TESTIMONY OF CHARLES C. MADDOX, ESQ.,
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BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS ON THE DISABILITY PROGRAM WITHIN THE DEPARTMENT OF EMPLOYMENT SERVICES

SEPTEMBER 21, 2000

GOOD MORNING, CHAIRPERSON PATTERSON AND MEMBERS OF THE COMMITTEE ON GOVERNMENT OPERATIONS.

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS OVERSIGHT COMMITTEE AND TO ADD MY TESTIMONY TO THAT OF THE OTHER WITNESSES WHO HAVE BEEN INVITED TO SPEAK HERE ON THE MANAGEMENT OF THE DISABILITY COMPENSATION PROGRAM WITHIN THE DEPARTMENT OF EMPLOYMENT SERVICES (DOES). I BELIEVE THAT SESSIONS LIKE THIS CAN PROVIDE A FORUM FOR THE EXCHANGE OF INFORMATION THAT WILL BE BENEFICIAL NOT ONLY TO GOVERNING

BODIES SUCH AS THIS COMMITTEE, BUT ALSO TO DISTRICT MANAGERS RESPONSIBLE FOR SERVICE DELIVERY.

SITTING WITH ME AT THE TABLE TODAY IS WILLIAM DIVELLO, ASSISTANT INSPECTOR GENERAL FOR AUDITS. ALSO ACCOMPANYING ME ARE KOLA ISIAQ AND LATEEF ABASSI FROM THE ACCOUNTING FIRM OF WILLIAMS, ADLEY AND COMPANY, LLP. WE CONTRACTED WITH THEM TO PERFORM THE AUDIT OF THE DISABILITY COMPENSATION PROGRAM (DCP) THAT IS THE TOPIC OF DISCUSSION TODAY. I WILL BEGIN BY PROVIDING YOU WITH BACKGROUND INFORMATION TO HELP PLACE THIS AUDIT IN PERSPECTIVE, AND THEN OUTLINE OUR MAJOR FINDINGS AND CONCERNS.

BACKGROUND

THIS IS THE FIRST OF A FIVE-PART OIG AUDIT OF PROGRAMS ADMINISTERED BY DOES. THE SECOND AUDIT, ON THE WORKER'S COMPENSATION PROGRAM, WILL BE ISSUED IN DRAFT TO DOES TODAY.

THE REMAINING THREE REPORTS WILL EXAMINE THE TRAINING PROGRAM, THE UNEMPLOYMENT PROGRAM, AND A GENERAL SUMMARY OF DOES MANAGEMENT, CALLED THE "CAPSTONE REPORT." WILLIAMS, ADLEY AND COMPANY PLANS TO COMPLETE ALL PHASES OF THE REVIEW BY DECEMBER 30TH OF THIS YEAR.

THE DISABILITY COMPENSATION PROGRAM (DCP) WAS INCLUDED IN LAST YEAR'S OIG AUDIT PLAN BECAUSE SEVERAL FINDINGS CONTAINED IN AN AUDIT WE CONDUCTED IN FEBRUARY OF 1999 REGARDING FISCAL RESPONSIBILITY AND PROGRAM MANAGEMENT WITHIN DOES REMAINED UNRESOLVED. IN THAT REPORT, WE INCLUDED A NUMBER OF VERY SPECIFIC RECOMMENDATIONS: WE ASKED DOES TO ADDRESS DUAL PAYMENTS, INAPPROPRIATE PAYMENTS, COLLECTION CHALLENGES, AND OVERPAYMENTS. AT THE TIME THAT THIS MOST RECENT AUDIT WAS CONDUCTED BY WILLIAMS AND ADLEY, LLP, NOT ONE OF OUR RECOMMENDATIONS HAD BEEN IMPLEMENTED. IN ADDITION, THE 1998 MANAGEMENT LETTER ISSUED BY THE CITY WIDE INDEPENDENT

