

U.S. Department of Labor

Office of Inspector General—Office of Audit

EMPLOYMENT AND TRAINING ADMINISTRATION



**ENHANCED OVERSIGHT WILL IMPROVE STATE
WORKFORCE AGENCIES' USE OF THE NATIONAL
DIRECTORY OF NEW HIRES TO PREVENT AND DETECT
UNEMPLOYMENT COMPENSATION OVERPAYMENTS**

Date: March 31, 2009
Report Number: 06-09-002-03-315

BRIEFLY...

Highlights of Report Number: 06-09-002-03-315
Enhanced Oversight Will Improve State
Workforce Agencies' Use of the National
Directory of New Hires to Prevent and Detect
Unemployment Compensation Overpayments,
Employment and Training Administration

WHY READ THE REPORT

ETA is designated to ensure that states have methods of administration to assure full payment of unemployment compensation (UC) when due and to prevent overpayments. Based on Benefit Accuracy Measurement (BAM) audits of sample claims, ETA reported an estimated \$800 million in overpayments during Fiscal Year (FY) 2008 that were not identified or prevented through Benefit Payment Control (BPC) procedures, which included use of the NDNH.

WHY OIG DID THE AUDIT

We initiated this audit because UC is the largest benefit program for which DOL is responsible. It is essential for ETA to assure that SWAs are using the NDNH to prevent and detect UC overpayments. As a result, we conducted an audit of ETA's oversight of and progress in obtaining use of the NDNH by SWAs for BPC. We designed the audit to answer the following question:

- Did ETA exercise sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayments?

Our audit included the applicable policies, procedures and controls that ETA had in place for use of the NDNH by SWAs as of September 30, 2008.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2009/06-09-002-03-315.pdf>

March 2009

WHAT OIG FOUND

Two major issues hampered ETA's efforts to ensure SWAs were using the NDNH effectively. ETA could not demonstrate it exercised sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayments. ETA program oversight was insufficient because it lacked policies and procedures to perform timely and proper SWA on-site reviews. Without effective reviews of SWAs' use of the NDNH for the cross-match process, ETA cannot ensure the reliability of the data provided by the states, and the value of detected or possible undetected overpayments is unknown or unvalidated.

In addition, ETA reported that 49 of the 53 SWAs currently use the NDNH for BPC, and did not see a need to mandate use of the NDNH for BPC because it expected that all states will soon be voluntarily matching NDNH for both BAM and BPC. California has the highest number of estimated claims in the country--approximately 15 percent of UC claims nationwide--and is one of the SWAs pending implementation.

WHAT OIG RECOMMENDED

We recommended that the Deputy Assistant Secretary for Employment and Training:

1. Update the current Review Guide to include specific review steps addressing the states' use of NDNH for the BPC cross-match process; and during on-site reviews, assess the filtering process for the NDNH cross-match and validate the data reported by the SWAs.
2. Increase the frequency of on-site reviews to more than once every four years.
3. Require SWAs to submit quarterly 227 Reports that include a line item for NDNH cross-match results.
4. Continue to pursue legislation to define the "Date of Hire" as the first day of work for new hires and mandate its reporting by employers.

The Deputy Assistant Secretary for Employment and Training stated that ETA shared the OIG view that use of the NDNH improves the ability of SWAs to prevent and detect improper payments. ETA also noted that it has provided ongoing technical assistance to the SWAs since the NDNH became available to the states. ETA agreed its efforts would be strengthened by implementation of the OIG's recommendations.

Table of Contents

	PAGE
Assistant Inspector General’s Report	1
Results in Brief	2
Objective - Did ETA exercise sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayment	2
Finding #1—The Employment and Training Administration did not provide sufficient oversight to ensure that the National Directory of New Hires was used effectively to detect and prevent unemployment compensation overpayments	2
Finding #2 —Four State Workforce Agencies have not implemented use of the National Directory of New Hires	5
Appendices	9
A. Background	11
B. Objective, Scope, Methodology, and Criteria	13
C. Acronyms and Abbreviations	17
D. Agency Response to Draft Report.....	19

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



March 31, 2009

Assistant Inspector General's Report

Mr. Douglas F. Small
Deputy Assistant Secretary for
Employment and Training
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The U.S. Department of Labor (DOL), Office of Inspector General (OIG), audited the DOL's Employment and Training Administration's (ETA) oversight of the State Workforce Agencies' (SWA) use of the National Directory of New Hires (NDNH). ETA is designated to ensure that states have methods of administration to assure full payment of unemployment compensation (UC) when due and to prevent overpayments. Based on Benefit Accuracy Measurement (BAM) audits of sample claims, ETA reported an estimated \$800 million in overpayments during Fiscal Year (FY) 2008 that were not identified or prevented through Benefit Payment Control (BPC) procedures, which included use of the NDNH¹.

