APPENDIX A: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor Office of the Chief Financial Officer
Washington, D.C. 20210

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

JUN 0 3 2019

FROM: **JAMES WILLIAMS**
Chief Financial Officer

SUBJECT: Response to the Office of Inspector General's draft report "REPORTING OVER THE U.S. DEPARTMENT OF LABOR'S FY 2018 COMPLIANCE WITH THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT" (Report No. 22-19-007-13-001)

The Department of Labor's (DOL or the Department) Office of the Chief Financial Officer (OCFO) thanks the Office of Inspector General (OIG) for its annual review of the Department's compliance with requirements under the Improper Payments Elimination and Recovery Act (IPERA) of 2010, and for the opportunity to respond to its draft Fiscal Year (FY) 2018 report entitled "REPORTING OVER THE U.S. DEPARTMENT OF LABOR'S FY 2018 COMPLIANCE WITH THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT" (Report No. 22-19-007-13-001).

The Department is committed to good stewardship of public funds and takes seriously its responsibility under IPERA to prevent, detect, and recover improper payments in its programs and to report fully and accurately on those efforts. The Department appreciates the OIG's acknowledgement of the steps management has taken to review its payment integrity policy, procedures, and reporting by closing two outstanding prior year recommendations regarding the Federal Employee Compensation Act program. In addition, we acknowledge the two areas of difference that the auditor's Agreed Upon Procedures noted which resulted in the OIG maintaining the final two prior year recommendations, as described below.

Recommendation #1: Maintain management's current focus on increasing its technical assistance and funding to states to improve the improper payment reduction strategies in order to ensure compliance with the improper payments estimate rate threshold.

The OIG is correct to note that the federal-state Unemployment Insurance (UI) program continues to report an estimated improper payment rate greater than the 10 percent compliance threshold. This Administration has made "Getting Payments Right" a Cross-Agency Priority Goal in the President's Management Agenda to reduce cash lost to taxpayers through improper payments. The UI program is a federal-state partnership under which nearly all UI payments are made by states, under state law, using state funds. As reported in the FY 2018 Agency Financial Report, none of the reported improper payments were made directly by the Department.[1] However, the Department is firmly committed to payment integrity and in FY 2019 has redoubled its efforts to improve implementation of an

[1] U.S. Department of Labor. FY 2018 Agency Financial Report. p. 161.
https://www.dol.gov/sites/dolgov/files/OPA/reports/2018annualreport.pdf

aggressive and ever evolving Integrity Strategic Plan to address the leading root causes of improper payments.

On December 21, 2018, the Department provided a report on these efforts to Congress and the Office of Management and Budget. Since that report was issued, the Department has taken additional steps to address improper payments in the UI program. These actions include the following:

1. In February 2019, the Department issued letters to the governors of 11 states with high UI improper payment rates which significantly contribute to the national rate. The letters requested state leadership to reduce the improper payment rate by targeting the leading root causes. The Department is providing intensive technical assistance and oversight to these states. The letters were followed by contacting the state workforce commissioner and UI director in each state to discuss the state's leading root causes and opportunities for improvement and to provide an overview of the technical assistance and oversight process moving forward until the states achieve an improper payment rate below 10 percent. Each of the states will be provided intensive consultative services through the UI Integrity Center to support their strategies to bring their improper payment rates down.

2. In March 2019, the Department issued "call to action" letters to the remaining 41 governors and the mayor of the District of Columbia requesting their leadership in addressing UI improper payments. In April 2019, the Department also issued letters to the Chairs of each State Workforce Development Board (SWDB) similarly requesting their leadership in addressing UI improper payments.

3. In March 2019, to increase the effectiveness of state use of the National Directory of New Hires (NDNH) used to identify claimants that have returned to work but continue to claim benefits, the Department issued letters to the six states that do not currently have penalties in place when employers fail to report information about new hires. The letters strongly encourage those states to work with the state child support agency to actively promote employer compliance with new hire reporting and to impose and enforce sanctions on employers that fail to comply.

4. On April 3-4, 2019, the National Association of State Workforce Agencies (NASWA) hosted a training seminar to promote best practices for all state UI agencies to increase employer use of the State Information Data Exchange System (SIDES), to improve the timeliness and accuracy of information about a UI applicant's separation from employment, a leading root cause of UI improper payments.

5. On April 12, 2019, the Department increased the transparency of each state's UI improper payment rate by launching a revamped Payment Accuracy webpage (https://www.dol.gov/general/maps). The webpage contains information on each state's root causes of improper payments, a quarterly state data archive, and information on how to report UI fraud in each state.

6. In October 2019, the Department and the UI Integrity Center will provide all states access to a new front-end claimant identity verification tool as part of the UI Integrity Data Hub (IDH). Implemented in September 2017, the IDH enables all states to cross-match against a wide array of data sources to prevent and detect improper payments and fraud,

including a Suspicious Actor Repository of known UI fraud claims. During Fiscal Year (FY) 2020, the IDH will also add access to sources of incarceration and mortality records.

7. In addition to six Integrity Act proposals, the President's FY 2020 Budget includes a new proposal that would require states to implement the UI Integrity Center's IDH described above.

8. As noted above, the FY 2020 Budget includes a package of legislative proposals designed to provide states with more tools and resources to reduce the UI improper payment rate. It also includes a request for $90 million to help states specifically target the two largest root causes of UI improper payments: claimants continuing to claim benefits after returning to work and claimants failing to comply with work search requirements.

Despite these efforts, certain structural program features serve as structural barriers that hinder the Department's ability to reduce improper payments below thresholds specified by IPERA. For example, the presumption of continued eligibility after the initial eligibility is determined requires states to provide a claimant notice and the opportunity to be heard before it can stop payments to the individual.[2]

There are strong public policy reasons for these program design and structural requirements. They promote the effectiveness of the critical UI safety net by getting benefit payments to eligible unemployed individuals for whom suitable work is not available during periods between jobs. Additionally, by providing temporary partial wage replacement to the unemployed, the program plays a vital role in maintaining purchasing power and in stabilizing local economies during periods of economic downturn.

The Department believes the redoubled efforts discussed above constitute a strong and cost effective approach to improving financial integrity in the federal-state UI partnership and we look forward to collaborating with the OIG and other stakeholders to do more.

Recommendation #2: Improvement needed in management's preparation of the IPERA data in the Agency Financial Report.

The Department acknowledges the findings in the Draft Report and will implement improved, cost effective controls to prevent inadvertent typos and other errors.

As a result of the recommendation from OIG's FY 2017 IPERA Audit Report No. 03-18-002-13-001, the Department developed and implemented formalized policies and procedures related to the maintenance of supporting documentation for the IPERA reporting process. In FY 2019, the Department will further enhance these policies and procedures to ensure all reported calculations of data in the AFR are fully reproducible.

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

[2] *See California Dep't of Human Res. Dev. v. Java,* 402 U.S. 121, 130-35 (1971).

3