

APPENDIX B: AGENCY’S RESPONSE TO THE REPORT

The agency’s response to our draft report follows.

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



DATE: June 17, 2026

MEMORANDUM FOR: LAURA B. NICOLOSI
Assistant Inspector General for Audit

FROM: JONATHAN BERRY
Solicitor of Labor

SUBJECT: Response to the Office of the Inspector General’s Draft Report:
*DOL Needs Stronger Oversight and Controls for Sharing
Confidential Information*, Report No. _____

The U.S. Department of Labor’s Office of the Solicitor, Wage and Hour Division, and Employee Benefits Security Administration appreciate the opportunity to respond to the June 1, 2026 draft report of the Office of the Inspector General titled *DOL Needs Stronger Oversight and Controls for Sharing Confidential Information*, which examines the use of common interest agreements by these three agencies in the course of investigations and enforcement litigation.

We thank OIG for its audit, report, and recommendations. Although there are limited situations where common interest agreements can assist the Department in obtaining information, we are aware of uses during the previous Administration in which the Department entered into common interest agreements with plaintiffs’ law firms and privileged investigative material was shared by the Department with those outside firms. This creates an appearance of impropriety in the use of common interest agreements, and presents reputational risk and the potential for legal risk to the Department and SOL.

As indicated below, we concur with OIG’s recommendations and are in the process of adopting policies and procedures to implement them.

Recommendations for SOL:

1. Establish and implement written policies and procedures to standardize the development, execution, and monitoring of common interest agreements with non-governmental entities.

SOL Response: SOL concurs with this recommendation and is adopting a written policy that sets forth procedures to standardize the development, execution, and monitoring of common interest agreements with non-governmental entities.

2. Establish clearly defined roles and responsibilities, including monitoring for bias, for the designated signatory for common interest agreements with non-governmental entities.

SOL Response: SOL concurs with the recommendation and is adopting a written policy for common interest agreements that defines roles and responsibilities for their use, including monitoring for bias of the designated signatory.

3. Require staff who participate in common interest agreements to sign an affidavit that he or she has not previously been employed by the external parties involved in the agreement in the prior year and that he or she will abide by any post-employment restrictions imposed by 18 U.S.C. § 207.

SOL Response: SOL concurs with the recommendation and is adopting a written policy that includes procedures requiring staff who participate in common interest agreements to sign an affidavit that reflects the language of this recommendation.

4. Establish and implement coordination processes with all applicable DOL client agencies.

SOL Response: SOL concurs with the recommendation and will work with applicable client agencies to develop a coordination process within 90 days.

5. Develop a tracking system to monitor executed common interest agreements with non-governmental entities, including information shared.

SOL Response: SOL agrees with the recommendation and is adopting a written policy for common interest agreements that includes establishing a tracking system to monitor executed common interest agreements with non-governmental entities, including information shared.

6. Update and provide training to all applicable DOL agencies and SOL attorneys on the management and use of common interest agreements.

SOL Response: SOL agrees with the recommendation and plans to conduct training for applicable client agency staff on the management and use of common interest agreements within the next 90 days.

Recommendation for EBSA

7. Establish coordination procedures with SOL to monitor common interest agreements with non-governmental entities.

EBSA Response: EBSA concurs with this recommendation. Within 90 days, the Assistant Secretary for Employee Benefits Security will coordinate with SOL on procedures to monitor common interest agreements.

Recommendation for WHD

8. Establish coordination procedures with SOL to develop, execute, and monitor common interest agreements with non-governmental entities.

WHD Response: WHD concurs with the recommendation and will work with SOL to establish coordination procedures within 90 days to develop, execute, and monitor common interest agreements with non-governmental entities.