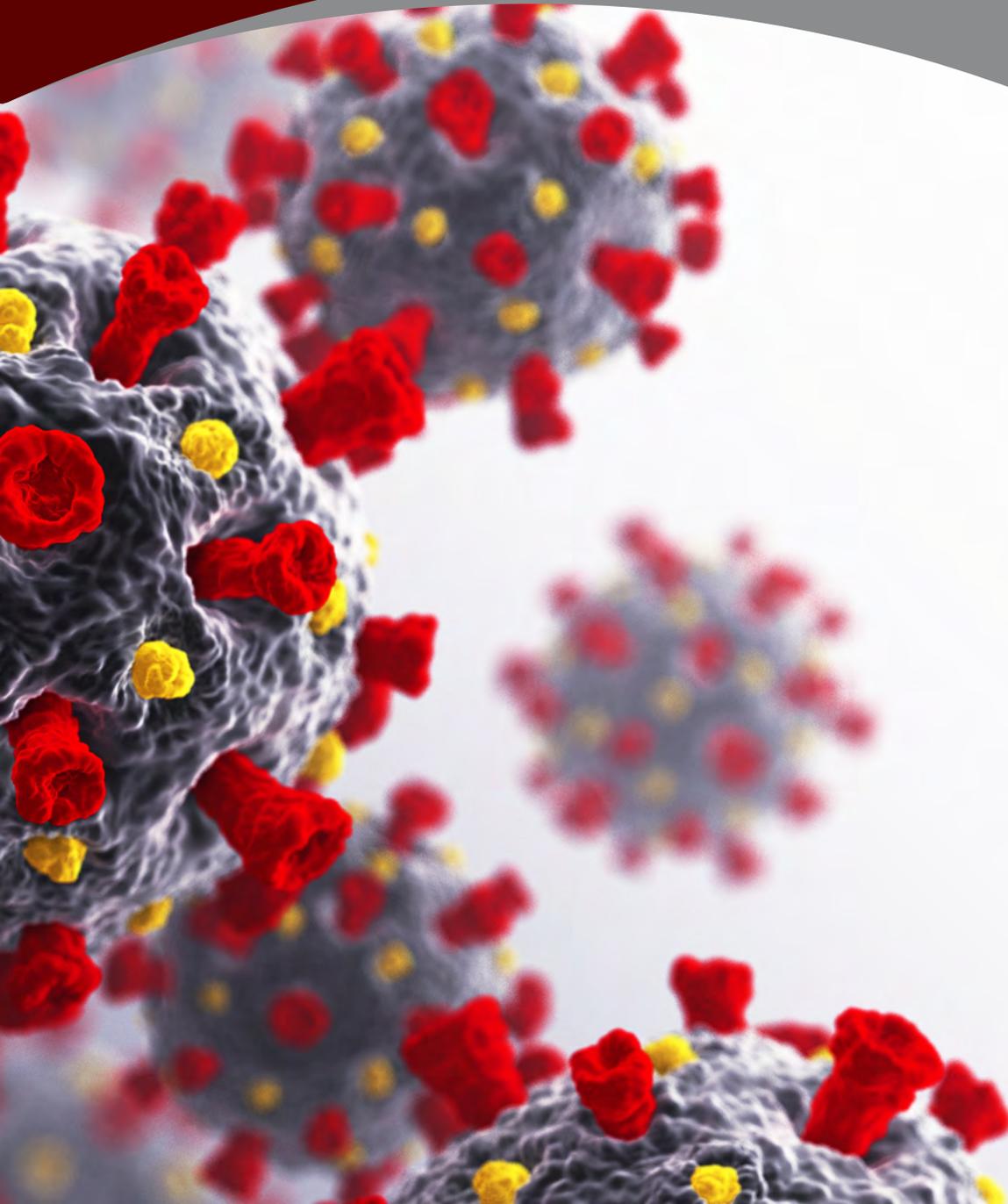




# Pandemic Response Oversight Plan

*Office of Inspector General for the U.S. Department of Labor*

Updated March 21, 2022



**U.S. DEPARTMENT OF LABOR OFFICE OF INSPECTOR GENERAL  
PANDEMIC RESPONSE OVERSIGHT PLAN  
Updated March 21, 2022**

**BACKGROUND**

On March 27, 2020, shortly after the onset of the COVID-19 pandemic, the Department of Labor (DOL or Department) and other federal agencies were tasked with rapidly implementing programs in a manner that met the intent of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. An exceptional level of transparency, implementation plans, and oversight controls was critical to ensure the effective and efficient use of the estimated \$2.3 trillion in CARES Act funding, thereby increasing the Inspectors General work to detect and deter fraud, waste, and abuse. Under the CARES Act, the DOL Office of Inspector General (OIG) received an appropriation of \$26 million to carry out oversight activities of DOL's response to the COVID-19 pandemic, including \$25 million to oversee the unprecedented expansion of Unemployment Insurance (UI) programs. The OIG immediately began our pandemic response oversight work with the issuance of advisory reports based on past programmatic issues to help the Department avoid historical pitfalls and fraud alerts to inform the public who may be exploited by fraudsters.

On April 15, 2020, the OIG published its Pandemic Response Oversight Plan, structuring the work in four phases to address known and expected risks for DOL programs resulting from the pandemic. On April 27, 2021, shortly after the American Rescue Plan (ARP) Act provided the OIG an additional \$12.5 million to conduct further pandemic response oversight activities, the OIG published an updated plan, including results from the initial phases of our pandemic response oversight. We noted these plans were subject to change and would evolve as the OIG continued to conduct risk assessments to identify, for review, specific areas that might significantly impact workers during emergencies. The following update highlights early results from our pandemic response oversight work, describes our pandemic response oversight design, and provides our updated plan including work expansions for emerging issues; it is similarly subject to change and evolution.

**HIGHLIGHTED EARLY RESULTS**

Since April 2020, the OIG's pandemic response oversight work has resulted in 21 published audit reports with 57 recommendations to reduce programmatic vulnerabilities and more than 800 indictments/initial charges with over 230 convictions and monetary results in excess of \$830 million. As of January 2, 2021, we estimated at least \$39.2 billion in improper UI payments were at risk of not being detected and recovered. The \$39.2 billion included almost \$17 billion in potential fraud paid in four high-risk areas, such as to multi-state claimants and those with social security numbers of deceased persons.

Further, for over 20 years, the OIG has reported on the Department's limited ability to measure, report, and reduce improper payments in the UI program, and our

recommendations have specifically included the need for the Department to estimate improper payments within federally-funded temporary emergency programs. In [August 2020, we recommended](#)<sup>1</sup> that ETA estimate the improper payment rate for pandemic UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate of 18.71 percent for 2021, which ETA applied to two of three key pandemic UI programs. ETA states it will report the third program in 2022.

Applying the 18.71 percent to the estimated \$872.5 billion in pandemic-related UI payments,<sup>2</sup> at least \$163 billion in pandemic UI benefits could have been paid improperly, with a significant portion attributable to fraud. Based on our audit and investigative work, the improper payment rate for pandemic-related UI payments is likely higher.