Our audit objective was to answer the following question:

Did ETA exercise sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayments?

To assess ETA's oversight of SWAs' use of the NDNH, we examined the applicable policies, procedures and controls that ETA had in place for use of the NDNH by SWAs as of September 30, 2008.

We reviewed ETA's policies and procedures for states reporting on the results of their UC benefit cross-matches with the NDNH. We interviewed and corresponded with various officials of ETA Headquarters and Regional staff along with unemployment insurance (UI)-related staff from the SWAs of California, Washington, Alaska, Indiana, Puerto Rico, and Washington, D.C. We obtained region-specific information for the

¹ As of September 30, 2008, BAM estimated roughly \$1.87 billion of overpayments and BPC only established \$1.05 billion of overpayments. The BAM estimates are from April 1, 2007 to March 31, 2008, while the BPC estimates are for October 1, 2007 to September 30, 2008. The last line of the report totals the columns for the entire United States. The column "Estimated Amt. OP" (which is the BAM estimate of Overpayments) totals \$1.869 billion. "BPC Established" (the overpayments established by BPC) totals \$1.050 billion. The net difference between the BAM estimate and BPC established overpayments is \$819 million. This information is pulled from a report used for Government Performance and Results Act (GPRA) goal, "Detect Overpayments."

Dallas and San Francisco ETA offices regarding their assessment of the states' reporting. Additionally, we conducted on-site work at the California and Washington SWAs.

We conducted our audit in accordance with generally accepted government auditing standards for performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We conclude that the evidence obtained provides a sufficient basis for our findings and conclusions based on our audit objective. Our audit objective, scope, methodology and criteria are detailed in Appendix B.

RESULTS IN BRIEF

Two major issues hampered ETA's efforts to ensure SWAs were using the NDNH effectively. ETA could not demonstrate it exercised sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayments. ETA program oversight was insufficient because it lacked policies and procedures to perform timely and proper SWA on-site reviews. Without effective reviews of SWAs' use of the NDNH for the cross-match process, ETA cannot ensure the reliability of the data provided by the states, and the value of detected or possible undetected overpayments is unknown or unvalidated.

In addition, ETA reported that 49 of the 53 SWAs currently use the NDNH for BPC, and did not see a need to mandate use of the NDNH for BPC because it expected that all states will soon be voluntarily matching NDNH for both BAM and BPC. California has the highest number of estimated claims in the country -- approximately 15 percent of UC claims nationwide -- and is one of the SWAs pending implementation.

ETA's response to the draft report concurred with the recommendations and is attached in Appendix D. Our findings remain unchanged from those presented in the draft report.

RESULTS AND FINDINGS

Objective – Did ETA exercise sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayments?

Finding 1 – ETA did not provide sufficient oversight to ensure that the NDNH was used effectively to detect and prevent UC overpayments.

Although ETA concluded from prior studies that the NDNH is an effective tool for BPC cross-matches to identify UC overpayments, ETA could not demonstrate it exercised sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayments. ETA program oversight was insufficient because the agency (1) lacked adequate policies and procedures in its review guide; (2) did not conduct timely SWA on-site reviews; (3) did not require SWAs to report NDNH results

separately; (4) and did not review the SWAs' filtering processes or validate reported data.

Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Internal Control*, mandates that monitoring be performed to allow management to determine the effectiveness of internal controls, and it should occur in the normal course of business. Since the NDNH is used as an important detection tool in the BPC, ETA should conduct periodic assessments of its effectiveness.

This lack of oversight prevented ETA from being able to assess the effectiveness of States' NDNH cross-matches with their UC benefits. Under the Federal-State partnership for maintaining the unemployment insurance program, ETA is responsible for ensuring the SWAs comply with Federal standards requiring timely payment of weekly unemployment benefits to eligible claimants when due. Without periodic reviews of the SWAs' processes for utilizing the NDNH, the reliability of the data provided by states for their quarterly 227 Reports and the value of detected or possible undetected overpayments is unknown or unvalidated.

