

# 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 2012 AGENCY FINANCIAL REPORT

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U.S. Department of Labor

Office of Inspector General  
Washington, D.C. 20210



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## Assistant Inspector General's Report

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The Improper Payments Elimination and Recovery Act of 2010 (IPERA) and Office of Management and Budget (OMB) Circular A-123 require federal agencies to reduce improper payments and report annually on their efforts. OMB guidance specifies that each agency's Inspector General should review agency improper payment reporting in the Agency Financial Report (AFR), and accompanying materials, to determine whether the agency complied with IPERA.

### Background

The Improper Payments Information Act of 2002 (IPIA), IPERA, and related regulations require Federal agencies to systematically review their programs and activities to identify those that may be susceptible to significant improper payments. In performing this task, the Department of Labor (Department) reviewed applicable audit reports, detailed risk assessments, budget documents and other materials, documenting weaknesses or other issues potentially impacting the amount of improper payments, to identify programs that may exceed the improper payments threshold for risk susceptibility in Fiscal Year (FY) 2012. Specifically, the Department reviewed the following programs:

- Unemployment Insurance (UI)
- Federal Employees Compensation Act (FECA)
- Black Lung Disability Trust Fund
- Energy Employees Occupational Illness Compensation
- Workforce Investment Act (WIA)
- State Unemployment Insurance & Employment Service Operations
- Other Grants (as a group)
- Payroll Costs
- Non-Payroll Costs

Based on DOL's FY 2012 risk assessment review, only the Unemployment Insurance (UI) benefit program was identified to be susceptible to significant improper payments. The WIA grant program is classified as susceptible to significant improper payments in OMB's former Circular A-11, Section 57, due to its annual level of expenditures; however, the Department reported that its annual risk assessments have not supported such a designation. All other DOL programs were determined not to be susceptible to significant improper payments.

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.<sup>1</sup> 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.<sup>2</sup>

The agency is required to prepare a report on actions it took to reduce improper payments for programs with significant improper payments.<sup>3</sup> 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 action completion date of 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.<sup>4</sup>

## Objectives

Our objectives were to:

- A) determine whether the Department complied with all requirements of IPERA in its Improper Payments Information section in the FY 2012 Agency Financial Report (AFR);
- B) evaluate the Department's accuracy and completeness of reporting; and
- C) evaluate the Department's performance in reducing and recapturing improper payments.

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<sup>1</sup> Public Law No. 11-204 Section 2(a)(3), 124 Stat. 2224-2225 (2010). However, with respect to fiscal years following September 30<sup>th</sup> of fiscal year 2013 as determined by OMB, 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.

<sup>2</sup> Public Law No. 111-204 Section 2(b), 124 Stat. 2224, 2225 (2010).

<sup>3</sup> Public Law No. 111-204 Section 2(c), 124 Stat. 2224, 2225-2226 (2010).

<sup>4</sup> Public Law No. 111-204 Sections 2 (c) (1) and (4), 124 Stat. 2224, 2225-2226 (2010).

## A. Compliance with IPERA

According to OMB guidance, compliance with IPERA means that the Department has:

1. published its AFR for the most recent fiscal year (FY 2012) and posted that report and any accompanying materials required by OMB on the Department's 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 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 Performance Accountability Report (PAR) or AFR; and
7. reported information on its efforts to recapture improper payments.<sup>5</sup>

For the second straight year, the Department did not fully comply with IPERA. In FY 2012, the Department complied with item numbers 1, 2, 4, and 7. Regarding item number 3, while the Department published the required improper payment estimates for the Unemployment Insurance (UI) and Workforce Investment Act programs, 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 UI program – 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 11.42 percent reported for the UI benefit program exceeded the OMB target rate of 9.7 percent. OMB Circular A-123, Appendix C, Part II.B states that for agencies that are not compliant for two consecutive years for the same program or activity, the Director of OMB will review the program and determine if additional funding would help the Department come into compliance. If the Director of OMB determines that additional funding would help the Department become compliant, the Department shall obligate an amount of additional funding determined by the Director of OMB to intensify compliance efforts. When

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<sup>5</sup> 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.

providing additional funding for compliance efforts, the Department shall exercise reprogramming or transfer authority to provide additional funding to meet the level determined by the Director of OMB, and submit a request to Congress for additional reprogramming or transfer authority if additional funding is needed to meet the full level of funding determined by the Director of OMB.

Our specific findings for each IPERA requirement follow.

**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 2012 on November 16, 2012. The report and accompanying materials required by OMB were posted on the agency website at:

[http://www.dol.gov/\\_sec/media/reports/annual2012/2012annualreport.pdf](http://www.dol.gov/_sec/media/reports/annual2012/2012annualreport.pdf).

**2. Did the Department conduct a specific risk assessment for each program or activity that conformed with IPERA (if required)?**

The Department identified the UI program as susceptible to improper payments and conducted a specific risk assessment. The UI benefit program had annual improper payments exceeding both \$10 million and 2.5 percent of annual program payments, or \$100 million.

The Department conducted a specific risk assessment for the WIA program because WIA is classified as susceptible to improper payments in OMB's former Circular A-11, Section 57, due to its annual level of expenditures. The Department reported that its annual risk assessments have not supported such a designation; however, the OIG continues to recommend that the Department improve its methodology for estimating improper payments in the WIA program. See page 7 of this report for further discussion of this issue.

The FECA program was not identified as susceptible to improper payments and no specific risk assessment was conducted. In making the determination that FECA was not susceptible to improper payments, the Department did not update its detailed testing, which was last done in 2008. As we have previously reported, the methodology FECA used in 2008 was not adequate and may understate the amount of improper payments. See pages 8 and 9 of this report for further discussion of this issue.

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

The Department published improper payment estimates for the UI benefit program and WIA grants, as required.

The UI Benefit Program's estimated annual improper payments for 2012 were \$10.3 billion, consisting of \$9.75 billion in overpayments and \$550 million in underpayments. For the WIA grant program, estimated annual improper payments were \$7.5 million.