## OIG'S DESIGN FOR PANDEMIC RESPONSE OVERSIGHT

The OIG has repeatedly reported significant concerns with DOL and the states' ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly in response to national emergencies and disasters. Our plans for audit and investigative pandemic response oversight activities drew heavily from our work on DOL's previous emergency responses, including from the American Recovery and Reinvestment Act of 2009 (Recovery Act) as well as significant issues we have reported since then. Starting in April 2020, we issued several reports alerting stakeholders that these same concerns persisted and were heightened given the unprecedented levels of federal UI funding in response to the economic downturn resulting from the pandemic. For example, the Pandemic Unemployment Assistance (PUA) program was similar to the Disaster Unemployment Assistance (DUA) program with an [even higher risk of fraud and other improper payments](#).<sup>3</sup>

We designed our four-phased pandemic response oversight plan to provide recommendations to DOL to address current and emerging vulnerabilities with the COVID-19 response and to prevent similar vulnerabilities from hampering preparedness for future emergencies (see Figure 1).

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<sup>1</sup> COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation under the CARES Act, Report No. 19-20-008-03-315 (August 07, 2020), available at:

<https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf>

<sup>2</sup> ETA's reported improper payment rate estimate of 18.71 percent does not include the PUA program. However, it is the most current improper payment rate from ETA. Furthermore, PUA had control weaknesses that may have facilitated comparable or greater improper payments. Therefore, applying ETA's rate to all of the estimated \$872.5 billion in CARES Act UI payments including PUA would equate to at least \$163 billion in improper payments.

<sup>3</sup> Advisory Report: CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at:

<https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

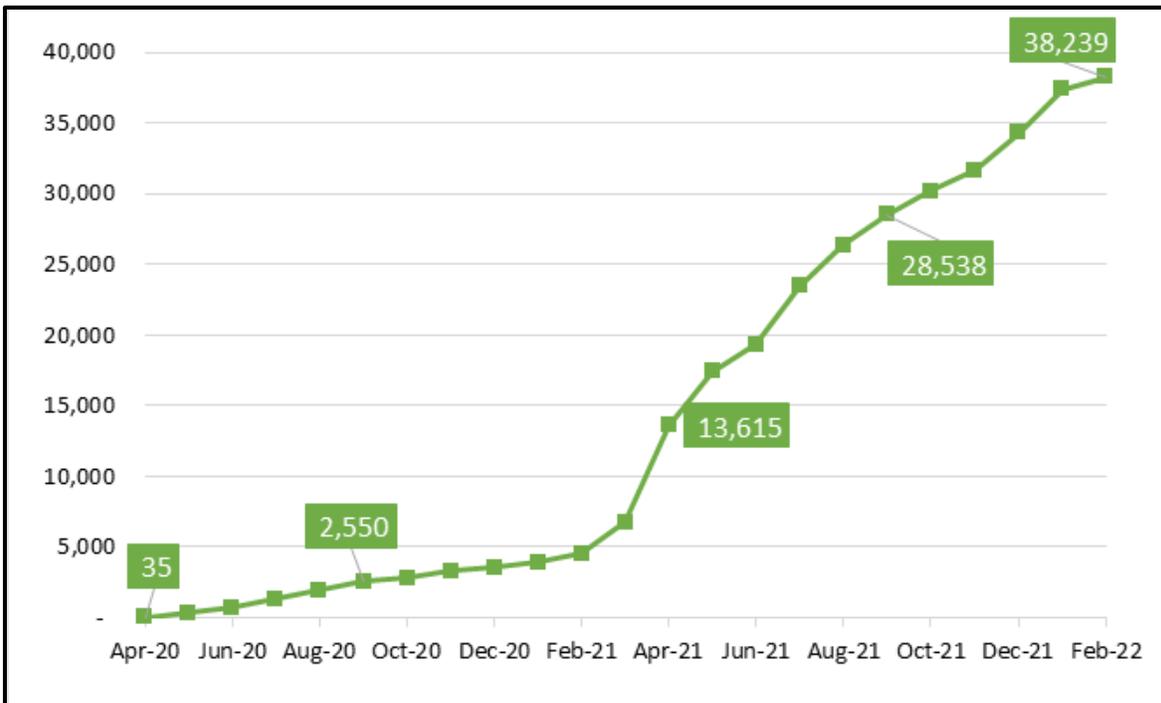
**Figure 1: The OIG’s Four-Phased Design for Pandemic Response Oversight**



During our initial phases of pandemic response oversight (Phases 1 and 2), we reviewed DOL’s plans, guidance, and initial implementation, highlighting significant vulnerabilities. During Phase 3, we are taking a deep dive into key and emerging issues. Our Phase 4 work plans include reporting on lessons learned for UI, worker safety and health, and employment training and recovery from the overall toll on workers since COVID-19 first appeared in the United States.

The OIG’s investigative work began immediately following CARES Act enactment by developing our plan to address the exponential increase of fraud in the UI program. The OIG has opened more than 38,000 investigative matters relating to UI benefits paid under the CARES Act and subsequent legislation (see Figure 2).

**Figure 2: Extraordinary Increase in COVID-19-Related UI Investigative Matters**



In addition, we received more than 140,000 UI fraud complaints from the National Center for Disaster Fraud (NCDF).

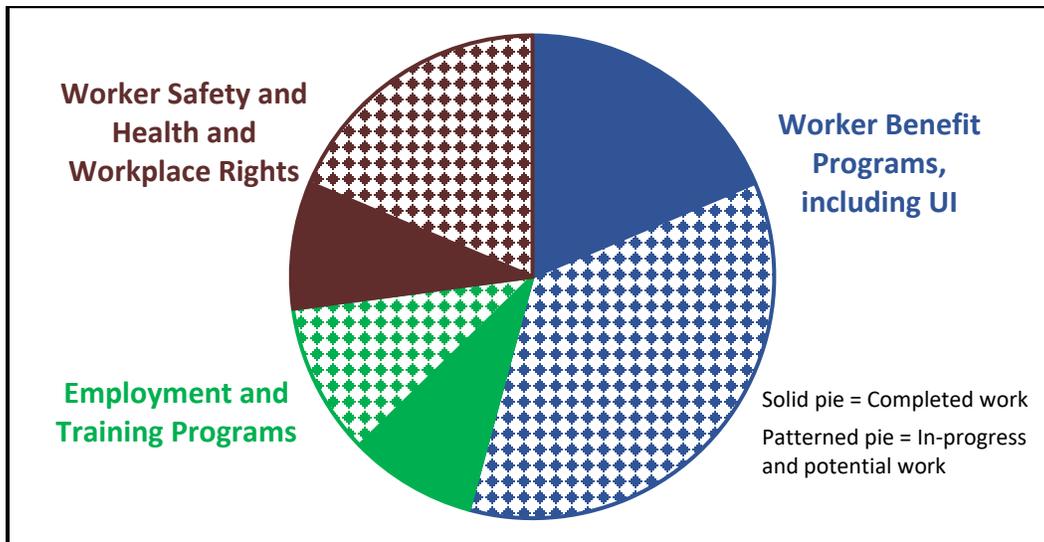
In response to the extraordinary increase in oversight demands, the OIG hired additional criminal investigators; increased the caseload of investigators already on-board; deployed federal and contract staff to review DOL and State Workforce Agencies' (SWA) efforts; and strengthened our data analytics program.

