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REPORT TO THE EMPLOYMENT AND TRAINING ADMINISTRATION

ETA DID NOT PROVIDE ADEQUATE OVERSIGHT OF EMERGENCY ADMINISTRATIVE GRANTS

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U.S. Department of Labor
Office of Inspector General
Audit

BRIEFLY...

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July 27, 2023

WHY OIG CONDUCTED THE AUDIT

On March 18, 2020, Congress passed the Families First Coronavirus Response Act (FFCRA), which provided states with temporary flexibility to modify their unemployment compensation laws and additional administrative funding to respond to the economic downturn caused by the COVID-19 pandemic. Division D of the FFCRA, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), authorized the Department of Labor (DOL) to provide $1 billion in emergency administrative grants to qualified states for the administration of their unemployment insurance programs.

WHAT OIG DID

We conducted this performance audit to answer the following question:

> Did DOL provide adequate oversight of emergency administrative grants authorized under the Emergency Unemployment Insurance Stabilization and Access Act of 2020?

To answer this question, we interviewed DOL's Employment and Training Administration (ETA) officials about grant oversight, examined states' evidence for meeting grant requirements, and reviewed applicable statutes and audit reports.

READ THE FULL REPORT

https://www.oig.dol.gov/public/reports/oa/2023/19-23-006-03-315.pdf

WHAT OIG FOUND

ETA did not provide adequate oversight of the emergency administrative grants. Specifically, ETA did not verify if states were qualified to receive the grant funds and lacked assurance states used the grant funds as intended. According to ETA, this was due to the states' urgent need to address the increase in unemployment insurance claims caused by the pandemic, its reliance on states' self-attestations of compliance with EUISAA requirements, and its reliance on single audits to monitor states use of the funds, which did not disclose how grant funds are used.

ETA required states to maintain documentation as evidence the requirements were met. Our examination of documentation maintained by five states revealed that one state did not comply with all of the requirements to receive the first allotment of grant funds, and the remaining four states did not provide sufficient documentation to demonstrate compliance with EUISAA. Furthermore, ETA did not verify if an additional nine states qualified. Therefore, ETA authorized the transfer of over $136 million in emergency administrative grant funds to 14 states that failed to demonstrate compliance with EUISAA requirements.

We also found ETA could not demonstrate how states used the emergency administrative grant funds. ETA stated these funds were transferred to the accounts of the states' regular administrative grant funds received yearly. ETA applied the same monitoring activities to the emergency grant funds as it did to the regular administrative grant funds, which consist of reliance on single audits conducted by independent auditors. However, the single audit reports did not disclose how the states used either of the grant funds. Consequently, $1 billion in taxpayer dollars were vulnerable to misuse.

WHAT OIG RECOMMENDED

We made three recommendations to ETA to improve the future administration of emergency grants and address wasteful spending. ETA agreed or partially agreed to the recommendations.

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U.S. Department of Labor

Office of Inspector General
Washington, DC 20210

INSPECTOR GENERAL'S REPORT

Brent Parton
Acting Assistant Secretary
for Employment and Training
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

This report presents the results of the Office of Inspector General's (OIG) audit of the Department of Labor's (DOL) oversight of emergency administrative grants authorized by the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA).[1]

The Families First Coronavirus Response Act (FFCRA) provided states with temporary flexibility to modify their unemployment compensation laws and additional administrative funding to respond to the economic downturn caused by the COVID-19 pandemic.[2] Division D of the FFCRA, EUISAA, authorized DOL to distribute $1 billion in emergency administrative grants to each qualified state "only for the administration of its unemployment compensation law, including by taking such steps as may be necessary to ensure adequate resources in periods of high demand."[3]

The enactment of EUISAA within the FFCRA amended Section 903 of the Social Security Act of 1935 (SSA), which outlines the requirements states must meet to

[1] EUISAA is Division D of the Families First Coronavirus Response Act, Public Law 116-127 (March 18, 2020).
[2] The term "states" includes 50 U.S. states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.
[3] Section 4102 (a)(h)(4) of EUISAA (42 U.S. Code, Section 1103(h)(4))

receive emergency administrative grants.[4] According to Section 903 of the SSA, for each state, the Secretary of Labor must certify to the Secretary of the Treasury that the state has met the requirements to receive an emergency administrative grant.[5] Upon certification, the Secretary of the Treasury must transfer the grant funds to the state's account within the Unemployment Trust Fund. Additionally, the SSA states, "[a]ny amount transferred to the account of a State under this subsection may be used by such State only for the administration of its unemployment compensation law, including by taking such steps as may be necessary to ensure adequate resources in periods of high demand."[6] Employment and Training Administration (ETA) officials stated all states have received emergency administrative grants, which together totaled $1 billion.

We conducted this performance audit to answer the following question:

> Did DOL provide adequate oversight of emergency administrative grants authorized under the Emergency Unemployment Insurance Stabilization and Access Act of 2020?

ETA is responsible for providing guidance and oversight of the unemployment insurance (UI) program administered by the states, and, during the pandemic, ETA managed the process for providing emergency administrative grant funds to states. Our audit examined steps taken by ETA to ensure states: (1) met the requirements for receiving emergency administrative grants; and (2) used the grant funds to administer their UI program. Based on the results of our audit work, we determined DOL did not provide adequate oversight of emergency administrative grants.