- ETA's Review Guide did not include adequate procedures to assess the SWAs' use of the NDNH for the cross-match process

The Review Guide used when ETA conducted on-site BPC assessments of SWAs did not have a section devoted specifically to the NDNH cross-match, but did have a module for overpayment detection. During our fieldwork, ETA was updating the Review Guide, and provided a draft which included separate breakouts of cross-matches resulting from the NDNH and the State Directory of New Hires (SDNH).

The updated draft Review Guide did not include steps for ETA to assess how the SWAs arrived at the initial hits from the cross-matches with the SDNH and NDNH, i.e., what filtering the SWA used to arrive at these numbers and whether they were valid. Since the NDNH is a relatively new addition to the BPC process, improved oversight of its use by SWAs is needed in order for ETA to measure the benefits obtained from prevention and detection of overpayments.

- ETA lacked timely on-site reviews of individual SWAs

ETA officials told us that the ETA regional offices scheduled site visits to each SWA once every four years to review BPC operations, but these can be more frequent based on risk assessments. The on-site reviews were oriented to evaluating the overall BPC process, not just NDNH-specific results, because ETA believes that is most cost-effective. ETA regional staff in Dallas stated that a third of their time on site is allocated to reviewing cross-match results. Nationally, ETA stated they haven't reviewed 19 of 53 SWAs within the last four years; and the two ETA regional offices we visited appeared to have scheduled on-site reviews of some of their states less often than the goal of every four years.

During the on-site BPC reviews, ETA evaluated NDNH case investigations to determine if the process was handled properly. Although not a replacement for on-site visits, ETA communicated with SWAs via teleconference (quarterly), periodic web-based seminars, desk reviews, and risk assessments to identify and correct problems that arise. Also, best practices used by states were communicated by ETA to other states exhibiting lower performance.

Field Memorandum No. 5-05, issued January 19, 2005, provides that UI program reviews should be conducted when states are determined to be at risk, rather than on a periodic schedule. More frequent oversight of the use of the NDNH for BPC could lead to better prevention and detection of UC overpayments. Given the amount of potential overpayments from the UC program, this could lead to substantial savings. Additionally, more frequent oversight would allow for a more accurate measurement of benefits resulting from the UC payments cross-match with the NDNH.

- ETA did not require SWAs to identify NDNH cross-match results

ETA did not require SWAs to report results from their use of the NDNH for BPC. The primary report that ETA used to compile UC overpayments was the 227 Report - Overpayment Detection and Recovery Activities. This report summarized the amount of Total Fraud and Non-fraud overpayments detected by the SWAs. It further broke down the dollar amount into the means of detection by percentage. However, the detection category for “New Hire X-Match” combined the results from both the SDNH and NDNH cross-matches in a single line item.

Therefore, the results for the NDNH cross-matches cannot be identified separately. In the absence of a separate line item for NDNH cross-match reporting in the 227 Report, ETA cannot fully evaluate the overall effectiveness of the NDNH's use. Adding a new reporting requirement could also help ETA to more easily compare cross-match results across all of the SWAs and identify discrepancies requiring follow-up action.

ETA staff told us that SWAs would have to be contacted individually in order to determine each of their results from cross-matching with the NDNH. ETA National staff stated that the last time the format of the 227 Report was updated was in FY 2001. They suggested it would be cost prohibitive to modify the 227 Report to include a separate line item that compiles results from NDNH use, and that some states don't have the ability to differentiate between SDNH and NDNH UC cross-match detections. Furthermore, they stated that OMB clearance would be required for any changes ETA wants to make to the report requirements.

- ETA did not review the SWAs' cross-match filtering process or validate the completeness of their reported data

ETA did not have policies and procedures in place to require regional on-site reviews to assess whether an SWA is using appropriate procedures to obtain NDNH initial cross-match hits and filter out many of them from further BPC investigation. Instead, ETA

accepted cross-match data reported by the SWAs and focused its review efforts on the SWAs' BPC procedures after the initial cross-match hits were selected for investigation.

As a result, without assessing the SWA's cross-match filtering process, ETA cannot determine if an SWA's data on its 227 Report are complete or accurate. The BPC overpayments detected, compared to the BAM estimate of overpayments, shows undetected overpayments totaled more than \$800 million in FY 2008². This amount demonstrates the magnitude of UC claims that were not identified by SWAs in their BPC investigations, and why it is critical for ETA to examine the appropriateness of SWA filtering of initial hits from cross-matching with the NDNH.

