APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor   Office of the Deputy Secretary
Washington, D.C. 20210

September 24, 2021

MEMORANDUM FOR Carolyn R. Hantz
Assistant Inspector General for Audit

FROM: NIKKI MCKINNEY *Nikki McKinney*
Associate Deputy Secretary

SUBJECT: Draft Report on DOL's IT Governance,
Report Number: 23-21-002-01-001

Thank you for the opportunity to review and respond to the Office of Inspector
General's (OIG) September 10 draft audit report concerning the Department's IT governance
framework. It is the Department's practice to actively engage with OIG auditors and fully
cooperate. As we have said previously during this audit engagement, we recognize OIG's audits
can make meaningful contributions to efficiency and effectiveness of the Department's overall
mission delivery. The key to adding value is well-informed audits that are fair and balanced, and
offer useful, achievable recommendations for the improving DOL program administration. For
the reasons outlined below, I find these attributes still lacking in the draft audit report,
deficiencies which are amplified by the audit's continued focus on form over substance.

By memorandum of August 20, 2021, the Office of the Deputy Secretary replied to the initial
draft audit report on DOL's IT Governance. Except for passing acknowledgement, virtually none
of our comments and concerns expressed in our August 20 reply were incorporated in the
September 10 draft audit report. Mindful that the readership of OIG audit reports includes the
public, DOL stakeholders, and our congressional overseers, I will restate and summarize many of
them here as they pertain to the September draft report:

> As acknowledged in the draft audit report, the Department undertook a significant
> realignment of its IT resources, consolidating IT functions into an IT Shared Services
> model and moving the majority of former agency information technology specialists
> under the direction of the Department's Chief Information Officer (CIO). This strategic
> realignment greatly expanded the CIO's scope of authority and the effectiveness in how
> DOL provides IT services in support of agency missions. To be fair and balanced, the
> audit report should include this context.
>
> The improved effectiveness and efficiency of the CIO and restructured organization—and
> implicitly the sufficiency of the CIO's authority—are plain to see:
>
> - The Department swiftly and successfully pivoted to a maximum telework posture for
>   the vast majority of agency staff—more than 99% of DOL staff—in response to
>   government-wide COVID-19 mitigation policies.

- The Department has steadily improved its annual Federal Information Technology Acquisition Reform Act (FITARA) scorecard grades, most recently achieving 6 "A's" and one "B". For perspective, DOL was one of just two agencies to receive 6 "A's" on its July 2021 FITARA scorecard. While this grade held steady from the December 2020 scorecard, it is no easy feat to maintain this level of performance while also integrating DOL agency IT units into the Shared Services model and providing the IT services required by COVID-19 mitigation policies.

- The Department, under the direction of the CIO, has closed 94 IT-related OIG recommendations in the last three years, scored an increase in 35 OIG Federal Information Security Modernization Act (FISMA)-assessed metrics in the last two years, earned an OIG-rated FISMA maturity level greater than 16 of 22 other CFO Act Agencies, and has achieved 10 of 10 President's Management Agenda Cyber Cross Agency Priority Goals.

- The OCIO has partnered with the Departmental Budget Center to clearly articulate IT strategy and progress to OMB and Congress in support of agency modernization initiative requests resulting in the efficient use of expired funds to invest in IT modernization.

- The OCIO built processes for lateral collaboration with Procurement, Budget, and Human Resources—a central purpose of FITARA.

- The OCIO has implemented a number of communication channels to ensure agencies have two-way communications with their IT support.

- The Department, with its CIO leading the strategy, has initiated numerous IT modernization efforts that include:
  - Cloud modernization
    - Established a private cloud offering for hosting and storage to provide scalable hosting capacity, eliminating storage limitations, and facilitating backup and disaster recovery.

    - Migrated 37 DOL mission applications or services to the cloud to enable scalable computing capacity for seasonal business processes like visa applications.

  - Digital transformation
    - Consolidated DOL.gov web sites to the OCIO Content Management Platform which standardized the format of multiple unique sites, centralized and simplified maintenance requirements, enabled hosting scalability to address peak traffic demands (such as the peak days resulting from coronavirus guidance publishing), and enabled agency personnel to manage their own content.

2

- Established case management platform for systems like OFLC Foreign Labor Applications Gateway, OSHA Injury Tracking system, or the OFCCP Affirmative Action Verification Initiative by establishing DOL standard components, establishing common development practices, developing reusable add-on capabilities, and standardizing maintenance processes.

○ Cybersecurity enhancement
- Expanded cybersecurity security operations to monitor traffic on a 24/7 basis for threat reduction and to improve incident tracking and reporting.