See pages 7 and 8 of this report for further discussion of issues the OIG has identified regarding the methodology the Department used to determine the improper payment estimates for the UI and WIA programs.

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

The Department published corrective action plans to reduce and collect improper payments. For the UI benefit program, the Department developed a Strategic Plan to address the root causes of improper payments. In September 2012, the Department awarded \$169.9 million in supplemental funding to 33 states for the detection, prevention, and recovery of improper UI benefit payments. According to the Department, these incentive funds will support the states' implementation of a number of high priority activities, such as the State Information Data Exchange System to enable more timely identification of separation issues (claimants ineligible because they voluntarily quit their jobs or were discharged for cause) and the Treasury Offset Program to offset federal income tax refunds against UI improper payments.

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 insignificant 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 benefit program. The target improper payment rate for the UI benefits program was 9.7 percent, but the Department reported an actual rate of 11.42 percent.

For WIA grants, the Department published and met the annual reduction target. The target improper payment rate for FY 2012 was 0.44 percent. The Department reported an actual rate of 0.22 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 11.42 percent for the UI benefit program. The reported improper payment rate for WIA grant programs was 0.22 percent.

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

The Department reported information on its efforts to recapture improper payments in the UI benefit and the WIA grants programs. For the UI benefit program, these efforts included: offsets from future benefits, state and federal income tax refunds, and lottery winnings; interstate recovery agreements; repayment plans; wage garnishments; property liens; and use of collection agencies.

For the WIA grants program, the identification of overpayments for recovery is primarily done through onsite monitoring activities, as well as agency follow-up on Single Audit Act reports and OIG program audits. For questioned costs noted in Single Audit Act and OIG reports, the Grant Officer issues a Final Determination that identifies the costs that are actually improper. After the Final Determination is issued, it is referred to ETA's accounting office to establish a debt. The ETA accounting office performs standard collection activities to collect the debt, and if it is unable to collect, the office refers the debt to Treasury for further collection efforts. In some cases, grantees with overpayments will adjust their drawdowns for future periods to reflect the fact that they have already received the funds to reimburse their subsequent grant expenditures.



## **B. Accuracy and Completeness of Reporting**

- **UI**

The Department estimates UI improper payment rates through the Benefit Accuracy Measurement (BAM) program, which is a statistical survey of paid and denied UI claims. States conduct comprehensive audits of samples of claims to verify claimant eligibility and determine the accuracy of decisions to pay or deny benefits. Recent OIG audit reports have identified concerns regarding how the UI improper payment estimate was determined. The methodology currently being used does not consider all payments for testing. The Department tests payments made in the state-funded UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-Service Members programs, but does not test payments from temporary or episodic programs, such as Emergency Unemployment Compensation or Extended Benefits.

In FY 2011, the Department reported that UI outlays included \$52.0 billion in Emergency Benefits and \$11.7 billion in Extended Benefits. Payments under these programs were projected to remain high at \$26.5 billion and \$4.2 billion, respectively, in FY 2012. Because these large amounts of payments are not tested as part of the Department's methodology for estimating improper payments, the estimate is likely misstated during periods when significant temporary programs are being funded, such as the last several years. The OIG recommended that the Department consider expanding the BAM sample to include all UI benefit payments 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.

The Department is working to address this issue, and has engaged a contractor to conduct a comprehensive review of the BAM survey methodology. The study includes exploring the feasibility of integrating temporary and episodic federal programs, such as Extended Benefits, into the BAM survey.

- **WIA**

For FY 2012, the Department used the same methodology to estimate the improper rate for the WIA grant program as was used in FY 2011. This methodology resulted in an estimated improper payment rate of 0.22 percent and estimated improper WIA payments of \$7.5 million.

In our prior year report, "The Department of Labor's Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2011 Agency Financial Report," Report No. 22-12-016-13-001, issued March 15, 2012, we questioned the methodology used in FY 2011 to compute WIA's improper payments. The methodology relies primarily on questioned costs identified in OMB Circular A-133 Single Audit Act Reports (A-133 reports).

However, A-133 audits typically do not project likely total questioned costs for the grant or entity audited, but simply report those questioned costs identified for the specific sample items reviewed during the audit. As a result, Single Audit Act reports do not provide a valid proxy for improper payments in the WIA grant program.

- **FECA**

In a report issued in February 2012,<sup>6</sup> we found that the improper payments estimation method the Department used for FECA may not be sufficient to meet IPERA requirements. Specifically, the improper payment estimates reported in FYs 2005 to 2008 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 DOL OIG investigations. For example, in FY 2008, DOL OIG investigations alone identified more than \$6 million in restitution for FECA compensation. Additionally, in FY 2010, our audit work in the Office of Workers' Compensation Program (OWCP) FECA match with SSA death records found more than \$690,000 in improper payments; and DOL OIG investigations found 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. Furthermore, OWCP's methodology did not encompass all the risks associated with improper payments, such as those identified in the General Accountability Office's February 2008 audit<sup>7</sup> — 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.

As part of its FY 2012 risk assessment, FECA managers reviewed the results of the “most recent detailed testing” of a random sample of FECA medical and compensation payments. Additionally, the Office of the Chief Financial Officer reviewed settled FECA fraud cases reported by the DOL OIG in Semiannual Reports to Congress for FYs 2009, 2010, 2011, and March 2012 (3.5 years of reports). The improper payment amount projected by the Department through analysis of the random sample of payments plus the estimated annual amount of improper payments due to fraud identified in Department of Labor OIG Semiannual Reports to Congress was well under OMB's thresholds for an at-risk program.

The “most recent detailed testing” the Department relied on was for the period July 1, 2007, to June 30, 2008 – the same testing with the same weaknesses it relied on for its FY 2011 risk assessment. The Department is planning to design

<sup>6</sup> “OWCP's Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses,” Report No. 03-12-001-04-431, issued February 15, 2012.