Finding 2 – Four SWAs have not implemented use of the NDNH.

ETA efforts have resulted in 49 of the 53 SWAs using the NDNH for BPC, but four SWAs do not. Also, ETA officials told us a need does not exist to mandate use of the NDNH for BPC because it expected that all states would soon be voluntarily matching NDNH for both BAM and BPC.

In January 2008 ETA did mandate that SWAs use the NDNH for BAM audits of sample UC claims. This could further increase the amount of estimated overpayments nationally, considering the increase in the number of UC claims in calendar year (CY) 2008 compared to 2007 and that the NDNH includes wages and new-hire data that are not available from other BPC cross matches. An estimated \$800 million in overpayments, which were not identified by BPC in FY 2008, suggests that ETA needs to ensure SWAs implement significant improvements in their BPC procedures, especially those used for cross-matches with the NDNH.

ETA encouraged SWAs to use the NDNH for cross-matches with UC benefits as part of BPC and expects the four remaining SWAs to begin doing so without the agency having to issue a formal rule in the Federal Register. Two of the four SWAs responded to our survey that they anticipated beginning to use the NDNH for BPC cross-matches by the end of CY 2008. However, California and Indiana did not indicate when they will begin using the NDNH for BPC. California is significant because it has the highest number of estimated claims in the country, approximately 15 percent of UC claims nationwide.

The California SWA indicated that one reason it has not begun using the NDNH for BPC is that improvements are needed - NDNH lacks a universally understood definition and requirement to provide "Date of Hire" for new employees. Therefore, in lieu of the NDNH, California is currently using its SDNH.

The requirements and definition for "Date of Hire" vary from state to state, but even if the definition was standardized, employers are not currently required by law to submit this information with their new-hire reporting. At the time of our audit, 21 states required employers to report the "Date of Hire" for new employees, and an additional 29 states

² As reported in ETA FY 2008 Performance Report

made this reporting optional. Additionally, only 20 states had working definitions of “Date of Hire” listed with their new-hire reporting requirements.

ETA has been unsuccessful in its efforts to obtain a universally understood definition and requirement to provide “Date of Hire” for new employees that would improve the effectiveness of NDNH cross-matches. A UI Integrity Act bill has been submitted to Congress for four consecutive years. One provision of this draft legislation would provide the definition for “Date of Hire” to be the date services for remuneration were first performed by the employee and would require its reporting with new-hire information.

An April 2007 Information Technology Support Center (ITSC) study -- sponsored in part by ETA -- reported that inclusion of the “Date of Hire” for new employees would help to increase the efficiency of NDNH use as it would provide more information on whether a UC claimant had started work in the claimed benefit week. However, the ITSC study also reported that, even without a “Date of Hire” in the NDNH, certain assumptions can be built into the SWAs’ filters to analyze initial hits from their UC cross-matches with the NDNH.

While SWAs can work around the lack of “Date of Hire” information through assumptions built into their filters, doing so can produce false-positive initial hits from the cross-matches. This could result in additional work for the SWAs because part of BPC follow-up on initial cross-match hits entails staff contacting employers and employees for additional information. Any false-positive initial cross-match hits that can be eliminated through consistent “Date of Hire” reporting will reduce unnecessary follow up and allow SWA staff to pursue more accurate initial cross-match hits.

ETA Response to Draft Report

In its response to our draft report, attached in Appendix D, ETA states that it shares the OIG view that use of the NDNH improves the ability of SWAs to prevent and detect improper payments. ETA also noted that it has provided ongoing technical assistance to the SWAs since the NDNH became available to the states. ETA agrees its efforts would be strengthened by implementation of the OIG’s recommendations.

Recommendations

We recommend that the Deputy Assistant Secretary for Employment and Training:

1. Update the current Review Guide to include specific review steps addressing the states’ use of NDNH for the BPC cross-match process; and during on-site reviews, assess the filtering process for the NDNH cross-match and validate the data reported by the SWAs.
2. Increase the frequency of on-site reviews to more than once every four years.

3. Require SWAs to submit quarterly 227 Reports that include a line item for NDNH cross-match results.
4. Continue to pursue legislation to define the “Date of Hire” as the first day of work for new hires and mandate its reporting by employers.

