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Office of Inspector General—Office of Audit

REPORT TO THE EMPLOYMENT AND TRAINING ADMINISTRATION



ETA SHOULD DO MORE TO ASSIST VULNERABLE STATES PREPARE FOR DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM IMPLEMENTATION

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BRIEFLY...

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SEPTEMBER 29, 2020

WHY OIG CONDUCTED THE AUDIT

In Fiscal Year 2017, Hurricanes Harvey, Irma and Maria devastated parts of the Caribbean Islands and the United States. The Federal Emergency Management Agency, by way of administration from the Employment and Training Administration (ETA), granted \$85 million in Disaster Unemployment Assistance (DUA) funds to the states of Florida, Georgia, Texas, and islands of Puerto Rico and the U.S. Virgin Islands (USVI). We conducted the audit because prior OIG reports indicated a breakdown of essential systems during disasters and increased risk of fraud, improper payments, and untimely benefit payments.

WHAT OIG DID

We conducted this performance audit to answer the following questions:

Were controls established to ensure DUA benefits were paid only to eligible claimants?

Were controls established to ensure DUA benefits were paid promptly?

To answer these questions, we assessed ETA's system of controls and performed tests and other procedures at the Texas Workforce Commission, the Florida Department of Economic Opportunity (FLDEO) and the USVI Department of Labor (VIDOL).

READ THE FULL REPORT -

<http://www.oig.dol.gov/public/reports/oa/2020/04-20-002-03-315.pdf>

WHAT OIG FOUND

We found ETA's oversight of states vulnerable to major disasters was inadequate. ETA did not establish adequate controls to ensure states paid DUA benefits only to eligible individuals and paid them as promptly as administratively feasible.

ETA did not establish adequate controls to ensure states paid benefits only to eligible claimants. ETA did not make a timely on-site monitoring visit to FLDEO, or ensure FLDEO and VIDOL provided DUA training to their staffs or ensure they had developed DUA-specific standard operating procedures. Training and procedures would have better ensured officials collected documentation necessary to substantiate a claimant's eligibility. ETA does not have specific policies and procedures in place that require states to have periodic training or to ensure regional office officials make timely monitoring visits. As a result, FLDEO and VIDOL officials could not substantiate eligibility for 23 percent of the claims we tested at either site. We estimate that \$5.6 million could have been put to better use.

ETA did not establish adequate controls to ensure states paid benefits promptly. ETA did not provide adequate oversight to ensure VIDOL provided DUA training, developed standard operating procedures, or took the necessary measures to reduce its backlog of claims. ETA does not have specific policies or procedures that require states to provide periodic DUA training. ETA also did not ensure VIDOL had DUA-specific written standard operating procedures. As a result, VIDOL only paid 27 percent of its claims within 21 days. Initial delays were understandable due to the devastation suffered; however, it only paid 42 percent of extended claims timely, even though claimants did not file these claims until at least 18 months after the hurricanes hit.

WHAT OIG RECOMMENDED

We made three recommendations to the Assistant Secretary for Employment and Training to improve DUA oversight of states vulnerable to major disasters.

ETA generally agreed with our recommendations.

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INSPECTOR GENERAL'S REPORT

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This report presents the results of the Office of Inspector General's (OIG) audit of State Workforce Agencies' (states) use of the Disaster Unemployment Assistance (DUA) program after Hurricanes Harvey, Irma, and Maria.

In Fiscal Year 2017, Hurricanes Harvey, Irma and Maria devastated parts of the Caribbean Islands and the United States. The Federal Emergency Management Agency (FEMA), by way of administration from the U.S. Department of Labor (DOL)/Employment and Training Administration (ETA), granted approximately \$85 million in DUA funds to the states of Florida, Georgia, Texas, and the islands of Puerto Rico and the U.S. Virgin Islands (USVI). We conducted the audit because prior OIG reports indicated a breakdown of essential systems during disasters and increased risk of fraud, improper payments, and untimely benefit payments.

ETA administers the DUA program in coordination with FEMA. State agencies that receive DUA grants administer the program by issuing press releases throughout declared disaster areas announcing DUA availability and processing DUA claims. The DUA program is available to provide timely unemployment benefits to individuals who have become unemployed because of a presidential-declared disaster, but are not eligible for regular Unemployment Insurance (UI).

We conducted this performance audit to answer the following questions:

Were controls established to ensure DUA benefits were paid only to eligible claimants?

Were controls established to ensure DUA benefits were paid promptly?

To answer these questions, we conducted work at ETA's Office of Unemployment Insurance (OUI) national office and at the OUI regional offices in Atlanta, Dallas, and Boston to determine and assess ETA's procedures and internal controls for the period August 25, 2017 to October 30, 2019.

We visited Texas, Florida, and the USVI, where we conducted interviews, assessed controls relevant to our objectives, performed statistical testing, and analyzed performance data.

We determined ETA did not establish adequate controls to ensure states paid DUA benefits only to eligible individuals and paid them as promptly as administratively feasible.

Background

Following a presidential declared disaster, FEMA provides funds for the payment of benefits and reimburses the state for its administrative costs. The program emphasizes the proper and prompt determination of entitlement and payments to eligible applicants/claimants as well as accurate reporting of DUA activities. As the declared administrator of the program, ETA's oversight of the DUA program is to:

- ensure the regional offices are prepared to assist states,
- identify and document risks and mitigate control weaknesses,
- coordinate with FEMA representatives on funding estimates,
- review all reports for accuracy and completeness,
- ensure payments of DUA benefits are made according to regulations, and
- conduct on-site visits to the states during the initial application period.

State agencies are required to:

- act as agents of the Secretary for the purpose of providing assistance to applicants who are unemployed as a direct result of a major disaster;
- accept as timely, applications filed within 30 days of the state announcement of availability of DUA;

- develop necessary operating procedures, instructions, and forms to process DUA;
- establish controls to ensure payments are made only to eligible applicants;
- obtain all information necessary to determine the applicant's eligibility for DUA;
- ensure all staff are fully trained in administering the DUA program; and
- furnish reports on disaster activities using ETA 902 reports and financial transactions using ETA 2112 reports.

