's wage-loss-compensation payments. The claims examiner then reimbursed this claimant for the error twice—effectively overpaying the claim by more than \$14,000.

Some of these payment errors reflect the complicated nature of accurately determining the amount of compensation to which a claimant is entitled. For example, several overpayments and underpayments we reviewed occurred because claims examiners incorrectly determined the pay rate of a claimant who had returned to work and was later re-injured. To correctly calculate payments in such cases, a claims examiner must determine whether the claimant was working in a different position when he or she was re-injured, compare this amount to what the claimant would have earned in his or her original position, and use the higher of the two values. Such errors underscore the need for adequate training for claims examiners in calculating wage-loss-compensation payments

Untimely Termination of
Payments to Claimants Who
Return to Work or Die

Claims examiners do not always promptly stop payments when they are notified that claimants have returned to work or died. From our review of OWCP's 2006 overpayments, we estimated that about 17 percent occurred when claimants returned to work or died but claims examiners did not stop payments quickly after they were notified of these events. We

estimated that it took claims examiners an average of more than 5 weeks to stop these payments.³³ In some cases we reviewed, claims examiners had to be notified several times before finally halting payments. For example, a \$106,000 overpayment resulted when a claimant continued to be paid wage loss compensation for nearly 13 years after returning to work, despite numerous notifications. In another case, it took OWCP more than 2 ½ years after a claimant's death to cancel wage-loss-compensation payments, even though the claims file contained more than 20 letters from OWCP to the claimant that had been returned as undeliverable.

Incorrect Decisions to Deny, Reduce, or Terminate Wage Loss Payments

From our review of the claims files for potential underpayments, we estimated that OWCP identified about \$6.2 million in underpayments in fiscal year 2006. Many large underpayments occurred because claims examiners either inappropriately determined that compensation should be denied, reduced, or terminated, or did not follow proper procedures when decreasing benefits.³⁴ In one case we reviewed, for example, OWCP was required to pay one claimant over \$29,000 in back compensation because it did not provide a notice explaining the claimant's due process rights when it proposed to terminate benefits. In another case, OWCP underpaid a claimant by over \$83,000 because a claims examiner inappropriately terminated the claimant's benefits for refusing a job offer from an employing agency. After the claimant appealed the termination, it was determined that the claimant was justified in refusing the job because it did not meet the physical restrictions required by the injury.

Failure to Ensure That Claimants Submit Annual Eligibility Forms or Follow Up on the Information on the Forms

Finally, OWCP does not consistently ensure that claimants return their annual eligibility forms or adjust benefits when the information reported by claimants indicates a change in their eligibility. According to OWCP's internal audits, 14 percent of the claims files the agency sampled in fiscal year 2006 were either missing annual eligibility forms entirely or contained forms with incomplete information on which claims examiners failed to follow up. In addition, 4 percent of the sampled claims files contained information from claimants indicating that they may have been collecting dual benefits, had outside earnings, or had changes in their dependent status that affected their payments, but the claims examiners did not

³³The 95 percent confidence interval for this estimate ranged from 26 to 55 days.

³⁴Because of the manner in which payments are recorded, we did not capture some underpayments that occurred when OWCP inappropriately denied or terminated wage loss payments. Our estimate only pertains to the underpayments we were able to identify. See appendix I for more information on the methodology for reviewing underpayments.

follow up on this information. In one claims file we reviewed, a claimant reported the death of a spouse on two separate annual eligibility forms, but the claims examiner never reduced the wage loss payments.

Some Overpayments Occur because of Limitations in OWCP's Payment System

Based on our review of the claims files, we estimated that about 26 percent of all of 2006 overpayments occurred because OWCP had already processed payments or mailed checks before claims examiners were notified of events affecting claimants' eligibility for wage loss payments, such as a claimant's return to work or death. Because of payment system limitations, claims examiners cannot cancel or make changes to automated monthly payments for a 10-day period prior to the end of each pay period. Therefore, if a claims examiner is informed during this period that a claimant has returned to work or died, the examiner cannot prevent an overpayment from being issued. Many OWCP claims examiners we interviewed cited the payment processing deadline as a frequent cause of overpayments in their caseloads. These overpayments are for relatively short periods and tend to be smaller than other overpayments; according to our estimates, these overpayments averaged about \$900 each in 2006.³⁵ Although they tended to be small, they occurred frequently and took time for claims examiners to process.

Inaccurate Data from Employing Agencies also Lead to Improper Payments

Some improper payments occur because claimants' employing agencies provide inaccurate or incomplete wage and benefits data to OWCP. While OWCP relies on these agencies to report claimants' wage and benefits data on initial claims forms so that claims examiners can calculate wage-loss-compensation payments, it does not require them to provide evidence of their accuracy, such as by submitting copies of claimants' pay stubs. In fact, claims examiners in each of the five district offices we visited reported that the information provided by employing agencies on claims forms was frequently incomplete or incorrect. They also said that obtaining corrected information from employing agencies could be difficult. In our reviews of OWCP's 2006 improper payments, we found that both overpayments and underpayments were caused by inaccurate pay rate information provided by claimants' employing agencies. Underpayments also occurred because employing agencies failed to provide complete data on claimants' pay rates. For instance, several underpayments we reviewed occurred because employing agencies failed

³⁵The 95 percent confidence interval for this estimate ranged from \$660 to \$1,162.

to indicate that claimants were entitled to extra pay for working at night or on Sundays.

While OWCP depends on employing agencies to help identify payment errors, it does not provide them with sufficient tools to easily do so. Some employing agency officials told us that they are less able to monitor the accuracy of payments because they do not have ready access to detailed compensation data needed to verify OWCP's payment calculations.³⁶ Employing agencies can track the total amount being paid to a claimant by OWCP in an online system maintained by OWCP; however, they are unable to view details used to calculate payments, such as base and premium pay rates, the amount withheld for health and life insurance premiums, and whether claimants have dependents. If the employing agencies want to audit their employees' claims and identify potential improper payments, they have to send representatives to OWCP's district offices to review the claims files. One of the ten largest overpayments identified in fiscal year 2006, totaling nearly \$127,000, was uncovered when an employing agency sent a representative to OWCP to review claims files. The agency had previously informed OWCP that it was paying the claimant based on an incorrect pay rate. However, it was only during its claims file review nearly 4 years later that the agency discovered that the correct pay rate was still not being used. Recently, OWCP officials told us that OWCP was revising its online system to include more detailed payment information, which should be available by the spring of 2008.

OWCP Does Not Ensure the Recovery of FECA Overpayments

OWCP does not sufficiently ensure the timely recovery of FECA overpayments and misses some opportunities for recovering them. Further, OWCP cannot identify how many overpayments are waived each year or what percentage of overpaid dollars are repaid. As a result, it cannot assess the success of its recovery efforts.

³⁶Employing agencies receive copies of letters sent by OWCP to claimants after their first automatic monthly payment has been issued. These letters list the amount of insurance premiums deducted but do not include specific information about how claimants' pay rates are calculated. Further, after this initial letter, agencies do not receive copies of subsequent benefits statements sent by OWCP to claimants.

OWCP Does Not Ensure Timely Processing of Overpayments

OWCP does not ensure that its claims examiners process overpayments of wage loss compensation in a timely manner, which delays their recovery. Before seeking recovery of an overpayment, OWCP requires a claims examiner to (1) issue a preliminary notice within 30 days of identifying the overpayment to explain the circumstances of the overpayment and give the claimant an opportunity provide additional information or contest the decision and (2) issue a final notice within 30 days of the preliminary notice.

Timely processing of overpayments is critical to recovering the amounts owed. First, OWCP cannot attempt to recover overpayments until both the preliminary and final notices have been sent to the claimants. Second, prior GAO work has shown that successful recovery of overpayments is directly related to the time it takes to confirm and process the overpayment.³⁷ Specifically, the longer it takes to process an overpayment, the less likely it will be that a claimant will still be receiving FECA benefits from which the overpayment can be recouped. Finally, an overpayment that OWCP is unable to recover cannot be transferred to Treasury for additional recovery efforts until a final overpayment notice has been issued to the claimant. Treasury has recovery tools not available to OWCP, such as deducting overpayments from a claimant's federal tax refund or other federal payments. When OWCP does not issue a final overpayment notice promptly, it results in delays in transferring debts to Treasury and in applying these additional tools.