Elliot P. Lewis

Elliot P. Lewis

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Appendices

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BACKGROUND

Unemployment benefit programs are administered by the states in a unique partnership with the Department. Within DOL, ETA is responsible for providing oversight and ensuring Federal standards are maintained for the UC Programs. As the largest benefit program for which DOL is responsible, it is essential for ETA to assure that SWAs are using the NDNH to prevent and detect UC overpayments. As a result, we conducted an audit of ETA's oversight of and progress in obtaining use of the NDNH by SWAs for BPC.

State UC provides benefits to workers who are unemployed because of a lack of suitable work and meet other eligibility requirements established by State UI Laws. UC benefits are financed through employer taxes collected by states and deposited into the Unemployment Trust Fund (UTF) in the U.S. Treasury until needed to pay benefits. Taxes for the administrative costs of SWAs are collected by the Internal Revenue Service based on the Federal Unemployment Tax Act (FUTA), and also held in the UTF. Annual operating costs for ETA and the states are appropriated and funded through the FUTA taxes.

ETA funds SWAs, which administer the UC programs, through a variety of grant agreements. Title III grants under the Social Security Act (SSA) fund basic state UI administrative operations. ETA grants to fund the other UC programs are authorized under a variety of statutes.

The ETA ensures that states have methods of administration to ensure full payment of UC when due. ETA authority for oversight of BPC for UC benefits administered by SWAs is based on Section 303(a)(1) of the SSA. On November 28, 2000, ETA published in the Federal Register an Unemployment Insurance Program Letter (UIPL) interpreting Federal UI Law, based on SSA Section 303(a)(1), to require states to assure that weekly UC claims are paid timely, but only when claimants are determined to be eligible.

ETA requires SWAs to conduct BAM audits of sample claims in order to estimate the amount of UC benefits that are overpaid. In FY 2008¹, approximately \$1.9 billion UC overpayments were estimated based on the sample claims audited. During a comparable period, SWAs identified approximately \$1 billion from BPC procedures performed to identify overpayments to claimants, meaning that more than \$800 million of additional estimated overpayments were not being detected or prevented by the BPC process. The BPC procedures involve the use of various detection tools to identify UC overpayments.

Traditionally, states used their SDNH and quarterly wage matching to identify UC overpayments. In 2004 Public Law 108–295 (“State Unemployment Tax Act (SUTA) Dumping Prevention Act of 2004”) authorized SWAs to access the NDNH “for purposes of administering an unemployment compensation program under Federal or State law.”

The Federal Office of Child Support Enforcement within the U.S. Department of Health and Human Services operates the NDNH. This database was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The primary purpose of the NDNH initially was to assist state child support agencies in locating parents and enforcing child support orders. The NDNH not only includes all the new hire information from every SDNH, but also Federal and military new hires, and the new hires from large multi-state employers that report data to a single state. This provides SWAs with a comprehensive tool to use in BPC operations.

During FY 2005, the Office of the Chief Financial Officer and ETA initiated a pilot study to determine how NDNH cross-matching could help to identify and reduce UC overpayments. Based on evidence that using the NDNH would increase overpayments detected by BPC, ETA published UIPL No. 22-06 on June 2, 2006. This UIPL provided the results of the pilot and encouraged SWAs to take advantage of the NDNH as a tool for UI program integrity. ETA went further with UIPL No. 3-07 on October 31, 2006. In it, ETA modified Employment and Training Handbook 395 to incorporate cross-matches with the NDNH as a mandatory part of the BAM case investigation methodology. The UIPL mandated the requirement to be effective with the sampling week ending January 5, 2008.

A prior OIG audit report that tested ETA controls, i.e. policy requirements, concluded that the NDNH was the best tool for BPC cross-matching with UC benefits to identify claimants that had not properly reported earnings after their return to work, who are thereby determined to be overpaid. The NDNH cross-matches provide more timely identification of UC benefit overpayments compared to cross-matches with quarterly wage records.

A subsequent ITSC study of NDNH cross-match implementation for five SWAs identified beneficial results for the participating SWAs and encouraged wider adoption of the NDNH cross-match in the other SWAs' BPCs.

Appendix B

OBJECTIVE, SCOPE, METHODOLOGY, AND CRITERIA

Objective

We conducted a performance audit of ETA's policy and internal controls for SWAs' use of the NDNH for BPC in order to answer the following question:

Did ETA exercise sufficient oversight to ensure that SWAs utilized information from the NDNH to prevent and detect UC overpayments?

