

U.S. Department of Labor

Office of Inspector General—Office of Audit

OFFICE OF THE CHIEF
FINANCIAL OFFICER



THE DEPARTMENT OF LABOR'S COMPLIANCE WITH THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT OF 2010 IN THE FISCAL YEAR 2011 AGENCY FINANCIAL REPORT

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



March 15, 2012

Assistant Inspector General's Report

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The Office of Management and Budget (OMB) issued government-wide guidance for implementation of the Improper Payments Elimination and Recovery Act of 2010 (IPERA) on April 14, 2011.¹ The guidance updated requirements for measurement and remediation of improper payments. The Department is required to report on improper payments in its annual Agency Financial Report (AFR) and the Office of the Inspector General (OIG) is required to review agency reporting.

On July 22, 2010, the President signed IPERA² into law. IPERA amended the Improper Payments and Information Act of 2002 (IPIA)³ to prevent the loss of billions in taxpayer dollars.

Under IPERA, the head of each agency shall periodically review and identify all programs and activities it administers that may be susceptible to significant improper payments based on guidance provided by the Director of OMB.⁴ IPERA generally defines significant improper payments as \$10 million of all program or activity payments made during the FY reported and 2.5 percent of program outlays, or \$100 million.⁵ For each program and activity identified, the agency is required to produce a statistically valid estimate or an estimate that is otherwise approved by OMB, of the improper payments and include such estimates in the accompanying materials to the annual financial statements of the agency.⁶

¹ OMB Memorandum M-11-16, Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123.

² Public Law No. 111-204, 124 Stat. 2224 (2010).

³ Public Law No. 107-300, 116 Stat. 2350 (2002).

⁴ Public Law No. 111-204 § 2(a)(1), 124 Stat. 2224 (2010).

⁵ Pub. L. No. 111-204 § 2(a)(3), 124 Stat. 2224-2225 (2010). However, with respect to fiscal years following September 30th of a fiscal year beginning before fiscal year 2013 as determined by the Office of Management and Budget, that improper payments in the program or activity in the preceding fiscal year shall be considered significant if they may have exceeded \$10 million of all program or activity payments made during that fiscal year and 1.5 percent of program outlays; or \$100 million.

⁶ Pub. L. No. 111-204 § 2(b), 124 Stat. 2224, 2225 (2010).

The agency is required to prepare a report on actions it took to reduce improper payments for programs or activities with significant improper payments.⁷ The report must specify, among other things (1) a description of the causes of improper payments, actions planned or taken to correct those causes, and the planned or actual completion date of the actions taken to address those causes and (2) program- and activity-specific targets for reducing improper payments that have been approved by the Director of OMB.⁸

With respect to improper payments identified in recovery audits required by IPERA,⁹ the agency is required to report on all actions it took to recover improper payments, including

1. a discussion of the methods used to recover overpayments;
2. the amounts recovered, outstanding, and determined not collectable, including the percent such amounts represent of the total overpayments of the agency;
3. a justification for determining certain overpayments are not collectable;
4. an aging schedule of the amounts outstanding;
5. a summary of how recovered amounts are disposed of; and
6. a discussion of any conditions giving rise to improper payments and how those conditions are being resolved.¹⁰

The agency is also required to provide a justification if it determined that performing recovery audits for any program or activity was not cost-effective.¹¹

Objective

Our objective was to review the Improper Payments Information section in the FY 2011 AFR and determine whether the Department met all requirements of IPERA. In addition, we evaluated the Department's (1) accuracy and completeness of reporting and (2) performance in reducing and recapturing improper payments.

⁷ Pub. L. No. 111-204 § 2(c), 124 Stat. 2224, 2225-2226 (2010).

⁸ Pub. L. No. 111-204 § 2(c)(1) and (4), 124 Stat. 2224, 2225-2226 (2010).

⁹ IPERA generally requires such audits to be conducted, unless prohibited by law, for each program and activity of the agency that expends \$1 million or more annually if conducting such audits would be cost-effective. Pub. L. No. 111-204 § 2(h), 124 Stat. 2224, 2228-2229 (2010).