We conducted our audit fieldwork from July 20, 2021, through April 18, 2022. ETA provided documentation submitted by the states to support compliance with the requirements to receive emergency administrative grants, as well as the findings from their examination of the submitted documentation. We examined documentary support submitted by five states. We also interviewed ETA officials to determine the steps taken to verify states met the requirements to receive grants and used the grant funds for the administration of their UI programs. Finally, we reviewed federal laws and regulations governing federal grants, ETA policies applicable to emergency administrative grants, and selected single audit reports.

[4] Section 4102(a) of EUISAA (42 U.S. Code, Section 1103(h)(2) and (h)(3))
[5] Section 4102(a) of EUISAA (42 U.S. Code, Section 1103(h)(1)(C))
[6] Section 4102(a) of EUISAA (42 U.S. Code, Section 1103(h)(4))

RESULTS

ETA did not provide adequate oversight of the emergency administrative grants. Specifically, ETA did not verify if states were qualified for the grants before transferring all grant funds to the states' accounts. According to ETA, verification did not occur because the states urgently needed to address the increase in UI claims caused by the pandemic. Consequently, ETA relied on states' self-attestations of compliance with EUISAA requirements to qualify them for the grants. ETA also lacked assurance that states used the grant funds as intended because they were administered with the states' regular administrative grant funds, which were monitored solely by single audits that did not disclose how states used the funds.

On March 18, 2020, Congress enacted EUISAA, which mandated that qualified states receive, in the first of two allotments, 50 percent of their share of the $1 billion in emergency administrative grant funds within 60 days of enactment. Therefore, by May 17, 2020, ETA had to determine if states were qualified to receive emergency administrative grant funds. The following were among the steps ETA took to qualify states for grant funds:

- provide states with instructions for implementing EUISAA;
- review each state's grant application to ensure it included all of the information required to receive grant funds; and
- send certification letters to the Secretary of the Treasury certifying states were qualified to receive grant funds and to transfer the emergency administrative grant funds to the states' accounts within the Unemployment Trust fund.[7]

EUISAA did not require states to provide documentation supporting compliance with the requirements to receive an emergency administrative grant. Due to the states' urgent need to address the increase in UI claims caused by the pandemic, ETA initially advised states to maintain documentation to support compliance with the requirements of Unemployment Insurance Program Letter (UIPL) No. 13-20,[8] and required them to submit a completed Application for Federal Assistance (SF-424) attesting requirements had been met to receive grant funds. An SF-424 includes a statement indicating that certifying to any false, fictitious, or fraudulent statement can result in criminal, civil, or

[7] ETA emailed 12 certification letters to the Secretary of the Treasury on separate dates. Each certification letter included multiple states ETA deemed qualified to receive grant funds.
[8] On March 22, 2020, ETA issued UIPL 13-20 to the states, which includes the EUISAA requirements for receiving each allotment.

administrative penalties under the law.[9] ETA received an SF-424 from each state and then sent a letter to the Secretary of the Treasury certifying that each state was qualified to receive grant funds. Therefore, ETA relied on states' certifications that they complied with UIPL No. 13-20 via an SF-424 to qualify states for grant funds.

Over 10 months after the deadline to transfer all of the funds to the states' accounts, ETA required states to submit documentation to demonstrate they met the requirements to receive grant funds.[10] After examining documentation submitted by five states, we determined the documentation did not demonstrate they were qualified to receive the first allotment of grant funds; however, we found no issues with the five states receiving the second allotment.[11] ETA also did not verify if an additional 9 states met the requirements to receive the first allotment of grant funds. Over 18 months after the deadline for states to submit supporting documentation, ETA was still unable to verify if the states met the requirements. As such, DOL authorized the transfer of more than $136 million in emergency administrative grant funds to the accounts of 14 states ETA certified as qualified to receive grant funds—despite not having verified their qualifications.

We also found ETA could not demonstrate how states used the emergency administrative grant funds. Congress mandated states use the grant funds only for the administration of their UI programs.[12] ETA stated the grant funds were used for the operation of the states' UI programs, including staff costs, equipment and information technology costs, and space and building operations, but could not support this. In addition, ETA indicated that the emergency administrative grants followed the same requirements for use as the administrative grants awarded to states under regular UI program administration. As such, these grants were subject to the same level of program monitoring. ETA relies on the single audits performed by independent auditors to satisfy its monitoring of these grants.[13] However, the single audit reports do not disclose how the states used the emergency or regular administrative grant funds.

Without verifying states met the requirements for emergency administrative grants and monitoring the use of the grant funds, ETA could not provide reasonable assurance states used the emergency administrative grants to

[9] 42 U.S. Code, Title 18, Section 1001
[10] ETA issued UIPL No. 13-20, Change 2, requesting states submit supporting documentation. This UIPL required states to submit supporting documentation by August 2, 2021, 306 days after the deadline (September 30, 2020) to transfer all emergency administrative grant funds to the accounts of qualified states.
[11] There are distinct requirements for each allotment.
[12] Section 4102(a) of EUISAA (42 U.S. Code, Section 1103(h)(4))
[13] 2 C.F.R. Section 200, Subpart F

administer their UI programs. As a result, the $1 billion in emergency administrative grants, funded by taxpayer dollars, was susceptible to misuse.