More information about the OIG's pandemic response oversight is provided below.

## UPDATED PANDEMIC RESPONSE OVERSIGHT PLAN

Based on significant issues identified during the first two phases of our pandemic response oversight plan, continuing risk assessments, and emerging issues, the OIG has expanded our Phase 3 work. For audit activities, we have identified three main areas of focus: (1) worker benefit programs, including UI and workers' compensation; (2) worker safety and health, including occupational and miner safety and health, and workplace rights; and (3) employment and training programs, including grants and the Job Corps program (see Figure 3).

**Figure 3: Focus Areas Identified for Phase 3 Audit Pandemic Response Oversight**



For investigative activities, the OIG is leveraging data analytics resources expanded during the first two phases in addition to working with our law enforcement partners to combat fraud in the UI program.

Our updated plan has three sections: a summary of completed work and results from Phases 1 and 2, descriptions of in-progress and planned work for Phase 3, and an outline of work planned for Phase 4. Each section presents both audit and investigative work,

including collaborative efforts. See the Appendix for select criteria related to DOL's response to the coronavirus pandemic.

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## PHASES 1 AND 2: SUMMARY OF COMPLETED WORK

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As planned, the OIG's work in Phases 1 and 2 addressed DOL's plans for and initial implementation of administration and oversight activities. Collaboratively, the OIG's audit and investigative activities identified areas with the greatest potential impact on the Department's programs, including large-scale fraud that targeted UI programs amidst the largest increase in claims since the Department began tracking data in 1967. The OIG has long reported its [concerns with the integrity of the UI program](#).<sup>4</sup> As with any multi-billion dollar benefit payment program, there are those who benefit from the UI program illegally. For years, we have been concerned with issues such as [fraud associated with identity theft](#)<sup>5</sup> and claims filed in multiple states. Subsequent to our work identifying fraud risks associated with self-certification in the PUA program, Congress took action to require supporting documentation. Additionally, our identification of gaps such as those in worker safety and health during a national health emergency have resulted in recommendations to DOL for both present pandemic response and preparedness for any future emergencies.

### AUDIT OVERSIGHT FOCUS

During the first two phases, we alerted the Department to urgent concerns through 13 reports, including 3 alert memoranda, containing 31 recommendations. While primarily focused on the Employment and Training Administration's (ETA) UI programs, issuing six UI audit reports, we also reviewed other DOL agencies and programs, including those overseeing workers' compensation, worker safety and health, and job training.

At the start of the pandemic, we had significant concerns regarding the UI programs, based on both previous OIG work regarding emergency response and on the high-risk nature of the programs. Less than a month after the CARES Act passed, we issued an initial UI advisory report, identifying [six initial areas of concern](#)<sup>6</sup> for ETA and the states to consider while implementing CARES Act UI provisions: state preparedness (including staffing and systems), initial eligibility determination, benefit amount, return to work, improper payment detection and recovery, and program monitoring. Our identification of these areas represents years of work relating to DOL's UI program, including the use of prior stimulus

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<sup>4</sup> Office of Inspector General: Top Management Issues at the U.S. Department of Labor, January 2003, pages 251-252, available at: <https://www.oig.dol.gov/public/topchallenges/2002.pdf>

<sup>5</sup> Investigative Advisory Report: Weaknesses Contributing to Fraud in the Unemployment Insurance Program, Office of Labor Racketeering and Fraud Investigations (July 24, 2015), available at: <https://www.oig.dol.gov/public/Press%20Releases/UI%20Program%20Letter%2050-15-001-03-315.pdf>

<sup>6</sup> Advisory Report: CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

funds and response to past disasters. For example, a 2011 Recovery Act audit found 40 percent of [funds made available for emergency staffing were unspent](#)<sup>7</sup> after 15 months.

Further, our work found that states had been slow to modernize their legacy IT systems in the more than a decade between the Great Recession and the COVID-19 pandemic. The OIG expressed its concern that staffing challenges, coupled with the state of legacy systems, would continue to impede the management and oversight of UI benefits. Our subsequent reports identified continued programmatic weaknesses in each of these same areas, leading to workers unemployed through no fault of their own suffering lengthy delays for basic subsistence funds—likely increasing bad outcomes such as food scarcity and homelessness—while a substantial amount of benefits were left vulnerable to fraud, waste, and abuse.

In fact, our foremost findings during the first two phases included improper payment and fraud vulnerabilities due to the states having to rely solely on self-certifications to ensure eligibility for the PUA program. Our alert memorandum issued on May 26, 2020, estimated costs for the PUA program at nearly \$110 billion with a [significant associated risk of improper payments and fraud](#).<sup>8</sup> We alerted ETA that states needed to implement measures such as requiring claimants to document earnings to substantiate the initial determination and advised that, without additional tools, such as those that already exist under DUA regulations, the PUA program presented substantial risks of the likelihood of loss of millions of taxpayer dollars.

Further, as first highlighted in an additional alert memorandum on February 22, 2021, we identified more than [\\$5.4 billion of potentially fraudulent UI benefits paid in four specific high-risk areas](#):<sup>9</sup> to individuals with social security numbers 1) filed in multiple states, 2) of deceased persons, 3) of federal inmates, and 4) used to file for UI claims with suspicious email accounts (see Figure 4).

**Figure 4: Four High-Risk Areas for Potential UI Fraud**



<sup>7</sup> Recovery Act: DOL Could Have Better Monitored the Use of Re-employment Services Funds to Adhere to Standards for Transparency and Accountability, Report No. 18-11-005-03-315 (March 31, 2011), available at: <https://www.oig.dol.gov/public/reports/oa/2011/18-11-005-03-315.pdf>

<sup>8</sup> Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report No. 19-20-002-03-315 (May 26, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf>

<sup>9</sup> Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf>

The potentially fraudulent UI payments we identified occurred during a limited time period and covered only the four noted high-risk areas. We estimated the potential UI fraud occurring throughout the nation could easily range into the tens of billions of dollars.

As a result of these and other pandemic-related UI findings, we made seven pandemic-related UI recommendations during our initial phases to assist ETA in addressing fraud and other vulnerabilities in administering the program. In addition, we specifically advised ETA that the risk of fraud and improper payments was even higher with PUA than it had been with DUA because PUA claimants could self-certify their UI qualifications. ETA agreed with most recommendations. Congress addressed the self-certification issue under the Continued Assistance for Unemployed Workers Act of 2020, requiring individuals receiving PUA to substantiate their employment.