¹⁰ Pub. L. No. 111-204 § 2(d), 124 Stat. 2224, 2226 (2010).

¹¹ Pub. L. No. 111-204 § 2(d)(7), 124 Stat. 2224, 2227 (2010).

Specifically, the OIG was to answer the following – has the Department:

1. published a Performance and Accountability Report (PAR) or AFR for the most recent FY and posted that report and any accompanying materials required by OMB on the agency website?
2. conducted a specific risk assessment for each program or activity that conforms with Section 3321 of Title 31 U.S.C. (if required)?
3. published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required)?
4. published programmatic corrective action plans in the PAR or AFR (if required)?
5. published, and has met, annual reduction targets for each program assessed to be at risk and measured for improper payments?
6. reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the PAR or AFR?
7. reported information on its efforts to recapture improper payments?¹²

Results

In the FY 2011 Agency Financial Report, the Department complied with item numbers 1, 2, 4, and 7. Regarding item number 4, while the Department published the required improper payment estimates, results from recent OIG audits indicate that improvements are needed in the methodologies used for those estimates.

The Department did not meet the annual reduction targets for the two programs assessed to be at risk – Unemployment Insurance and WIA grants – and therefore was not in compliance with item number 5. The Department also did not comply with item number 6, as the improper payment rate of 12.0 percent reported for the UI benefit program exceeded the OMB target rate of less than 10 percent.

In addition to reporting on the Department's compliance with the IPERA reporting requirements, we have included observations regarding improvements that can be made in the Department's measurement and reporting of improper payments.

¹² OMB Circular A-123, *Management's Responsibility for Internal Controls*, Appendix C, Part II, *Compliance with the Improper Payment Requirements*, April 2011. As previously noted in this report, IPIA has been amended by IPERA.

1. Did the Department publish its AFR for the most recent FY and post that report and any accompanying materials required by OMB on the agency website?

The Department published its AFR for FY 2011 on November 14, 2011. The report and accompanying materials required by OMB are posted on the agency website at:

<http://www.dol.gov/sec/media/reports/annual2011/2011annualreport.pdf>

2. Did the Department conduct a specific risk assessment for each program or activity that conformed with Section 3321 of Title 31 U.S.C (if required)?

The Department conducted a risk assessment of its major programs and activities. Two programs – Unemployment Insurance (UI) benefit program and Workforce Investment Act (WIA) grants – were designated as at risk. The UI benefit program had annual improper payments exceeding both \$10 million and 2.5 percent of annual program payments, or \$100 million. The WIA grant program is classified as at-risk in OMB Circular A-123, Appendix C, due to its annual level of expenditures, although the Department reported that its risk assessment does not support such a high-risk designation.

The Department also reported that it performed risk assessments and/or detailed testing on all its other significant programs during FY 2011 and classified them as low risk. These programs included Federal Employees' Compensation Act (FECA), Black Lung Disability Trust Fund, Energy Employees Occupational Illness Compensation Program, Longshore and Harbor Workers' Compensation Act, District of Columbia Compensation Act, and State Unemployment Insurance and Employment Service (ES) Operations.

3. Did the Department publish improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required)?

The Department published improper payment estimates for the UI benefit program and Workforce Investment Act (WIA) grants, as required. The Department was not required to publish improper payment estimates for the FECA program based on a waiver it received from OMB. According to the waiver, reporting on the FECA program is to resume in the Department's FY 2012 AFR.

UI Benefit Programs

The UI's estimated annual improper payments for 2011 were \$13.70 billion, consisting of \$12.96 billion in overpayments and \$742 million in underpayments. However, a recent OIG audit (*Recovery Act: ETA Is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally*

Funded Emergency Benefits, Report No. 18-12-001-03-315, issued January 31, 2012) noted several concerns with how the improper payment estimate was determined.