AUDITOR ALSO INCLUDED RELATED RECOMMENDATIONS THAT WERE UNADDRESSED. THIS AUDIT ADDRESSES, ONCE AGAIN, THE CRITICAL AREAS IDENTIFIED IN BOTH REPORTS, AND IT GOES BEYOND THOSE AREAS AS WELL.IT IS IMPORTANT TO UNDERSTAND THE PURPOSE OF THESE AUDITS TO FULLY APPRECIATE WHAT IS AT STAKE. WHILE THE AUDITORS STAND READY TO PROVIDE DETAILS ABOUT THE VARIOUS TASKS AND CHALLENGES CONFRONTING THE DCP, IT SUFFICES TO SAY THAT ALL PUBLIC SERVANTS ASSOCIATED WITH THE PROGRAM HAVE ONE ULTIMATE GOAL - THAT IS, TO ENSURE THAT DISTRICT GOVERNMENT EMPLOYEES WHO ARE INJURED OR KILLED ON THE JOB RECEIVE THE BENEFITS TO WHICH THEY ARE ENTITLED. VERY CLOSELY RELATED TO THIS GOAL IS THE RESPONSIBILITY OF MAKING SURE THAT THOSE WHO ARE NOT ENTITLED TO BENEFITS DO NOT GET THEM.

IF THERE IS INADEQUATE MANAGEMENT INFRASTRUCTURE TO DETER WASTE, FRAUD, AND MISMANAGEMENT, THE RESULTS CAN BE SERIOUS:

- CONTRACTORS DO NOT PERFORM OPTIMALLY;
- MONEY IS LOST IN OVERPAYMENTS;
- PEOPLE, IN EFFECT, STEAL BY DRAWING MONEY FROM TWO PAYROLLS (THAT IS, ACTIVE PAYROLL AND DISABILITY PAYROLL);
- ADMINISTRATION AND PROGRAM COSTS SOAR;
- VALUABLE STAFF TIME AND RESOURCES NEEDED FOR OTHER SERVICE PRIORITIES ARE WASTED (FOR EXAMPLE, TO ADJUDICATE CASES FOR PEOPLE WHO ACTUALLY DESERVE BENEEFITS); AND,
- PROVIDERS CHOOSE TO DENY SERVICES TO CLAIMANTS FOR FEAR OF NON-PAYMENT OR DELAYED PAYMENTS.

IN SHORT, INEFFICIENCY AND INEFFECTIVENESS HURT THE BOTTOM LINE, WHICH IS SERVICE DELIVERY TO DISTRICT EMPLOYEES. THE NUMBERS HELP PROVIDE SOME PERSPECTIVE: THERE ARE OVER 850 ACTIVE CLAIMANTS CURRENTLY RECEIVING COMPENSATION PAYMENTS AND OVER 1,000 NEW CLAIMANTS PROCESSED ANNUALLY. IN TOTAL, THERE IS

AN ESTIMATED ANNUAL EXPENDITURE OF $29 MILLION FOR THE DCP ALONE. THIS FIGURE INCLUDES COSTS FOR MEDICAL AND REHABILITATION PAYMENTS (AT $8 MILLION), PAYROLL PAYMENTS (AT $17.5 MILLION), AND CONTRACTOR SERVICES (AT $3.5 MILLION).

AUDIT APPROACH

BEFORE I PROVIDE A BRIEF SUMMARY OF OUR FINDINGS, LET ME TAKE A MOMENT TO EXPLAIN THE APPROACH WE USED TO CONDUCT THIS AUDIT. WE DECIDED TO LOOK AT DISCRETE PROGRAMS - DISABILITY, WORKERS' COMPENSATION, TRAINING, AND UNEMPLOYMENT - WHICH ARE ADMINISTERED BY DOES BECAUSE THIS APPROACH PROVIDES THE BENEFIT OF A SYSTEMIC REVIEW OF EVERY AGENCY RESPONSIBLE FOR DELIVERING THE SERVICE. THIS AUDIT, FOR EXAMPLE, CONSIDERS THE INTERDEPENDENCE BETWEEN DOES AND THE OFFICE OF THE CHIEF FINANCIAL OFFICER. BY FOCUSING ON SELECT FUNCTIONAL AREAS, WE

ARE ABLE TO TIE OUR REVIEW TO THE UNIQUE RESPONSIBILITIES OF THOSE ENTITIES.