Scope

The audit was conducted in accordance with generally accepted government auditing standards for performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a sufficient basis for our findings and conclusions based on our audit objective.

We examined the applicable policies, procedures and controls that ETA had in place related to the use of the NDNH by SWAs for the period of January 1, 2007, through September 30, 2008. We interviewed and corresponded with various officials of ETA Headquarters and Regional staff along with UI-related staff from the SWAs of California, Washington, Alaska, Indiana, Puerto Rico, and District of Columbia

We performed audit work at the following locations:

- ETA Headquarters in District of Columbia
- ETA regional offices in Dallas, Texas and San Francisco, California
- State capitols at Sacramento, California and Olympia, Washington

We also performed telephone surveys from our office in Denver, Colorado of the following SWAs:

- Juneau, Alaska
- Indianapolis, Indiana
- San Juan, Puerto Rico
- Washington, D.C.

Methodology

We researched applicable policies and procedures, laws and regulations, and assessed ETA's oversight process in place to monitor SWA operations for BPC. We also reviewed various reports on BPC overpayment detection that included totals by state and means of detection.

We met with officials at ETA Headquarters to obtain an overview of BPC and the status of SWAs' use of the NDNH. We also met with ETA officials in the Dallas and San Francisco regional offices to obtain region-specific information related to oversight of use of the NDNH. Finally, we conducted on-site visits to California and Washington.

While on site in each state, we conducted interviews of relevant UC staff and conducted walkthroughs of BPC operations. We also reviewed applicable policies and procedures related to each SWA's UC operations. Finally, we performed analyses of Benefit Audit Reporting and Tracking System data provided by Washington State (using software licensed by a private vendor) that is the basis for its ETA 227 Report.

Two SWAs were reviewed to gain further understanding of the ETA policies for use of the NDNH. The two states were selected judgmentally and did not provide sample results that could be projected to the population of all 53 SWAs. Rather, our work at the SWAs was performed to enhance our understanding of ETA policy requirements which we obtained through analytical procedures.

We selected two SWAs for review: Washington, which uses the NDNH; and California, which does not:

- The Washington SWA was selected from states with less than 10 percent of their BPC overpayments reported based on the NDNH cross-match (the low results category). Additionally, Washington had reported a 210 percent rate of overpayments identified from the BPC process -- the largest proportion of any state -- compared to the BAM estimate of operational overpayments.
- The California SWA was selected because it is one of four states not using the NDNH to cross-match, and had the largest amount of UC benefits paid in CY 2007 for any state. It was also in the middle range for detection of BPC overpayments based on use of the SDNH.

Four additional SWAs were contacted by telephone to determine their status and plans to begin using the NDNH for BPC. The four SWAs were surveyed because, along with California, they constituted the entire population of SWAs identified by ETA as not using the NDNH.

ETA did not have any computer generated data identifiable for NDNH since there was no separate NDNH data provided on the ETA 227 Report. As a result, we could not and did not assess NDNH data reliability. We conducted limited data reliability testing for

several spreadsheets provided by the Washington SWA. The Washington SWA found use of the NDNH resulted in an average increase of 32 percent in the total number of initial cross-match hits to identify overpayments for years 2006-2008, which we were able to confirm in our test of the data reliability.

We evaluated the internal controls pertaining to whether the ETA exercised sufficient oversight to ensure that SWAs utilize information from the NDNH to prevent and detect UC overpayments. We identified the lack of internal controls as significant weaknesses. We evaluated the internal controls pertaining to our objective. Our consideration of internal controls would not necessarily disclose all matters that might be reportable conditions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected.

ETA does not have a reporting process for the SWAs regarding results achieved specifically from the UC cross-match with NDNH for BPC. As a result, there were no relevant controls on which to test compliance. Recommendations 1 through 4 require improvements to the oversight process.