ETA DID NOT VERIFY STATES WERE QUALIFIED TO RECEIVE EMERGENCY ADMINISTRATIVE GRANTS

ETA did not verify if states complied with the requirements to receive emergency administrative grants before certifying to the Secretary of the Treasury that they were qualified to receive grant funds. Per an interview with ETA officials, they qualified states for emergency administrative grant funds based on submission of certified SF-424 applications attesting compliance with the requirements in order to "get money to the states as quickly as possible so that they are in a better position to respond to the volume of UI claims." Further, ETA did not require states to submit documentation supporting compliance with the requirements until after the states received their total share of the $1 billion in emergency administrative grant funds, which were transferred to the states' accounts in the Unemployment Trust Fund.

Each state's share of the $1 billion in emergency administrative grants was determined via a formula prescribed in the SSA.[14] During Fiscal Year (FY) 2020, each state received its share of the grant funding in two equal allotments.[15] All of the emergency administrative grant funds were required to be transferred to the states' individual accounts in the Unemployment Trust Fund during FY 2020.

EUISAA mandated the transfer of the first of two allotments to the account of each qualified state within 60 days after enactment on March 18, 2020, which was no later than May 17, 2020. ETA incorporated Section 903(h)(2) of the SSA into UIPL No. 13-20, which was issued to the states on March 22, 2020, and highlighted the requirements for receiving the first and second allotment. To receive the first allotment, the states needed to meet the following three requirements from the UIPL:

> (A) The State requires employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment. Such notification may be based on model language issued by the Secretary of Labor.

[14] Section 4102(a) of EUISAA (42 U.S. Code, Section 1103(h)(1)(B))
[15] Section 4102(a) of EUISAA (42 U.S. Code, Section 1103(a)(2)(B))

> (B) The State ensures that applications for unemployment compensation, and assistance with the application process, are accessible, to the extent practicable in at least two of the following: in person, by phone, or online.
>
> (C) The State notifies applicants when an application is received and is being processed, and in any case in which an application is unable to be processed, provides information about steps the applicant can take to ensure the successful processing of the application.

To receive and qualify for the second allotment, the UIPL first instructed states to submit an application to receive the second allotment by September 15, 2020, in order to transfer the grant funds by September 30, 2020, which marked the end of FY 2020. To qualify for the second allotment, the UIPL required that states' claims for UI benefits had to have increased by at least 10 percent over the same quarter in the preceding calendar year.[16] If a state's claims so increased, the states needed to meet two additional requirements:

> (A) The State has expressed its commitment to maintain and strengthen access to the unemployment compensation system, including through initial and continued claims.
>
> (B) The State has demonstrated steps it has taken or will take to ease eligibility requirements and access to unemployment compensation for claimants, including waiving work search requirements and the waiting week, and non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

Although EUISAA did not require states to provide documentation to support compliance with the grant eligibility requirements, ETA, through UIPL No. 13-20, advised states to "maintain any supporting documentation that serves as evidence for meeting the requirements in this UIPL, and based on which the funding is provided."

UIPL No. 13-20 provided the information states needed to include in their request for grant funds via the SF-424, including each state's prescribed share of the emergency administrative grant. To receive emergency administrative grant funds, states were required to attest compliance with the requirements identified

[16] Section 4102(a) of EUISAA (42 U.S. Code, Section 1103(h)(1)(C)(ii))

in UIPL No. 13-20 by submitting a completed SF-424 application that included one of the following pieces of information:

- State attests to meeting the requirements for the first allotment and second allotment, as described in UIPL No. 13-20.
- State attests to meeting the requirements for the first allotment, as described in UIPL No. 13-20.
- State attests to meeting the requirements for the second allotment, as described in UIPL No. 13-20.

In addition, states needed to check the "I AGREE" box on the SF-424 application to attest that the information provided was accurate. The application also included a statement indicating that certifying to any false, fictitious, or fraudulent statement could result in criminal, civil, or administrative penalties under the law.[17] Therefore, ETA relied on states' attestations and certifications via an SF-424 to qualify states for grant funds.

For each allotment, the SSA required the Secretary of Labor certify to the Secretary of the Treasury that states complied with the requirements to receive emergency administrative grant funds. ETA emailed certification letters signed by ETA's Assistant Secretary of Labor to the Secretary of the Treasury that listed the state(s) qualified to receive grants and the amount of grant funds each state should receive. The signed certification letters read:

> I hereby certify to you, under Sections 903(h)(1)(C), subsections (i) and (ii), SSA, that the following states **qualify** for the transfer of the amounts listed below to their account in the Unemployment Trust Fund from the Employment Security Administration Account. [Emphasis Added]

Upon certification, the Secretary of the Treasury transferred the grant funds to the states' accounts within the Unemployment Trust Fund. ETA officials indicated that all states received their prescribed share of the $1 billion in emergency administrative grant funds by the transfer deadline of September 30, 2020. However, ETA did not have evidence states complied with the requirements prior to the transfer of grant funds to the states' accounts because it did not require

[17] 42 U.S. Code, Title 18, Section 1001

states to submit the evidence until August 2, 2021, which was over 10 months after the September 30, 2020, transfer deadline.[18]

The OIG asked ETA officials why it took so long to request states to submit supporting documentation. In response, ETA stated it requested states submit supporting documentation "as quickly as possible" after providing states with guidance and technical assistance to implement and address the challenges of administering UI programs established under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act was enacted 9 days after Congress authorized the emergency administrative grants,[19] with subsequent enactments that modified and extended the terms of the UI programs.[20]

We examined supporting documentation five states submitted to ETA as evidence of their compliance with the requirements to receive both allotment of emergency administrative grant funds. For the first allotment, we found the documentary support for one state did not meet one of the requirements for receiving grant funds (see Exhibit 1, Table 1), and the remaining four states provided insufficient documentation to determine if they met the requirements for receiving grant funds (see Exhibit 1, Table 2). Yet, ETA certified to the Secretary of the Treasury these five states were qualified to receive the first allotment of emergency administrative grant funds, totaling more than $79.9 million (see Exhibit 1, Table 3).