Our pandemic response oversight under Phases 1 and 2 also covered other DOL agencies and programs,<sup>10</sup> and we issued eight reports. We made 24 recommendations to address weaknesses relating to worker safety and health and program effectiveness. In some instances, in response to identifying significant issues, we expanded coverage of agency activities to include areas originally planned for Phase 3. For example, our initial report on OSHA's efforts to protect the safety of the nation's workforce included assessing the impact the pandemic had on operations including the number and types of inspections and the agency's alternative approaches to safeguard its own workers, such as remote inspections conducted by telephone or email. This OSHA audit found that increased complaints, reduced inspections, and the degree of remote inspections conducted [subjected the nation's workforce to increased safety risks](#).<sup>11</sup> As a result of our audit, OSHA is improving its inspection strategy by prioritizing high-risk employers for COVID-19-related onsite inspections. In addition, we expanded our Phase 3 coverage of worker safety and health during COVID-19 for both OSHA and MSHA.

The 13 reports we issued during Phases 1 and 2 are available at our [Pandemic Response Portal](#) and [the audit reports section of our website](#).<sup>12</sup>

## INVESTIGATIVE OVERSIGHT FOCUS

During Phase 1 and Phase 2 of our pandemic response oversight plan, the OIG focused our investigative and data analytical resources to identify and investigate Department programs that had the greatest vulnerability for abuse, with a significant focus on large-scale identity theft related unemployment insurance fraud.

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<sup>10</sup> Including the Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), Wage and Hour Division (WHD), Office of Workers' Compensation Programs (OWCP), ETA training programs, and the Office of Job Corps

<sup>11</sup> COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk, Report No. 19-21-003-10-105 (February 25, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-003-10-105.pdf>

<sup>12</sup> Our Pandemic Response Portal is available at: [https://www.oig.dol.gov/OIG\\_Pandemic\\_Response\\_Portal.htm](https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm), and OIG audit reports including pandemic-related audit reports are available at: <https://www.oig.dol.gov/auditreports.htm>.

The scope of UI fraud in pandemic-related programs is unprecedented. With its limited resources, the OIG expanded its reach by partnering with the U.S. Department of Justice to create the National UI Fraud Task Force. The Task Force consists of DOL-OIG, Federal Bureau of Investigation, U.S. Secret Service, U.S. Postal Inspection Service, Homeland Security Investigations, Internal Revenue Service-Criminal Investigation Division, Social Security Administration OIG, and the Department of Homeland Security OIG. The Task Force continues to focus on intelligence sharing, deconfliction, joint national messaging, and effective use of investigative and prosecutorial resources.

The OIG also created and coordinated the release of various public and law enforcement sensitive messages to alert and aid stakeholders in detecting and preventing fraud. These messages included a [UI Fraud Consumer Protection Guide](#),<sup>13</sup> UI Fraud Investigations Guide, fraud alerts for state/local law enforcement organizations, [bilingual alerts regarding UI fraud, phishing, and identity theft](#)<sup>14</sup> and a joint OIG / U.S. Secret Service alert on the detection and mitigation of UI fraud for financial institutions. The OIG has also done extensive outreach to educate and raise awareness regarding fraud trends, best practices, red flags, and more. Our special agents conveyed critical information on UI fraud investigations and data analytics to many organizations during the pandemic including the National Association of Attorney's General, the Pandemic Response Accountability Committee, the Council of Inspectors General on Integrity and Efficiency, the American Bankers Association, the Independent Community Bankers of America, the Federal Bureau of Investigation, DOL's Office of Unemployment Insurance, and the SWAs.

Our special agents used data analytics extensively on a national and state level to proactively identify those areas that pose the greatest risk to the UI program. Our data analytics program identified numerous fraud typologies plaguing the UI program nationwide, allowing our special agents and Task Force partners to focus their efforts on investigative matters that involve the greatest loss of funds to the UI program. It has further allowed us to share information with ETA so that they can better assist SWAs in detecting fraud sooner and implementing safeguards to avoid paying fraudulent claims. When investigations or data analytics identified programmatic vulnerabilities, our special agents coordinated with audit staff to ensure that weaknesses were addressed by the Department.

More information concerning our pandemic-focused UI work can be found [at the UI oversight section of our website](#).<sup>15</sup>

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<sup>13</sup> U.S. Department of Justice, National Unemployment Insurance Fraud Task Force, Unemployment Insurance Fraud Consumer Protection Guide (September 21, 2020), available at: <https://www.oig.dol.gov/public/Unemployment%20Insurance%20Fraud%20Consumer%20Protection%20Guide,%20Final.pdf>

<sup>14</sup> Our Pandemic Response Portal features bilingual fraud alerts and much more, available at: [https://www.oig.dol.gov/OIG\\_Pandemic\\_Response\\_Portal.htm](https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm)

<sup>15</sup> For specific information on DOL OIG Oversight of the Unemployment Insurance Program, please visit that section of our website, available at: <https://www.oig.dol.gov/doloigoversightwork.htm>

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### PHASE 3: ONGOING AND PLANNED WORK ESTIMATED COMPLETION BY OCTOBER 2023

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As planned, the OIG's Phase 3 audit work is focusing on significant issues identified during Phase 2, impacts on normal operations at both the national and state levels, and agency activities not previously covered during the first two phases. We have also expanded our Phase 3 work in response to emerging issues—such as the OIG's lack of direct access to UI and wage data, rising worker injury rates at online retailers' warehouses, and states' use of ARP Act equity grants. Collaboratively, the OIG's audit and investigative activities have identified almost \$17 billion of potential fraud paid in the previously identified four high-risk areas, such as UI benefits paid to individuals with social security numbers filed in multiple states and those of deceased persons.<sup>16</sup> We shared our methodology and the underlying data with the Department and the SWAs, and we recommended they establish effective controls to mitigate fraud and other improper payments to ineligible claimants, including the four high-risk areas identified in the memoranda.

Further, for over 20 years, the OIG has reported on the Department's limited ability to measure, report, and reduce improper payments in the UI program. Historically, the UI program experienced some of the highest improper payment rates across the federal government. The reported improper payment rate estimate for the regular UI program has been [above 10 percent for 14 of the last 18 years](#).<sup>17</sup> Our previous recommendations have specifically included the need for the Department to estimate federally-funded temporary emergency programs. In August 2020, we recommended that ETA [estimate the improper payment rate](#)<sup>18</sup> for pandemic UI programs.

In December 2021, consistent with our recommendation, ETA reported an improper payment rate of [18.71 percent](#)<sup>19</sup> for 2021. The OIG notes this estimate is based on the regular UI program and has been applied to two of three key pandemic UI programs, Pandemic Emergency Unemployment Compensation (PEUC) and Federal Pandemic Unemployment Compensation (FPUC). ETA states it will report the third program in 2022.