Available data indicate that OWCP does not ensure that overpayments are confirmed and processed within its required time frames. As shown in figure 4, OWCP's September 2007 debt-aging report indicates many delays in processing overpayments. Almost half of the identified overpayments were more than 6 months old, and OWCP had not yet issued preliminary overpayment notices to the claimants.³⁸ Similar delays were evident when OWCP assessed overpayment processing during its internal reviews of the

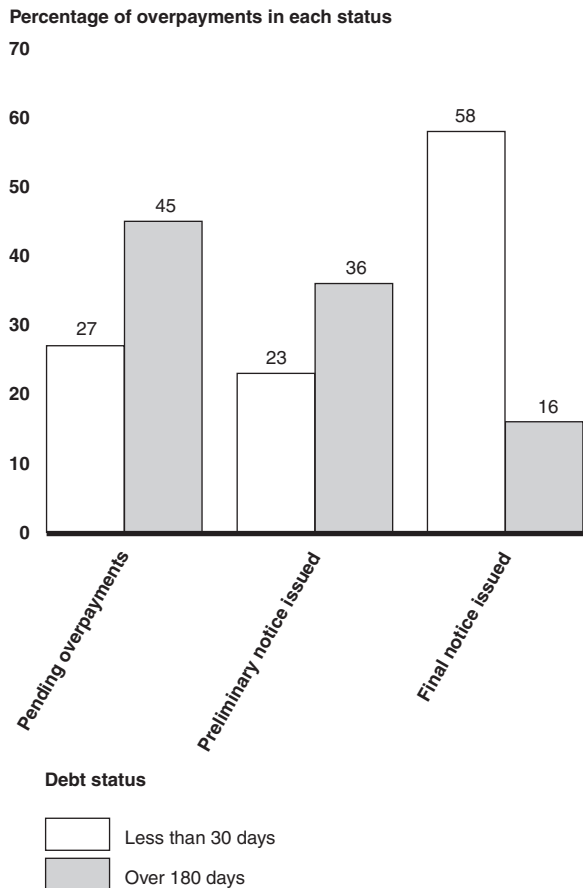
³⁷GAO, *Welfare Benefits: Potential to Recover Hundreds of Millions More in Overpayments*, [GAO/HEHS-95-111](#) (Washington, D.C.; June 20, 1995) and GAO, *Benefit Overpayments: Recoveries Could Be Increased in the Food Stamp and AFDC Programs*, [GAO/RCED-86-17](#) (Washington, D.C.: Mar. 14, 1986).

³⁸When a potential overpayment is first identified, OWCP categorizes it as a pending overpayment. Once its existence and amount has been confirmed, a preliminary notice is sent to the claimant and the overpayment is then categorized as a preliminary overpayment. OWCP officials told us that most pending overpayments are confirmed as actual overpayments.

district offices. For the six district offices reviewed in 2006, the district office had not issued a preliminary notice to claimants for over one-third of the overpayments OWCP reviewed. Further, based on our review of the 2006 overpayments, we estimated that, on average, OWCP issued the final overpayment notice to claimants 64 days after the preliminary notice, with a range of 26 days to 470 days.³⁹ In several district offices we visited, claims examiners or district office officials told us that they sometimes delayed issuing required overpayment notices to claimants because their first priority is to pay claims. A claims examiner in one district office, for example, told us about a backlog of overpayment cases for which preliminary or final overpayment notices had not been sent to the claimant.

³⁹This is based on our review of 27 overpayments in which (1) OWCP issued both a preliminary and final overpayment notice to the claimant, and (2) the claimant did not request an appeal in response to the preliminary overpayment notice. The confidence interval for our estimate of the mean days between the preliminary and final notice is 44 days to 85 days.

Figure 4: Status of Overpayments Listed on OWCP’s Debt-Aging Report, September 2007



Source: GAO analysis of OWCP data.

Note: If a claimant appeals OWCP’s preliminary overpayment decision, the overpayment remains in preliminary status until an appeal decision is issued. Some of the preliminary overpayments that were more than 6 months old could have been waiting for an appeal decision.

We also found that some OWCP district offices experienced more delays in processing overpayments than others. OWCP’s fiscal year 2006 overpayments, for example, showed that most district offices had issued preliminary notices by March 2007 for at least 90 percent of pending overpayments. However, four offices had issued preliminary overpayment notices for a lower percentage of overpayments, with one office issuing preliminary notices for less than half of its pending overpayments.

While some cases we reviewed involved complicated issues and may have required extra time for OWCP to confirm the existence and amount of the

overpayment before sending a preliminary overpayment notice to the claimants, other claims files we reviewed had no readily apparent reasons for the delays. In one case, for example, a postal worker aggravated a pre-existing knee injury as a result of prolonged bending and walking while delivering mail. The claimant subsequently returned to work and was overpaid almost \$700. However, the claims examiner did not send out the preliminary overpayment notice for nearly a year after being notified that the claimant had returned to work.

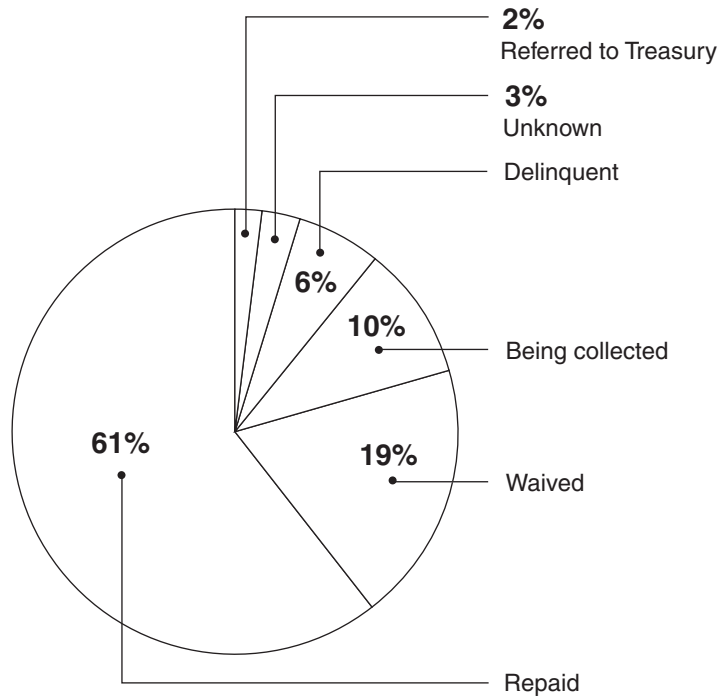
OWCP officials acknowledged that implementation of OWCP's new data system had resulted in some unreliable data on the debt-aging report and disrupted the program's ability to track overpayments for the past few years. They told us that they are taking steps to improve the reliability of the debt-aging report and to ensure that overpayments are processed within OWCP's required time frames. For example, in 2007 OWCP directed its district offices to review the debt-aging report in order to identify inaccurate data and outstanding overpayments that required action. OWCP officials told us that the reliability of the data has improved since this review, and the number of potential overpayments listed on the report has been significantly reduced. They confirmed that the data we analyzed from the September 2007 debt-aging report should be reasonably reliable.

About 70 Percent of Overpayments Are Repaid, but OWCP Overlooks Opportunities to Recover Overpayments

While OWCP does not track the recovery status of overpayments, our review of claims files for 2006 overpayments indicated that an estimated 71 percent were repaid or being collected at the time of our review.⁴⁰ An additional 19 percent of the overpayments were waived by OWCP, in most cases because the overpayment was less than \$700 and the cost of trying to recover the overpayment was expected to be greater than the amount actually recovered. See figure 5 for the recovery outcomes for our claims file sample. OWCP officials told us that they planned to collect more information on the outcome of OWCP's recovery efforts—such as whether overpayments are waived or repaid—by the end of fiscal year 2008.

⁴⁰The claims files we reviewed were only those that OWCP had waived or finalized, i.e., issued both the preliminary and final notices of overpayment to claimants. We do not know the recovery status of overpayments that OWCP had not finalized at the time of our review. These overpayments may involve more complicated issues and therefore may have different recovery outcomes.

Figure 5: Estimated Recovery Status of Overpayments That OWCP Waived or Pursued in Fiscal Year 2006

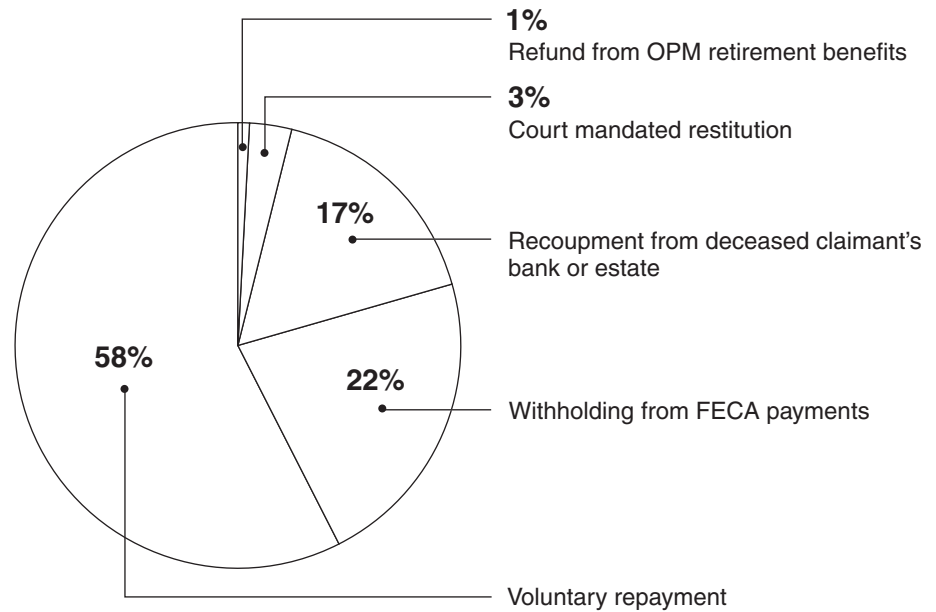


Source: GAO analysis of a sample of FECA claims files.

Note: Percentages do not add to 100 due to rounding.

We estimated that about half of the overpayments that were repaid or being collected were repaid directly by the claimant, while 21 percent were withheld from the claimant's FECA payments (see fig. 6).

Figure 6: Estimated Recovery Sources for 2006 Overpayments That Were Repaid or Being Collected



Source: GAO analysis of a sample of FECA claims files.

Note: Percentages do not add to 100 due to rounding.