Individuals who desire monetary assistance through the DUA program must generally: (1) apply within 30 days of a president's declared disaster, (2) not be eligible for regular unemployment compensation, and (3) meet program eligibility requirements. States may pay DUA benefits to eligible claimants for any eligible week of unemployment during the disaster assistance period, which begins the week following the major disaster and ends after 26 weeks.

RESULTS

We found ETA's oversight of states vulnerable to major disasters was inadequate. Specifically, ETA did not establish adequate controls to ensure states paid DUA benefits only to eligible individuals and paid them as promptly as administratively feasible.

ETA did not establish adequate controls to ensure states paid benefits only to eligible claimants. ETA did not make a timely on-site monitoring visit to the Florida Department of Economic Opportunity (FLDEO), or ensure FLDEO and the Virgin Islands Department of Labor (VIDOL) provided DUA training to their staffs or ensure they had developed DUA-specific standard operating procedures as required by the DUA handbook.¹ Training and procedures would have better ensured officials collected documentation necessary to substantiate a claimant's eligibility. ETA does not have specific policies and procedures that require states to provide periodic DUA training to their staffs or to ensure timely monitoring visits by ETA regional office officials. As a result, FLDEO and VIDOL officials could not substantiate eligibility for 23 percent of the claims we tested at either site. We estimate that \$5.6 million could have been put to better use.

ETA did not establish adequate controls to ensure states paid benefits promptly. ETA did not provide adequate oversight to ensure VIDOL provided DUA training, developed standard operating procedures, or took the necessary measures to reduce its backlog of claims. ETA does not have specific policies or

¹ ET Handbook 356 (DUA), Chapter 1, Section 11-f

procedures that require states to provide periodic DUA training. In addition, ETA did not ensure VIDOL had DUA-specific written standard operating procedures. As a result, VIDOL only paid 27 percent of its claims within 21 days. Initial delays were understandable due to the devastation suffered; however, it only paid 42 percent of extended claims timely, even though claimants did not file these claims until at least 18 months after the hurricanes hit.

**ETA DID NOT ESTABLISH ADEQUATE
CONTROLS TO ENSURE STATES PAID
BENEFITS ONLY TO ELIGIBLE CLAIMANTS**

ETA did not have a policy that required ETA regional office officials to make timely monitoring visits to states receiving DUA funds, or to ensure at-risk states provided their staffs DUA training. ETA also did not ensure states had DUA-specific standard operating procedures as required. Timely oversight, periodic training, and standard procedures would have better guaranteed the collection of all necessary documentation to substantiate a claimant's eligibility.

The GAO Green Book² states that the oversight body is responsible for overseeing the strategic direction of the entity and obligations related to the accountability of the entity. This includes overseeing management's design, implementation, and operation of an internal control system.

Federal regulations and the ET Handbook (DUA)³ provide the specific requirements that ETA must ensure states follow when approving DUA claims. To be eligible, a claimant must:

- 1) apply for benefits within 30 days (unless an extension is granted) of the announcement date,
- 2) have one or more weeks of unemployment during the disaster assistance period,
- 3) be an unemployed worker or have a firm offer of employment,
- 4) be an unemployed self-employed individual or have firm plans for self-employment; and
- 5) be unemployed because of the declared disaster.

In addition, a claimant must provide sufficient documentation to substantiate employment, self-employment, or the scheduled commencement of either employment or self-employment. Claimants who do not provide requested

² Standards for Internal Controls in the Federal Government: GAO-14-704G, issued September 10, 2014

³ Code of Federal Regulations (CFR) 20, Part 625 and ET Handbook 356 (DUA)

documentation within 21 days of the application date are not eligible for benefits, and any benefits previously paid are subject to overpayment collection.

ETA does not have specific policies or procedures that require states vulnerable to major disasters to provide periodic DUA training to its staff. In addition, although the ETA handbook does state that ETA is to conduct on-site visits to states during the initial application period, as appropriate, it does not have specific requirements for ETA regional office staff to conduct timely on-site monitoring visits to states impacted by major disasters. The monitoring visits we refer to here are those that involve a significant review of ongoing program operations and often result in written findings and recommendations. The DUA program is not a new or infrequently used program. According to historical ETA 902 report data, every state but one has been authorized to provide DUA benefits at least once between June 1983 and July 2017. In total, there have been approximately 700 disaster declarations that authorized DUA benefits during that time period.

We found that the Texas Workforce Commission (TWC) operated its DUA program more effectively than the other two sites we visited, as TWC did a better job of verifying eligibility and paid its claims much more promptly due to its early planning. Examples of steps TWC took to improve DUA operations include the following:

- a phone message system to claimants who were on hold - describing how to file quickly;
- a 24/7 filing service to process claims timely;
- extra staff, (retirees and temporary staff to process claims);
- staff participation in DUA meetings and annual disaster trainings; and
- a Disaster Operational Guide based on lessons learned from prior disasters.

In addition to not requiring states to provide their staff training, ETA also did not provide state officials with DUA online training until November 9, 2018, when it issued Training and Employment Notice, 8-18, which announced the availability of online DUA training to states through the National Association of State Workforce Agencies (NASWA). ETA worked closely with NASWA in developing this training. The notice identified the need for readily accessible training for designated DUA personnel to effectively administer DUA. The DUA training is designed to provide a broad overview for staff charged with accepting DUA applications, adjudicating claims, and hearing appeals. The training course includes lessons on DUA background and history, overpayments, and appeals.

ETA issued the Training and Employment Notice approximately one year after Hurricanes Irma and Maria occurred. Consequently, it did not assist the FLDEO

or VIDOL staff in correctly processing DUA claims subsequent to Hurricanes Irma and Maria. In addition, subsequent to Hurricane Irma, FLDEO provided its staff DUA training in May 2018 and again in August 2019.

In May 2017, ETA's Atlanta regional office held a regional roundtable for state DUA coordinators, during which ETA provided attendees training and discussed DUA-related issues. FLDEO sent a benefits administrator to this roundtable. Although we acknowledge ETA's roundtable was well intentioned, it did not result in FLDEO providing training to its staff prior to Hurricane Irma or prevent many of the eligibility issues that both ETA and the OIG later detected.