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<sup>16</sup> During the initial phases, we identified more than \$5.4 billion in these four high-risk areas as noted previously. This total increased to almost \$17 billion in the same areas. The almost \$17 billion is included in the estimated \$39.2 billion in funds that could have been put to better use that we reported as of January 2, 2021; the \$39.2 billion was reported in COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>. The increased identification was reported in Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

<sup>17</sup> Semiannual Report to Congress, Office of Inspector General for the U.S. Department of Labor, Volume 86 (April 1-September 30, 2021), page 9, available at: <https://www.oig.dol.gov/public/semiannuals/86.pdf>

<sup>18</sup> COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation under the CARES Act, Report No. 19-20-008-03-315 (August 07, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf>

<sup>19</sup> ETA's Unemployment Insurance Payment Accuracy by State website is available at: <https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy>, last accessed March 1, 2022

Applying the 18.71 percent to the estimated \$872.5 billion in pandemic-related UI payments, at least \$163 billion in pandemic UI benefits could have been paid improperly, including fraud. Based on our audit and investigative work, the improper payment rate for pandemic-related UI payments is likely higher.

During Phase 3, the OIG has made an additional 12 recommendations aimed at reducing vulnerabilities in the UI program. We have so far issued four Phase 3 UI programmatic audit reports, including additional alert memoranda to increase awareness of urgent concerns. Our investigative activities continue to focus on criminal investigations and on coordination with auditors to identify systemic program weaknesses or fraud vulnerabilities.

Further, in addition to UI, audit work in Phase 3 has already produced 4 reports and 14 recommendations covering workers' compensation, wage and hour issues, Dislocated Worker Grants, and Job Corps. Potential focus for Phase 3 audit and investigative work is listed at the end of the respective sections.

## AUDIT OVERSIGHT FOCUS

To date during Phase 3, which is focused on evaluating intermediate and final program results, we have issued a total of eight audit reports, including alert memoranda for urgent concerns. In the 8 reports, we made 26 recommendations. Based on issues identified in the first two phases, we determined three main areas of focus for Phase 3: UI and other worker benefit programs, worker safety and health, and employment and training. For UI, we have identified additional fraud vulnerabilities and started work on the causes of states struggling to implement the COVID-19-related UI programs, given the pandemic's historic impact on the UI system. Prior to the pandemic, numbers of UI claims were low; within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, [far higher than state systems were designed to handle](#).<sup>20</sup>

In two alert memoranda, we highlighted additional fraud vulnerabilities to the Department. On June 16, 2021, we outlined how disclosure limitations regarding [UI potential fraud data](#)<sup>21</sup> contradicted [the Inspector General Act of 1978, as amended](#).<sup>22</sup> To obtain access to UI data, the OIG had to issue two separate sets of Inspector General (IG) subpoenas. The resulting delays equated to the lack of detection and prevention of billions of dollars in potentially fraudulent claims at the earliest opportunity. ETA has required sharing of state UI data as a condition of the fraud prevention grants offered under the American Rescue Plan (ARP) Act of 2021, which will provide such access through December 31, 2023. However, all states

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<sup>20</sup> COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at:

<https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

<sup>21</sup> Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at:

<https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

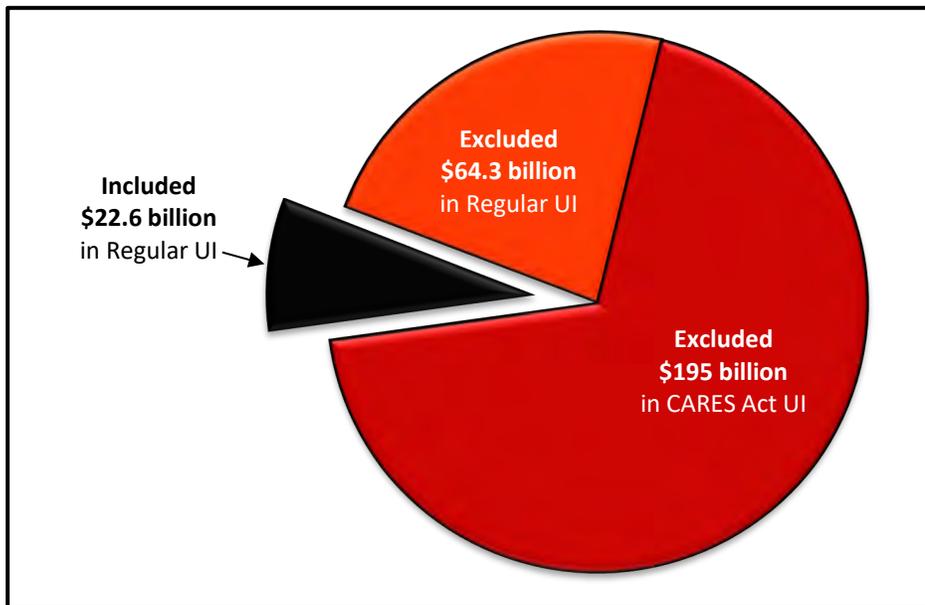
<sup>22</sup> Public Law 95-452—October 12, 1978, 92 Stat. 1101, as amended; the text of the Inspector General Act of 1978 is available at: [https://www.ignet.gov/sites/default/files/files/igactasof1010\(1\).pdf](https://www.ignet.gov/sites/default/files/files/igactasof1010(1).pdf)

are not receiving grants and the data provided to the OIG will be incomplete; more IG subpoenas may be necessary.

Further, on July 1, 2021, we reported ETA did not require the National Association of State Workforce Agencies (NASWA) to [share suspected UI fraud data with ETA or with the OIG](#)<sup>23</sup> as required by the Department. We noted that NASWA reporting as required would assist the OIG to effectively and efficiently detect and investigate large-scale fraud and identify and share fraud trends with ETA and SWAs. This will strengthen the UI program and help prevent fraud before it occurs.

Also, we reported in August 2021 that, while DOL had complied with the Payment Integrity Information Act (PIIA) for Fiscal Year 2020, it reported UI information for [only 8 percent of total program year expenses](#).<sup>24</sup> ETA received approval from the Office of Management and Budget (OMB) to exclude the fourth quarter as well as CARES Act expenditures; however, this exclusion of about \$259 billion meant that ETA’s reported estimated improper payment rate of 9.17 percent was not reflective of total program year expenses (see Figure 5).

**Figure 5: UI Benefits Included and Excluded from 2020 Improper Payment Rate**



<sup>23</sup> Alert Memorandum: The Employment and Training Administration Does Not Require the National Association of State Workforce Agencies to Report Suspected Unemployment Insurance Fraud Data to the Office of Inspector General or the Employment and Training Administration, Report No. 19-21-006-03-315 (July 1, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-006-03-315.pdf>

<sup>24</sup> The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, But Reported Unemployment Insurance Information Did Not Represent Total Program Year Expenses, Report No. 22-21-007-13-001 (August 6, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/22-21-007-13-001.pdf>

As previously noted, ETA recently published an estimated improper payment rate of 18.71 percent for its regular UI program in 2021. ETA is applying this rate to two temporary programs, PEUC and FPUC. The OIG has [long recommended](#)<sup>25</sup> ETA develop a specific methodology designed for federally-funded temporary emergency programs. During our pandemic response oversight work, we have continued discussions with ETA about our concerns surrounding the improper payment rate estimates for temporary programs, concerns that began after the Recovery Act.

