APPENDIX B

OCFO'S RESPONSE

U.S. Department of Labor

Office of the Chief Financial Officer
Washington, D.C. 20210

May 19, 2017

MEMORANDUM FOR: **ELLIOT P. LEWIS**
Assistant Inspector General for Audit

FROM: **GEOFFREY KENYON**
Principal Deputy Chief Financial Officer

SUBJECT: Response to the Office of Inspector General's draft report "DOL Needs to Do More to Reduce Improper Payments and Improve Reporting", Report No. 03-17-002-13-002

The Office of the Chief Financial Officer (OCFO) would like to thank the Office of Inspector General (OIG) for its annual review of the Department's compliance with Improper Payments Elimination and Recovery Act (IPERA) requirements and for the opportunity to respond to its draft Fiscal Year (FY) 2016 report entitled "*DOL Needs To Do More to Reduce Improper Payments and Improve Reporting*," (Report No. 03-17-002-13-002).

The Department is strongly committed to being a responsible steward of public funds, and takes very seriously its obligations under IPERA and other statutes to mitigate risk, and to reduce and eliminate improper payments in Unemployment Insurance (UI), Federal Employees' Compensation Act (FECA), and other programs.

The Department has implemented a number of important steps in the past several years - many of which are outlined in the OIG report - to reduce improper payments, improve reporting, and build capacity in states to enhance their detection, prevention, and recovery of improper payments. We appreciate the OIG closing the recommendation to review the Workforce Innovation Act sampling methodology from Report No. 22-12-016-13-00 and recognition of the Department's efforts in conducting timely improper payments risk assessments of all new programs.

Despite these efforts, the Department's overall reported improper payment rate rose from 9.47 percent in FY 2015 to 10.97 percent in FY 2016. As noted in the Department's FY 2016 Agency Financial Report, the cause of this increase is primarily due to an 8.13 percentage point increase in Work Search Error in the UI program and a $37.46 million increase in <u>underpayments</u> due to Administrative or Process Error by other government agencies.

The Department's ability to address the UI program's Work Search Error is constrained by program structural issues. For sound policy reasons, there are structural elements of the UI program that create improper payments which cannot be prevented and can only be detected after the fact. In 2016, the UI program convened a Technical Working Group of independent UI experts, statisticians, and economists to evaluate the impacts of program structural elements on the improper payment rate, specifically: 1) Balancing the need for accuracy with the requirement for full payment "when due"; 2) Difficulty in preventing work search errors; and 3) Lags in current data sources used by states to identify that a claimant has returned to work.

For work search errors, which remain the top root cause of UI improper payments, the Technical Working Group attested that it is not administratively feasible for states to prevent the vast majority of work search improper payments. If a work search issue is detected, claimants must be given notice and an opportunity to respond before a determination is made and benefits are stopped, if appropriate. Continued claims must be paid the week following the week in which an issue is raised in order to meet the "when due" requirement, and this timeframe occurs before the required due process steps can be completed (Sec 303 of Social Security Act and Unemployment Insurance Program Letter No. 04-01). These activities generally create at least one improper payment which cannot be prevented. Only improper payments that are prevented can reduce the improper payment rate. The UI program has provided Congress a package of suggested legislative proposals to help state agencies mitigate improper payments.

The Office of Workers' Compensation Programs (OWCP) FECA program's Administrative or Process Error by other government agencies reflects various errors in calculating wage loss pay rates. Specifically, some improper payments resulted from the improper deduction of life insurance premiums. As noted in the draft report, FECA has initiated a number of corrective actions to address this issue, including working closely with the Office of Personnel Management (OPM) to share and cross-walk life insurance data to resolve these issues. In addition, the FECA Program Integrity Unit is conducting a comprehensive study in order to analyze trends and abnormalities in various areas of improper payments. This will assist in developing technology and analytic tools to detect and monitor both post and pre-improper payments. OWCP also acknowledges concerns regarding emerging high-risk areas, such as the compound drug issue noted in the draft report. Since OWCP discovered the growing issue, they have developed targeted controls to mitigate risk and ensure that doctor's orders are medically necessary, as required by law. The Department's growing data analytics capacity allows it to be increasingly agile in recognizing new trends and responding quickly.

The Department will continue its focus on program integrity improvement and take all cost-effective measures to minimize risk. Prior to the recommendation, OCFO and OWCP had preliminary plans to revisit the FECA Improper Payments Estimation Methodology[1]. We welcome the OIG's recommendation and look forward to their feedback as we reexamine the Methodology in the coming year. Additionally, we acknowledge the OIG's recommendations from previous reviews. For more information on the Department's responses to these recommendations, please see our response to the OIG's FY 2014 IPERA compliance review as published in Report No. 03-15-001-13-001[2]. OCFO looks forward to working with OIG, OWCP-FECA, UI, and other responsible program agencies to ensure continued improvement.

If you have any further questions, or require additional information on the Department's program integrity efforts, please contact myself or Chris Polen at (202) 693-6800.

[1] https://www.dol.gov/ocfo/media/reports/20141104IPMETHODOLOGY.pdf
[2] "DOL Could Do More to Reduce Improper Payments and Improve Reporting", https://www.oig.dol.gov/public/reports/oa/2015/03-15-001-13-001.pdf.