Based on our review of the 2006 overpayments, we estimated that OWCP waived about \$118,000 (about 2 percent) of all 2006 overpaid dollars at the time of our review. Given the potential costs of recovering an overpayment, OWCP claims examiners may immediately waive any FECA overpayments under \$200 without notifying the claimant that an overpayment has occurred. Claims examiners can also waive overpayments under \$700 after sending the claimant a preliminary overpayment notice if the additional recovery costs are expected to exceed the amount to be recovered. From our review of the 2006 overpayments, we estimated that 77 percent of the overpayments \$200 or under were waived, compared with 38 percent of the overpayments between \$200 and \$700, and 1 percent of the overpayments that were \$700 or greater.⁴¹

⁴¹The confidence interval for the \$200 and under category is 66 percent to 87 percent, while the confidence interval for overpayments between \$200 and \$700 is 27 percent to 49 percent.

Other benefit programs GAO has reviewed have established lower minimum thresholds below which they will not seek recovery; in other words, they seek to recover more overpayments than OWCP does. For example, SSA's Supplemental Security Income program, which provides cash assistance to certain categories of people who have limited income and resources, waives overpayments of \$500 or less if the recipient was not at fault in the creation of the overpayment and cannot afford to repay it. An SSA program official told us that, because most of its overpayments are automatically generated, the program attempts to recover most overpayments over \$1.⁴² In addition, according to the Director of the Veterans Affairs' (VA) Debt Management Center, the VA's pension and disability compensation programs have totally automated overpayment - processing systems, making it cost effective to attempt recovery on small overpayments. The VA attempts to recover any overpayment over \$5. Because OWCP's data system does not automatically generate overpayment notices, these waiver thresholds may not be cost-effective for FECA at this time. However, OWCP implemented a new data system in 2005 and is continuing to add new capabilities related to tracking improper payments. As its overpayment processing capabilities improve, OWCP may be able to reduce its waiver thresholds and seek to recover more overpayments.

We found two cases during our review of the 2006 overpayments in which the claims examiners waived the overpayments even when the claimant indicated a willingness to pay back the amount. In one case, a claimant had incurred a \$430 overpayment and was sent a preliminary overpayment notice. The claimant sent a letter to OWCP indicating that he wanted to repay the overpayment in four installments. Instead, however, the claims examiner waived the overpayment. Similarly, a claimant called OWCP to establish a payment plan for her \$575 overpayment, but the claims examiner told her that the overpayment would be waived because it was less than \$700. For waivers of overpayments under \$700, OWCP procedures state that the claims examiner should consider such factors as whether the claimant can be located, the likelihood of recovery, and the potential costs of pursuing the case.

We also found instances when claims examiners missed opportunities to deduct overpayments from other FECA payments, including wage loss

⁴²For those few cases in which an overpayment notice is manually generated, the Supplemental Security Income program attempts to collect any overpayment over \$10.

compensation and other types of payments from OWCP. In one case, for example, a claims examiner made a \$29,000 payment to a claimant with an outstanding potential overpayment of almost \$10,000. While the claimant's FECA payments were stopped, the claims examiner did not issue a preliminary overpayment notice to the claimant for over a year. The claims examiner issued the final overpayment notice 2 months later, in the same month that the \$29,000 payment was made. At the time of our review, the \$9,940 debt had not been repaid and was considered delinquent. In another case, the claimant incurred a \$660 overpayment because health and life insurance premiums had not been deducted from his FECA payments. The overpayment was waived in July 2006 despite the fact that the claimant continued to receive manually generated FECA wage-loss-compensation payments until September 2006 and began receiving automatic monthly payments in October 2006. These missed opportunities may have occurred, in part, because OWCP's data system does not easily identify when a claimant with an overpayment is also receiving FECA payments. For example, one district office official pointed out that when a claims examiner processes a new payment, the system does not notify the claims examiner if the claimant has any outstanding overpayments. Further, the debt-aging report does not include a claimant's payment status, which could alert claims examiners when a claimant with an outstanding overpayment begins receiving FECA payments. In commenting on this report, Labor noted that it is planning to create an automated prompt that will alert claims examiners preparing a FECA payment that a claimant has an existing overpayment.

OWCP's relatively infrequent use of wage garnishment may also represent a missed opportunity to recover overpayments, especially given the large number of overpayments that occur when claimants return to work at a federal agency. OWCP procedures identify wage garnishment as a recovery option but do not include any detailed instructions on how to implement it. Instead, claims examiners are encouraged to transfer overpayments for which garnishment is an option to Treasury and have that agency garnish the claimant's wages. Most claims examiners we interviewed did not mention wage garnishment as a recovery option. Further, none of the overpayments in the claims files we reviewed were recovered through wage garnishment. Many overpayments created when claimants return to work are small and may not be worth the effort of arranging for wage garnishment with the employing agency. However, some overpayments are large and could be recovered in this manner. OWCP headquarters officials told us that wage garnishment is a viable recovery option, but noted that it may be difficult for claims examiners to identify the correct employing agency official who can arrange for the claimant's wages to be garnished.

Claims examiners may miss these recovery opportunities for several reasons. As noted earlier, they may be more focused on paying initial wage loss claims than recovering overpayments. In addition, some claims examiners we interviewed were not completely familiar with FECA's overpayment recovery process, usually because they did not process overpayments very often. For example, some claims examiners were unsure about which overpayments were eligible to be waived; however, they said they reviewed the FECA procedures manual when they had to process an overpayment. While some claims examiners reported that they aggressively pursued the recovery of overpayments from available recovery sources, others said they were more limited in what they could do. For example, one claims examiner told us that he could not recover overpayments from a claimant's wage-loss-compensation payments, even though the FECA procedures manual recommends that overpayments over \$200 be finalized and recovered from ongoing wage-loss-compensation payments as quickly as possible. In one district office, two claims examiners also told us that they were not allowed to use wage garnishment to recover overpayments, although OWCP headquarters officials told us that claims examiners can garnish wages to collect overpayments.

Several claims examiners told us that it would be more effective to assign responsibility to one person for recovering overpayments, rather than expecting claims examiners to focus on recoveries in addition to all their other responsibilities. Such an approach could reduce instances when a claims examiner overlooks a potential recovery source or unnecessarily waives an overpayment. One district office we visited had recently implemented this approach, giving responsibility to a staff person in the fiscal office to recover all overpayments once the final overpayment notice was sent to the claimant. In dividing the overpayment process, the district office manager said he hoped that claims examiners would focus on processing overpayments more quickly, while the fiscal staff member would specialize in the recovery process. In another district office, a fiscal staff member provided assistance to claims examiners by pointing out potential recovery sources for overpayments, such as OPM retirement benefits. Fiscal staff in the other three district offices we visited were not involved in the recovery of overpayments.

Conclusions

OWCP appropriately places a high priority on making timely wage-loss-compensation payments to injured federal workers who might otherwise face financial hardship while, at the same time, helping them return to work when their injuries have been resolved. However, without a

counterbalancing emphasis on preventing and identifying improper payments as well as recovering overpayments, claimants may not receive all of the compensation to which they are entitled and program dollars may be spent on ineligible claimants, threatening the overall integrity of the program. To effectively address program vulnerabilities, OWCP must first identify those vulnerabilities. The current process for assessing FECA's risk of improper payments does not provide sufficient information on the extent of improper payments. Further, because OWCP lacks data on the causes of improper payments, it cannot focus its efforts on preventing them before they occur or addressing those areas that are at the highest risk for errors. It is unlikely that the vulnerabilities we have identified will be addressed without a change in OWCP's current management strategies with respect to improper payments.

We recognize that determining eligibility for FECA wage-loss benefits and calculating wage-loss payments is complicated and depends on employing agencies to provide accurate information to OWCP, which leaves the process at risk for errors. However, OWCP's own errors and reliance on self-reported data with respect to when claimants return to work and their earnings also contributes to the risk of improper payments. Taking more proactive steps to reduce the number of improper payments would allow OWCP to provide better customer service to claimants because such action would decrease the considerable time it takes to document, process, and recover overpayments. While OWCP can do much on its own to reduce the risk of improper payments, its ability to detect improper payments related to unreported earnings is hindered by the cumbersome process it must use to verify claimants' earnings through SSA and the outdated data produced by this process. While OWCP does not have the legislative authority to access the more timely and accurate earnings data available in the National Directory of New Hires, Congress has recently expanded access to these data for other programs to use in verifying individuals' eligibility for federal benefits.

Similarly, OWCP can do more to focus on the recovery of overpayments. With little data on the recovery status of overpayments, OWCP cannot monitor the effectiveness of its recovery efforts or use this information to improve these efforts. While our review indicates that OWCP is recovering many overpayments, it also suggests that recoveries could be increased if OWCP acts on the missed recovery opportunities we identified.

Recommendations for Executive Action

We recommend that the Secretary of Labor direct OWCP to develop a management strategy to ensure that the program's emphasis on quickly processing and paying FECA claims is balanced with the need for payment accuracy. Specifically, the agency should take the following two actions

- revise its program performance measures to ensure increased emphasis on payment accuracy, adequate internal controls, and overpayment recoveries and
- collect more detailed information on improper payments, such as the causes of overpayments and underpayments, and use these data to better identify improper payment risks and to address areas of high risk.