For the second allotment, we determined that the five states met the three requirements to receive the emergency administrative grant funds. Specifically, we found that each state exceeded the requirement to apply for the second allotment by at least 265 percent and met the remaining two requirements. Therefore, these states were qualified to receive the second allotment of emergency administrative grant funds, totaling more than $79.9 million.

On March 3, 2022, we asked ETA officials if, during their review of the states' supporting documentation, they had identified states that did not meet the

[18] On June 3, 2021, ETA issued UIPL No. 13-20, Change 2, requesting states submit supporting documentation. This UIPL required states to submit supporting documentation by August 2, 2021, 306 days after the September 30, 2020, deadline for transferring all grants funds to states' accounts.
[19] On March 27, 2020, Congress enacted the following UI programs, 9 days after authorizing the emergency administrative grants: Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, and Pandemic Emergency Unemployment Compensation.
[20] The enactments were the following: CARES Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136); Protecting Nonprofits from Catastrophic Case Flow Strain Act of 2020 (Protecting Nonprofits Act) (Pub. L. 116-151); Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (Pub. L. 116-260); and American Rescue Plan Act of 2021, including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2).

requirements for receiving emergency administrative grant funds. As of April 7, 2022, 690 days after the first allotment deadline, ETA had not verified whether 11 states met the requirements to receive the first allotment of emergency administrative grant funds. After an additional 295 days, on February 6, 2023, ETA had only verified that 2 of the 11 states previously identified were qualified to receive the grant funds. Therefore, ETA certified to the Secretary of Treasury that nine states that did not demonstrate compliance with the requirements were qualified to receive the first allotment, which together totaled more than $56.3 million (see Exhibit 2).

In total, ETA qualified 14 states to receive more than $136 million in emergency administrative grant funds, although the documentary support for one state did not indicate it complied with the statutory requirements before receiving grant funds, and the documentary support for the remaining 13 states was inadequate to determine compliance with the requirements (see Exhibit 3). Under the Inspector General Act of 1978, as amended, questioned costs include costs questioned by the OIG because of a finding that, at the time of the audit, such costs are not supported by adequate documentation.[21] We are identifying the $136 million as questioned costs (see Exhibit 4).

We recognize ETA focused on quickly distributing the emergency administrative grant funds to the states with the intent to help states respond to the drastic increase in UI claims during a pandemic. However, EUISAA gave ETA broad authority over its implementation.[22] Therefore, ETA could have done more to ensure states' compliance with the requirements to receive grant funds within a more reasonable time period and ahead of additional administrative grant expenditures.

ETA COULD NOT DEMONSTRATE HOW STATES USED THE EMERGENCY ADMINISTRATIVE GRANT FUNDS

ETA could not demonstrate if the states used the emergency administrative grant funds "only for the administration of its unemployment compensation law."[23] The emergency administrative grant funds were supplemental to the regular administrative funding states received each year to administer the states' UI programs. ETA stated that it does not track the states' use of emergency administrative grant funds and that "these funds, being part of the administrative

[21] 5 U.S. Code, Section 405(a)(4)(B)
[22] Section 4102(c) of EUISAA
[23] Section 4102(a) of EUISAA (42 U.S. Code Section 1103(h)(4))

funding provided to states, are subject to the single audit requirements and ETA's overall monitoring of UI administrative funding." Per ETA, states may use the administrative funds for the operation of their UI programs, including staff costs, equipment and information technology costs, and space and building operations. However, the single audit reports did not disclose how the funds were used, and ETA did not provide evidence to otherwise support monitoring activities that confirmed proper use of the funds. Because ETA did not sufficiently monitor the states' use of the grant funds, it cannot assure states spent grant funds only for the administration of the UI program.

UIPL No. 13-20, Change 1, provided the reporting instructions for states receiving emergency administrative grants. States needed to submit Form 2112 to ETA each month, reporting the deposit and withdrawal of emergency grant funds.[24] ETA posted daily on its website the Unemployment Trust Fund transactions that included the deposits of emergency administrative grant funds into each state's account. In addition, the states were required to submit Form 8403 to ETA by the first day of the second month after the month in which the transaction occurred, summarizing emergency grant fund transactions into and out of the Unemployment Trust Fund.[25] However, neither the UIPL nor the forms required states to disclose how they used the emergency administrative grant funds.

We reviewed the single audit reports for the five states examined to determine how they spent the emergency administrative grant funds. Only one of the five states had a single audit report disclosing the amount of emergency administrative grant funds spent, and that report did not disclose how states spent the funds. Single audit reports for the remaining four states made no mention of the emergency administrative grants; however, according to the federal Unemployment Trust Fund report, the states withdrew their emergency administrative grant funds. The emergency administrative grant funds spent were not specifically identified as expenditures in the single audit reports.