<sup>7</sup> “Better Data and Management Strategies Would Strengthen Efforts to Prevent and Address Improper Payments,” GAO-08-284, issued February 26, 2008.

a revised methodology for performing detailed testing of the FECA program as the basis for estimating an improper payment rate for the program. The Department should consider all the issues OIG has previously identified and reported as part of its design efforts.

**C. Performance in Reducing and Recapturing Improper Payments**

- Unemployment Insurance

While the Department has not yet been able to meet its goals for reducing improper payments in the UI program, it is making payment integrity a top management priority. For example, on September 27, 2012, the Department announced the award of approximately \$169 million in supplemental budget requests to 33 states for projects related to program integrity and performance to address the root causes it believes are most likely to quickly reduce improper payments.

For FY 2013, the Department is tracking state implementation of eight core strategies for lowering the rate of UI improper payments. Many states are already implementing or have implemented these strategies, and the Department plans to highlight best practices and encourage states to replicate what works.

The eight core strategies are summarized below.

1. State Quality Service Plan (SQSP) / Strategic Plan Development — The SQSP is intended to guide key management decisions, such as where to focus resources. The SQSP should focus state efforts to ensure well-balanced performance across the range of UI activities, including payment integrity.
2. Business Process Analysis — States will engage in a business process analysis to identify areas of weakness and to set the stage for reengineering processes that will improve program integrity performance. The review must be conducted collaboratively by state staff and a qualified independent third party contracted by the state, and recommendations from this review should be included in the state's strategic plan to the extent feasible. This strategy is required for those states with a 2011 improper payment rate above 10-percent that have received FY 2012 Supplemental Budget Requests.
3. National Directory of New Hires (NDNH) Recommended Operating Procedures — For several years, the Department has encouraged states' use of the NDNH to reduce improper payments in the UI program. These new hire directories, which were created for the purpose of child support enforcement, have allowed for improved access to wage data and data from other states regarding new hires and wages. Detailed Recommended Operating

Procedures have been developed to provide states with information about best practices in conducting this match.

4. State Information Data Exchange System (SIDES) — SIDES is a web based system that allows electronic transmission of UI information requests from UI agencies to multi-state employers and/or third-party administrators, as well as transmission of replies containing the requested information back to the UI agencies. The current implementation of SIDES allows for the exchange of separation and earnings verification information.
5. SIDES Messaging — Implementation of products and tools designed for use by state UI agencies to communicate with employers and third-party administrators about the offerings and benefits of SIDES. This strategy is required for those states that have implemented SIDES by September 30, 2012, and received FY 2012 SBRs.
6. Claimant and Employer Messaging — Implementation of a statewide claimant and employer messaging campaign designed to:
  - improve claimants' awareness of their responsibility to report any work and earnings if they are claiming benefits;
  - improve claimants' understanding of work search requirements as a condition of eligibility for benefits; and
  - improve employers' awareness of their responsibility to respond to state requests for separation information and/or earnings/wage verifications.
7. Employer Service Registration — Implementing technology or other solutions designed to address improper payments due to a claimant's failure to register with the state's Employment Service or job bank in accordance with the state's UI law. This strategy is required for those states with a 2011 Employer Service Registration error rate above 3 percent that received FY 2012 SBRs.
8. Treasury Offset Program — Implementing the U.S. Department of the Treasury's Offset Program to recover certain unemployment debts from Federal income tax refunds. This strategy is required for those states who have received FY 2012 SBRs.

While the Department has developed multiple and overlapping strategies to address the root causes of improper UI payments, the strategies do not include cost benefit analyses or anticipated return on investment for those strategies. Without such information, it will be difficult for the Department to determine those strategies that are working well and those that are not.

Additionally, as the Department notes in the Improper Payments section of the AFR, states administer the UI program and set operational priorities. The

Department has limited authority to ensure states pursue improper payment activities.

For example, a recent OIG audit<sup>8</sup> found that the Georgia Department of Labor (GDOL) did not have adequate controls and systems in place to detect and recover UI benefit overpayments. GDOL had not timely implemented cross matching procedures with the NDNH database. Additionally, GDOL did not ensure the accuracy of data it used to report overpayment activities. Moreover, ETA had not defined an acceptable level of performance for measuring recovery activities. As a result, GDOL missed opportunities to detect and recover overpayments, and ETA could not ensure GDOL's reported overpayment data were accurate or measure the effectiveness of GDOL's recovery activities.

- WIA Grants and FECA

As discussed earlier in this report, the Department has been unable to develop reliable estimates of the amount of improper payments in the WIA grant or FECA programs. Without reliable estimates, the OIG cannot adequately evaluate the Department's performance in reducing and recapturing improper payments.

### **Previous Recommendations**

Over the past two years, we have issued five reports with recommended actions the Department should take to help it prevent and recover improper payments.

Report No. 03-12-001-04-431, "OWCP's Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses," issued February 15, 2012, recommended that OWCP:

- develop a process for improper payment estimates that is compliant with IPERA;
- develop effective procedures, including seeking legislative authority to conduct matches with SSA retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly; and
- implement a requirement for training on improper payments for all claims examiners.

Report No. 18-12-001-03-315, "Recovery Act: ETA Is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits," issued January 31, 2012, recommended that ETA:

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<sup>8</sup> "Georgia Department of Labor Missed Opportunities to Detect and Recover Unemployment Insurance Overpayments," Report No. 04-13-001-03-315, issued March 15, 2013.

- develop and implement a valid and reliable method for estimating the rate of detectable overpayments in the federally-funded emergency programs, or alternatively, consider expanding its sampling methodology to include all UI benefit payments regardless of funding source.

Report No. 22-12-016-13-001, “The Department of Labor’s Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2011 Agency Financial Report,” issued March 15, 2012, recommended that the Department:

- 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 overpayment in the AFR; and
- consider developing and including cost benefit and return on investment analyses for the various improper payment reduction strategies.