Improper payment rates for the UI benefit program are estimated from the Benefit Accuracy Measurement (BAM) program. BAM includes the three largest permanently authorized unemployment compensation (UC) programs: State UI¹³, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-Service Members. BAM investigators in each state conduct comprehensive audits for randomly selected weekly samples of paid and denied claims. Because the claims processes and eligibility requirements are very similar for the additional benefits paid to unemployed individuals under the Extended Benefits (EB), Emergency Benefits (EUC08), and Federal Additional Compensation (FAC) programs, ETA assumes the estimated improper payments rates for these programs are the same as the BAM-determined rate for the three permanent programs. In FY 2011, the Department reported that UI outlays included \$52.0 billion in EUC08, \$11.7 billion in EB, and \$1.4 billion in FAC. However, ETA has not done any testing to confirm whether its assumption is valid. We believe the estimate could have significantly misstated the amount of improper payments related to the federal programs for the following reasons.

- The federal and state programs have different eligibility requirements. For example, people who have part-time jobs, but make below certain dollar thresholds, may be eligible for federally-funded benefits but not state-funded benefits.
- Considering the severity of the economic downturn, there is a greater risk that displaced workers will continue to claim benefits even when re-employed to subsidize their lessened earnings. Bureau of Labor Statistics News Release dated August 26, 2010, showed that the economic downturn from 2007 to 2009 was far more severe than previous recessions. Only 45 percent of displaced workers who were subsequently re-employed reported earning as much or more than they did prior to displacement, and 36 percent reported earning losses of 20 percent or greater. This suggests a heightened risk that claimants will claim benefits after returning to work. Claiming benefits after returning to work represents the largest cause of UI overpayments.

At a minimum, the Department needs to disclose the limitations of its sampling methodology in its report in the AFR. Meanwhile, ETA should consider revising its current BAM sample to include all UI benefits regardless of funding source. By doing so, ETA would ensure that future overpayment estimates cover all UI programs, including any temporary federally-funded emergency programs that may be put into place.

¹³ Included in the UI program are the 50 states and Puerto Rico, US Virgin Islands and the District of Columbia. The US Virgin Islands does not participate in BAM.

We made recommendations to ETA in the above-referenced report; therefore, we are not making recommendations in this report.

WIA Grants Program

OMB classifies the WIA grants program as high risk due to its level of program outlays. Based on OMB's classification as high risk and consistent with the Department's strategic plan to review all programs, an estimated improper rate and amount was computed for the WIA program in FY 2011. The WIA grants program's estimated annual improper payments for 2011 were \$12.4 million.

The \$12.4 million computation was based on an analysis of improper payment information, including questioned costs identified in OMB Circular A-133 Single Audit Act reports (A-133 reports), FY 2008 – FY 2010 ETA monitoring reports, and Department of Labor OIG and Government Accountability Office audit reports issued for the three most recent years ending March 31, 2011.

The Department stated that the use of A-133 data was based on OMB's recommendation, citing OMB Circular A-123, Appendix C where OMB suggests that agencies use A-133 data in their estimates of improper payments. The Department concludes based on this that the methodology it used has been approved by OMB. The Department also noted that its methodology included questioned costs from other sources such as ETA monitoring reports, and OIG and GAO audit reports.

However, we believe the Department's methodology for estimating WIA improper payments could be improved. Questioned costs in A-133 reports were the largest source of improper payment information, based on the Department's determination that such questioned costs could be used as a proxy for improper payments. However, A-133 audits are not designed to determine the total amount of improper payments made by a grantee. Furthermore, A-133 audits typically do not project improper payments identified in audit testing to determine total estimated improper payments for the grantee. A-133 audits also do not test all programs every year. The Department attempted to compensate for this by including the results of OIG and GAO audits as well as its own reviews. However, this does not effectively fill the gap in estimating improper payments created by relying on A-133 audits, as OIG and GAO audits likewise are not designed to measure improper payments.

OIG recognizes that, unlike the UI benefit program, data are not readily available to allow the Department to directly sample grant payments to develop a statistically valid estimate of improper payments. The Department should continue to evaluate its alternate methodology and consider methods for improving it. The Department should also fully disclose the limitations of the data used in its estimation.

FECA Program

In FY 2009, the Department requested and received a waiver from OMB for relief from reporting FECA improper payment estimates. OMB granted this waiver based on FECA documenting a minimum of two consecutive years of improper payments that were less than \$10 million. According to the waiver issued by OMB, dated November 26, 2008, the next year for reporting on this program will be FY 2012, to be submitted in the Department's FY 2012 AFR.