This lack of disclosure regarding the use of emergency administrative grant funds could have been avoided. The Office of Management and Budget (OMB) prepares the Compliance Supplement, an audit guide, to assist auditors in performing single audits. DOL is obligated to annually inform OMB of any updates needed to the Compliance Supplement and to work with OMB to ensure the Compliance Supplement focuses the independent auditor to test the compliance requirements most likely to cause misuse of funds.[26]

[24] States reported the information via ETA Form 2112, UI Financial Transaction Summary, Unemployment Fund, dated May 2000.
[25] ETA 8403 Summary of Financial Transactions - Title IX Funds, dated May 2000
[26] 2 C.F.R. 200.513(c)(4)

If the Compliance Supplement is not sufficiently updated, and if a single audit does not result in an audit finding that warrants sanctions, the single audit report would not necessarily disclose vital information—in this case, how states used the emergency administrative grant funds or if the funding was spent on allowable costs.

The circumstances surrounding the provisions of emergency administrative grants created a high risk of misuse. Specifically, ETA permitted the states to self-certify their compliance with the requirements to receive grant funds. This approach resulted in ETA's inability to confirm, 553 days after states received the emergency administrative grant funds, that 14 states were not qualified to receive grant funds. ETA also relied on single audit reports—which did not disclose how states used the funds—to monitor states' use of the emergency administrative grants. Given these circumstances, ETA should have informed OMB that the Compliance Supplement needed to be updated to include specific procedures for emergency administrative grant funds. These updates would have ensured the independent auditors disclosed expenditures in the single audit reports and helped ETA to ensure states used the funds as intended.

Government Auditing Standards states that auditors conducting single audits may consider reporting matters of waste and abuse, if they become aware of them.[27] On October 4, 2021, during the course of our audit, Georgia's Office of the State Inspector General reported, via a letter to Georgia's Office of the Governor, findings from its review of questionable expenditures made by the Georgia Department of Labor (GDOL), as documented in an audit report completed by the Georgia Department of Administrative Services (DOAS).[28] GDOL received approximately $32 million in emergency administrative grant funds in April 2020.[29]

DOAS found GDOL spent $1.1 million to regularly purchase meals for employees for nearly a 15-month period during the COVID-19 pandemic (from March 1, 2020, to June 11, 2021). DOAS stated approximately $567,000 (52 percent) of this funding came from GDOL's state funds appropriation, and the remaining funds originated from a federal grant provided to GDOL each year by the U.S. DOL for its UI program. The DOAS audit did not include an examination of the federal grant expenditures to ensure compliance with federal guidelines or the applicable grant requirements. Georgia's Office of the State Inspector General concluded that the vast majority of the $1.1 million in questionable

[27] 2018 Government Auditing Standards, Chapter 6: Standards for Financial Audits, Section 6.20
[28] The State of Georgia was not one of the five states that we reviewed.
[29] Unemployment Trust Fund Reports from TreasuryDirect.gov are available at: https://www.treasurydirect.gov/govt/reports/tbp/account-statement/report.html?account=000000000000511&date=04%2F2020&report=transactionStatement.

expenditures was waste[30] and provided its findings to the single audit team for consideration when auditing GDOL's expenditures of federal funds during the fiscal year ending June 30, 2021.

The single audit report for the State of Georgia disclosed that the state's accounting records revealed $516,722 in unallowable meal expenditures GDOL made with federal award funds during the fiscal year ending June 30, 2021.[31] Although the report stated GDOL's expenditures met the *Government Auditing Standards*' definition of waste and abuse,[32] the type of award from which the expenditures were made was not disclosed. It was only through GDOL's response to the single audit report finding that we learned the federal funds were emergency administrative grant funds. Furthermore, the report did not disclose whether the state used the remaining $31.4 million in emergency grant funds, or, if used, how the funds were spent. This single audit conducted in the State of Georgia is one example of how these audits do not sufficiently examine and report the types and use of federal funds in a way that would allow ETA to rely on the reports as their primary oversight mechanism.

In our view, the emergency administrative grant funds distributed to the states during the COVID-19 pandemic were vulnerable to misuse due to the following:

- ETA could not demonstrate states used the emergency administrative grant funds only to operate UI programs,
- ETA did not perform sufficient monitoring and relied on annual single audit reporting methodology to review this funding, and
- Single audit reports did not disclose how and/or if the emergency administrative grant funds were used.

[30] Per the audit report issued by Georgia's Office of State Inspector General on October 4, 2021, "waste" is defined as a reckless or grossly negligent act that causes state funds to be spent in a manner that was not authorized or represents significant inefficiency and needless expense. Of the total expenditures, $581,000 were state funds.
[31] State of Georgia Single Audit Report Part II (May 26, 2022), available at: https://sao.georgia.gov/document/document/state-georgia-fy21-single-audit-report-prt2rkpdf/download
[32] 2018 Government Auditing Standards, Chapter 6: Standards for Financial Audits, Sections 6.21 - 6.24

OIG'S RECOMMENDATIONS

To address wasteful spending and improve the future administration of emergency grants, we recommend the Acting Assistant Secretary for Employment and Training:

1. Specify within its policy the information states must include in their documentation to support compliance with the requirements to receive grant funds prior to disbursement of the funds.

2. Propose to the Office of Management and Budget an amendment to the annually updated Compliance Supplement for single audits to also disclose if states used the emergency administrative grant funds in accordance with applicable requirements in the single audit report.