We also recommend that the Secretary direct OWCP to take steps to reduce common causes of improper payments, such as

- requiring agencies to report to OWCP when a FECA claimant returns to work and provide incentives for agencies to notify OWCP quickly;
- ensuring that its data match with SSA's death records is conducted regularly and consistently and that it includes individuals who are receiving survivor death benefits;
- taking steps to ensure that wage-loss-compensation payments for claimants covered by the current federal retirement system are appropriately reduced by the amount of their SSA benefits that are attributable to their federal service;
- considering ways to reduce the time it takes to process automated monthly payments;
- determining what additional training claims examiners may need to improve payment accuracy; and
- exploring options for improving information sharing between OWCP and employing agencies so that OWCP can make accurate payments and agencies can help identify payment errors.

To allow OWCP to more effectively verify the earnings information reported by FECA recipients and identify instances in which a claimant receiving wage loss compensation has unreported earnings, we recommend that the Secretary of Labor direct OWCP to develop a legislative proposal seeking legal authority to enter into a data-matching

agreement with the Department of Health and Human Services to identify FECA claimants who have earnings reported in the National Directory of New Hires. Any such data-matching agreement would need to include appropriate safeguards for protecting claimants' privacy and personal information.

We further recommend that the Secretary direct OWCP to take steps to focus attention on the recovery of FECA overpayments, such as

- collecting more detailed information on how overpayments are resolved in order to monitor the effectiveness of OWCP's recovery efforts;
- holding staff accountable to ensure that overpayments are processed in a timely manner;
- considering reducing the dollar threshold for waiving overpayments as OWCP's overpayment processing data system develops additional capabilities;
- determining whether having fiscal staff dedicated to recovering overpayments would increase their recovery; and
- developing system modifications that would automatically identify claimants who have outstanding overpayments in order to ensure that debts are repaid from future benefit payments.

Agency Comments and Our Evaluation

We provided a draft of this report to Labor for review and comment. The agency provided comments, which are reproduced in appendix II. Labor expressed some concerns about our findings and conclusions but did not specifically comment on our recommendations. However, Labor also indicated that it is taking a number of steps that are consistent with our recommendations. In its comments, Labor stated that FECA overpayments and underpayments should not be considered improper because Labor adjusts them once additional information becomes available. We used the definition of improper payments from the Improper Payments Information Act: "any payment that should not have been made or that was made in an incorrect amount." In addition, Labor stated that our analysis of improper payments identified in 2006 does not accurately reflect its performance in terms of managing improper payments because it includes payments that occurred in previous years. We determined, however, that using currently available data on improper payments that occurred in 2006 would not have

provided an accurate assessment of the risk of the FECA program to improper payments because OWCP does not identify some improper payments until a year or more after they occur. As a result, we based our analysis on improper payments that were identified in 2006 without respect to when they occurred and describe in the report how our measure of improper payments differs from Labor's. This analysis allowed us to demonstrate the type of information that OWCP could collect to identify and address the largest risks that lead to improper payments. Labor also stated that system improvements and staff training have improved its data and processing of overpayments. We acknowledge in our report that Labor's data on improper payments have recently improved. We believe that the improvements in Labor's performance in addressing improper payments have resulted from its efforts to focus more attention on these payments since our review began. This supports our assertion that the risks of improper payments are reduced when agencies strike an appropriate balance between service delivery and payment accuracy. We continue to believe that our findings, conclusions, and recommendations are sound. Labor's comments and our responses are reproduced in their entirety in appendix II. In addition, we incorporated clarifications in the report as appropriate.

We are sending copies of this report to the Secretary of Labor, relevant congressional committees, and other interested parties. We will make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions or wish to discuss this report further, please contact me at (202) 512-7215 or at bertonid@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. The major contributors are listed in appendix III.



Daniel Bertoni
Director, Education, Workforce,
and Income Security Issues

List of Congressional Committees

The Honorable Edward M. Kennedy
Chairman
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Patty Murray
Chairman
Subcommittee on Employment and Workplace Safety
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Daniel K. Akaka
Chairman
Subcommittee on Oversight of Government Management, the Federal
Workforce, and the District of Columbia
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Joe Wilson
Ranking Member
Subcommittee on Workforce Protections
Committee on Education and Labor
House of Representatives

Appendix I: Scope and Methodology

To address our objectives, we requested data from OWCP on the volume, causes, and recovery outcomes of improper payments it identified. However, OWCP was only able to provide us with limited information on overpayments, and could not provide us with any data on underpayments because it could not separate them from other payment types. As a result, we decided to review a sample of claims files containing identified overpayments to learn more about their characteristics and reviewed a sample of other claims files to look for underpayments and estimate the total dollar value of underpayments OWCP identified in fiscal year 2006. We used the data gathered through these file reviews to estimate the magnitude of OWCP's improper payments. We also reviewed results from OWCP's internal audits, called accountability reviews, to learn more about risks OWCP identified. Additional information on how we conducted our claims file reviews and other analyses are discussed below. We conducted our review between September 2006 and January 2008 in accordance with generally accepted government auditing standards.

Review of Overpayments Identified by OWCP in Fiscal Year 2006

OWCP collects limited information on overpayments, but was able to create a report for us listing all FECA debts identified in fiscal year 2006. This data extract was run on March 13, 2007, and included basic data on all 2006 FECA debts as of that date, including type, processing status, and initial and current balances. This data source contained records of both wage loss compensation overpayments and other types of debts, such as medical provider debts and debts associated with legal settlements. To assess the reliability of these data, we (1) reviewed existing documentation related to the data sources, (2) electronically tested the data to identify obvious problems with completeness or accuracy, and (3) interviewed knowledgeable agency officials about the data. We determined that the data extract was sufficiently reliable for our purposes. Before selecting our sample, we removed all debt records that did not appear to be related to wage-loss-compensation payments. In addition, we removed all debts that had been voided. As shown in table 2, the large majority of the remaining debt balance was due to wage loss compensation overpayments, with smaller amounts related to benefits fraud, employing agency overpayments, and miscellaneous situations. Their initial balances totaled just over \$14.7 million.

Table 2: Initial Balances of Compensation-Related Overpayments Identified in Fiscal Year 2006

Debt type	Pending	Preliminary	Final	Terminated	Suspended	Total
Wage loss compensation	\$2,067,950.82	\$2,244,362.57	\$3,615,526.16	\$4,522,698.35	\$4,781.53	\$12,455,319.43
Benefits fraud	\$201,010.26	\$78,212.21	\$484,054.69	\$220,625.29	\$0.00	\$983,902.45
Employing agency	\$0.00	\$0.00	\$0.00	\$10,614.75	\$0.00	\$10,614.75
Miscellaneous	\$202,561.11	\$12,717.80	\$348,374.76	\$699,456.67	\$0.00	\$1,263,110.34
Total	\$2,471,522.19	\$2,335,292.58	\$4,447,955.61	\$5,453,395.06	\$4,781.53	\$14,712,946.97

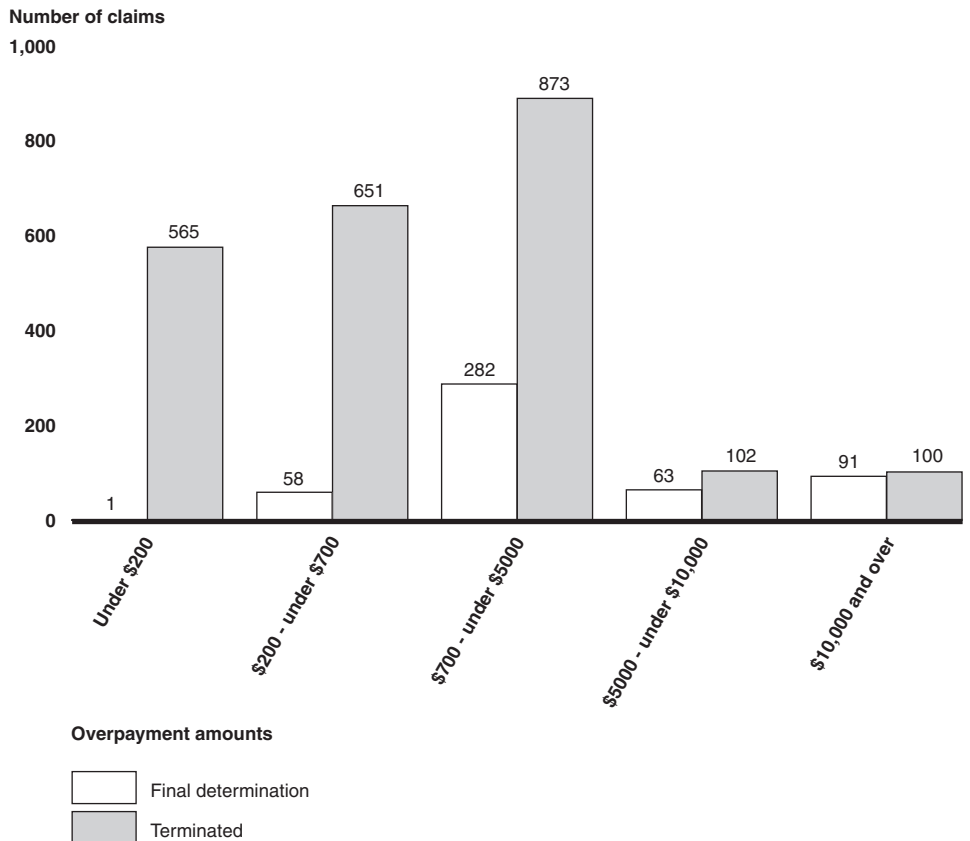
Source: GAO analysis of OWCP data.