FLDEO and VIDOL paid benefits to DUA claimants whose eligibility they could not substantiate for 23 percent of the claimants we tested at each of those agencies. To arrive at these results, we selected a stratified random sample of DUA claims at the FLDEO, TWC, and VIDOL, and tested them to verify that state officials made eligibility determinations that were consistent with regulations and supported with sufficient documentation. We did not find any issues with the cases we tested at the TWC.

We found control weaknesses in FLDEO and VIDOL processes in 1) the lack of periodic DUA-specific training, 2) the implementation of standard operating procedures to process DUA, and 3) the establishment of controls to ensure payments are made only to eligible applicants. These weaknesses resulted in officials at these two sites approving an estimated 23 percent of the claims we tested without being able to support the claimants' eligibility.

Overall, our testing resulted in an estimated 2,149 of 35,418 claimants in our sampled universe whose case files did not support claimants' eligibility. To arrive at these results, we selected a statistical, stratified random sample of DUA claims in Texas, Florida and the USVI, and tested them to verify that officials made eligibility determinations that were consistent with regulations and supported with sufficient documentation.

FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

The FLDEO paid benefits to 17 of 73 claimants (23 percent) we tested without being able to demonstrate those claimants were eligible for the program. We questioned the 17 claimants' eligibility for the following reasons:

- Eight individuals did not have sufficient documentation to support they had an employer or were self-employed prior to Hurricane Irma.
- Four individuals claimed they had bonafide offers of employment, but the file did not include sufficient documentation to support the offers of employment.

- Two individuals were employed during the weeks benefits were claimed.
- Two individuals were not unemployed because of Irma.
- One individual filed after the deadline without providing good cause.

The following are examples of FLDEO paying claimants DUA benefits without being able to support claimant eligibility:

One claimant was unemployed at the time of Hurricane Irma, but the claimant's application indicated a start date for future employment of October 9, 2017. The file did not contain documentation to support that the specified employer had made a job offer to the claimant; however, FLDEO officials approved the claim and paid the claimant the weekly minimum benefit amount of \$122 per week for 23 weeks, for a total of \$2,806.

Another claimant stated on her application that she was unable to go to work on September 7, 2017, because the building she worked in had lost power. The claimant submitted an email to FLDEO claiming some of her co-workers had not returned to work for a week and a half due to the loss of air conditioning, but she had continued to work in the heat because she could not afford to miss work. She also submitted pay stubs that indicated she worked 72 hours during the first two weeks of the disaster assistance period. Yet, despite available documentation proving the claimant continued to work, FLDEO officials paid the claimant \$275 per week for a period of 19 weeks, or a total of \$5,225.

Although ETA did provide technical assistance to FLDEO, including an on-site visit by one individual in October 2017, the ETA regional office in Atlanta did not make a monitoring visit to FLDEO until April 16, 2018, or 218 days after September 10, 2017, the major disaster declaration date and approximately one month after the disaster assistance period had ended. The regional office issued the monitoring report related to that visit on August 28, 2018. The report included several of the same issues we found in our review, including the following:

- The files contained insufficient information to provide reasonable assurance that decisions were consistent with Federal guidelines and regulations.
- The claimants made statements they were scheduled to commence employment without providing documentation or corroborating affidavits from the prospective employer.

Had ETA performed a timely monitoring visit, FLDEO may have taken corrective actions to prevent approval of claims without adequate documentation.

As a result, we question \$36,374 of the \$67,727 in benefits paid DUA claimants, which represents approximately 54 percent of the benefits tested. FLDEO paid benefits to these claimants without confirming they were eligible for the DUA program.

U.S. VIRGIN ISLANDS DEPARTMENT OF LABOR

The VIDOL paid benefits to 14 of 60 claimants (23 percent) tested without being able to demonstrate the claimants were eligible for the program. We questioned the 14 claimants' eligibility for the following reasons:

- Seven individuals did not have sufficient documentation to support they had an employer or were self-employed prior to Hurricanes Irma or Maria.
- Two individuals claimed they had bonafide job offers, but the files did not include sufficient documentation to support a firm offer of employment.
- Two individuals' unemployment was not because of Hurricanes Irma or Maria.
- One individual did not provide timely supporting documentation.
- One individual was not unemployed during the time for which DUA benefits were paid.
- One individual did not apply timely.

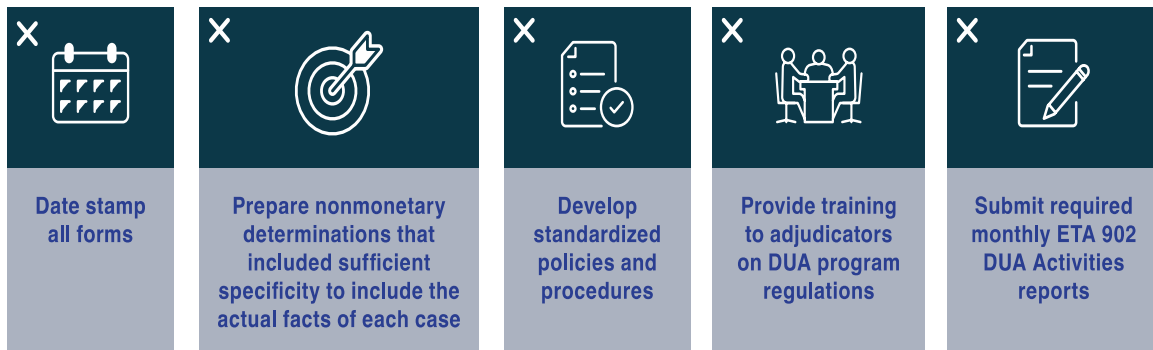
Some examples of VIDOL paying benefits to individuals whose eligibility it could not substantiate include the following:

One claimant filed his initial DUA claim on October 23, 2017. The VIDOL sent him a letter dated March 21, 2018, approving his claim for DUA benefits. However, a letter dated March 26, 2018, informed the claimant that VIDOL would be unable to approve the claim unless the claimant provided required documentation within 10 days. VIDOL paid the claimant a total of \$4,706 on May 23, 2018. The claimant did not provide timely documentation to support his claim, as 149 days passed from the date of the claimant's application to the date VIDOL approved the claim. The application signed by the claimant on October 23, 2017, clearly stated that all documentation be submitted by the claimant within 21 days. This did not happen.