3. Remedy the $136,353,567.50 in questioned costs.

SUMMARY OF ETA'S RESPONSE

ETA agreed or partially agreed to the three recommendations. In its response, ETA reaffirmed that states' self-attestations of compliance with EUISAA requirements served as verification of states' eligibility. As stated in this report, we disagree because ETA could have done more to ensure states' compliance with the requirements to receive grant funds.

ETA agreed to the first recommendation and indicated that, for future special UI funds, ETA will provide states with specific guidance that includes the documents required to demonstrate compliance with the requirements for receiving the UI funds.

ETA partially agreed to the second recommendation. ETA agreed to modify the annually updated Compliance Supplement for single audits—but only to ensure that special administrative funding is specifically referenced. ETA maintains that single audits are sufficient to monitor the states' use of administrative funds and cited the finding from a past single audit that revealed misuse of administrative funds as evidence supporting its position. However, as highlighted above, before conducting the cited single audit, the auditor learned of the misuse of administrative funds in an October 4, 2021, letter from the State of Georgia Inspector General to the Georgia's Office of the Governor. As a result, the auditor performed additional tests to determine if the misuse qualified as waste and abuse under the *Government Auditing Standards* and concluded that the misused funds were a waste of emergency administrative grant funds. Moreover,

according to the *Government Auditing Standards*, auditors may consider addressing issues of waste and abuse if they are made aware of them. Consequently, instances of fund misuse could potentially be overlooked if auditors are not notified about them prior to or during a single audit.

ETA partially agreed to the third recommendation. ETA agreed with the findings outlined in Exhibit 1 and Exhibit 2; however, ETA indicated that two of the states listed in Exhibit 1, Table 2 (Alaska and Arkansas) met the requirements to receive the first allotment. ETA provided documentation demonstrating that the two states' complied with the requirements; however, as indicated in Exhibit 1, Table 2, we could not determine if they complied with all requirements prior to the date they received their first allotment. Therefore, we maintain our conclusion that we could not determine from an examination of the states' supporting documentation if the states complied with the requirements before receiving the first allotment; consequently, the total of $5,051,500.50 in emergency administrative grant funds transferred to the two states' accounts is considered questioned costs as defined by the Inspector General Act of 1978, as amended, 5 U.S.C. Section 405(a)(4)(B).

ETA's response is included in its entirety in Appendix B.

We appreciate the cooperation and courtesies ETA extended us during this audit. OIG personnel who made major contributions to this report are listed in Appendix C.

Carolyn R. Hantz
Assistant Inspector General for Audit

EXHIBIT 1: OIG'S ANALYSIS OF STATES' DOCUMENTARY SUPPORT FOR FIRST ALLOTMENT

Table 1: State Not Eligible for First Allotment

State Count	State	SSA Requirement	Date Met Requirement	Date Funds Received	Funds Transferred
1	Alabama	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	7/16/2020	4/3/2020	$6,365,768.50
				Total Funds Transferred	**$6,365,768.50**

Source: Based on the states' documentation provided by ETA to support compliance with SSA requirements.

Table 2: States That the OIG Could Not Determine (CND) Met the Requirement(s) for the First Allotment

State Count	State	SSA Requirement	Date Met Requirement	Date Funds Received	Funds Transferred
1	Alaska	Notify applicants of steps necessary to ensure the successful processing of their application when it cannot be processed	CND	4/3/2020	$1,045,067.50
2	Arkansas	Notify applicants when an application is received and is being processed	CND	4/23/2020	$4,006,433.00
3	Arizona	All Requirements	CND	4/15/2020	$9,572,375.00
4	California	All Requirements	CND	4/1/2020	$58,986,153.00
				Total Funds Transferred	**$73,610,028.50**

Source: Based on the states' documentation provided by ETA to support compliance with SSA requirements

Table 3: Total Funds Transferred for the Five States the OIG Analyzed for First Allotment

Documentary Support Status	Funds Transferred
State with Unsupported Documentation	$6,365,768.50
States with Insufficient Documentation	$73,610,028.50
Total Funds Transferred	**$79,975,797.00**

Source: Based on the states' documentation provided by ETA to support compliance with SSA requirements

EXHIBIT 2: ETA'S ANALYSIS OF DOCUMENTARY SUPPORT FOR FIRST ALLOTMENT

Table 4: States That ETA Has Not Determined Qualified for First Allotment

State Count	State	SSA Requirement Not Met	Date Received Funds	Funds Transferred
1	Hawaii	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/16/2020	$1,969,671.00
2	Idaho	Ensure applications for unemployment compensation and assistance with the application process are accessible	4/10/2020	$2,194,905.50
3	New Jersey	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/3/2020	$14,753,474.50
4	New Mexico	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/1/2020	$2,631,736.50
5	North Dakota	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/17/2020	$1,205,504.00
6	Oklahoma	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/1/2020	$5,481,808.00
7	Tennessee	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/1/2020	$9,830,922.00
8	Utah	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/17/2020	$4,904,962.50
9	Virginia	Require employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment	4/1/2020	$13,404,786.50
			Total Funds Transferred	**$56,377,770.50**

Source: Results from ETA's examination of the states' documentation to support compliance with the grant eligibility requirements outlined in the SSA.