- Continued implementation of DHS mandated cybersecurity toolset to ensure DOL meets or exceeds requirements and ultimately minimizes the chances of adverse incidents.

- Implemented a practice of ongoing authorization instead of "Authority to Operate" authorization engagements every three years for OCIO-managed systems to provide more predictable workloads and minimize the security impact of system changes.

Despite objective evidence of the authoritative role of the Department's CIO and enhanced organization under the Shared Services model, the draft audit zeros in on process rather than outcomes. The draft audit report opines that the Department's CIO reporting alignment and structure does not comply with federal requirements, citing among other authorities the Clinger-Cohen Act of 1996, FITARA, and Executive Order 13883 (2018), which in relevant part provides:

Sec. 4. Emphasizing Chief Information Officer Duties and Responsibilities. The head of each covered agency shall take all necessary and appropriate action to ensure that:

(a) consistent with 44 U.S.C. 3506(a)(2), the CIO of the covered agency reports directly to the agency head, such that the CIO has direct access to the agency head regarding all programs that include IT.

From this foundation, the September draft audit report reasons as follows:

"To determine the level of independence the CIO maintains from the ASAM in discussions with Department Executives (Secretary or Deputy Secretary), we analyzed meeting attendance from October 2019 to October 2020 involving the CIO, ASAM and DOL Executive Leadership. Our results of this analysis did not support the Department's assertion that an independent line of communication existed. For example, the ASAM had a standing meeting twice a week with the Deputy Secretary. The CIO may attend these meetings but does not have standing meetings independent of the ASAM. We examined attendance at these meetings from October 2019 to October 2020, and found that the CIO was only in eight of 130 meetings without the ASAM. Whereas, the other 122 meetings involved the ASAM, of whom the CIO is a direct report.

3

We determined this reflects the substantial difference in the access and interactions of an independent direct report to the Secretary or Deputy Secretary, such as the ASAM, and those of the CIO as an indirect report. Our analysis highlighted the CIO's limited independent communication with the Deputy Secretary and lack of CIO authority at the enterprise level. As a result, we determined DOL's organizational alignment of the CIO remains out of compliance with federal requirements."

This analysis suffers from several flaws, the first of which is that Executive Order 13883 does not specify an "independent line of communication" for the CIO. It directs that "…the CIO of the covered agency reports directly to the agency head, *such that the CIO has direct access to the agency head regarding all programs that include IT*." [Emphasis added]

Second, this analysis rests on the flawed assumption that only meetings of the CIO with the Secretary and/or Deputy Secretary, in the absence of the Assistant Secretary for Administration and Management, constitute "direct access to the agency head". The auditor's analysis documents that the Department's CIO has ample direct access to the agency head, according to the draft audit report averaging over ten meetings a month with the Secretary and/or Deputy Secretary for the period of October 2019 to October 2020.

Perhaps most troubling is a lack of understanding by the auditors of how DOL Executive Leadership functions. One-on-one meetings with the CIO and the agency head do not, in and of themselves, produce results different from those that are achieved in meetings attended by other relevant participants. Goals and outcomes are achieved by marshalling the organization's component parts to achieve success. One might imagine, in the auditor's view, the CIO is both quarterback and receiver, throwing the ball and then catching it. Instead, the Department's career CIO is empowered by DOL leadership, including the ASAM, to implement the vision of the CIO.

To this latter point, I note with interest the passage from the September 10 draft report Conclusion: "Discussions with other federal agencies confirm that a career CIO with the backing of senior leadership was the most effective structure for organizational continuity" This is the model at DOL and, for a Department of this size and configuration, it works very well.

Additionally, the report needs to be explicitly clear that this audit was conducted before the current Department's leadership implemented its practices. For example, the report refers to a Management Review Board that is not utilized, nor does it take into account that the CIO participates in regular (currently weekly) meetings with the Deputy Secretary.

With the foregoing in mind, Recommendation 1 to "Reorganize the CIO position to have a direct reporting relationship to the Deputy Secretary and independent of ASAM" is not accepted. This is not a useful nor practical recommendation for the improving DOL's IT Governance.

4

Recommendations 2 through 5, which will be managed and executed by the OCIO and OASAM are accepted. These recommendations are in line with the intent of FITARA and will allow the Department to continue its IT transformation. OASAM/OCIO and other DOL Agencies will build a plan for their implementation at a pace that maintains program priorities, pandemic response, and hiring activities. This plan will be provided to OIG by the second quarter of 2022.

cc: Larry D. Turner, Acting Inspector General
    Rachana Desai Martin, Assistant Secretary for Administration and Management
    Gundeep Ahluwalia, Chief Information Officer

5