We also began to evaluate the causes of states' struggles to implement the CARES Act UI programs. ETA officials reported states faced the combined challenges of (1) managing and processing an unprecedented increase in claims volume at an unprecedented pace, (2) making the statutory changes to existing UI programs, and (3) implementing the three new key CARES Act UI programs. In addition, states had to develop new systems to implement the new programs that resulted in backlogs in processing claims for weeks, and, in some cases, months.

In our CARES Act UI report issued May 28, 2021, we found [DOL's guidance and oversight was lacking](#).<sup>26</sup> DOL did not ensure the states implemented the programs and paid benefits promptly, did not perform required and recommended improper payment detection and recovery activities, and did not report accurate and complete program activities. This occurred primarily because states' information technology systems were not modernized, staffing resources were insufficient to manage the increased number of new claims, and, according to state officials, guidance from ETA was untimely and unclear. Thus, the significant weaknesses in state preparedness continued to hamper pandemic response.

Emergency preparedness and response is vital when it comes to students engaged in employment and training programs. Our Phase 1 work assessed what actions Job Corps had taken in response to challenges posed by the pandemic, including suspension of operations from March to May 2020 and the [subsequent transition to remote learning](#).<sup>27</sup> We made recommendations focused on protecting the health of students and staff currently at centers, ensuring both centers and remote students have the necessary resources to engage in a virtual learning environment, and ensuring centers have the proper controls in place to adhere to national safety guidance prior to reopening their campuses, with which ETA generally agreed. In November 2021, we reported [the pandemic had a significant impact on Job Corps' efforts](#)<sup>28</sup> to develop and implement protocols to safely resume on-campus operations and provide effective remote instruction.

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<sup>25</sup> For example, see: Recovery Act: ETA Is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits, Report No. 18-12-001-03-315 (January 31, 2012), available at: <https://www.oig.dol.gov/public/reports/oa/2012/18-12-001-03-315.pdf>

<sup>26</sup> COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

<sup>27</sup> COVID-19: ETA Should Continue to Closely Monitor Impact on Job Corps Program, Report No. 19-20-007-03-370 (July 28, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-007-03-370.pdf>

<sup>28</sup> COVID-19: Safety and Remote Learning Challenges Continue for Job Corps, Report No. 19-22-001-03-370 (November 12, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-001-03-370.pdf>

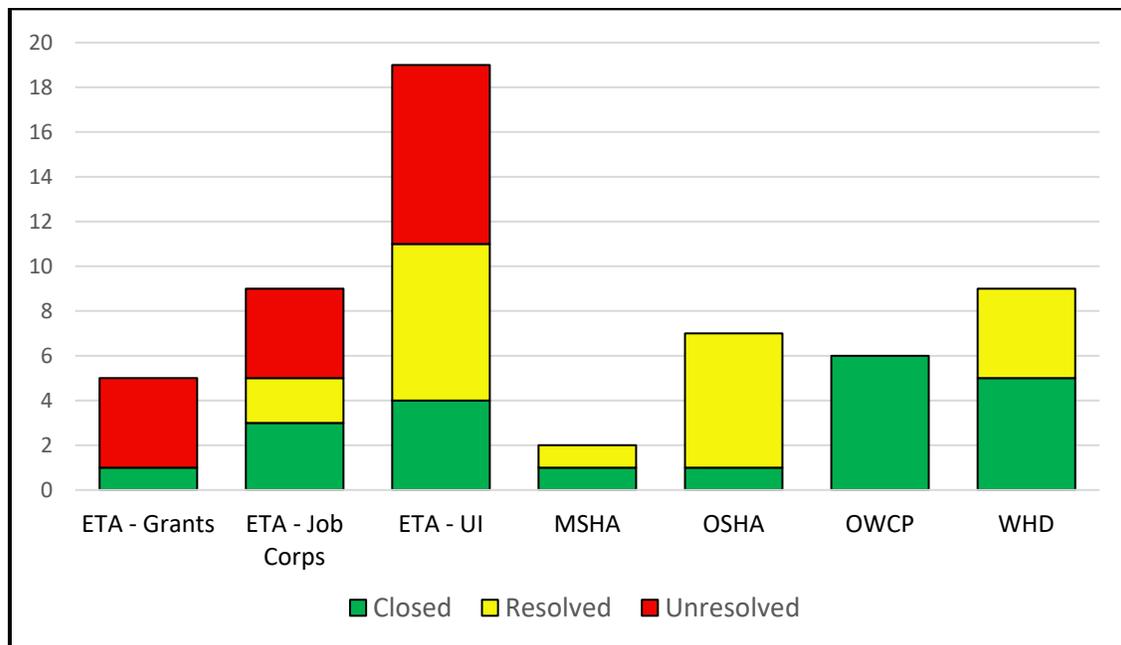
As of July 2021, Job Corps brought students and staff back to 112 centers, but reviewed less than half of them for compliance with select safety requirements such as masking and physical barriers. In addition, more than 68 percent of Job Corps' students needed basic tools, including computers and internet access, for remote learning during the pandemic. Partly as a result of these implementation issues, Job Corps' student enrollment dropped 56 percent from March 2020 to April 2021, trades training completion dropped to zero in the year leading to April 2021, and the average length of time it took students to complete the program more than doubled from approximately 8 months to 18 months. ETA stated it has already taken some actions to address our recommendations, and our Phase 3 work for Job Corps as well as other employment and training programs continues.

In response to the pandemic, we conducted specific risk assessments to identify potential areas for our oversight work. To accomplish this audit work, the OIG has increased the number of full-time equivalent (FTE) authorized to support the Office of Audit from 112 to 132. In addition, to augment our audit staff, we have awarded multiple contracts to external independent audit firms.

### STATUS OF AUDIT RECOMMENDATIONS

To date, we have issued 21 audit reports including alert memoranda resulting in 57 recommendations to the Department. Recommendations are considered resolved when agency management and the OIG agree on the required corrective actions. After the agreed-upon corrective actions have been completed, the recommendations are considered closed. The Department has addressed 72 percent of our recommendations; we resolved 20 recommendations and closed 21 recommendations. However, 16 recommendations remain unresolved and open, including 8 unresolved UI recommendations (see Figure 6).

**Figure 6: Status of 57 COVID-19-Related Recommendations, as of February 15, 2022**



More information on the status of OIG recommendations can be found at our [Recommendation Dashboard](#).<sup>29</sup>

## POTENTIAL AUDIT OVERSIGHT FOCUS

Phase 3 in-progress audits are marked with an asterisk (\*).