Another claimant stated a fish market had offered her part-time work that was to have begun in January 2018, four months after the hurricanes. The claimant did not provide any documentation to support her claim that the fish market had offered the employment. The claimant was paid \$2,171 in a lump sum payment.

Although ETA lacked a control specifically requiring regional offices to perform timely on-site visits, ETA's Boston regional office made a timely visit to the VIDOL from November 28, 2017, to December 5, 2017. ETA found that VIDOL

did not ensure claimants completed all required forms in their entirety or submitted all necessary documentation prior to payment. The regional office performed a second visit to VIDOL between July 23, 2018 and July 27, 2018. On this visit, regional office officials found claimant eligibility issues. When the OIG visited VIDOL in September 2019, we found ETA's visits had proven ineffective because many of the same issues continued to exist. VIDOL still had not properly dated all forms; prepared nonmonetary determinations; and provided adequate policies, procedures, training and reporting. The following figure shows the specific corrective actions VIDOL failed to implement.



The lack of DUA-specific training and standard operating procedures resulted in:

- Claimant files that included insufficient information to provide reasonable assurance that decisions were consistent with Federal regulations and guidance.
- Claimant statements saying they were scheduled to commence employment without providing documentation or corroborating affidavits from prospective employers.

Despite ETA's visits and identification of numerous issues, we found many of these issues had not been resolved by the time of our visit in September 2019. As demonstrated by the results of our tests and internal control review, we found VIDOL could not support approved claims with sufficient documentation. VIDOL also had not developed DUA policies and procedures or developed a plan to train its staff in the proper review and adjudication of claims.

As a result, VIDOL officials failed to confirm claimants were eligible for benefit assistance or made incorrect determinations of eligibility for 23 percent of the claimants we tested. VIDOL paid \$59,325 in benefits to those claimants, which represents approximately 19 percent of the \$314,691 benefits tested.

TEXAS WORKFORCE COMMISSION

We found officials with the TWC had properly adjudicated and supported the cases we tested with sufficient documentation. Of the 136 TWC DUA claims we tested, we only found 6 claims (4 percent) with overpayments, all of which TWC had identified itself prior to our visit.

ETA does not have specific policies or procedures that require states vulnerable to major disasters to provide periodic DUA training. TWC did provide periodic training to its staff and did have DUA policies and procedures. As stated previously, we did not find eligibility issues related to TWC claims and likewise we found the TWC generally paid claims timely 84 percent of the time. ETA should ensure states at risk follow the example of high-functioning states by insisting that they provide periodic DUA training and develop policies and procedures.

OVERALL RESULTS OF SAMPLE TESTING

Overall, using the results of our stratified random sample, we estimate that 2,149⁴ of the 35,418 claimants in our sampled universe lacked documentation to support the claimants' eligibility. We further estimate states approved and paid \$5,564,769⁵ in benefits to 2,149 claimants whose eligibility for the DUA program officials could not substantiate. These funds could have been put to better use by ensuring they were directed to those eligible for assistance.

ETA DID NOT ESTABLISH ADEQUATE CONTROLS TO ENSURE STATES PAID BENEFITS PROMPTLY

ETA did not provide adequate oversight to ensure VIDOL 1) provided its staff DUA training, 2) developed and implemented DUA standard operating procedures, or 3) hired additional permanent or temporary staff to clear its backlog of DUA claims.

The GAO Green Book provides that an oversight body is responsible for overseeing the strategic direction of the entity and obligations related to the

⁴ We are 95 percent confident that the number of claimants for which states cannot substantiate eligibility is at least 1,414 but not more than 2,884 claimants.

⁵ We are 95 percent confident that the amount of overpayments to ineligible claimants is at least \$3,361,065 but not more than \$7,768,474.

accountability of the entity. This includes overseeing management's design, implementation, and operation of an internal control system.

Specifically, ETA is obligated to ensure states comply with federal regulations at 20 CFR 625.9(e) that require agencies to make full payment of DUA with the greatest promptness administratively feasible. The UI Performs core performance measure⁶ for the first payment promptness requires 87 percent of regular UI claims receive their first payment within 21⁷ days after the week ending date of the first compensable week. Although the core measure does not apply to DUA, we used this measure to compare the three sites we visited.

During ETA's first on-site visit to the VIDOL, it ensured VIDOL implemented steps to reduce its backlog of cases from the first phase of DUA payments, but ETA did not ensure VIDOL implemented similar steps during the second phase of benefit payments, which contributed to the untimely payment of benefits.

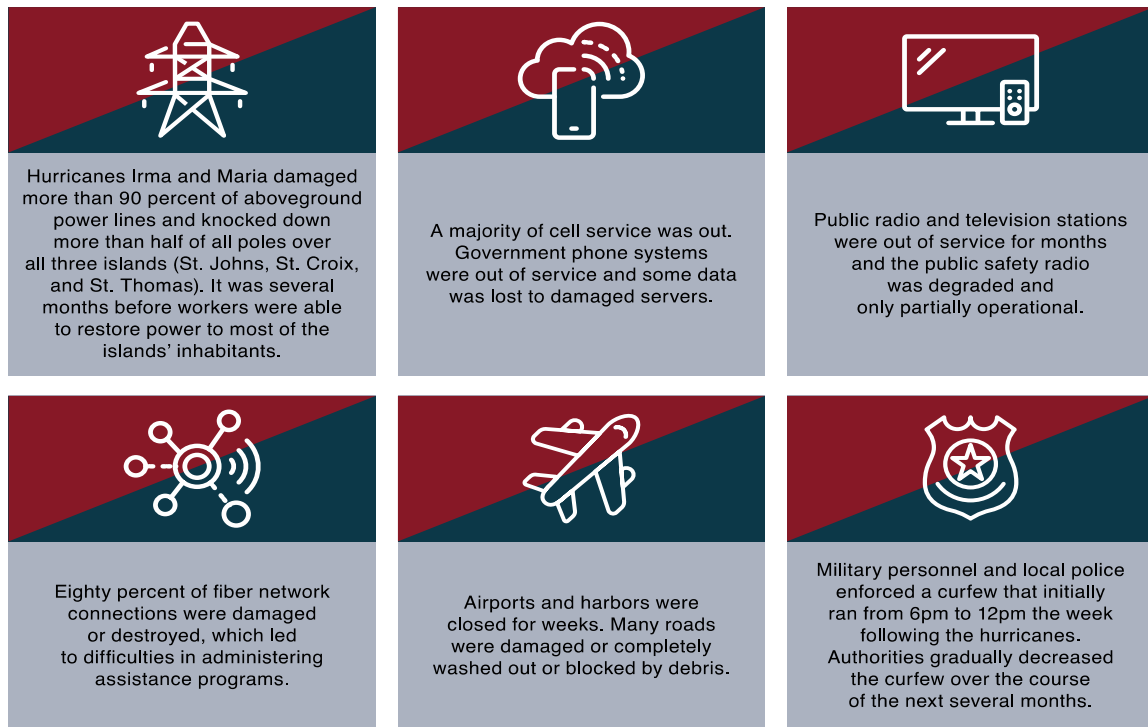
In addition, ETA may have been better able to provide assistance to the states had it created a rapid response team made up of federal and state officials that could be deployed at the earliest possible opportunity.