Report No. 04-12-001-03-315, “ETA Did Not Use Compatible Data Which Overstated the Effectiveness of Its Overpayment Detections,” issued September 28, 2012, recommended that ETA:

- ensure the overpayment detection management information measure for Extended Benefits is implemented and accurately report detectable overpayment activities;
- ensure that states properly cross match BAM samples to NDNH;
- develop and implement clear guidance for states on properly conducting data validation;
- ensure all states conduct data validation for actual overpayment data as required by ETA Handbook 361;
- ensure regional offices perform effective monitoring of states’ efforts for conducting data validation properly; and
- ensure regional offices timely close reviews of the states’ sampled BAM survey cases used in their estimates of detectable overpayments.

Report No. 04-13-001-03-315, “Georgia Department of Labor Missed Opportunities to Detect and Recover Unemployment Insurance Overpayments,” issued March 15, 2013, recommended that ETA:

- ensure the Georgia Department of Labor has implemented NDNH cross matching for detecting overpayments;

- ensure the Georgia Department of Labor conducts data validation of overpayment data in accordance with ETA Handbook 361 requirements; and
- develop an acceptable level of performance for recovery of overpayments.

The above recommendations continue to be valid.

### **Chief Financial Officer’s Response to the Draft Report**

The Chief Financial Officer’s (CFO) March 15, 2013, response to the draft report is included in its entirety in Appendix D. In response to Section A, Compliance with IPERA, finding 6, the CFO noted that ETA developed an alternative metric to measure improper payments accounting for a “net” effect of Unemployment Payment Recoveries. The alternative metric was approved by OMB for use beginning with FY 2013 IPIA reporting. Using the alternative metric, the CFO stated the alternative IPIA rate would be 9.22 percent rather than the current rate of 11.42 percent.

The CFO also responded to Section C, Performance in Reducing and Recapturing Improper Payments, UI, that informal cost analysis for strategies have been provided where feasible, contending that performing formal cost benefit analysis would be time consuming and expensive because many variables that affect improper payments limit the usefulness of formal cost benefit analyses. Additionally, the CFO highlighted numerous actions taken in response to the previous four of the five prior OIG reports and their recommendations.

Lastly, the CFO commented, in response to OIG report 03-12-001-04-431 issued February 15, 2012, that the methodology used to estimate the improper payment rate for FECA is currently based on a statistically valid sample of payments for a fiscal year and meets IPERA requirements.

### **Evaluation of the CFO Response to the Draft Report**

Although the CFO used the recently approved alternative rate of 9.22 percent to compare to the OMB target rate of 9.7 percent, the fact remains that DOL is still non-compliant as the actual Improper Payment Rate for FY 2012 was 11.42 percent. The OMB approved alternative rate does not apply to FY 2012, but instead is approved to be used for FY 2013. As such, the UI rate again is non-compliant for two consecutive years.

While DOL makes progress in taking corrective actions in response to our previously reported findings, the OIG will evaluate these actions to determine if they have successfully remediated the reported issues.

Finally, FECA’s methodology used to conduct its risk assessment in FY 2011 is the same methodology used for FY 2012. This methodology did not include all known fraud risk factors, and therefore we believe it to be an invalid risk assessment.

We appreciate the cooperation and courtesies that Departmental personnel extended to the Office of the Inspector General during our work. OIG personnel who made major contributions to this report are listed in Appendix E.



Elliot P. Lewis  
Assistant Inspector General  
for Audit



## Appendices

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## **Background**

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IPERA became law on July 22, 2010. It amended the Improper Payments Information Act (IPIA) of 2002. IPERA requires that each agency periodically review and identify all programs and activities that may be susceptible to significant improper payments. IPERA 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 require 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 OIGs are required to review agency reporting.

### 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 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 about \$90 billion of benefit payments were made to beneficiaries in FY 2012.

### WIA Grant Program

In FY 2012, ETA was appropriated \$3.2 billion for the WIA Adult, Dislocated Worker, and Youth programs. WIA adult employment and training services were provided through formula grants to states and territories or through competitive grants to service providers to design and operate programs for disadvantaged and often unemployed persons. ETA also awards grants to states to provide reemployment services and retraining assistance to individuals dislocated from their employment. Youth programs are funded through grant awards that support program activities and services to prepare low-income youth for academic and employment success, including summer jobs.

### FECA

The FECA Program provides wage-loss compensation and pays medical expenses for covered federal civilian and certain other employees who incur work-related occupational injuries or illnesses, as well as survivors benefits for a covered employee's employment-related death. The cost of federal workplace injuries, when measured by

FECA compensation costs for wage-loss, is nearly \$3 billion and 2 million lost production days annually.

**Appendix B**

**Objectives, Scope, Methodology, and Criteria**

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**Objectives**

Our objectives were to:

- A) determine whether the Department met all requirements of IPERA in its Improper Payments Information section in the FY 2012 AFR;
- B) evaluate the Department’s accuracy and completeness of reporting; and
- C) evaluate the Department’s 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 2012 AFR. The OIG conducted this review in accordance with guidance issued by OMB Memorandum M-11-16 to determine whether the Department was in compliance with IPERA.

**Methodology**

We reviewed the FY 2012 AFR – Improper Payment for compliance with the seven items under IPERA the Department must meet in order to be in compliance with IPERA. In addition, we:

- reviewed the Department’s FY 2012 AFR and accompanying material required by OMB on the Department’s website for compliance with IPERA;
- reviewed the program specific risks assessments that conforms with Section 3321 of Title 31 U.S.C.;
- reviewed and evaluated the Department’s information on its efforts to recapture improper payments;
- reviewed and ensured the Department published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessments;
- reviewed the published programmatic corrective action plans in the AFR and any additional supplemental materials;

- interviewed key personnel regarding the Department’s plan to meet the reduction targets and conduct recapture audits for UI and WIA; and
- obtained and verified data supporting key figures in the Agency Financial Report.