Before selecting our sample, we removed pending, preliminary determination, and suspended overpayments from the universe in order to avoid analyzing characteristics of overpayments that might later be voided or overturned.¹ All remaining overpayments were either in final determination or terminated status. Final determination overpayments had neither been waived nor overturned on appeal and were being collected as of the date of the data run. Once final determination overpayments are collected in full, they become terminated. Overpayments may also be terminated if they are waived or referred to Treasury because of non-repayment. OWCP groups all of these overpayments together because it does not track how overpayments are resolved.

The initial balances of the nearly 2,800 remaining final and terminated overpayments totaled about \$9.9 million. As seen in figure 7, terminated overpayments made up the bulk of the universe; they represented 82 percent of all records. Final determination overpayments accounted for 18 percent of the universe and had a higher median dollar amount—about \$2,600 as compared to just over \$600 for terminated overpayments.

¹We excluded preliminary overpayments because they could have outstanding appeals and might be overturned. We excluded pending overpayments because of concern that some should be voided. (Pending overpayments may be automatically generated by OWCP's computer system. OWCP officials informed us that some claims examiners did not know how to process these overpayments, and may have created and processed duplicate records.) Suspended overpayments were excluded because they are associated with pending legal action.

Figure 7: Initial Balances of All Wage Loss Compensation Overpayments Identified in Fiscal Year 2006 and in Final Determination or Terminated Status, as of March 13, 2007



Source: GAO analysis of OWCP data.

We selected a random sample of 331 overpayment records, stratified by initial dollar value, from the universe of almost 2,800 final and terminated overpayments. Some claims had multiple overpayment records, but OWCP officials informed us that some claims examiners may have incorrectly created separate overpayment records each time a claimant submitted a repayment on a preexisting debt. As a result, we sampled cases with multiple overpayments in separate strata and reviewed all overpayments listed under each claim to better estimate the prevalence of incorrectly recorded overpayments.

Once we selected our sample, we requested the electronic file for each claim that had a sampled overpayment. We reviewed these files to collect information including what caused overpayments, how long they lasted,

how long it took claims examiners to process them, whether they were appealed or waived, whether they were repaid, and whether claims files contained annual eligibility updates. A second person verified the information collected. We only included overpayments that we considered to be improper in our analysis. Debts that were not due to improper payments, such as debts for copying expenses or overpayments that occurred when claimants retroactively elected to join other benefits programs, were excluded from our analysis. We also excluded cases that should not have been included in the universe of 2006 debts. (Some debt records were actually repayments on debts identified in previous fiscal years.)

Using only the 212 overpayments records that remained after these exclusions, we analyzed data on overpayment characteristics and made projectable estimates to the universe of final determination and terminated fiscal year 2006 overpayments. Unless otherwise noted, estimates are accurate to within plus or minus 10 percentage points, at the 95 percent confidence level. For instance, our estimate of the total dollar value of improper payments has a much wider confidence interval.

While OWCP's debt database was sufficiently reliable for our purposes, there are some limitations to our analysis. First, because we excluded overpayments that were in pending, preliminary, and suspended statuses from our analysis, our results are only projectable to the universe of overpayments identified in fiscal year 2006 and placed in final determination or terminated status by March 13, 2007. As a result, our estimate of the dollar value of improper overpayments identified by OWCP is low. Additionally, our estimates may capture characteristics that are not representative of all overpayments. Since the overpayments we reviewed had already been finalized or terminated, they could have been processed faster by claims examiners, have fewer appeals by claimants, or exhibit quicker repayment than the pending, preliminary, and suspended overpayments we excluded from the universe. Further, since we were only able to analyze recovery outcomes of overpayments that had been terminated as of March of 2007, the proportions of all 2006 overpayments that were repaid, waived, or referred to Treasury for recoupment may differ from our estimates.

Review of Potential Underpayments Identified by OWCP in Fiscal Year 2006

OWCP does not track underpayments and was therefore unable to provide us with data on the volume, dollar value, or causes of underpayments it identified in fiscal year 2006. However, it was able to provide us with an extract of all payments made through its payment override system, called the “direct payment” system, which includes some underpayments. The direct payment system allows claims examiners to issue payments in special circumstances, such as when a claimant has already been paid for a particular period, but is owed additional compensation. Underpayment reimbursements are issued via direct payment if a claimant was previously compensated for a particular period and was underpaid. If a claimant was not originally compensated for a period, but should have been, the underpayment reimbursement would then be issued through OWCP’s standard payment process—not the direct payment system. Other instances in which payments must be issued through the override system include when payments cover periods extending far into the future, when payments are very large, and when payments are issued to nonclaimants, such as survivors of deceased federal workers.

We used the data set provided to create an estimate of the total dollar value of underpayments OWCP identified in fiscal year 2006. We limited the universe to the type of payments most likely to contain underpayments. First, we excluded payments to individuals other than claimants because these payments must be made via direct payment. Then we excluded payments coded as schedule awards because lump sum schedule awards, whose payment periods extend into the future, must be issued as direct payments. Finally, we excluded payments that had been canceled. All remaining payments were coded as wage-loss compensation payments to claimants.

We selected a random sample of the remaining records that was stratified by dollar value. We selected the 90 claims with the highest total dollar value of direct payments, and 110 additional claims for review. These 200 claims had a total of 344 direct payment records because some claims had multiple direct payments. We then reviewed each payment in these claims files and collected information on whether the direct payments listed were issued as reimbursement for improper underpayments or whether they were issued for other reasons. We also collected information on what caused each underpayment, who was responsible for it, and who identified it. When OWCP made a direct payment because a decision to deny or terminate payment was overturned on appeal, we did not consider it an underpayment if the decision was overturned based on new information that was not available when the original decision was made. We did consider it an underpayment when the denial or termination was

overturned because of an error in judgment or because a claims examiner did not follow appropriate FECA procedures. A second person verified the information collected, as well as the judgments made by the original reviewer. From our review, we determined that 172 of the 344 payment records represented improper underpayments.

The key limitation of this data set was the fact that an unknown number of underpayments were not included in the universe. However, because sampling the direct payment universe was the only available way to identify underpayments, we determined that it was sufficiently reliable for our purposes. Since the universe does not include all underpayment reimbursements, our estimate of the total dollar value of underpayments identified in fiscal year 2006 is understated. Additionally, because we designed our sampling methodology primarily for the purposes of developing an estimate of the total dollar value of underpayments, we were unable to estimate the prevalence of causes of underpayments with sufficient precision.

Analysis of Labor's Improper Payment Risk Estimate

We relied on the results from our claims file reviews of potential overpayments and underpayments to develop an estimate of improper payments identified by OWCP in 2006. As noted above, OWCP's data systems do not collect information on improper underpayments. OWCP did provide data on overpayments identified in 2006, including \$9.9 million for overpayments that were finalized or terminated by March 2007. In reviewing a sample of these claims files, we found that not all overpayments included on the list represented improper payments. Consequently, we developed our own estimate of improper overpayments based on the results from our file review. We estimated that OWCP identified \$13.3 million in improper payments in fiscal year 2006 (\$7.1 million in improper overpayments and \$6.2 million in improper underpayments). The 95 percent confidence interval for this estimate ranged from approximately \$10.4 million to \$16.2 million. This is an estimate of the magnitude of improper payments that OWCP identified in fiscal year 2006, not the magnitude of improper payments that OWCP made in fiscal year 2006. Our estimate of \$13.3 million includes some payments made to claimants in previous fiscal years (such as fiscal year 2004 or 2005) that OWCP discovered were improper in 2006. Table 3 provides information on the proportion of the sample of improper payments we reviewed that were made in fiscal year 2006 and the proportion made in prior fiscal years.

Table 3: Distribution of the Sample of Improper Payments Identified in Fiscal Year 2006 by the Year in which the Payment Was Made

	Sample of overpayments		Sample of underpayments	
	Number (% total)	Dollars (% total)	Number (% total)	Dollars (% total)
Total improper payments	212	\$1,469,000	172	\$3,483,000
Some or all of the improper payment was in fiscal year 2006	162 (76.4%)	\$576,000 (39.2%)	104 (60.5%)	\$1,817,000 (52.2%)
Entire improper payment occurred prior to fiscal year 2006	50 (23.6%)	\$892,000 (60.8%)	68 (39.5%)	\$1,666,000 (47.8%)

Source: GAO analysis of Labor data.

As previously discussed, this estimate likely understates the amount of overpayments identified during the fiscal year for two reasons. First, our estimate only includes overpayments that were finalized by March 2007, when OWCP provided us with its 2006 debt universe. An additional \$4.7 million in debts that had been declared by OWCP, but not yet finalized, were not included in our universe. Additionally, our estimate of improper underpayments is likely to be understated because not all underpayments are issued as direct payments.

Analysis of OWCP's Accountability Reviews

We used OWCP's biennial internal program audits, called accountability reviews, to provide additional evidence about OWCP vulnerability to improper payments. These reviews are conducted on a district office basis, with samples drawn from each office's universe of claims files. To aggregate these results across all six district offices evaluated in fiscal year 2006, we weighted the errors that were identified in each office to account for differences in the size of universes across district offices. Specifically, we used the following formula to weight the results in each district office: (number of errors in the district office/sample size for district office) multiplied by (universe of items reviewed for district office /universe of items reviewed across all district offices).