Although the prompt payment of claims is a program requirement, it is understandable that VIDOL struggled to pay claims promptly in the initial months following Hurricanes Irma and Maria because it suffered from the devastating effects of two category 5 hurricanes.

The VIDOL had to overcome many obstacles in the initial months following the hurricanes. In 2018, the USVI Recovery and Resilience Task Force issued a report regarding the hurricanes. In its report, the task force described many of the obstacles VIDOL officials faced in providing unemployment services including damaged power lines and fiber network connections; out of service cell and Government phone systems; out of service public radio and television stations; and closed roads, airports and harbors. The following figure shows how these obstacles impacted the USVI and the recovery efforts.

⁶ Unemployment Insurance Program Letter, No. 14-05 Changes to UI Performs

⁷ The standard is 14 days for states that require a one-week waiting period. The DUA program does not require a waiting period.



In addition to what the task force reported, VIDOL officials described additional obstacles they faced caused by the hurricanes including damage to the VIDOL building and servers, closed hotels and ports, and difficulties in securing supplies. The following figure shows how these obstacles prevented VIDOL's routine operations.



In addition to the devastating physical effects of the hurricanes on the USVI, VIDOL's inability to pay regular UI and DUA claimants promptly was also due to the immense increase in claims. The number of regular UI claims increased by 68 percent from FY 2017 to FY 2018 and by more than 100 percent if DUA claims are included (see Table 1).

TABLE 1: INCREASED CLAIMS AFTER HURRICANES IRMA AND MARIA

	FY 2017	FY 2018	Difference	% Change
Regular UI	3,234	5,431	2,197	68%
Combined UI/DUA	3,288	6,659	3,371	103%

On October 5, 2018, Congress⁸ extended the duration of DUA benefits for an additional 26 weeks for persons who remained unemployed in Puerto Rico or the USVI due to Hurricanes Irma or Maria. USVI claimants began filing claims for the additional 26 weeks in March 2019, 18 months after the hurricanes.

When VIDOL officials processed claims for the additional 26 weeks of benefits, they no longer had to endure many of the physical obstacles they faced when processing the initial claims. The volume of regular UI claims was also greatly reduced. The number of regular UI claimants in FY 2019 was 65 percent less than the number of regular UI claimants in FY 2018, and, even when including DUA claims, the volume dropped by 52 percent (see Table 2).

TABLE 2: DECREASE IN CLAIMS BETWEEN FYS 2018 AND 2019

	FY 2018	FY 2019	Difference	% Change
Regular UI	5,431	1,904	3,527	(65)%
Combined UI/DUA	6,659	3,184	3,475	(52)%

We conducted a site visit to VIDOL from September 10, 2019, to September 17, 2019. Consistent with what ETA's Boston regional office found during its December 2017 visit, we found VIDOL had still not developed standard operating procedures, provided DUA-specific training to its staff, or hired an adjudicator to help process DUA claims.

⁸ Public Law 115-254, the FAA Reauthorization Act of 2018.

In addition, VIDOL officials explained that hiring temporary workers was not an option because the USVI requires that all hires receive approval by territorial entities that were not operating during the initial months after the hurricanes. This limitation may have been true during the initial months following the hurricanes; however, by March of 2018, VIDOL admitted that it had hired one merit staff employee. If it were possible to hire one person by that time, it would have been possible to request the hiring of temporary staff. The officials also explained they had not requested assistance from other states because they considered their circumstances unique and did not believe assistance from another state agency, such as TWC, would be of any benefit.

The TWC could have provided assistance in the development of DUA training and in the development of standard operating procedures. The TWC also benefitted from frequent on-site visits from the ETA Dallas regional office to assist TWC with funding requests and program questions during the initial phase of the program. ETA's implementation of a knowledgeable rapid response team made up of federal and state officials could be of help to any state enduring the effects of a major disaster. Currently, no such team exists.

Of the 2,038 unique⁹ claims we analyzed, VIDOL paid only 27 percent of DUA claims within 21 days. VIDOL's timeliness did not compare well with the performance standard of 87 percent for regular UI claimants, or with the two other states we visited. TWC paid 84 percent of Hurricane Harvey DUA claims timely and FLDEO paid 77 percent of Hurricane Irma DUA claims timely.

VIDOL officials took an extraordinary amount of time to pay many DUA claimants. Our analysis of VIDOL data showed that of the 1,268 claimants who filed a claim prior to January 1, 2018, 199 did not receive their first payment for at least 6 months. On average, claimants who filed prior to January 1, 2018, did not receive their first payment for at least 3 months.

During the extended benefits period, 742 individuals filed their initial application for benefits. VIDOL paid only 42 percent of those claims within its goal of 21 days. On average, VIDOL did not provide a first payment to the extended claimants until approximately two months after they submitted their applications.