**Criteria**

We used the following criteria to perform this review:

IPERA (P.L. No. 111-204) (2010)

IPIA (P.L. No. 107-300) (2002)

OMB Memorandum 11-04, dated November 16, 2010, “Increasing Efforts to Recapture Improper Payments by Intensifying and Expanding Payment Recapture Audits”

OMB Memorandum 11-16, dated April 14, 2011, “Issuance of Revised Parts I and II to Appendix C of OMB Circular A-123”

OMB Circular A-123, Appendix C, Parts I and II, “Requirements for Effective Measurement and Remediation of Improper Payments,” dated April 14, 2011

Executive Order 13520, dated November 20, 2009, “Reducing Improper Payments”

**Appendix C**

**Acronyms and Abbreviations**

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A-133 reports	OMB Circular A-133 Single Audit Act reports
AFR	Agency Financial Report
BAM	Benefit Accuracy Measurement
CFO	Chief Financial Officer
ETA	Employment and Training Administration
FECA	Federal Employees' Compensation Act
FY	Fiscal Year
GDOL	Georgia Department of Labor
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 Chief Financial Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
OWCP	Office of Workers' Compensation Program
PAR	Performance and Accountability Report
SBR	Statement of Budgetary Resources
SIDES	State Information Data Exchange System
UI	Unemployment Insurance
WIA	Workforce Investment Act

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**Appendix D**

**OCFO's Response to Draft Report**

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Thank you for the opportunity to comment on the Department of Labor's (DOL) Office of Inspector General (OIG) Draft Report, *"The Department of Labor's Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2012 Agency Financial Report"* (Report No. 22-13-014-13-001) issued February 28, 2013.

**Responses to OIG Comments/Recommendations Included in the Report**

**Unemployment Insurance Program**

**1. OIG Comment [p.5]:**

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 11.42 percent for the UI benefit program."

**Response:**

During Fiscal Year (FY) 2012, the Employment and Training Administration (ETA) developed an alternative metric to measure improper payments that takes into account the "net" effect of Unemployment Insurance (UI) overpayment recoveries. The alternative metric was proposed to the Office of Management and Budget (OMB) for their review and approval. On December 13, 2012, OMB informed ETA that it approved the alternative rate methodology beginning with FY 2013 IPIA reporting. The alternative rate includes the two components in the rate currently reported annually in the Department's Annual Financial Report (AFR) as part of Improper Payments Information Act (IPIA) reporting requirements - total overpayments plus total underpayments - and subtracts the amount of overpayments recovered by state workforce agencies.

- Overpayments include fraud, non-fraud recoverable, and non-fraud non-recoverable overpayments.
- Underpayments include benefits payable to the claimant and underpayments not payable due to state finality rules or other disqualifying issues.
- Both the overpayment and underpayment rates include all improper payment causes.
- Currently, the Department reports overpayment and underpayment rates estimated from the results of the Benefits Accuracy Measurement (BAM) survey. The alternative measure includes two components - improper payments, which will continue to be estimated from BAM, and overpayment recoveries, which are based on actual amounts reported by the state workforce agencies on the ETA 227 Overpayment Detection and Recovery report for State UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Service Members (UCX).

The following table summarizes the current BAM rate and the alternative BAM - 227 report rate for the 2012 IPIA reporting period (July 2011 to June 2012).

**Current BAM and Alternative IPIA UI Improper Payment Rates**

<b>UI Improper Payment Rates</b>	<b>2012 IPIA Rate</b>
<b>IPIA Rate (Current: Overpayment rate (OP) + Underpayment rate (UP))</b>	<b>11.42%</b>
<b>Alternative IPIA rate</b>	<b>9.22%</b>

On January 29, 2013, ETA published UI Program Letter (UIPL) No. 09-13 to provide information regarding the alternative rate and establish two UI Performs core measures for UI Integrity. The UIPL can be accessed at:

[http://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_9\\_13.pdf](http://wdr.doleta.gov/directives/attach/UIPL/UIPL_9_13.pdf)

Using the alternative rate methodology approved by OMB, the following targets have been established for FY 2013 – FY 2015.

**FY 2013 – FY 2015 Alternative IPIA Target Rates**

	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Alternative IPIA rate</b>	<b>9.23%</b>	<b>9.13%</b>	<b>9.03%</b>

ETA has been aggressively promoting the use of the Treasury Offset Program (TOP) by states for the recovery of UI overpayments. Currently, TOP has been implemented by 30 states and 17 states are in various stages of implementation. Using TOP, the total recoveries of overpayments to date is over \$265 million. ETA expects that the alternative metric, which takes into account the overpayment recoveries, will help achieve the IPERA requirement that the Department reports a UI improper payment rate below 10 percent in the future years.

**2. OIG Comment, C. Performance in Reducing and Recapturing Improper Payments – UI [pp. 8-10], Paragraph 2 [p.10]:**

“While the Department has developed multiple and overlapping strategies to address the root causes of improper UI payments, the strategies do not include cost benefit analyses or anticipated return on investment for those strategies. Without such information, it will be difficult for the Department to determine those strategies that are working well and those that are not.”

Response:

ETA believes that it has provided informal cost benefit analysis for strategies, where feasible. The strategies designed for reducing overpayments are focused on the areas where states have the most control to reduce improper payments and where there is the potential for the greatest impact. Performing formal cost benefit analysis for each corrective action is time consuming and expensive and has the potential to delay action. In addition, it is challenging due to the complexity of the UI program. The many variables that affect improper payments limit the usefulness of a formal cost benefit analysis in establishing a quantifiable link between any specific strategy and a reduction in improper payments.

3. OIG Recommendation [pp. 10-11]

Report No. 18-12-001-03-315, *“Recovery Act: ETA is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits,”* issued January 31, 2012, recommend that ETA:

“Develop and implement a valid and reliable method for estimating the rate of detectable overpayments in the federally-funded emergency programs, or alternatively, consider expanding its sampling methodology to include all UI benefit payments regardless of funding source.”