Appendix II: Comments from the Department of Labor

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Labor

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



FEB 8 2008

Mr. Daniel Bertoni
Director, Education, Workforce,
and Income Security Issues
United States Government Accountability Office
Washington, D. C. 20548

Dear Mr. Bertoni:

Thank you for the opportunity to comment on the GAO draft report entitled Federal Workers' Compensation: Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments (GAO-08-284). The report resulted from a study in which you reviewed the Office of Workers' Compensation Programs (OWCP) Division of Federal Employees' Compensation (DFEC) benefit payments for accuracy. Although we were pleased that the volume of improper payments under the Federal Employees' Compensation Act (FECA) estimated by GAO was very low (less than 0.75% of the more than \$1.8 billion in wage loss compensation payments made during the year studied), even though erroneous payments made in other years were included in your estimate, we do have some concerns with the findings and conclusions. I would like to provide a few general comments on the overall report, followed by our specific responses to the study's findings:

See response 1.

- It is the mission of the FECA program to promptly pay wage loss and medical benefits to injured Federal employees in an effort to minimize hardship. Accurate payments based on verified, complete, and accurate data are essential. However, there are instances where payment may result in over or underpayments, but these payments should not be considered improper, since adjustments are made once additional information becomes available.

See response 2.

- Unlike in prior GAO reviews,¹ we were not provided case names and numbers. This greatly limited our ability to comment or verify the accuracy of the GAO's findings as they related to particular cases or circumstances, including a determination as to whether a payment was in fact improper. Our request for case numbers associated with specific errors was declined. Additionally, without the case names and numbers, we are unable to identify localized training needs based on specific problems that may have been attributable to a single office.

¹ See GAO-03-158R Postal Service Workers' Compensation Claims, Letter of Shelby Hallmark, pp 25-26. <http://www.gao.gov/new.items/d03158r.pdf>

See response 3.

- As stated in the report, the GAO included erroneous payments identified in the year studied, but actually made in prior years to determine its estimate of the volume of improper payments under the FECA during the year studied. We believe this approach is not an accurate measure of the program's improper payment performance.

Notwithstanding the low volume of errors identified in the report and our inability to examine the underlying data, the Department of Labor (DOL) will follow up appropriately on the recommendations to better analyze and track the causes of improper payments under FECA and thereby further reduce their incidence.

Our comments on specific findings of the study follow the order presented in the report.

GAO Item: *OWCP Lacks an Effective Strategy for Managing the Risks of Improper FECA Compensation Payments*

"OWCP Does Not Emphasize Preventing, Detecting, or Recovering Improper Payments"

See response 4.

The report is correct in its assertion that the FY 2007 program plan's twenty-one (21) performance goals established for the district offices "emphasize timely case management, but do not focus on payment accuracy." While these performance goals specifically address timeliness measures, OWCP's staff training, payment procedures (which require payment review and certification), and subsequent internal accountability review processes provide controls to ensure the prevention, timely detection, and recovery of improper payments. Additionally, the DOL's A-123 Reviews and the DOL Office of the Inspector General's annual audits further address qualitative issues, including a test of our internal control processes.

See response 5.

The DFEC Operational Plan for 2008 (presented in draft in September 2007) did include a new measure of the timely processing of identified overpayments (both pending and preliminary), in keeping with the other timeliness measures found in the plan (which addresses a concern raised later in the report).

See response 6.

The report indicates that DOI does not use the results of the DFEC accountability review findings in its assessment of the program's risk of improper payments. We do not concur with this finding in that the independent auditors for both the DOL OIG SAS-70 audit and the DOL's A-123 Review incorporate our accountability reviews in their assessment of the agency's internal controls. The effectiveness of the accountability review process is assessed during the course of the audits. Results of our accountability reviews are referenced in the audit reports and serve as a basis for findings and recommendations of the audit entity. For FY 2007, FECA received an unqualified audit opinion.

See response 7.

The GAO states that the accountability review's permissible error rate for initial payments is high (20%). However, the accountability review definition of errors is not comparable to the GAO's, thus the GAO's interpretation of the accountability review error rate is inaccurate. In the accountability review, an error is not only an incorrect payment, but also a procedural error. Thus, a single payment may have multiple errors attributed to it in the accountability

See response 8.

review process, even if the payment was correct. Procedural factors may include incomplete documentation or certification of an otherwise proper payment. Therefore, error rates in the accountability reviews do not only reflect errors for actual payments.

The report stated that the program had failed to require some district offices to form corrective action plans when the accountability review revealed an initial payment rate below the acceptable standard. There are two explanations for this. First, it should be noted that there is always a meeting immediately after every accountability review between the National and district office upper management. This meeting is conducted to analyze the findings and to determine what corrective action plans are needed. In these meetings, management reviews other extraneous factors that may have seriously impacted the error rate - factors which may obviate the need for a corrective action on a failed item. For instance, district office management may have recognized a problem in the course of the review year and already implemented corrective measures. Secondly, findings from several items may be combined into a single corrective action plan, instead of creating an individual plan for each one. So, formal remedies may be in place, although not directly noted in the Initial Payments section of the final accountability review report. We will undertake more comprehensive documentation of corrective actions and the basis for establishing corrective action plans.

“OWCP Lacks the Information Needed to Accurately Assess the FECA Program’s Risk of Improper Payments”

See response 9.

We believe that the detailed internal accountability review process provides a good basis to assess the types and frequency of payment errors. In addition the statistical sampling performed for the annual improper payments reporting requirement also provides data as to payment errors. To further improve this process, we are developing ways to collect information in the Integrated Federal Employees’ Compensation System (iFECS) for the analysis of potential erroneous payments. In the realm of overpayments, we are developing reason codes in the system so that we can track the various types of overpayments that occur, and the reasons for them. As for underpayments, one of the DFEC district offices is already conducting an audit of potential erroneous payments. The program plans to evaluate this audit and consider implementing it on a national level. Analysis of both underpayments and overpayments will be used to identify training needs in an effort to improve performance. With the availability of this data, we will consider establishing performance goals in this area.

SSA Audit Report:

See response 10.

The report cited a 2007 audit report from the Social Security Administration (SSA) Inspector General that found that “claimants failed to report approximately \$12.6 million in wages to OWCP in 2004.” What is not indicated in the GAO report is that in making this finding, the SSA/OIG did not review case files to determine if the wages in question did in fact create improper payments by the DFEC. SSA/OIG simply ran the DFEC payment system’s case status codes against their database to identify apparent matches. However, their methodology did not take into account legitimate earnings or coding errors, which could only be determined by case review. For this reason, the SSA/OIG indicated that the \$12.6 million was a universe of “potential” overpayments, and not an assertion of actual improper

payments. The SSA/OIG audit was performed at the request of another agency and DFEC was not given the opportunity to review the data in detail or provide comment.

Improper Payments Identified in 2006:

The GAO has estimated a total of \$13.3 million in improper payments identified in 2006, spanning multiple fiscal years. This figure was derived from a review of known underpayments and overpayments and not from random sampling of all payments. The report speculates that this figure is probably understated, since there were frequent delays in creating overpayment records in the system. We do not believe this statement is reflective of the current status of DFEC overpayments. The overpayments reviewed by the GAO spanned FY 2004, FY 2005, and FY 2006. During that period DFEC made extensive system changes, including the inception of the new iFECS in FY 2005. As a result of the normal problems associated with a system start-up, there were difficulties in identifying and tracking overpayments, resulting in longer than usual delays in creating overpayment records. However, most of these problems were corrected by the end of FY 2006, which has allowed the DFEC to shorten this timeframe. In fact, since iFECS now automatically identifies and tracks many types of overpayments (in particular, overpayments attributable to prior returns to work), this enables OWCP to act more promptly than before the new system was implemented.

GAO Item: *OWCP's Dependence on Unverified Information, Internal Errors, and System Limitations Leaves FECA Vulnerable to Improper Payments.*

"OWCP Relies on Claimants to Provide Key Eligibility Information"

Claimant Notification of Return to Work:

The report indicates that the DFEC relies on claimants themselves reporting their return to work, allowing for improper payments to be created. GAO is correct in that DFEC does take action when claimants report their return to work. However, DFEC obtains return to work information from injury compensation coordinators in employing agencies as well as nurses and vocational rehabilitation staff. Injury compensation specialists at the employing agencies report claimant returns to work directly to the DFEC (as noted in the report on page 21). In addition, return to work status is monitored and reported by OWCP's field nurses and vocational rehabilitation specialists whose principal role is to assist with return to work. In the late 1990's OWCP began a two-pronged nurse intervention program that contracts with nurses to contact injured workers to facilitate medical care and assist with return to work issues. For claimants in vocational rehabilitation, rehabilitation professionals will have firsthand knowledge of a claimant's return to work. Both nurses and vocational rehabilitation contractors provide notification when an employee has returned to work or scheduled a return to work.

Further, the DFEC is working on creation of an electronic version of the discontinued Form CA-3. The program envisions an interactive component in the Agency Query System (AQS) where the employer can quickly report the return to work without requiring a paper form and mailing. The previously-used manual form was completed by employing agencies to formally notify DFEC when a claimant returned to work, but was discontinued because it

See response 11.

See response 12.

See response 13.

was frequently not completed, or submitted too late to be of use. Until the implementation of the electronic process, the employing agencies will continue to rely on their injury compensation coordinators to report returns to work directly to the DFEC District Office.

Claimant or Beneficiary Deaths:

See response 14.