THE REVIEW HAS TWO OBJECTIVES: FIRST, TO DETERMINE PROGRAM EFFICIENCY AND EFFECTIVENESS IN THE AREAS OF SERVICE DELIVERY AND RISK MANAGEMENT; AND, SECOND, TO IDENTIFY AREAS OF COST RECOVERIES AND FUTURE SAVINGS.

MAJOR AUDIT FINDINGS

NOW, WITH REGARD TO OUR MAJOR FINDINGS, OUR OVERALL ASSESSMENT IS THAT THE DCP AS CURRENTLY ADMINISTERED BY DOES LACKS EFFICIENCY AND EFFECTIVENESS. FURTHERMORE, WE BELIEVE THERE IS AN INCREASED RISK OF WASTE, FRAUD, AND ABUSE IN THE PROGRAM. SPECIFICALLY, THE AUDIT REVEALED THAT DOES NEEDS TO TAKE THE FOLLOWING ACTIONS IMMEDIATELY:

FIRST, DOES SHOULD TAKE ACTION TO COLLECT OVERPAYMENTS ESTIMATED AT $1 MILLION.

SECOND, THEY SHOULD IMPLEMENT A TEAM TO PROVIDE ADEQUATE OVERSIGHT AND MONITORING OF CONTRACTORS.

THIRD, THEY SHOULD DEVISE PROCEDURES FOR DEVELOPING BUDGETS, CLAIMS SUBROGATION, AND CLAIMS TRANSFER FROM DISABIILITY TO RETIREMENT ROLLS

FOURTH, THEY SHOULD OBSERVE PAYROLL DISTRIBUTIONS AT LEAST ONCE A YEAR TO IDENTIFY INELIGIBLE CLAIMAINTS,

FIFTH, THEY SHOULD COMPARE THE DISTRICT'S ACTIVE PAYROLL TO THE DISABILITY PAYROLL TO IDENTIFY INDIVIDUALS WHO MAY APPEAR ON BOTH PAYROLLS.

WITH REGARD TO COMMENTS PROVIDED BY DOES, WE BELIEVE MOST ARE GENERALLY RESPONSIVE TO THE INTENT OF OUR RECOMMENDATIONS. HOWEVER, DOES DID NOT FULLY AGREE WITH THREE OF OUR RECOMMENDATIONS. IN THE REPORT, THEY ARE LISTED UNDER FINDINGS 1, 5, AND 8, IN EXHIBIT A. WE CONSIDER THESE ITEMS TO BE UNRESOLVED. ACCORDINGLY, WE HAVE REQUESTED DOES TO RESPOND TO OUR CONCERNS WITHIN SIXTY DAYS OF THE ISSUANCE OF OUR REPORT. IF AGREEMENT CANNOT BE REACHED ABOUT HOW DOES SHOULD RECTIFY THE PROBLEMS, FINAL RESOLUTION SHOULD OCCUR IN THE MAYOR'S OFFICE.

I AM PARTICULARLY HOPEFUL THAT THERE WILL BE RESOLUTION WITH REGARD TO COLLECTION OF OVERPAYMENTS. DOES, IN ITS RESPONSE TO OUR FINDINGS, INFORMS US THAT THEY HAVE COLLECTED

APPROXIMATELY $275,000 IN OVERPAYMENTS, AND THAT THEY HAVE TAKEN STEPS TO COLLECT APPROXIMATELY $485,000 MORE. WE ESTIMATED THE OVERPAYMENT TO BE $1 MILLION. THESE OVERPAYMENTS ARE DUE TO DUPLICATE PAYMENTS, CONTRACTOR FEE OVERPAYMENT, AND PAYROLL OVERPAYMENT.