Response:

Currently, UI improper payment rates are estimated based on the results of the Benefit Accuracy Measurement survey, which includes payments from the State UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Service Members (UCX) programs, but does not include Emergency Unemployment Compensation 2008 (EUC08), Extended Benefits (EB), and Federal Additional Compensation (FAC) payments. However, because the claims processes and eligibility requirements are very similar for the additional benefits paid to unemployed individuals under the EUC08, EB, and FAC programs, the estimated improper payment rates are assumed to generally reflect the accuracy of these benefit payments.

ETA is conducting a comprehensive study of the BAM survey including exploring whether the existing BAM sampling and estimation methodology can be expanded to apply to future temporary federal programs.

A contractor was selected in September 2012 to assist with the study. The first kickoff meeting with the contractor was held on October 15, 2012. On December 4, 2012, ETA conducted a webinar to inform the states regarding the study and solicit their input. During the past quarter, ETA worked closely with the contractor for the development of the work plan. As part of this study, the contractor is conducting site visits with eight selected states - Alabama, Delaware, Louisiana, Maine, Minnesota, Texas, Washington, and West Virginia. These states were selected to ensure diversity with respect to

workload, UI payment integrity rate, and geography. The contract has begun these on-site interviews and plans to complete them by April 2013. Through interviews with staff and observations of the BAM investigation process in these states, the study team will collect data on BAM procedures, gather insights on challenges and promising practices, and document staff suggestions for program improvements. Based on the revised work plan, the draft study report is now due by June 2013 and the final report is due by September 2013.

Any modifications to the BAM survey will be based on the outcomes from the study. Should it be determined that an expanded BAM program is feasible, implementation, if a future temporary emergency program is enacted, depends on how that program is structured and the extent to which administrative resources are available to support the sampling and audit process for the new program.

#### 4. OIG Recommendation [p.11]

Report No. 22-12-016-13-001, "*The Department of Labor's Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2011 Agency Financial Report*", issued March 15, 2012, recommend that the Department:

"Consider developing and including cost benefit and return on investment analyses for the various improper payment reduction strategies."

#### Response:

ETA believes that it has provided informal cost benefit analysis for strategies for reducing UI improper payments, where feasible.

Additionally, as stated in the ETA response to the OIG's "*Review of Report on Improper Payments in the Unemployment Insurance (UI) Program (Report No. 22-10-020-03-315)*", ETA's strategies for reducing overpayments are focused on the areas where states have the most control to reduce improper payments and where there is the potential for the greatest impact. Performing formal cost benefit analysis for each corrective action is time consuming and expensive and has the potential to delay action. In addition, it is challenging due to the complexity of the UI program. The many variables at play limit the usefulness of a formal cost benefit analysis. ETA believes the better investment of our scarce resources is to actively collaborate with states to identify those strategies that have the potential to have the greatest impact and to provide technical assistance and support to states.

ETA conducted a cost-benefit analysis in 2012, which updated the methodology of a cost-benefit analysis conducted in 2001. This analysis indicates that an additional \$6.52 will be recovered for every \$1 invested in state Benefit Payment Control (BPC) activities, based on the inflation-adjusted average returns on investment for the period FY 2001 to FY 2011. In addition to the methodology replicating the FY 2001 study, regression models were constructed to identify variables with statistical associations with UI overpayment detections and recoveries. The period of analysis was FY 2007 to FY 2011 for all states and territories excluding the U.S. Virgin Islands. The model for UI

overpayment detections indicates that estimated overpayments (from the BAM survey) explained the largest proportion of the variance, followed by Extended Benefits (EB) payments, and BPC funding. This indicates that state BPC operations can detect additional overpayments as the pool of overpayments expands up to a point using existing resource levels. The model indicates that agencies will establish a little more than \$5 in overpayments for every additional dollar in BPC funding they receive.

With respect to overpayment recoveries, the model suggests that recoveries are largely a function of the pool of overpayments and the amount of those overpayments that the agency establishes. The model also indicates that recoveries are unresponsive to changes in BPC resource levels, although these resources are important to support additional overpayment detections, which are in turn significant with respect to recoveries.

5. OIG Recommendation [p.11]

Report No. 04-12-001-03-315, *“ETA Did Not use Compatible Data Which Overstated the Effectiveness of Its Overpayment Detections”*, issued September 28, 2012, recommended that ETA:

“Ensure that overpayment detection management information measure for EB is implemented and accurately report detectable overpayment activities.”

Response:

Please refer to ETA’s response provided to this report at:

<http://www.oig.dol.gov/public/reports/oa/2012/04-12-001-03-315x.pdf>

In November 2012, ETA began publishing the overpayment detection and recovery management information measure on the Office of Unemployment Insurance (OUI) Web site. Please see link below for reference:

[http://oui.doleta.gov/unemploy/info\\_measures.asp](http://oui.doleta.gov/unemploy/info_measures.asp)

ETA believes the corrective actions related to this recommendation have been fully addressed and requested the OIG close this recommendation.

6. OIG Recommendation [p.11]

Report No. 04-12-001-03-315, *“ETA Did Not use Compatible Data Which Overstated the Effectiveness of Its Overpayment Detections”*, issued September 28, 2012, recommended that ETA:

“Ensure that states properly cross match BAM samples to NDNH.”

Response:

Currently, all states including California are matching BAM cases with the National Directory of New Hires (NDNH). California implemented the NDNH cross match for BAM in December, 2012.

ETA's Regional Offices continue to conduct the biennial Methods and Procedures review of the states' BAM programs. This formal review and ongoing monitoring is used to determine if the state agency's BAM operations are being administered in compliance with BAM organizational and methodological requirements in the BAM State Operations Handbook (ETA Handbook 395), including the NDNH requirements.

ETA believes the corrective actions related to this recommendation have been fully addressed and requested the OIG close this recommendation.

7. OIG Recommendation [p.11]:

Report No. 04-12-001-03-315, "*ETA Did Not use Compatible Data Which Overstated the Effectiveness of Its Overpayment Detections*", issued September 28, 2012, recommended that ETA:

“Develop and implement clear guidance for states on properly conducting data validation.”