Criteria

- OMB Circular A-123, dated December 21, 2004
- UIPL No. 3-07, dated October 31, 2006
- UIPL No. 04-01 published in the Federal Register, November 28, 2000
- Section 303 (a)(1) of the SSA
- UIPL No. 19-04, dated March 31, 2004
- UIPL 14-05, Change 1, dated October 12, 2005
- UIPL No. 22-06, dated June 2, 2006
- UIPL No. 3-07, Change 1, dated February 27, 2008
- UIPL No. 12-07, dated February 16, 2007
- UI Reports Handbook No. 401 ETA 227, dated April 2007
- UIPL No. 19-08, dated May 30, 2008
- ITSC NDNH System Study, dated April 2007
- Personal Responsibility and Work Opportunity Reconciliation Act of 1996
- UI NDNH Pilot Report, dated September 21, 2005

ACRONYMS AND ABBREVIATIONS

BAM	Benefit Accuracy Measurement
BPC	Benefit Payment Control
CY	Calendar Year
DOL	Department of Labor
ETA	Employment and Training Administration
FUTA	Federal Unemployment Tax Act
FY	Fiscal Year
ITSC	Information Technology Support Center
NDNH	National Directory of New Hires
OIG	Office of Inspector General
OMB	Office of Management and Budget
SDNH	State Directory of New Hires
SSA	Social Security Act
SWA	State Workforce Agency
UC	Unemployment Compensation
UI	Unemployment Insurance
UIPL	Unemployment Insurance Program Letter
UTF	Unemployment Trust Fund

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AGENCY RESPONSE TO DRAFT REPORT

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



MAR 24 2009

MEMORANDUM FOR: ELLIOT P. LEWIS

FROM: DOUGLAS F. SMALL *Douglas F. Small*
Deputy Assistant Secretary

SUBJECT: Enhanced Oversight Will Improve State Workforce Agencies' Use of the National Directory of New Hires to Prevent and Detect Unemployment Compensation Overpayments; Draft Audit Report Number: 06-09-002-03-315

Thank you for the opportunity to respond to your report cited above. The Employment and Training Administration (ETA) shares your view that the use of the National Directory of New Hires (NDNH) improves the ability of the State Workforce Agencies (SWA) to prevent and detect improper payments in the Unemployment Insurance (UI) program.

Since the time that NDNH became available to the states as a tool to prevent and detect UI overpayments, ETA has provided ongoing technical assistance to states to ensure its optimum use. ETA's promotion and outreach efforts have resulted in 49 of the 53 SWAs having currently implemented the NDNH for their benefit operations.

ETA continues to promote the use of NDNH through a variety of means and efforts. In the past years, Integrity Conferences and training forums planned by staff from the ETA's Office of Workforce Security (OWS) have featured workshops and presentations on NDNH. Experts from ETA, SWAs and the Department of Health and Human Services Office of Child Support Enforcement (OCSE) have presented best practices in the use of NDNH and other UI overpayment detection tools. ETA has also provided the states with supplemental funding to encourage the use of the NDNH in Benefit Payment Control (BPC) activities in addition to mandating its use in Benefit Accuracy Measurement investigations.

ETA has provided the states with formal guidance and oversight related to the use of the NDNH to prevent and detect UI overpayments. However, we agree that our efforts would be strengthened by implementation of the OIG's recommendations to; 1) Update the current Review Guide to include specific review steps addressing the states' use of NDNH for the BPC cross match process, include an assessment of the filtering process for the NDNH cross match, and validate the data reported by the states; (2) increase the frequency of

onsite reviews; (3) require SWAs to submit quarterly 227 reports that include a line item for NDNH cross match results; and (4) continue to pursue legislation to define the "Date of Hire" and mandate its reporting by employers.

ETA's comments on each of these recommendations are outlined below:

- Update of the Review Guide was underway prior to receipt of the OIG recommendations, and it is near completion. It includes procedures for review of states' use of NDNH for benefit payment control purposes, assessment of the filtering process, and validation of data reported for NDNH and other data matching tools.
- While ETA agrees that conducting periodic BPC reviews more often than every four years would be desirable, past and current staffing levels have not permitted more frequent reviews.
- The ETA 227 Report, Overpayment Detection and Recovery Activities, captures data matching results from both State Directory of New Hires (SDNH) as well as the NDNH results in a single line item. The SDNH is a subset of the NDNH, and results are often received earlier than those of NDNH. Any changes to existing reporting requirements require clearance from the Office of Management and Budget (OMB), and would impose new costs on states. ETA will assess the cost-benefit of modifying this report to include a separate line item to report the NDNH cross match results.
- ETA will continue to pursue legislation to establish a standard definition and require employers to include "date of hire" in their new hire reports.

We believe that ETA has provided states with strong leadership and oversight in the use of NDNH to prevent and detect improper UI payments, and we will use the recommendations in this report, to the extent that resources allow, to strengthen our efforts.

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