The Department stated that it believes the waiver is indefinite and that while the earliest reporting that might be required for FECA is the FY 2012 AFR, this is subject to the results of the FY 2011 IPIA risk assessment of FECA. This risk assessment indicated that FECA has not become more risk susceptible.

OIG disagrees with the Department's assessment that the waiver is indefinite. As stated in the November 26, 2008, memorandum from OMB to the Department:

In accordance with Appendix C to Office of Management and Budget (OMB) Circular A-123, Part I, Section K, if any agency program has documented a minimum of two consecutive years of improper payments that are less than \$10 million annually, the agency may request relief from the annual reporting requirements for this program. Based on meeting this requirement from fiscal year (FY) 2005 through FY 2008 for FECA, the Department of Labor's (DOL) request for annual reporting relief is approved. This approval is effective for FY 2009 reporting purposes. Therefore, the next year for reporting on this program will be FY 2012, to be submitted in DOL's FY 2012 Performance and Accountability Report.

To meet the requirements of IPERA, we believe the Department will need to improve its improper payment estimation methodology for the FY 2012 report. As detailed in our recent audit report (*Office of Workers Compensation Program's (OWCP) Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses*, Report No. 03-12-001-04-431, issued February 15, 2012), the FECA improper payment estimates reported in FYs 2005 to 2008 (and used to obtain the OMB waiver) fluctuated widely, from \$3.3 million in FY 2005 down to \$722,000 in FY 2006, and then up to \$2.6 million in FY 2007, and down again to \$500,000 in FY 2008. These estimates appear to be low in comparison to the fraud and abuse found by OIG investigations. For example, in FY 2008, Department of Labor OIG investigations alone identified more than \$6 million in restitution for FECA compensation and medical fraud.

Additionally, in FY 2010, our audit work on OWCP's FECA match with Social Security Administration death records identified more than \$690,000 in improper

payments; and OIG investigations identified more than \$1.3 million in restitution for FECA fraud. Other OIGs, such as the U.S. Postal Service, have FECA cases as well that we did not quantify.

Finally, OWCP's previously used methodology did not encompass all the risks associated with improper payments such as those identified in GAO's February 2008 audit — late or no notice of when claimants returned to work; late or no notice of when claimants or their survivors died; unverified self-reported data on wage earnings and other federal benefits; and inaccurate data from employing agencies.

The above conditions indicate that OWCP may need to explore other methods to ensure its estimates provide sufficient information to enable the agency to make informed judgments on the magnitude of improper payments in the FECA program. We made recommendations to OWCP in the above-referenced report; therefore, we are not making recommendations in this report.

The Department questioned the relevance of including historical information dating back to 2005 in this report on the Department's FY 2011 IPIA compliance. OIG included these results from our recent audit of FECA improper payments as evidence that past estimates of FECA overpayments were likely understated and that improvements are needed to the FECA improper payment estimation methodology.

4. Did the Department publish programmatic corrective action plans in the PAR or AFR (if required)?

The Department published aggressive and robust corrective action plans to reduce and collect improper payments. For the UI benefit program, ETA developed a strategic plan to address several root causes of improper payments. The plan included Benefit Year Earnings strategies designed to aid in the early detection of overpayments resulting from claimants who returned to work and continued to claim UI benefits – the leading cause (30 percent) of all overpayments during the period July 2010 to June 2011. The Department also included strategies addressing separation issues (claimants who were ineligible for UI benefits because they either voluntarily quit their jobs or were discharged for cause), and ES registration issues (claimants who were required to register with state ES but who were not actively registered). The Department reported that it provided technical assistance and targeted resources at the state level. For example, ETA identified states with persistently high improper UI payment rates as “High Priority” and stated it will provide targeted and customized technical assistance to improve their performance. For FY 2011, six states were identified to participate in the initiative – Arizona, Colorado, Indiana, Louisiana, Virginia and Washington.

