

Congress of the United States
Washington, DC 20515

March 28, 2018

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

We write regarding potential time and attendance abuses that occurred in the U.S. Patent and Trademark Office (USPTO). In August 2016, the Department of Commerce Office of Inspector General (OIG) released a report detailing potential time and attendance abuse at the USPTO.¹ This report found 288,479 unsupported hours among patent examiners over a 15-month period.² These unsupported hours equated to \$18.3 million in potential waste and could have reduced the patent application backlog by approximately 15,990 cases.³ The OIG analysis noted 415 examiners accounted for 43 percent of the total unsupported hours.⁴ Fifty-six examiners averaged unsupported hours equal to three days for every two-week pay period.⁵

This report followed a 2015 Department of Commerce OIG report on time and attendance abuse of one particular patent examiner at USPTO.⁶ The OIG's investigation found the examiner committed 730 hours of time and attendance abuse in fiscal year 2014, resulting in payment of approximately \$25,500 for hours not worked.⁷ The investigation also found the examiner would leave work to play golf, play pool, or socialize at restaurants.⁸ Before the OIG could interview the examiner, he resigned on advice from the Patent Office Professional Association, the union representing patent examiners.⁹

The Subcommittee on Government Operations of the House Committee on Oversight and Government Reform held a hearing on these abuses in December of 2016.¹⁰ USPTO has since worked to increase safeguards related to their time and attendance controls by implementing the OIG's recommendations in both reports, which we commend.¹¹ However, the Committees seek to ensure that all agencies across the federal government are taking similar appropriate steps to prevent time and attendance abuse.

In 2003, GAO published the report "Maintaining Effective Control over Employee Time and Attendance Reporting."¹² This report outlined best practices related to proper time and attendance

¹ U.S. DEPARTMENT OF COMMERCE INSPECTOR GENERAL, NO. 14-0990, U.S. PATENT AND TRADEMARK OFFICE: ANALYSIS OF PATENT EXAMINERS' TIME AND ATTENDANCE (2016) [hereinafter "2016 Commerce OIG Report"].

² *Id.* at 2.

³ *Id.* at 3.

⁴ *Id.*

⁵ *Id.*

⁶ U.S. DEPARTMENT OF COMMERCE INSPECTOR GENERAL, NO. 15-0076, U.S. PATENT AND TRADEMARK OFFICE: TIME AND ATTENDANCE ABUSE BY PATENT EXAMINER A (2015).

⁷ *Id.* at 2.

⁸ *Id.* at 3.

⁹ *Id.* at 3.

¹⁰ *Time and Attendance Abuse at the U.S. Patent and Trademark Office: Hearing Before the Subcomm. on Gov't Operations, H. Comm. on Oversight and Gov't Reform*, 114th Cong. (2016).

¹¹ Email from USPTO staff to Majority staff, H. Comm. on Oversight & Gov't Reform (Feb. 1, 2018, 12:23 p.m.).

¹² GEN. ACCOUNTING OFFICE, GAO-03-352G, MAINTAINING EFFECTIVE CONTROL OVER EMPLOYEE TIME AND ATTENDANCE REPORTING (Jan. 2003).

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controls in the workplace. Given the fast-paced and ever-evolving change in technology and the increasing use of telework by federal agencies, we believe the federal government would benefit from an update to the report.

We request that GAO update its 2003 report to incorporate the effects of better technology on time and attendance control best practices. In this updated best practices report, we also ask you to discuss challenges agencies face in assuring time and attendance transactions are authorized and recorded in a proper and prompt manner, specific tools agencies use to identify patterns of time and attendance abuse, and corrective measures agencies can use to address time and attendance abuse.

Please contact Kevin Ortiz with Chairman Gowdy's staff at (202) 225-5074, Courtney Allen with Chairman Johnson's staff at (202) 224-4751, or Lena Chang with Ranking Member Cummings' staff at (202) 225-5051 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Trey Gowdy
Chairman
House Committee on Oversight
and Government Reform



Ron Johnson
Chairman
Senate Committee on Homeland
Security and Governmental Affairs



Elijah E. Cummings
Ranking Member
House Committee on Oversight
and Government Reform



Mark Meadows
Chairman
House Subcommittee on
Government Operations



Gerald E. Connolly
Ranking Member
House Subcommittee on
Government Operations



Greg Gianforte
Member of Congress

cc: The Honorable Claire McCaskill, Ranking Member
Senate Committee on Homeland Security and Governmental Affairs