As the report notes on page 22, there was a lapse in the SSA Death Match agreement that allows the DFEC to utilize SSA data to identify claimant deaths. That problem has since been rectified and matches were later conducted for some of the six month lapsed period, allowing the program to track claimant deaths in a timelier manner. The report also cites a finding in the same SSA/OIG study mentioned earlier that nearly \$2 million in wage loss benefits were paid to deceased claimants in FY 2004. Again, the SSA/OIG report acknowledges that the study was limited to a computer match which neither verified the beneficiaries' deaths nor included reviews of the individual cases to verify that overpayments actually occurred. We believe that the match included cases where we terminated compensation payments but erroneously failed to change our case status. As a result, we believe that the reported amount is overstated. As for tracking the death of survivor beneficiaries to avoid improper payments, the program has previously pledged to begin to collect these beneficiaries' Social Security Numbers and to input these into our system to enable crossmatch with the SSA death listings for these individuals. OWCP has been authorized by Congress (Public Law 103-333, 108 Stat. 2539, September 30, 1994) to require persons who file notices of injury and or claims for compensation under the FECA and its extensions to disclose SSNs. Consequently, applicable regulations concerning the filing of a notice of injury and claim for compensation, including 20 C.F.R. §§ 10.100 (traumatic injury), 10.101 (occupational disease), and 10.105 (death), now expressly require the reporting of the injured worker's SSN. For death claims, the survivor must also disclose the SSNs of all survivors for whom benefits are claimed.

See response 15.

Failure to Send Wage Data Requests on Every Claimant:

See response 16.

In addition, the DFEC has also made recent efforts, not noted in the report, to improve the number of FERS offset deductions being made for Social Security benefits attributable to Federal service. A new process is being implemented to speed up the response time from SSA on FERS data requests made by the district offices. In addition, a project is now underway with the United States Postal Service to review their claims that may be eligible for FERS reductions.

"Errors by OWCP Claims Examiners Caused Overpayments and Underpayments"

CE Errors/ Incorrectly Denied Payments:

See response 17.

It is difficult to assess the magnitude of this problem, since, contrary to past practice, the DFEC has not been given the opportunity to view cases in which the GAO is citing errors. Without knowing for certain if these cases are in fact errors, or what type of error patterns may exist, a specific response is impossible. This is especially true in the analysis of "incorrectly denied payments." Reviewing a denied claim is a very technical undertaking, and one that the DFEC only gives to its more experienced and expert employees. In addition, assessment of such cases is subject to an interpretation of the current evidence,

which may not be reflective of the circumstances of a case at the time the initial decision was done.

Nevertheless, the program is intent on improving claims examiner performance, and is creating new training modules to that end. One of the planned modules will deal specifically with establishing pay rates and initial payments, with the goal of improved accuracy. The modules will cover many aspects of the claims process, and will be available on-line for either initial claims training or for updating the training of existing examiners.

Lack of Eligibility Forms:

It should be noted that the GAO review of this subject was based on the 2006 internal accountability reviews conducted by the DFEC. The reviews focus on the work in a given district office over the prior twelve months, meaning that they would include cases from early 2005 through mid 2006. In a system update on March 5, 2006, the DFEC implemented substantial improvements to its Periodic Entitlement Review (PER) system. This is the application that is used to track claimant entitlement and ensure that the annual eligibility forms have been issued and tracked. As a result, the 2007 Financial Audit, conducted by Labor/OIG, showed considerable improvement in this area. We are confident that continued use of this tracking system will be an effective tool to reduce this type of improper payment.

See response 18.

“Some Overpayments Occur Because of Limitations in OWCP’s Payment System”

The payment process schedule that the DFEC has established with the U.S. Treasury was created to allow the Treasury to issue DFEC payments in a timely manner. To avoid claimant hardship, the Treasury schedules its check releases so that they arrive within a couple of days of the date of issuance. To accomplish this, the Treasury established the timeline that is currently followed. Recent discussions with Treasury on this matter indicate that we could only move back the schedule a single day if we still wish to release the claimant’s payments in a timely manner equivalent to present service. However, if we did move the schedule back a day (allowing claims examiners one more day to react to a return to work) there would be a danger that a transmission or processing problem with the payment schedules (without a back up day) would create severe delays in payment issuance for all of our claimants. In the interest of having a fail-safe day, the program intends to leave the current schedule in place.

See response 19.

“Inaccurate Data From Employing Agencies Also Leads to Improper Payments”

The OWCP has already discussed with the GAO its plans to provide employing agencies with more detailed compensation calculation information that would allow them to identify errors resulting from incorrect pay rate information. Specifically, the DFEC has agreed to accelerate a planned enhancement to the iFECS/Agency Query System, which will allow employing agency staff to access all the details of a given payment online. This should allow the agencies the ability to monitor payments and discover any flaws in the data they have submitted. It should be noted that agencies have always been provided the pay rate information on form CA 1049, but will now have the ability to cross check this against actual pay history in real time.

See response 20.

GAO Item: *OWCP Does Not Ensure the Recovery of FECA Overpayments*

“OWCP Does Not Ensure the Timely Processing of Overpayments”

See response 21.

We believe that this finding unfairly characterizes the program’s current debt performance. As the concept of an automatic identification of a potential overpayment (“pending” debts) was newly introduced to the program with the inception of the iFECS system in 2005, claims personnel were unfamiliar with it and failed to make proper use of this aspect of the system. Though the report notes that during the period of review nearly half of the program’s pending debts were over 180 days old (page 29), that figure is currently down to 26% and steadily improving. Although we note again that we are unable to comment on the particular cases reviewed by the GAO because the GAO declined to identify the specific cases they reviewed, we would note that many of the aged pending debts that we reviewed proved to be duplicates upon review. Because of the system changes, there were longer than usual delays in debt processing for 2005 and part of 2006. However, training with the district offices and continued improvements in the iFECS system have greatly improved the program-wide performance.

“About 70 Percent of Overpayments Are Repaid, but OWCP Overlooks Opportunities to Recover Overpayments”

Waiver:

See response 22.

Despite the fact the SSA and the Department of Veterans Affairs (VA) use a much lower threshold for writing off small overpayments, lowering the current amount may not be feasible for DFEC. The waiver limits are set in an effort to weigh the costs associated with pursuing the overpayment against the potential benefits received. As the FECA statute requires a finding of whether the individual is with or without fault and thus FECA regulations require that a fault finding be made at the preliminary decision stage, we cannot automate the process. As a result, our overpayment process requires more up-front analysis by a claims person than may be needed by the other agencies cited. The current dollar amounts for waiver are set because of this need for early human intervention.

Missed Opportunities on PR Payments:

See response 23.

The program already has scheduled an enhancement to the iFECS compensation system that will prompt the user when a payment is being made on a claim that has an existing overpayment. There will also be a prompt if the claimant being paid has an overpayment in a separate case. The effect of these prompts will be to warn the claims staff to consider collection of outstanding overpayments, and should greatly reduce any missed opportunities for these types of collections.

Wage Garnishment:

See response 24.

The DFEC Procedure Manual outlines the various types of collection strategies that should be pursued when trying to collect on an improper payment. Specifically, PM §6-100-3(f) states that although wage garnishment is an available collection opportunity, it is preferable for the debt to be referred to the U.S. Treasury for servicing. Since the Treasury conducts

both wage garnishment and the offset of any outgoing federal payments, they are better equipped to make these collections on behalf of the DFEC.

OWCP is committed to continual improvement in payment accuracy and overpayment collection, while recognizing our priority of prompt payment of wage loss compensation to avoid hardship. We believe we have effective systems in place and enhancements being developed to ensure an even higher degree of payment accuracy. We will give your recommendations full consideration and we will continue to work to improve our automated systems and our employees' performance.

Again, we appreciate the opportunity to review and comment on the report.

Sincerely,



Victoria A. Lipnic

GAO's Response to Labor's Comments

The following are GAO's responses to the Department of Labor's comments on our draft report as outlined in Labor's February 8, 2008, letter.

1. Labor commented that FECA's mission is to promptly pay wage loss and medical benefits to injured federal employees to minimize hardship, noting that accurate payments are essential. Labor also noted that, while payments can result in overpayments or underpayments, they should not be considered improper because adjustments are made once additional information becomes available. As stated our report, we used the definition of improper payment in the Improper Payment Information Act: any payment that should not have been made or was made in the wrong amount. We continue to believe that Labor needs to ensure that it strikes the appropriate balance between processing claims quickly and preventing improper payments.
2. Labor asserted that its ability to comment on or verify the accuracy of GAO's findings with respect to specific cases was limited because we did not provide the case names and numbers associated with specific categories of improper payments. Because it is GAO's policy not to release our work papers before a review is completed, we did not provide the requested information to Labor. The previous review cited in Labor's comments involved a different set of circumstances in which GAO identified errors during its review of case files and worked with OWCP to confirm the errors. GAO also did not provide its work papers to Labor for that study. To verify the findings of our current report, OWCP could have reviewed the case files it provided to us for our review.
3. Labor stated that we reviewed all improper payments identified in 2006 without regard to when they actually occurred, describing our methodology as an inaccurate measure of the program's performance with regard to improper payments. In conducting our analysis, we determined that reviewing available data on improper payments that occurred in 2006 would not provide an accurate assessment of the risk of the program to improper payments because OWCP does not identify some improper payments for a year or more after they occur. As a result, we focused on improper payments that were identified in 2006 without respect to when they occurred. We described the specific methodology we used in the report and detailed how our measurement of improper payments differs from Labor's. Further, while Labor's random sample of payments is consistent with OMB's guidance for developing an improper payment rate, it provides little information on

the magnitude and causes of improper payments. Our review of improper payments identified by Labor in a particular year provides much more qualitative information on the magnitude and causes of improper payments that the agency can use to reduce the incidence of improper payments. We continue to believe that Labor should use its existing data and collect additional data on the causes of improper payments to use in identifying and addressing the most common causes of FECA improper payments.