We did note that the Department did not include a strategy to address work search issues – the second leading cause of improper payments. However, in ETA's Report on Improper Payments in the UI Program submitted to the Inspector General on March 12, 2012, ETA stated it had hired a contractor to review state laws, policies and practices for work search and gathered qualitative information related to work search practices from a sample of 11 states (Arizona, Colorado, Florida, Illinois, Louisiana, Maine, New York, Ohio, Texas, Virginia and Wisconsin). The contractor has prepared a draft report which is under review by ETA. ETA also announced a Work Search pilot opportunity and awarded supplemental grant funding of \$500,000 to New York. ETA facilitated a High Priority State – Washington – to serve as a project design partner with New York and is working to include Colorado, another high priority state, in the project.

For WIA grants, the Department indicated the major types of errors found in the WIA program were primarily administrative in nature, including cash management, sub-recipient monitoring, unallowable costs and insufficient documentation for participant payments. ETA stated it is focusing its grant management and monitoring processes on these items to reduce and prevent improper payments. According to ETA, whenever deficiencies or problems are identified as a result of a desk review, onsite review, or an independent audit, the agency immediately begins working with the grantee to obtain appropriate corrective actions.

5. Has the Department published, and met, annual reduction targets for each program assessed to be at risk and measured for improper payments?

The Department published but did not meet the annual reduction targets for the UI benefits program and the WIA grants program. The target improper payment rate for the UI benefits program was 9.8 percent, but the Department reported an actual rate of 12.0 percent. For the WIA grants program, the target rate was 0.07 percent; the reported actual rate was 0.3 percent.

6. Did the Department report a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the PAR or AFR?

The Department reported an actual improper payment rate of 12.0 percent for the UI benefit program and 0.3 percent for WIA grant programs.

7. Did the Department report information on its efforts to recapture improper payments?

The Department reported information on its payment recapture efforts in the UI benefits program and the WIA grants program. Recovery activities and tools in the UI benefits program included offsets from benefits, offsets from state and federal income tax refunds, offsets from lottery winnings, interstate recovery

agreements, repayment plans, wage garnishments, property liens, and use of collection agencies.

For the WIA grants program, a review is conducted to the exact amount of questioned costs that are actually improper overpayments and therefore subject to recapture. At the conclusion of this review, the grantee is informed of the final determination decision and the amount it must reimburse the Department for the overpayment.

Other Observations

UI Strategies

Claimants who returned to work and continued to claim UI benefits are the leading cause UI overpayments. The National Directory of New Hires (NDNH) is a tool that states are now using to conduct cross matches to identify these claimants. However, California, which has the highest amount of estimated improper payments, has indicated that competing resources/resource constraints are precluding it from using NDNH.

Another significant cause of UI program improper payments is employment separation issues. Separation issues account for 20 percent of overpayments, and deal with ineligibility due to claimants voluntarily quitting or being discharged from employment for cause.

The UI program has introduced an initiative, the State Information Data Exchange System (SIDES) to deal with separation issues. SIDES provides electronic communication between states and employers or their Third Party Administrators to improve timeliness and quality of separation information. According to the Department, as of February 2012, 12 states have implemented SIDES and an additional 30 states are in different stages of SIDES programming and testing. Although the Department is making progress in implementing this strategy, the impact or projected impact of SIDES, as well as other departmental strategies, are dependent on successful implementation by states.

Anticipated Impact of Strategies

The report discusses root causes for improper payments and includes multiple and overlapping strategies for addressing those causes. However, the initiatives did not include cost benefit analyses or anticipated return on investment for these strategies. We believe this information could be valuable to the Department to help it determine which of these strategies are having the most impact in reducing improper payments.

Chief Financial Officer’s Response to the Draft Report

The Chief Financial Officer’s response to the draft report is included in its entirety in Appendix D. The response has been summarized and discussed in relevant portions of this report. Where appropriate, we made adjustments to the report based on the response provided by the Chief Financial Officer.

Recommendations

We recommend that the Department:

1. Consider methods for improving the WIA sampling methodology to provide a more complete estimate of improper payments, and include information on the limitations of the data used in the estimation of WIA overpayments in the AFR.
2. Consider developing and including cost benefit and return on investment analyses for the various improper payment reduction strategies.