EXHIBIT 3: TOTAL FUNDS TRANSFERRED FROM ETA AND OIG ANALYSES

Table 5: Total Funds Transferred to 14 States with Qualification Statuses of Undetermined or Not Qualified

Determined Qualification Status	Funds Transferred
State with Unsupported Documentation	$6,365,768.50
States with Insufficient Documentation	$129,987,768.50
Total Funds Transferred	**$136,353,567.50**

Source: Results based on the OIG's and ETA's analysis of states' supporting documentation.

EXHIBIT 4: QUESTIONED COSTS

Table 6: Questioned Emergency Administrative Grant Costs

Description of Questioned Costs	No. of States	Amount
Grant funds distributed to unqualified state	1	$6,365,768.50
Grant funds distributed to states with inadequate supporting documentation	13	$129,987,799.00
Total Questioned Costs		**$136,353,567.50**

Under the Inspector General Act of 1978, as amended,[33] questioned costs include costs questioned by the OIG at the time of the audit because the costs are not supported by adequate documentation.

The table shows the total questioned costs for the 14 states previously identified. The documentary support submitted by 1 of the 14 states indicated it did not meet the statutory requirements before receiving emergency administrative grant funds, yet ETA certified the state was qualified to receive more than $6.3 million in its first allotment of emergency administrative grant funds.[34] The documentary support for the remaining 13 states was inadequate to determine if they warranted the receipt of grant funds, yet ETA certified these states were qualified to receive more than $129.9 million in the first allotment of grant funds.[35] As a result, we are claiming more than $136.3 million in total questioned costs.

[33] 5 U.S. Code, Section 405(a)(4)(B)
[34] Exhibit 1 (Table 1) provides information about the one state that provided documentary support indicating it did not meet the statutory requirement before receiving grant funds.
[35] Exhibit 1 (Table 2) and Exhibit 2 (Table 4) provide information about the 13 states that provided inadequate documentary support to determine if they met the statutory requirements before receiving grant funds.

APPENDIX A: SCOPE AND METHODOLOGY

SCOPE

The audit covered ETA's efforts to (1) ensure states were qualified to receive emergency administrative grants between March 18, 2020, and September 30, 2020, and (2) ensure states' use of the grant funds were to administer UI programs.

METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To accomplish our objective, we interviewed ETA officials responsible for emergency administrative grant oversight and analyzed documentation provided by five states to ETA as evidence of their compliance with the requirements to receive emergency administrative grant funds. To select the states, we requested ETA email documentation that all states submitted to support their compliance with the requirements to receive emergency administrative grant funds. Alabama, Alaska, Arizona, Arkansas, and California were the states whose supporting documentation was attached to the first five emails selected for analysis. For the first allotment, we assessed whether the five states complied with the requirements before the allotment was deposited into their Unemployment Trust Fund. Furthermore, we assessed whether the deposit was made by May 17, 2020. For the second allotment, we assessed whether the five states met the applicable eligibility requirements before the allotment was deposited into their Unemployment Trust Fund. Finally, we reviewed ETA's findings from their review of supporting documentation submitted by all states.

CRITERIA

- 2 C.F.R. Section 200, Subpart F
- 2 C.F.R. Section 200, Appendix XI, Compliance Supplement, July 2021
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (2020)

- Division D of the Families First Coronavirus Response Act of 2020, Emergency Unemployment Insurance Stabilization and Access Act of 2020
- ETA's Unemployment Insurance Program Letter No. 13-20, dated March 22, 2020
- ETA's Unemployment Insurance Program Letter No. 13-20, Change 1, dated May 4, 2020
- ETA's Unemployment Insurance Program Letter No. 13-20, Change 2, dated June 3, 2021
- GAO Government Auditing Standards, July 2018
- Inspector General Act of 1978, as amended
- Section 903(h) of the Social Security Act of 1935, 42 U.S. Code 1103(h)

INTERNAL CONTROLS

In planning and performing our audit, we considered ETA's internal controls relevant to our audit objective by obtaining an understanding of those controls through interviews and reviews of policies and procedures. We assessed the following internal control areas relevant to the audit objective: Control Environment, Control Activities, Agency Risk Assessment, Information and Communication, and Monitoring. Our consideration of internal controls relevant to our audit objective would not necessarily disclose all matters that might be significant deficiencies. Because of inherent limitations in internal controls, or misstatements, noncompliance may occur and not be detected.

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor

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

June 23, 2023

MEMORANDUM FOR: CAROLYN R. HANTZ
Assistant Inspector General for Audit

FROM: BRENT PARTON
Acting Assistant Secretary

SUBJECT: Response to Draft Report:
ETA Did Not Provide Adequate Oversight of Emergency Administrative Grants, Report Number: 19-23-xxx-03-315

The Department of Labor's (Department) Employment and Training Administration (ETA) appreciates the opportunity to respond to the above-referenced Office of Inspector General (OIG) draft report. This draft report addresses ETA's oversight of emergency administrative funds authorized under the Emergency Unemployment Insurance Stabilization and Access Act (EUISAA) of 2020.

ETA appreciates the OIG's input on how ETA can manage such distributions more effectively during mass unemployment events to ensure states have adequate resources in periods of high demand. ETA remains committed to promoting unemployment insurance (UI) program integrity and accountability of government spending.