Despite eventually implementing ETA recommendations to reduce the backlog from the first round of DUA claims, VIDOL did not implement these same procedures to prevent long delays when paying benefits to individuals filing for the 26 weeks of additional benefits. The unnecessary long delays VIDOL

⁹ For purposes of our analysis, we combined claims for the initial 26 weeks of benefits with any claims for the extended 26 weeks of benefits and treated them as one claim.

incurred in processing those claims thwarted the DUA program's goal of providing timely assistance to individuals in need.

CONCLUSION

Hurricane season unfortunately and too often results in multiple states declared as disaster areas. That said, it should not be unreasonable to expect an effective Federal/state plan in place to ensure individuals' immediate needs are met. This includes ensuring eligible individuals receive DUA payments promptly as conditions permit. To meet these demands, ensuring key personnel are properly trained and establishing standard operating procedures are key to having an effective strategy.

OIG'S RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training:

1. Establish policies, procedures, and controls to ensure states provide DUA staff annual training and have required written state DUA policies and procedures in place.
2. Create a rapid response team consisting of Federal and state officials capable of providing technical and other assistance to states impacted by major disasters.
3. Recover \$95,699 in questioned costs from the FLDEO and VIDOL for participants whose eligibility they could not substantiate.

SUMMARY OF ETA'S RESPONSE

ETA generally agreed with our 3 recommendations. However, in its response to our draft report ETA disagreed with the OIG's characterization of its oversight of the DUA program and provided details on the assistance provided to all three entities mentioned in the report. ETA also expressed concern that the report did not adequately acknowledge the severe damage to the USVI and its impact on VIDOL's ability to administer the DUA program.

Our report focused on improving ETA's oversight by identifying specific ETA and state control deficiencies that resulted in the failure to ensure DUA benefits were

paid promptly and only to eligible claimants. As previously noted, FLDEO and VIDOL officials could not substantiate eligibility for 23 percent of the claims we tested at either site; and VIDOL only paid 42 percent of extended claims timely, even though claimants did not file these claims until at least 18 months after the hurricanes hit. We also detailed in our report the severe devastation to the USVI, the immense increase in state UI and DUA claims, and how these factors impacted payment timeliness.

ETA's response to our draft report is included in its entirety in Appendix B.

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



Elliot P. Lewis
Assistant Inspector General for Audit

EXHIBIT 1: DUA GRANTS FOR HARVEY, IRMA, AND MARIA

Disaster Unemployment Assistance Hurricanes Harvey, Irma and Maria				
State	Administration	Benefits	Total	Event(s)
Texas	\$2,307,018	\$23,141,145	\$25,448,163	Harvey
Florida	1,247,267	9,075,516	10,322,783	Irma
Virgin Island	5,419,419	19,780,884	25,200,303	Irma and Maria
*Georgia	27,845	303,240	331,085	Irma
*Puerto Rico	5,108,674	18,717,720	23,826,394	Irma and Maria
Grand Totals	\$14,110,223	\$71,018,505	\$85,128,728	

*Georgia and Puerto Rico were not included in our audit scope.

EXHIBIT 2: DUA ELIGIBILITY REQUIREMENTS

Unemployed Worker	Unemployed Self-Employed Individual
<p>Definition of an Unemployed Worker for DUA Purposes:¹⁰</p> <ul style="list-style-type: none"> • One who worked or was scheduled to begin work in a major disaster area at the time of the major disaster • One whose principal source of income is dependent upon the worker's employment for wages and whose unemployment is caused by a major disaster. 	<p>Definition of an Unemployed Self-Employed Individual for DUA Purposes:</p> <ul style="list-style-type: none"> • One who was employed in or was to commence employment in the major disaster area at the time the major disaster began • One whose principal source of income is dependent upon service in self-employment and whose unemployment is caused by a major disaster
<p>The unemployment will be considered caused by the major disaster if, as a direct result of a disaster, the worker:¹¹</p> <ul style="list-style-type: none"> • Has a week of unemployment following the date of the major disaster and unemployment is a direct result of a major disaster • Is unable to reach the place of employment • Was scheduled to start work but unable to reach the place of employment • Has become the breadwinner due to the head of household's death as a direct result of the major disaster • Is unable to work due to an injury caused as a direct result of the major disaster 	<p>The unemployment of an unemployed self-employed individual is caused by a major disaster if the individual:</p> <ul style="list-style-type: none"> • Has a week of unemployment following the date of the major disaster and as a result of the major disaster • Is unable to reach the place where services are performed as a direct result of the major disaster • Was to commence regular services as a self-employed individual but does not have a place or is unable to reach the place where the services were to be performed as a direct result of the major disaster • Cannot perform services as a self-employed individual because of an injury caused as a direct result of the major disaster

¹⁰ 20 CFR 625.2

¹¹ 20 CFR 625.5

EXHIBIT 3: SAMPLE PROJECTIONS**State Specific Sampling Data and Results**

Attributes	Florida	Texas	USVI	Totals
Universe Size	7,249	26,194	1,975	35,418
Sample Size	73	136	60	269
Claimants Not Eligible	17	0	14	31
Benefits Paid	\$8,601,506	\$22,930,118	\$10,089,287	\$41,620,911
Benefits Tested	\$67,727	\$110,801	\$314,691	\$493,219
Overpayments (\$)	\$36,374	\$0	\$59,325	\$95,699

**Stratified Random Sample Projections
(FL, TX and USVI combined)**

Claimants Ineligible Point Estimate (95% Confidence Level)	Lower Limit 1,414	Upper Limit 2,884	Point Estimate 2,149
Overpayments Point Estimate(\$) (95% Confidence Level)	Lower Limit \$3,361,065	Upper Limit \$7,768,474	Point Estimate \$5,564,769

APPENDIX A: SCOPE, METHODOLOGY, & CRITERIA

SCOPE

The audit scope included Disaster Unemployment Assistance (DUA) program operations for the state of Texas for the impacts of Hurricane Harvey, the state of Florida for the impacts of Hurricane Irma, and the U.S. Virgin Islands (USVI) for the impacts of Hurricanes Irma and Maria. Our testing covered the period August 25, 2017 to October 30, 2019.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We performed internal control procedures and interviews at the Office of Unemployment Insurance (OUI) national office and at the OUI regional offices in Atlanta, Dallas, and Boston.