We appreciate the cooperation and courtesies that Office of the Chief Financial Officer (OCFO) personnel extended to the Office of Inspector General during this audit. OIG personnel who made major contributions to this report are listed in Appendix E.



Elliot P. Lewis
Assistant Inspector General
for Audit

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Appendices

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Background

IPERA became law on July 22, 2010. It amended the Improper Payments Information Act of 2002. IPERA requires that each agency periodically review and identify all programs and activities that may be susceptible to significant improper payments. The Act also significantly increased requirements for payment recapture efforts by expanding the types of payments that must be reviewed and by lowering the threshold of annual outlays that requires agencies to conduct payment recapture audit programs.

OMB issued government-wide guidance for implementation of IPERA on April 14, 2011. The guidance updated requirements for measurement and remediation of improper payments. Agencies are required to report on improper payments, and inspectors general are required to review agency reporting.

The Department designated the UI benefit program and the WIA grant program as being at risk of making significant improper payments.

UI Benefit Program

The UI program is designed to provide benefits to individuals out of work, generally through no fault of their own, for periods between jobs. In order to be eligible for benefits, jobless workers must show that they were separated from work through no fault of their own, and met minimum length of time and wage requirements before they were separated. The program is administered at the state level, but is funded by both state and federal monies.

The UI program represents one of the largest benefit payment programs in the United States. A total of nearly \$318 billion dollars of benefit payments were paid for the three-year period ending September 30, 2010. Of this amount, \$126 billion was for federally-funded emergency benefits.

WIA Grant Program

WIA is a federally funded grant program designed to provide employment and training services to assist eligible individuals in finding and qualifying for meaningful employment and to help employers find the skilled workers they need to compete and succeed in business. In FY 2011, appropriated funds for the WIA Adult, Dislocated Worker and Youth programs totaled about \$3.2 billion.

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Appendix B**Objectives, Scope, Methodology, and Criteria**

Objectives

Our objective was to review the Improper Payments Information section in the FY 2011 AFR and determine whether the Department met all requirements of IPERA. In addition, we evaluated the Department's (1) accuracy and completeness of reporting and (2) performance in reducing and recapturing improper payments.

Scope

The Department, in accordance with IPIA, as amended by IPERA, was required to include a report on improper payments in its FY 2011 AFR. OIG conducted a review in accordance with guidance issued by OMB Memorandum M-11-16 to determine whether the Department is in compliance with IPERA.

We performed our review November 2011 through February 2012 in Washington, DC. We conducted our review in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspections.

Methodology

To accomplish our objectives, we:

- Reviewed the Department's FY 2011 Annual Financial Report and accompanying material required by OMB on the agency website for compliance with IPERA
- Reviewed the program specific risk assessments that confirms with Section 3321 of Title 31 U.S.C.
- Reviewed and evaluate the Department's information on its efforts to recapture improper payments
- Reviewed and ensured the Department published improper payment estimates for all program and activities identified as susceptible to significant improper payments under its risk assessments (UI and WIA).
- Reviewed prior OIG and GAO audit reports related to Unemployment Insurance, specifically any reports dealing with Improper Payments or IPERA.
- Reviewed the published programmatic corrective action plans in the AFR and any additional supplemental
- Identified and reviewed applicable policies, regulations, other applicable documents related to the reporting requirements under IPERA to gain an understanding of the reporting requirements for both the Office of Inspector General (OIG) and the Department
- Interviewed key personnel regarding the agency's plan to meet the reduction targets and conduct recapture audits for UI and WIA
- Obtained supporting documents for the key figures in the report