Response:

Please refer to ETA's response provided to this report at:

<http://www.oig.dol.gov/public/reports/oa/2012/04-12-001-03-315x.pdf>

In June 2012, National Association of State Workforce Agencies (NASWA)'s Information Technology Support Center (ITSC) selected a contractor to conduct a comprehensive assessment of the states' UI Data Validation (DV) program. In the fall of 2012, in consultation with ETA, the contractor developed an assessment plan. Currently, the DV contractor has finished its field work and has prepared a draft assessment report, which is being reviewed by OUI and ITSC staff; the final report is expected to be available in March 2013. The report will contain updated DV status and 2013 outlook information on all states. Based on an analysis of reasons states have given for their status, it will contain recommended training, technical assistance and other steps to facilitate and enable further progress in the DV program. The second phase of the contract will address the training and technical assistance activities necessary to further assist states with the DV program.

8. OIG Recommendation [pp.11-12]:

Report No. 04-12-001-03-315, "*ETA Did Not use Compatible Data Which Overstated the Effectiveness of Its Overpayment Detections*", issued September 28, 2012, recommended that ETA:

“Ensure all states conduct data validation for actual overpayment data as required by ETA Handbook 361.”

Response:

Please refer to ETA's response provided to this report at:

<http://www.oig.dol.gov/public/reports/oa/2012/04-12-001-03-315x.pdf>

ETA continues to provide technical assistance to the states for the DV program. OUI conducted a webinar on September 19, 2012 to provide technical assistance on the changes to the ETA 227 report. In February 2013, ETA conducted a webinar on DV Data Element Validation to facilitate state compliance with this important component of UI DV.

9. OIG Recommendation [p.12]:

Report No. 04-12-001-03-315, “*ETA Did Not use Compatible Data Which Overstated the Effectiveness of Its Overpayment Detections*”, issued September 28, 2012, recommended that ETA:

“Ensure regional offices perform effective monitoring of states’ efforts for conducting data validation properly.”

Response:

Please refer to ETA’s response provided to this report at:

<http://www.oig.dol.gov/public/reports/oa/2012/04-12-001-03-315x.pdf>

ETA believes the corrective actions related to this recommendation have been fully addressed and requested the OIG close this recommendation.

10. OIG Recommendation [p.12]:

Report No. 04-12-001-03-315, “*ETA Did Not use Compatible Data Which Overstated the Effectiveness of Its Overpayment Detections*”, issued September 28, 2012, recommended that ETA:

“Ensure regional offices timely close reviews of the states’ sampled BAM survey cases used in their estimates of detectable overpayments.”

Response:

OUI will continue to work collaboratively with our Regional leadership and the BAM coordinators to ensure that monitoring of BAM cases fully meets the requirements of ET Handbook 396. OUI staff schedule quarterly conference calls with the Regional BAM coordinators to provide guidance and technical assistance to improve the BAM monitoring process.

ETA believes that it has taken the necessary actions to address this recommendation and has requested for the OIG to close this recommendation.

11. OIG Recommendation [p.12]

Report No. 04-13-001-03-315, “*Georgia Department of Labor Missed Opportunities to Detect and Recover Unemployment Insurance Overpayments*”, issued March 15, 2013, recommended that ETA:

“Ensure the Georgia Department of Labor has implemented NDNH cross matching for detecting overpayments.”

Response:

Based on data provided by the Office of Child Support Enforcement, U. S. Department of Health and Human Services, which administers the NDNH, ETA has documented that the Georgia DOL began submitting files of UI payments for cross matching on April 4, 2008. The National Office has reviewed sample records from the files that the Georgia agency submitted for NDNH matching and has verified that they meet the specifications in UIPL No. 3-07 (October 11, 2006) and UIPL No. 3-07, Change 1 (February 27, 2008) for BAM NDNH matching.

ETA revised the Overpayment Detection and Recovery report (ETA 227) with the publication of UIPL No. 8-12, issued January 11, 2012, to support the separate reporting of UI overpayments detected through the NDNH and the State Directories of New Hires (SDNH). Georgia began reporting NDNH and SDNH data on the June 2012 quarterly ETA 227 report. For the period April to December 2012, Georgia's Benefit Payment Control (BPC) operation detected over \$300,000 in UI overpayments using NDNH, nearly two-thirds of all overpayments detected through new hire matching.

While outside the audit period, ETA believes that it has completed all the corrective actions necessary to ensure that the Georgia DOL has implemented NDNH cross matching for detecting UI overpayments and has processes in place to ensure Georgia DOL complies moving forward. We have requested that the final report reflect that ETA has already addressed this recommendation.

12. OIG Recommendation [p.12]

Report No. 04-13-001-03-315, "Georgia Department of Labor Missed Opportunities to Detect and Recover Unemployment Insurance Overpayments", issued March 15, 2013, recommended that ETA:

"Ensure the Georgia Department of Labor conducts data validation of overpayment data in accordance with ETA Handbook 361 requirements."

Response:

Georgia has submitted and passed the DV populations associated with the overpayment data for Validation Year (VY) 2013 in accordance with ETA Handbook 361 requirements.

ETA has completed or initiated several actions to ensure that all state agencies fully meet the requirements of the DV program including issuance of the UI DV Monitoring Guide (ETA Handbook 412) on February 22, 2012, for establishing a vigorous monitoring program to ensure the validity of DV results, conducting webinars to provide technical guidance to states on changes to the DV software to reflect changes in the ETA 227 Overpayment Detection and Recovery report, and contracting with National Association of State Workforce Agencies' ITSC to conduct a comprehensive assessment of and support for UI DV, with particular emphasis on the validation of data covering overpayments established, recovered, and reconciled that states report on the ETA 227 report.



Information on reasons for success will be disseminated to all states as best-practice guidance. During the final phase of the project, the contractor will develop a Technical Assistance Plan (TAP), which will include its recommended approach for delivering training and technical assistance to all states, and specifically ensure that at least five states are trained on DV methodology and ten states are provided technical assistance in conducting DV tasks. The TAP will identify specific state needs, including grouping the states by common conditions that can be addressed collectively. The plan will identify recognized system-wide problems and develop solutions.