ETA cannot stress enough that during the onset of the pandemic and its impact on the UI program, ETA and state staff faced enormous workloads. Prior to the pandemic, UI claims remained near historic lows with both administrative funding and state staffing levels reflecting that low operational need. Within a matter of weeks, states were inundated with six million initial claims filed in a two-week period. In addition, states had to stand up and implement multiple complex unemployment compensation (UC) programs created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act while simultaneously transitioning to remote operations during a global pandemic. Recognizing that states needed the additional administrative funding provided in the EUISAA and the limited capacity states had to address the administrative burden, decisions were made to ensure states were able to receive this much needed funding as soon as possible.

ETA understands the OIG's perspective, as reflected in the OIG's draft report, that ETA should have done more to verify states' eligibility prior to transferring the funds. However, Congress intended these funds be distributed to states as soon as possible and the statute required the first allotment of funds to be provided to states within 60 days of enactment. In this 60-day timeframe, ETA had to develop guidance, work with states to submit Application for Federal Assistance, Standard Forms (SF-424s), and certify these transfers to all states. It is not a realistic

expectation for ETA staff to have also conducted significant eligibility reviews in this timeframe (not to mention the context that CARES Act implementation was underway at the same time).

The Biden-Harris Administration made the gathering of information from states documenting their compliance a high priority. It was addressed shortly after the issuance of the necessary guidance to implement changes to the CARES Act programs under the American Rescue Plan Act (ARPA). The last implementation guidance related to new requirements enacted in ARPA concerning the temporary pandemic-related programs was published on April 7, 2021. The emergency administrative grants documentation request referenced in this audit was issued on June 3, 2021.

Qualification for Emergency Grants. The draft report incorrectly states that ETA did not verify a state's eligibility for the emergency administrative funding prior to certifying the transfer of funds to Treasury. All states qualified for the grants by submitting their attestations in advance, stating they met the EUISAA requirements relating to each allotment of emergency funding prior to ETA certifying to Treasury to make the transfers. Each state attested that it met the EUISAA requirements when it submitted to ETA its SF-424. The attestations were verification of the states' eligibility. The SF-424 process was the simplest and most expeditious method by which the Department could disburse emergency funding to the states to meet the statutory 60-day disbursement requirement and to simultaneously address the guidance and technical assistance needed for the new pandemic UI benefits programs created under the CARES Act. Furthermore, ETA also instructed states to keep documentation as evidence that the requirements were met as discussed in Unemployment Insurance Program Letter (UIPL) 13-20, Change 2[1].

Demonstration of Correct Usage of Funds. The OIG's draft report states that ETA could not demonstrate if states used the emergency administrative grant funds to administer UI programs. The emergency administrative grants were transfers of administrative funding to supplement the states' annual administrative grant funding. These emergency administrative funds were monitored under the same process as the annual regular UI administrative funds, as well as the single audit requirement. The single audit process is a proven and effective method of overseeing states' use of administrative grants. In fact, the one example cited in the OIG's report of a questionable use of funds was identified through the single audit process. This example demonstrates that the single audit process was being utilized to monitor states' use of funds and finding when funds were not used properly. The draft report acknowledges that the questionable expenditures were revealed by the "single audit report." See page 11 of the draft report.

Response to the OIG Recommendations. ETA is committed to continuing its work with states to reconcile and account for EUISAA emergency administrative funding. Please find below each of the OIG's recommendations contained in this draft report, followed by ETA's response and proposed action steps to address them.

[1] https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-13-20-change-2

Recommendation 1: Specify within its policy the information states must include in their documentation to support compliance with the requirements to receive grant funds prior to disbursement of the funds.

ETA Response: ETA concurs with this recommendation. For future UI special transfers, ETA will include specific guidance prior to disbursement of the funds noting the documents that will be needed to support compliance with the requirements to receive the UI funds.

Recommendation 2: Propose to the Office of Management and Budget an amendment to the annually updated Compliance Supplement for single audits to also disclose if states used the emergency administrative grant funds in accordance with applicable requirements in the single audit report.

ETA Response: ETA partially agrees with this recommendation. The compliance supplement for single audits for regular UI administrative funding is currently applicable to any emergency administrative funding, like the EUISAA funding, and the applicable uses of this funding were the same as the regular administrative grant funding. As such, ETA believes a separate accounting for the use of these funds is unnecessary, but it needs to be clear that these funds should be reviewed as part of the review of all administrative funding.

ETA will address this type of special administrative funding opportunity within the compliance supplement to ensure it is specifically referenced and included in the compliance supplement in the event of a similar future funding opportunity and will make clear the applicability of the single audit review to these types of awards.

Recommendation 3: Remedy the $136,353,567.50 in questioned costs.

ETA Response: ETA partially agrees with this recommendation. ETA concurs that the information regarding the compliance documentation in responses provided by the states is reflected in Exhibits 1 and 2 and the information raises issues that need to be reviewed. ETA will make any necessary determinations to appropriately address the identified costs.

However, ETA notes that Alaska and Arkansas, which are listed on Exhibit 1, Table 2, did meet the qualifications for the first allotment under EUISAA and ETA will not need to conduct a review or take any action regarding these two states.

APPENDIX C: ACKNOWLEDGEMENTS

Key contributors to this report were:

Brittany Arias, Writer-Editor
Carolyn Cayode-Gorman, Associate Counsel
Michael Kostrzewa, Audit Director
Charmane Miller, Auditor-In-Charge
Zaunder Saucer, Audit Manager

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Address
Office of Inspector General
U.S. Department of Labor
200 Constitution Ave. NW
Room S-5506
Washington, DC 20210