Criteria

OMB Memorandum 11-04

OMB Memorandum 11-16

Appendix C**Acronyms and Abbreviations**

A-133 reports	OMB Circular A-133 Single Audit Act reports
AFR	Agency Financial Report
BAM	Benefit Accuracy Measurement
EB	Extended Benefits
ES	Employment Service
ETA	Employment and Training Administration
EUC08	Emergency Unemployment Compensation
FAC	Federal Additional Compensation
FECA	Federal Employees' Compensation Act
FY	Fiscal Year
GAO	Government Accountability Office
IPERA	Improper Payment Elimination and Recovery Act of 2010
IPIA	Improper Payments Information Act of 2002
NDNH	National Directory of New Hires
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
OWCP	Office of Workers' Compensation Benefits
PAR	Performance and Accountability Report
SIDES	State Information Data Exchange System
UC	Unemployment Compensation
UI	Unemployment Insurance
WIA	Workforce Investment Act

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OCFO Response to Draft Report

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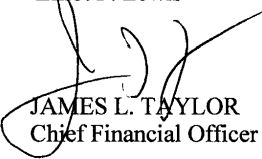


MAR 15 2012

MEMORANDUM FOR ASSISTANT INSPECTOR GENERAL FOR AUDIT

Elknot P. Lewis

FROM


JAMES L. TAYLOR
Chief Financial Officer

SUBJECT

Draft OIG IPERA Compliance Report

This is our response to your revised draft report issued earlier.

Scope of OIG Review

According to OMB Cir A-123, Appendix C, the purpose of this report is that:

“Each agency Inspector General should review agency improper payment reporting in the agency’s annual PAR or AFR, and accompanying materials, to determine if the agency is in compliance with IPIA. Agency Inspectors General should begin reviewing these materials for FY 2011 annual reporting and in subsequent years.”

Responses to Report

WIA Grants

The discussion of the WIA Grant Programs in the report contains several misstatements of fact. It states that the Department chose to rely on Single Audit information, based on its determination that questioned costs could be used as a proxy for improper payments. This is not accurate. The use of single audit data was based on OMB’s recommendation as noted in OMB Cir A-123, Appendix C where OMB suggests that agencies use A-133 (Single Audit) data to estimate improper payment rates and amounts. The methodology that DOL uses to compute the improper payment rate and amount has been approved by OMB, as required by IPIA/IPERA.

The report also states that DOL did not consider portions of the WIA program that were not selected for compliance testing [in single audits]. With OMB’s approval, DOL has continually searched for ways to augment the Single Audit data to compensate for any gaps in the data due to some of the WIA expenditures not being audited as major programs. As a result, our methodology has expanded from what was originally approved by OMB to include questioned costs from other sources, specifically; ETA Monitoring reports, and DOL OIG and GAO audit reports.

FECA

The report includes an extensive discussion of historical information dating back to 2005 with no linkage to anything that occurred during FY 2011, or that was reported in the FY 2011 AFR. As noted above, this report is supposed to be about DOL's FY 2011 IPIA compliance, as detailed in the AFR, and we therefore question the relevance of this historical discussion.

The report's reference to the OMB waiver memo is not accurate. The waiver is indefinite; and while the earliest reporting that might be required for FECA is the FY 2012 AFR, this is subject to the results of the most recently performed IPIA risk assessment. As stated in the AFR, an IPIA risk assessment was performed on FECA by OWCP during FY 2011. The results of this analysis indicate that FECA has not become more risk-susceptible.

UI

In the UI Strategies section, the status provided on the State Information Data Exchange System (SIDES) implementation is not accurate. The AFR states that SIDES had been implemented in 5 states and one Third Party Administrator (TPA), and is scheduled to be implemented in 7 additional states and one additional TPA by December 31, 2011. The AFR reflected the then-current status of the UI strategic plan.

As of December 31, 2011, a total of 12 states and 2 Third Party Administrators (Automated Data Processing, Inc. and TALX) implemented SIDES. Therefore, the goals for SIDES reflected in the AFR were in fact met by the specified date.

Other Observations

Footnote number 5 makes reference to the original language of the legislation which appears to contradict the language in the report itself. The language in the report is correct as written, as it reflects the understanding contained in the OMB guidance in Appendix C.

cc: Gay Gilbert, ETA
Bill Thompson, ETA
Cecily Rayburn, OWCP

Appendix E

Acknowledgements

Key contributors to this report were Joe Donovan, Katherine Gers, and Orville Hylton.

TO REPORT FRAUD, WASTE OR ABUSE, PLEASE CONTACT:

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