IN ADDITION, WE QUESTION THE CURRENT APPROACH SUGGESTED BY DOES FOR PREVENTING OVERPAYMENTS. DOES STATES THAT THEY HAVE CREATED A LOG OF ALL INVOICES RECEIVED AND PAID, AND THAT THIS LOG WILL BE CHECKED AGAINST INVOICES. WE BELIEVE THAT THEIR PROCESS FOR PREVENTING OVERPAYMENTS EXACERBATES THE LABOR AND TIME CONSTRAINTS ALREADY PLAGUING THE AGENCY. AN ALTERNATIVE APPROACH WOULD BE TO CONSIDER AN AUTOMATED INVOICING TRACKING SYSTEM THAT IS CAPABLE OF DETECTING AND/OR PREVENTING DUPLICATE PAYMENTS.

IN ADDITION TO THE FINDINGS AND RECOMMENDATIONS I HAVE MENTIONED, I WOULD LIKE TO HIGHLIGHT ONE OTHER ISSUE WHICH I BELIEVE REQUIRES SERIOUS CONSIDERATION. WE ARE CONCERNED THAT DOES, IN ITS RESPONSE, STATES THAT IT WAS ALREADY AWARE OF MANY OF OUR FINDINGS. THIS ASSERTION BEGS THE OBVIOUS QUESTION: WHY HAS THERE NOT BEEN MORE PROGRESS TO ADDRESS THEM? IF THE ANSWER TO THE QUESTION IS THAT A NEW CONTRACTOR WILL ADDRESS THE FINDINGS, WE BELIEVE THAT DOES MANAGEMENT UNDERESTIMATES THE IMPORTANCE OF STRONG MANAGEMENT OVERSIGHT OVER CONTRACTORS.

THE TASK OF PROGRAM RISK MANAGEMENT IS AN INHERENT GOVERNMENT FUNCTION AND RESPONSIBILITY. IF THIS SERVICE IS CONTRACTED TO ANOTHER CONTRACTOR, AS DOES INDICATES, THE AGENCY STILL MUST ENSURE PERFORMANCE AND EFFICIENCY OF THE OPERATIONS OF ALL THE CONTRACTORS. THE FUNCTIONS OF OVERSIGHT

AND MEASUREMENT OF PERFORMANCE AND EFFICIENCY SHOULD BE PERFORMED BY COMPETENT AND CONTINUOUSLY TRAINED GOVERNMENT EMPLOYEES. IN SHORT, DOES CANNOT OUTSOURCE ITS RESPONSIBILITY TO CONTRACTORS. IT SHOULD ONLY OUTSOURCE THE FUNCTIONS CONTRACTORS ARE PAID TO PERFORM.

FINALLY, I WOULD LIKE TO MAKE CLEAR THAT I BELIEVE ONE OF THE MOST IMPORTANT ROLES OF MANAGERS IS TO IMPLEMENT RECOMMENDATIONS THEY THEMSELVES ACKNOWLEDGE CAN HELP TO RECTIFY PROBLEMS. MY RESPONSIBILITY AS INSPECTOR GENERAL IS TO FOLLOW UP ON THEIR ACTIONS AND TO INFORM STAKEHOLDERS ABOUT PROGRESS IN IMPLEMENTING AND, ULTIMATELY, RESOLVING CRUCIAL PROBLEMS. TO THAT END, I WILL TAKE VERY SERIOUSLY MY RESPONSIBILITY TO USE THE RESOURCES OF MY OFFICE TO CONDUCT FOLLOWUP AUDITS ON THE KEY RECOMMENDATIONS OF THIS AUDIT REPORT AND THE REMAINING AUDITS OF PROGRAMS CURRENTLY

ADMINISTERED BY DOES AND/OR THE OFFICE OF PERSONNEL MANAGEMENT, WHICH I UNDERSTAND NOW WILL BE ASSUMING RESPONSIBILITY FOR THIS PROGRAM. ACCORDINGLY, I WILL KEEP THIS COMMITTEE AND THE APPROPRIATE AGENCIES ABREAST OF DEVELOPMENTS IN THIS REGARD.

AGAIN, THANK YOU FOR PROVIDING ME THE OPPORTUNITY TO ADDRESS THIS MOST IMPORTANT PROGRAM. WE'LL BE PLEASED TO RESPOND TO YOUR QUESTIONS AT THIS TIME.