We selected the DUA program operations at the Florida Department of Economic Opportunity (FLDEO), the Texas Workforce Commission (TWC), and the USVI Department of Labor (VIDOL) to visit. At each site, we conducted interviews, performed a review of relevant internal controls, tested random samples of DUA case files for claimant eligibility, and analyzed performance data to assess the timeliness of their DUA benefit payments to eligible claimants.

RELIABILITY ASSESSMENT

We assessed the reliability of DUA data as provided by officials with the FLDEO, TWC, and VIDOL for the major disaster events within our scope. We performed procedures to ensure the data was reasonably complete and conducted testing to ensure the data was reasonably accurate. We found the data was sufficiently reliable for the purposes of our testing and analysis.

SAMPLING

We performed a stratified random sample of the universe of DUA claimants at the FLDEO, TWC, and the VIDOL. We tested 269 claimants from a universe of 35,418 claimants (see the table below):

SAMPLE UNIVERSE AND CLAIMANTS TESTED

Site	DUA Claimants	Benefits	Tested	Benefits Tested
FLDEO	7,249	\$8,601,506	73	\$67,727
TWC	26,194	22,930,118	136	10,801
VIDOL	1,975	10,089,287	60	314,691
Grand Totals	35,418	\$41,620,911	269	\$493,219

We designed the audit to maintain a 95 percent confidence level and a sampling precision of plus or minus 7 percent, based on an expected error rate of 20 percent.

INTERNAL CONTROLS

In planning and performing our audit, we considered ETA's internal controls relevant to our audit objectives by obtaining an understanding of those controls and assessing control risks for the purpose of achieving our objectives. The objective of our audit was not to provide assurance of the internal controls; therefore, we did not express an opinion on ETA's internal controls. Our consideration of internal controls for administering the DUA program would not necessarily disclose all matters that might be significant deficiencies. Because of inherent limitations on internal controls, or misstatements, noncompliance may occur and not be detected.

CRITERIA

- Robert T. Stafford Disaster Relief Act and Emergency Assistance Act, Public Law 93-288, as amended
- The FAA Reauthorization Act of 2018, Public Law 115-254
- 20 Code of Federal Regulations, Part 625—Disaster Unemployment Assistance
- ET Handbook No. 356 (DUA)
- UIPL NO. 14-05 Changes to UI Performs
- Standards for Internal Controls in the Federal Government: GAO-14-704G

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT


U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



September 23, 2020

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: JOHN PALLASCH 
Assistant Secretary for Employment and Training

SUBJECT: Response to the Office of Inspector General Draft Report No.
04-20-002-03-315 – *ETA Should Do More to Assist Vulnerable
States Prepare for Disaster Unemployment Assistance Program
Implementation*

Thank you for the opportunity to respond to the Office of Inspector General (OIG) draft report titled, *ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation*. The September 3, 2020, draft report provides the OIG's conclusions and recommendations with regard to the Employment and Training Administration's (ETA or the Agency) actions taken to oversee and support states' Fiscal Year 2017 efforts to implement the Disaster Unemployment Assistance (DUA) program in response to Hurricanes Harvey, Irma, and Maria.

While there are always opportunities for improvement, ETA strongly disagrees with the OIG's characterization of ETA's oversight of the DUA program in the context of Hurricanes Harvey, Irma, and Maria. ETA's response provides information that corrects and clarifies mischaracterizations in the report.

The draft report asserts, in multiple places, that ETA does not have specific policies and procedures in place related to administration and oversight of the DUA program. This is incorrect, as the Agency has outlined policies and procedures for states' operation and administration of the DUA program in *ETA Disaster Unemployment Assistance Handbook No. 365* (ET Handbook No. 365). ET Handbook No. 356 requires that "State agencies must develop necessary operating procedures, instructions, and forms." Chapter I, Section 11.f on page I-7. In addition, Chapter I, Section 10.b.(10), establishes a state oversight requirement for ETA to conduct onsite visits to the states during the DUA initial application period. To reinforce these procedures, ETA conducts an annual meeting of Regional DUA Coordinators to review the processes, provide updates, and to ensure ETA staff are properly trained in the processes and well positioned to support state implementation of the DUA program. These meetings include an overview of the DUA program and available program oversight tools, including the DUA monitoring guide used to support Regional oversight and ETA's pre-disaster readiness checklist.

Since 2012, these program oversight tools have been available to ETA's Regional Offices (RO) and the states to assist in the startup, operation, and assessment of DUA programs. The DUA monitoring guide emphasizes the best practice of ensuring that ROs conduct oversight reviews during the Disaster Assistance Period (DAP), especially if the state or territory affected has particular challenges in administering or implementing DUA.

In addition, most ETA ROs host routine DUA state coordinator meetings to provide training and to reinforce state capacity to implement DUA. For example, ETA's Atlanta RO conducted a DUA state coordinators' meeting, in which Florida participated, just three months prior to Hurricane Irma on May 16 – 17, 2017. During this meeting, states were advised to conduct annual DUA training for staff, to update DUA standard operating procedures, and to use the RO monitoring guide and pre-disaster readiness checklist to inform state administration of the program.

The draft report fails to detail and acknowledge the extensive and timely technical assistance and training provided to all three entities by the Agency to support their hurricane response. In addition, the draft report speaks to the devastation caused by the three hurricanes but fails to recognize the significant and sustained impact on the entities' ability to fully recover operations and ETA's limited ability to travel and provide technical assistance and oversight, particularly in the U.S. Virgin Islands (USVI).

ETA staff began working with Florida, Texas, and USVI far in advance of the impending hurricanes. Daily calls were conducted with states to ensure preparations were in place to immediately submit DUA applications for funding to the Federal Emergency Management Agency (FEMA), make press release announcements, and implement the DUA program. Despite all obstacles caused by the devastation (loss of communications and other infrastructure, travel challenges, etc.), ETA staff worked tirelessly to provide technical assistance and oversee the states' implementation of DUA following the hurricanes.