4. While OWCP has payment procedures, provides training to staff, and conducts biennial reviews to determine how well district offices follow established procedures, the lack of performance measures for payment accuracy leaves the FECA program at risk of improper payments. As we noted in the report, previous GAO work has shown that the risk of improper payments increases when payment timeliness goals are not balanced with an emphasis on payment accuracy. Further, some OWCP staff told us that they focused more on claims processing tasks that are tracked by OWCP, while placing a lower priority on processing improper payments. We continue to believe that the agency should establish performance goals related to payment accuracy.
5. Labor did not provide us with its fiscal year 2008 Division of Federal Employees' Compensation (DFEC) Operational Plan during our review. In response to this comment, we asked for a copy of the plan and Labor provided it. We added the information about the new performance measure to the report.
6. Labor's Office of Inspector General's (OIG) SAS-70 audit for 2006 assessed the FECA program's internal controls. As part of this audit, the OIG inspected OWCP's accountability reviews with respect to payment accuracy and determined that the reviews were properly conducted. However, the OIG's SAS-70 audit and Labor's A-123 review did not incorporate the results of the accountability reviews with respect to payment accuracy into their findings.
7. We added language to the report to recognize that OWCP's accountability reviews include procedural errors that may not result in an improper payment. We separately reviewed payment and procedural errors and found that 14 percent of the payments sampled in OWCP's 2006 accountability reviews had calculation errors rather than procedural errors. Further, if district offices are not following the agency's payment procedures in over 20 percent of its cases, the program is still at risk of improper payments, even if some procedural errors do not create an improper payment.

8. During our review, OWCP officials did not tell us that findings from several review items could be combined into a single corrective action plan. We added this information to our report.
9. Labor's statistical sampling is intended to develop an improper payment rate and provides little useful information about the program's risks of improper payments. While the results from its accountability reviews could potentially provide data on program risks, OWCP officials gave us no indication that they were using the results for this purpose. While OWCP officials did not share with us during our review their plans to develop reason codes for improper payments, we support the steps they are proposing to better track improper payments, steps that are consistent with our recommendations. We also encourage OWCP to develop performance goals for reducing improper payments based on these improved data.
10. While the SSA OIG did not review individual cases to verify that an improper payment occurred, it focused on a specific population of FECA payment recipients who should not be earning any wages—individuals who were totally disabled for the entire year. Conducting automated data matches is an important internal control for means-tested benefit programs and a critical first step in the process of identifying potential improper payments that should be further investigated. Without such data matches, Labor cannot begin to identify overpayments made when claimants do not report earnings. In addition, if the information that the SSA OIG reviewed was inaccurate because OWCP improperly coded some of its claims, OWCP should take steps to ensure that all claims are properly coded.
11. In our report, we note that OWCP's new data system provides better data for tracking the status of overpayments and that OWCP has taken steps to address data reliability issues that arose during the initial implementation of the new system. We agree that the new system should more quickly identify some overpayments, such as those that occur when claimants return to work. However, from our reviews of the claims files, we found other types of overpayments that can take a long time to identify—such as errors in the wage rates provided by the claimants' agencies to OWCP—that will not be identified by the new system. Further, OWCP data and interviews with some claims examiners indicated that significant delays occurred in processing overpayments after they were identified. As noted in our report, managing overpayments has not been a priority for OWCP in the past.

However, we believe that improvements in OWCP's performance are the result of its recent increased emphasis on improper payments.

12. We clarified in the report that nurses and vocational rehabilitation staff can also notify OWCP that a FECA claimant returned to work. However, because nurses or vocational rehabilitation staff are not assigned to every claim, we believe the employing agency is in the best position to notify OWCP when a claimant returns to work, and OWCP should require agencies to do so in a timely manner.
13. Although, during our review, OWCP officials did not tell us about their plan to be notified electronically when claimants return to work, we support OWCP's efforts to develop systems to facilitate timely notification when claimants return to work. We recognize, however, that agencies may not always provide this information promptly to OWCP. As a result, we recommended that OWCP provide incentives for agencies to notify it quickly. For example, OWCP tracks how quickly agencies submit required claims forms and could similarly track how quickly agencies notify it when claimants return to work.
14. While we recognize that the SSA OIG did not review individual cases to verify that an improper payment occurred, some of these cases may represent actual overpayments. However, without conducting regular data matches with SSA's death records for all individuals receiving FECA payments, OWCP cannot easily identify such overpayments. As with matches of earnings data, conducting automated data matches with death records is an important internal control and a critical first step in the process of identifying potential improper payments that should be further investigated. In addition, if the information that the SSA OIG reviewed was inaccurate because OWCP improperly coded some of its claims, OWCP should take steps to ensure that all claims are properly coded.
15. Because OWCP officials told us during our review that the FECA program does not collect the SSNs of individuals receiving survivor death benefits, we contacted an OWCP official to discuss this comment. He clarified that the form survivors use to apply for death benefits does not request their SSNs. As a result, OWCP cannot currently include survivors in its data match with SSA's death records. However, the official also stated that, when the death benefit application form expires in 2010, OWCP plans to propose that the form be revised to include the survivor's SSN, a proposal subject to OMB approval. We continue to believe that OWCP should take all needed

steps to include survivors who claim death benefits in its monthly data matches with SSA's death records.

16. OWCP officials told us the agency is taking steps to improve the number of FERS offset deductions being made for Social Security benefits but the specific steps being taken were not completely clear. We requested a copy of a letter that the officials told us they had prepared related to this initiative, but OWCP did not provide it to us, so we could not confirm the steps being taken. OWCP officials also mentioned that the agency was taking steps to obtain FERS information more quickly from SSA. While this is a useful step, our concern is that some claims examiners may not be aware of this issue or how to implement a FERS offset deduction.
17. We agree that making determinations about claims files requires some judgment and interpretation. To ensure that appropriate and consistent interpretations were used, GAO took the following steps in reviewing case files. First, we established case file review protocols with specific criteria about how to treat different types of circumstances. For example, in reviewing underpayments created when a denied claim was overturned on appeal, the protocol instructed reviewers not to consider it an underpayment if the decision was overturned based on new information that was not available when the original decision was made. We pretested the protocol and revised it in response to the pretest results. Our protocol also called for a second GAO analyst to independently verify the case file responses recorded by the initial analyst. If the two analysts did not agree, they discussed the case until they came to consensus on the appropriate response. In addition, GAO supervisors and technical staff reviewed the results of the analysts' work. Finally, we support OWCP's plans to develop a training program to improve payment accuracy, plans that are consistent with our recommendations.
18. We based our findings on the most recent data and reports available at the time of our review. We believe that Labor's efforts to ensure that claimants submit annual eligibility forms will help decrease the risk of improper payments.
19. Given the large number of overpayments created by the current payment schedule established by OWCP, we continue to believe that OWCP should look for opportunities to reduce the time needed to process its automated monthly FECA payments.

20. In our report, we describe OWCP's plans to provide employing agencies with more detailed FECA payment information. We support OWCP's efforts in this area, which are consistent with our recommendations.
21. We used data from OWCP's September 2007 debt aging report, which was the most recent data we could incorporate into our report and that OWCP officials told us was reasonably reliable. If more recent data indicate that OWCP's performance in processing overpayments is improving, we commend OWCP for its efforts. As stated previously, we believe that OWCP's performance may be improving because of its increased emphasis on managing improper payments, and we encourage the agency to continue these efforts.
22. We recognize that agencies use different computer systems and that the FECA program has different requirements from the programs administered by SSA and VA. However, as OWCP continues to improve its overpayment processing capabilities, we believe that it should review the thresholds used by these and other agencies to identify potential opportunities to reduce its waiver thresholds.
23. OWCP officials did not inform us of these planned enhancements to their data system during our review. We added this information to our report. We support the steps OWCP is proposing to improve its debt collection activities, steps that are consistent with our recommendations.
24. In our report, we describe OWCP's policy and procedures with respect to wage garnishment. We agree that Treasury may be better equipped to garnish the wages of FECA claimants with overpayments, especially if claims examiners process claims quickly and refer them to Treasury as soon as possible. However, if OWCP does not process and finalize overpayments quickly, opportunities to garnish wages may be lost since a claimant may no longer be working at a federal agency by the time the overpayment is referred to Treasury. We encourage OWCP to continue its efforts to process overpayments more promptly and refer uncollected overpayments to Treasury as quickly as possible.

Appendix III: GAO Contact and Acknowledgments

GAO Contact

Daniel Bertoni, Director, (202) 512-7215, bertoniid@gao.gov

Staff Acknowledgments

Revae Moran, Assistant Director, and Michelle St. Pierre, Analyst-in-Charge, managed this assignment, and Jordan H. Holt and M. Ellen Phelps Ranen made key contributions throughout the assignment. In addition, Carla Craddock and Keith Howey assisted with the audit work; Carla Lewis provided advice on financial audit requirements and improper payment issues; Daniel Schwimer provided legal assistance; Charles Willson provided writing assistance; and Laurie Hamilton, Jean McSween, Karen O’Conor, and Beverly Ross assisted with the methodology and statistical analyses.

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