### ETA - Office of Unemployment Insurance:

1. ETA efforts to ensure UI program integrity\*
2. State efforts to ensure claimant eligibility\*
3. DOL's oversight of emergency UI administrative transfers to states\*
4. ETA and state efforts to detect and recover overpayments\*
5. Adequacy of state information technology resources\*
6. Adequacy of state staffing resources\*
7. Effectiveness of programs for nontraditional claimants\*
8. Effectiveness of the Temporary Full Federal Funding program\*
9. Effectiveness of the Short-Time Compensation program\*
10. Effectiveness of the Mixed Earners Unemployment\*
11. Effectiveness of the Emergency Unemployment Relief for Governmental Entities and Non-Profit Organizations program\*
12. States' compliance with CARES Act UI reporting requirements\*
13. State utilization of administrative and benefits funding
14. ETA and states' efforts to address multi-state claimants
15. ETA and states' efforts to address claimants using deceased persons' social security numbers
16. ETA and states' efforts to address claimants using prisoners' social security numbers
17. ETA and states' efforts to address claimants with suspicious email accounts
18. ARP Act Equity Grants
19. Impact of waivers on UI overpayments and fraud investigations

### ETA - Job Training Programs:

1. Employment and training grantees and sub-recipients\*
2. Effectiveness of ETA efforts to address jobs lost as a result of the pandemic
3. Adequacy of the administration of grant funds provided under the CARES Act and subsequent legislation
4. Adequacy of job training program performance
5. Job Corps: Ensuring funds were properly and efficiently used during COVID-19 pandemic

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<sup>29</sup> The DOL OIG Recommendation Dashboard is available at:  
<https://www.oig.dol.gov/recommendationdashboard.htm>

### **Occupational Safety and Health Administration:**

1. Adequacy of plans and use of funds provided under the ARP Act\*
2. OSHA's collaboration with other federal agencies to help safeguard the American worker\*
3. Impact complaints and referrals had on OSHA's operations and the adequacy and timeliness of abatement actions taken by employers\*
4. Review of actions take to address rising injury rates at online retailers' warehouse facilities\*
5. Effectiveness of corrective actions taken in response to our initial report on OSHA's handling of whistleblower complaints
6. Effectiveness of the National Emphasis Program for COVID-19
7. Adequacy of plans to prepare for future pandemics

### **Mine Safety and Health Administration:**

1. Impact of COVID-19 on mandatory inspections\*
2. Impact of COVID-19 pandemic on Mine Rescue Response Plans

### **Office of Workers' Compensation Programs:**

1. Effectiveness of process design and oversight for COVID-19-related claims submitted under the Federal Employees' Compensation Act (FECA) program

### **Veterans Employment and Training Services:**

1. Effectiveness of reintegration and training programs during the pandemic

### **Employee Benefits Security Administration:**

1. COVID-19 pandemic's impact on enforcement of Employee Retirement Income Security Act (ERISA) requirements

### **Wage and Hour Division:**

1. DOL's Emergency Paid Leave Fund: Ensuring funds provided under the ARP Act were used as intended
2. Enforcement challenges during pandemic

## **INVESTIGATIVE OVERSIGHT FOCUS**

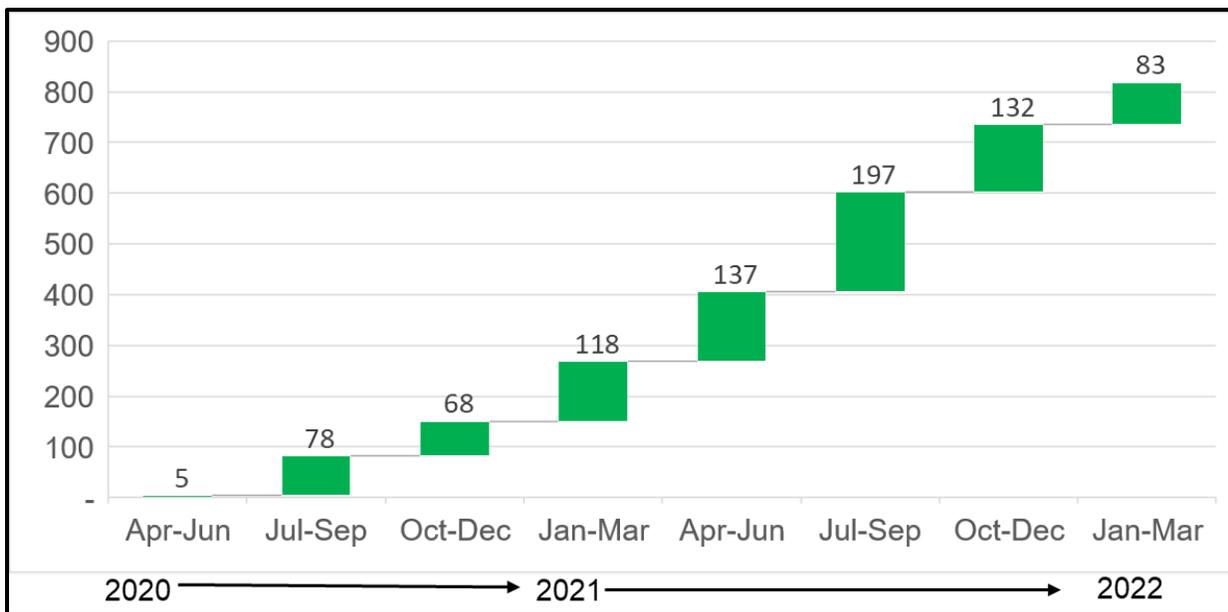
As of February 2022, the OIG has opened over 38,000 investigative matters related to the pandemic. In addition, we have received over 140,000 UI fraud complaints from the Department of Justice's National Center for Disaster Fraud (NCDF). The vast majority of these matters involve identify theft-related UI fraud. We have leveraged technology to automate the processing of NCDF complaints so that they are directly ingested into our

case management system. This process allows us to provide victim resource information to potential victims, while also allowing for deconfliction with other federal law enforcement agencies to avoid duplication of efforts. We have significantly expanded the size of our hotline staff to process both hotline and NCDF complaints. Matters that meet guidelines for federal prosecution are referred to our field offices or to our federal law enforcement partners for further investigation. Matters that do not meet federal prosecution guidelines are referred back to SWAs for whatever action they deem appropriate.

In response to this unprecedented amount of UI fraud, the OIG increased the number of FTE authorized to support the Office of Investigations from 149 to 194, which will increase our investigative staff by more than 30 percent. In addition, our special agents prioritized their case inventory so that approximately 94 percent of the investigative workload was focused on UI fraud. Prior to the pandemic, UI fraud made up approximately 11 percent of the investigative workload.

From April 1, 2020, through March 12, 2022, the OIG’s investigative efforts have resulted in over 800 UI indictments/initial charges with over 230 convictions and monetary results in excess of \$830 million (see Figure 7).

**Figure 7: UI Indictments/Initial Charges to March 12, 2022**



**POTENTIAL INVESTIGATIVE OVERSIGHT FOCUS**

1. Continue to coordinate with the OIG’s Office of Audit on any systemic weaknesses or fraud vulnerabilities identified during COVID-19 audits and investigations to reduce the long-term impact of fraud on DOL programs
2. Continue to process and evaluate complaints from the National Center for Disaster Fraud to identify large-scale fraud matters for further investigation

3. Highlight successful COVID-19 investigations by issuing DOL/DOJ press releases in coordination with investigative partners
4. Advise DOL regulatory agencies/program experts of audit and investigative findings and possible weaknesses in the various programs to prevent future fraud
5. Hire additional special agents to investigate large-scale organized UI fraud
6. Continue to seek real-time direct access to UI and wage data which is vital to ensuring that the OIG can quickly identify fraud and share emerging fraud trends with our state workforce partners and prevent fraud before it occurs

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PHASE 4: PLANNED WORK

AUDIT WORK IS ESTIMATED TO BE COMPLETE  
BY FEBRUARY 28, 2024;  
INVESTIGATIVE WORK WILL CONTINUE TO AT  
LEAST DECEMBER 31, 2026.