13. OIG Recommendation [p.12]

Report No. 04-13-001-03-315, “Georgia Department of Labor Missed Opportunities to Detect and Recover Unemployment Insurance Overpayments”, issued March 15, 2013, recommended that ETA:

“Develop an acceptable level of performance for recovery of overpayments.”

Response:

ETA has met the recommendation with the publication of UIPL No. 9-13 on January 29, 2013. The UIPL establishes an acceptable level of performance (ALP) for recovery of overpayments:

The Department conducted an analysis of the UI payment, overpayment detection, and recovery data and established recovery targets of 55 percent for the 2013 IPIA reporting period, and 58 percent for the 2014 IPIA reporting period. These targets were reviewed by OMB and published in the Department’s FY 2012 AFR on page 181.

The performance period will be based on the ETA 227 and ETA 227 EUC data for the IPIA period (July 1 to June 30 of the IPIA reporting year). The first measurement period will be July 1, 2012 to June 30, 2013. States failing to meet the ALP for the 2013 IPIA reporting period will be expected to develop a CAP as part of the FY 2015 SQSP.

ETA has requested that the OIG acknowledge in the report that ETA’s actions taken prior to receipt of the report have fully responded to the recommendation.

**Workforce Investment Act Grant Program**

14. OIG Comment [p.7]

Report No. 22-12-016-13-001, “*The Department of Labor’s Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2011 Agency Financial Report*”, issued March 15, 2012, commented that:

“The methodology relies primarily on questioned costs identified in OMB Circular A-133 Single Audit Act Reports (A-133 reports). However, A-133 audits typically do not project likely total questioned costs for the grant or entity audited, but simply report those questioned costs identified for the specific sample items

reviewed during the audit. As a result, Single Audit Act reports do not provide a valid proxy for improper payments in the WIA grant program. Due to the lack of information on likely questioned costs for individual grants, it is impossible for the Department to make a valid projection of total likely improper payment for all WIA grants.”

15. OIG Recommendation [p.11]:

Report No. 22-12-016-13-001, “*The Department of Labor’s Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2011 Agency Financial Report*”, issued March 15, 2012, recommend that the Department:

“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 overpayment in the AFR.”

Response:

IPERA and OMB guidance require an overall estimate be made for the WIA program. Since financial records and other documentation supporting WIA expenditures are located at the grantee and sub-grantee locations rather than at DOL, direct sampling of payments to derive a statistical projection is not practical and is cost prohibitive. The Department uses an alternate OMB-approved methodology to estimate the improper payment rate. This methodology is based on analysis of improper payments (questioned costs) identified in (1) a statistically valid, stratified sample of A-133 audit reports, (2) monitoring results reported by each of the six regional offices of the WIA program, and (3) DOL OIG questioned costs for the three most recent years. The use of non-statistical approaches is allowed by Circular A-123, Part C, with OMB approval.

DOL considered the option of selecting a nationwide, statistically valid sample of WIA grantees and performing audits to estimate the improper WIA payment rate. In 2009, the Department worked with the DOL OIG to design such an approach. DOL estimated the cost to perform these audits would be several million dollars. Based on the high cost to perform these audits, this option is not considered cost-effective.

DOL believes it is appropriate to use questioned costs in A-133 reports as a proxy for improper payments for the WIA program. In addition, DOL augments the A-133 report statistically valid estimate by including three-year moving averages of WIA questioned costs identified in OIG reports and in regional monitoring reports. Use of a three-year average for these items reduces the impact of anomalies that may occur in a given year. All OIG reports which discuss WIA are analyzed, whether related to fraud or any other basis of improper payments. Regional monitoring on-site reviews, quarterly reviews, and desk reviews are based on assessed risk and improper payments reported from these activities are included in the estimation of the improper payment rate.

The major types of errors found in the WIA program are primarily administrative in nature. ETA focuses its internal grant management and regional monitoring processes on administrative items to reduce and prevent improper payments. Whenever

deficiencies or problems are identified, ETA works with the grantees on corrective actions. In addition, ETA also reviews direct grantee A-133 reports and OIG reports for questioned costs and follows through on resolution. The resolution status of these questioned costs is considered in the estimation of the improper payment rate.

Although DOL believes questioned costs reported in A-133 reports are a valid proxy for improper payments, DOL included information on the limitations of the data used in the estimation of WIA improper payments in the Department's FY 2012 AFR and continues to seek ways to improve the methodology. Finding better ways to collect, analyze, and incorporate more data on questioned costs and their resolutions are the key to improving the accuracy of the estimated rate.

Preventing and recovering improper payments is a priority for DOL. The Department will continue to integrate improper payment prevention strategies into the day-to-day program operations and internal control processes to help reduce improper payments.

### **Federal Employees' Compensation Act Benefit Program**

#### **16. OIG Comment [p7]:**

Report No. 03-12-001-04-431, "*OWCP's Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses*", issued February 15, 2012, found that:

"The improper payments estimation method used for FECA may not be sufficient to meet IPERA requirements".

#### **Response:**

The methodology used to estimate the improper payment rate for the Federal Employees Compensation Act (FECA) program is currently based on a statistically valid sample of payments for a fiscal year and meets IPERA requirements. However, the Department is reviewing the methodology and will consider the additional factors noted by the OIG, such as fraudulent payments.

Additionally, the Office of Workers' Compensation Programs (OWCP) has requested funding to establish an Integrity and Compliance Program to focus on the FECA program. As a preparation for this initiative, OWCP will evaluate the use of Do Not Pay Solution Data Analytics Services to determine if they provide additional value and would be cost effective.

James L. Taylor  
Chief Financial Officer

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**Appendix E**

**Acknowledgements**

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Key contributors to this report were Joseph L. Donovan, Jr. (Audit Director), Orville Hylton, Katherine Gers , and Bashar Chowdhury.

**TO REPORT FRAUD, WASTE, OR ABUSE, PLEASE CONTACT:**

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