ETA's Atlanta RO communicated with and provided daily updates to the Florida Department of Employment Opportunity (FLDEO) in the aftermath of Hurricane Irma and provided technical assistance to address various DUA-related questions from the state agency. During the week of October 9, 2017, ETA's Atlanta RO staff also traveled to Florida to provide technical assistance to FLDEO on its administration of the DUA program. Additionally, ETA's Atlanta RO staff reviewed a sample of DUA eligibility determinations (approvals and denials) to confirm the Stafford Act provisions were being correctly applied.

Despite the severity of the hurricane damage to USVI, impacting all aspects of its infrastructure and the lives of the USVI staff responsible for delivering the DUA program, ETA worked for many months to support USVI in delivering DUA benefits to eligible citizens. ETA's Boston RO conducted daily and then weekly conference calls with USVI after restoration of telecommunication services. ETA provided extensive technical assistance to support DUA implementation from administration of the initial benefit claims to adjudication of appeals throughout the DAP and the extended DAP with communication by phone, email, and an onsite visit that included DUA subject matter experts from ETA's Office of Unemployment Insurance (OUI), the Boston RO, and the Dallas RO. The Boston RO also provided the Virgin Islands

Department of Labor (VIDOL) a DUA manual and customized form templates and facilitated the contractual technical assistance necessary to assist VIDOL in repairing and restoring its ability to take claims online so that DUA could be properly implemented and reported. In addition, the Boston RO assisted USVI with hiring additional staff, working through USVI's difficult procurement and approval process for using grant funds, and exploring options to establish interagency agreements with other states to provide USVI with program assistance both remotely and on the ground. USVI ultimately chose not to pursue assistance from other states.

The draft report also indicates, in multiple instances, that ETA did not provide timely or adequate oversight of the USVI's DUA operations; in other instances, it correctly notes that ETA made two timely visits to USVI—during the week of November 28, 2017, and the week of July 23, 2018. The OIG appears to conclude that these timely visits to USVI were ineffective or inadequate because USVI was unable to correct all the issues identified by ETA before the OIG's visit took place. This conclusion by the OIG does not fully acknowledge the devastating impact of the hurricanes on all residents of the USVI, including the VIDOL and its staff. Additionally, there is no acknowledgment of the impact of limited communication and infrastructure capabilities on the ability of VIDOL to operate the DUA program and provide services to impacted citizens across multiple islands.

The draft report also fails to acknowledge ETA's ongoing work to improve its capacity to support state implementation of the DUA program. While the draft report does mention ETA's new online DUA training modules provided for states, it does so in the context that it was not available prior to these hurricanes; the training modules were under development prior to the hurricanes. On November 9, 2018, ETA announced the availability of online DUA training for states to use, as outlined in Training and Employment Notice No. 8-18.¹ These online training modules are designed for new and existing DUA state coordinators and all other staff charged with accepting DUA claim applications, adjudicating DUA claims, and hearing DUA appeals. The training includes lessons on DUA background and history, administrative process, claims processing, determinations, overpayments, and appeals.

The draft report also does not mention that prior to the 2017 hurricanes, ETA announced its new Unemployment Insurance (UI) Benefit Operations State Self-Assessment Tool, which includes a section on DUA to ensure states are prepared for implementation of DUA in the event of a disaster, as outlined in UI Program Letter No. 18-17.² The DUA Self-Assessment Tool requires that states assess their policies and procedures concerning DUA program administration, including claims-taking operations policy, procedures, and forms; procedures for monetary determinations, non-monetary determinations, appeals, and overpayments; whether the state has written policies on DUA eligibility, compliance with the 30-day filing deadline, proof of earnings, and procedures for calculating the correct monetary entitlement; and the state's DUA training curriculum and written plan for training staff. States must take corrective action to address weaknesses in any areas of DUA readiness.

Finally, we note that the OIG's presentation, in several instances, has the potential to mislead the reader. For example, the draft report states that USVI did not commence taking claims for

¹ See https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3963

² See https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9282

extended DUA benefits until 18 months after the hurricanes occurred. The extended DUA benefits related to Hurricanes Irma and Maria were not enacted until October 2018 (over a year after the hurricanes). The extended benefits were all retroactive payments to cover benefits through September 2018. The use of the “18 months after the hurricanes” language creates a false impression that VIDOL waited a year and a half to begin administering claims.

In summary, as previously stated, while ETA agrees improvements to the DUA program can be made by the Agency, ETA is disappointed that the OIG’s draft report fails to include critical facts and information to provide a more complete and accurate representation of its actions in supporting states following Hurricanes Harvey, Irma, and Maria.

Please find below ETA’s responses to each of the OIG’s recommendations outlined in the draft report.

Recommendation 1: Establish policies, procedures, and controls to ensure states provide DUA staff annual training and have required written state DUA policies and procedures in place.

ETA Response: ETA agrees with this recommendation in part. ETA is committed to reviewing its policies, procedures, and oversight activities to identify and address areas for improvement.

Recommendation 2: Create a rapid response team consisting of federal and state officials capable of providing technical and other assistance to states impacted by major disasters.

ETA Response: ETA has implemented a model described by the OIG. While not a fixed rapid response team, ETA establishes and deploys teams made up of experts to assist on the ground in emergency situations/events, including major disaster events. These expert teams are comprised of knowledgeable and experienced individuals from OUI and RO offices with the requisite expertise to respond and assist as necessary. ETA utilized this model to support USVI following Hurricanes Irma and Maria.

Recommendation 3: Recover \$95,699 in questioned costs from the FLDEO and VIDOL for participants whose eligibility they could not substantiate.

ETA Response: ETA agrees with this recommendation. The Office of Grants Management’s Division of Policy Review and Resolution, specifically, the Audit Resolution Unit, will be tasked to resolve this recommendation. Following the issuance of the OIG’s final report, ETA respectfully requests the names of the claimants identified as having incorrect determinations of eligibility or lack of documentation to confirm eligibility. Initial and final determinations will be issued to the grant recipients in question, in accordance with Department of Labor Manual Series 8-300, to determine if there are disallowed costs and any amounts subject to repayment.

APPENDIX C: ACKNOWLEDGEMENTS

The audit team included:

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