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The OIG will continue to monitor and assess DOL's actions relating to COVID-19 in response to any new legislation enacted by Congress, as well as continue our investigative efforts. This phase will also include after-the-fact assessments of program results during the pandemic, including the impact on agency operations and the lessons learned.

**POTENTIAL AUDIT OVERSIGHT FOCUS**

1. Assessment of UI program results during the pandemic
2. Assessment of OSHA program results during the pandemic
3. Assessment of ETA job training program results during the pandemic
4. Assessment of other DOL program results during the pandemic

**POTENTIAL INVESTIGATIVE OVERSIGHT FOCUS**

1. OIG will continue to evaluate ongoing, long-term, complex criminal investigations with an emphasis on UI fraud schemes:
  - Resources will be allocated to high-impact multi-state fraud schemes;
  - OIG will prioritize the most significant investigations and dedicate appropriate resources and expertise to those investigations; and
  - OIG will determine if new fraud schemes emerged as a result of additional COVID-19 funding and will notify DOL program agencies about those new schemes.

2. Upon the conclusion of high-impact investigations, OIG will:
  - Relay significant concerns, programmatic weaknesses, and lessons learned via investigative notices to the Department;
  - Make legislative recommendations related to vulnerabilities discovered during investigations as a result of the COVID-19 funding;
  - Evaluate the initial investigative response, case results, and final outcomes;
  - Identify significant OIG and program challenges encountered and determine future initiatives based on investigative findings; and
  - Consider establishing new policies and procedures or revising existing policies to more efficiently meet the OIG investigative mission.

APPENDIX: SELECT CRITERIA FOR DOL'S RESPONSE TO THE  
CORONAVIRUS PANDEMIC

**Employment and Training Administration – Office of Unemployment Insurance**

*Coronavirus Aid, Relief, and Economic Security Act*

- Sec. 2102: Pandemic Unemployment Assistance, coverage of workers not traditionally eligible for unemployment
- Sec. 2103: Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations, 50 percent reimbursement
- Sec. 2104: Emergency Increase in Unemployment Compensation Benefits, Federal Pandemic Unemployment Compensation, \$600 additional weekly benefit amount
- Sec. 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week, waiver of waiting week
- Sec. 2106: Emergency State Staffing Flexibility, temporary staffing for states
- Sec. 2107: Pandemic Emergency Unemployment Compensation [PEUC], additional 13 weeks
- Secs. 2109-11: Temporary Financing of Short-time Compensation Agreements, Grants for Short-Time Compensation Programs, and Assistance and Guidance in Implementing Programs

*Consolidated Appropriations Act, 2021, Division N, Title II, Subtitle A – Unemployment Insurance, Chapter 1 – Continued Assistance for Unemployed Workers Act of 2020*

- Sec. 201(a): Extension and Benefit Phaseout Rule for Pandemic Unemployment Assistance [PUA], extension of PUA
- Sec. 201(b): Extension and Benefit Phaseout Rule for Pandemic Unemployment Assistance, additional weeks available for PUA benefits
- Sec. 202: Extension of Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations, federal funding period
- Sec. 203: Extension of Federal Pandemic Unemployment Compensation [FPUC], modification of weekly benefit amount to \$300
- Sec. 204: Extension of Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week
- Sec. 205: Extension of Emergency State Staffing Flexibility
- Sec. 206(a): Extension and Benefit Phaseout Rule for Pandemic Emergency Unemployment Compensation [PEUC]
- Sec. 206(b): Extension and Benefit Phaseout Rule for Pandemic Emergency Unemployment Compensation [PEUC], additional weeks available for PEUC benefits
- Secs. 207, 208: Extension of Temporary Financing of Short-Time Compensation Payments in States with Programs in Law and for States without Programs in Law
- Sec. 221: Extension of Temporary Assistance for States with Advances
- Sec. 222: Extension of Full Federal Funding of Extended Unemployment Compensation

- Sec. 241: Requirement to Substantiate Employment or Self-Employment and Wages Earned or Paid to Confirm Eligibility for Pandemic Unemployment Assistance [PUA]
- Sec. 242: Requirement for States to Verify Identity of Applicants for Pandemic Unemployment Assistance [PUA]
- Sec. 251: Return to Work Reporting for CARES Act Agreements
- Sec. 261: Mixed Earner Unemployment Compensation
- Sec. 262: Lost Wages Assistance Recoupment Fairness, waiver of overpayments
- Sec. 263: Continuing Eligibility for Certain Recipients of Pandemic Unemployment Assistance [PUA], requirement for individuals to recertify eligibility each week
- Sec. 265: Technical Correction for the Commonwealth of Northern Mariana Islands, Commonwealth Only Transitional Workers
- Sec. 266: Waiver to Preserve Access to Extended Benefits in High Unemployment States

*American Rescue Plan Act of 2021*

- Sec. 9011: Extension of Pandemic Unemployment Assistance [PUA]
- Sec. 9012: Extension of Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations
- Sec. 9013: Extension of Federal Pandemic Unemployment Compensation [FPUC]
- Sec. 9014: Extension of Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week
- Sec. 9015: Extension of Emergency State Staffing Flexibility
- Sec. 9016: Extension of Pandemic Emergency Unemployment Compensation [PEUC]
- Sec. 9017: Extension of Temporary Financing of Short-Time Compensation Payments in States with Programs in Law
- Sec. 9018: Extension of Temporary Financing of Short-Time Compensation Payments in States without Programs in Law

**Occupational Safety and Health Administration**

*Occupational Safety and Health Standards, Chapter 29 of the Code of Federal Regulations, Part 1910*

- Sec. 132: Personal Protective Equipment, General requirements
- Sec. 134: Personal Protective Equipment, Respiratory protection
- Sec. 502(q)(2)(ii), (q)(3)(ii)-(iv), and (r): Healthcare, COVID-19 – Logging and Reporting provisions only
- Sec. 1030: Bloodborne pathogens

**Wage and Hour Division**

*Families First Coronavirus Response Act (FFCRA)*

- Division C: Emergency Family and Medical Leave Expansion Act
- Division E: Emergency Paid Sick Leave Act, changes to paid leave

**Employee Benefits Security Administration**

*Coronavirus Aid, Relief, and Economic Security Act*

Sec. 3607: Expansion of DOL Authority to Postpone Certain Deadlines, postponement of certain Employee Retirement Income Security Act (ERISA) filing deadlines

Sec. 3608: Single-Employer Plan Funding Rules, changes to single-employer plan funding rules

**Grants Management**

*OMB Memo M-20-17*, Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations (March 19, 2020)

*OMB Memo M-20-26*, Extension of Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations (June 18, 2020)