



Semiannual Report to Congress

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



A Message from the Inspector General

After being nominated by the President and being confirmed by the Senate, I assumed the position of Inspector General for the U.S. Department of Labor (DOL) on December 7, 2021. I am deeply honored to lead the Office of Inspector General (OIG) after serving for more than 7 years as Deputy Inspector General. As such, it is my privilege to submit this *Semiannual Report to Congress*, which highlights the most significant activities and accomplishments of the DOL OIG for the 6-month period ending March 31, 2022.



On March 17, 2022, I had the honor to testify before the U.S. Senate Committee on Homeland Security and Governmental Affairs about the OIG's oversight of the unemployment insurance (UI) program during the COVID-19 pandemic. As my testimony detailed, the unprecedented infusion of federal funds into the UI program during the pandemic gave individuals and organized criminal groups a high-value target to exploit. That, combined with easily attainable stolen personally identifiable information and continuing UI program weaknesses identified by the OIG over the last several years, created a perfect storm that allowed criminals to defraud the system. Because many states were not prepared to process the extraordinary volume of new UI claims and struggled to implement new UI programs, many internal fraud controls that had been traditionally used or recommended for the processing of UI claims were not initially implemented. Fraudsters thus had a high-reward target where an individual could make a fraudulent claim with relatively low risk of being caught. For example, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card.

I recommended the OIG have better access to claim and wage data and several other actions DOL can take, including addressing issues related to UI staffing and systems for prompt payment during emergencies; implementing controls for improper payments; helping states with claims; overpayments and fraud reporting; and working with Congress to better assist State Workforce Agencies' ability to cross-match UI claims with available data in areas with high-risk for fraud. I also highlighted the measures the OIG has taken to address the impact of fraud on the UI program.

Although a large part of our focus has been on overseeing the UI program, we have other accomplishments of which I am also very proud. During this reporting period, the OIG issued 15 audit and other reports with 49 recommendations for corrective action. For example, we recommended that:

- the Occupational Safety and Health Administration collaborate to encourage referrals of potential COVID-19 safety and health hazards from external federal agency personnel active in industries with a high risk of COVID-19 exposure;

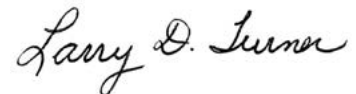
- the Employment and Training Administration provide dedicated technical assistance to four states to assist them in attaining planned goals, provide close monitoring of the Disaster National Dislocated Worker Grants to ensure performance, and amend its guidance to include specified timeline provisions and technical assistance;
- DOL consistently report IT data elements in accordance with the Digital Accountability and Transparency Act of 2014; and
- DOL ensure progress on implementing Information Security Continuous Monitoring controls.

The OIG's investigative work also yielded significant outcomes, with a total of 133 investigative reports issued and cases closed, 314 indictments, 187 convictions, and more than \$90 million in monetary accomplishments. Highlights of this work include:

- a Michigan state contractor sentenced for her role in the theft of \$3.8 million in a pandemic UI fraud scheme;
- a Virginia woman sentenced to 10 years in prison for her role in defrauding the government of more than \$1.5 million in UI benefits;
- a former NFL wide receiver sentenced for his role in a scheme to defraud California's Employment Development Department;
- a Louisiana couple sentenced in a \$38 million medical reimbursement account program fraud scheme;
- a California man sentenced to 15 months in prison and ordered to forfeit more than \$533,000 in a Foreign Labor Certification fraud scheme; and
- an international labor union official sentenced to 24 months in prison for health care fraud and union embezzlement.

These are just some examples of the exceptional work done by our dedicated staff. I thank them for their significant achievements during this reporting period.

I look forward to continuing to work constructively with the Department and Congress on our shared goals of identifying improvements to DOL programs and operations and of protecting the interests and benefits of the nation's workers, retirees, and taxpayers during this unprecedented time.



Larry D. Turner
Inspector General

OIG Mission

We serve the American people, DOL, and Congress by providing independent and objective oversight of Departmental programs through audits and investigations, and by combatting the influence of labor racketeering in the workplace.

Core Values

Excellence

We deliver relevant, quality, timely, high-impact products and services, through a workforce committed to accountability and the highest professional standards.

Integrity

We adhere to the highest ethical principles, and perform our work in an honest and trustworthy manner.

Independence

We are committed to being free of conflicts of interest through objectivity and impartiality.

Service

We are a unified team, vigilant to duty through dedicated public service.

Transparency

We promote an environment of open communication through information sharing, accountability, and accurate reporting.

Strategic Goals

Goal 1: Deliver timely, relevant, and high-impact results.

Goal 2: Foster an internal OIG culture that drives high performance and engagement.

Goal 3: Promote responsible stewardship of OIG financial and nonfinancial resources.

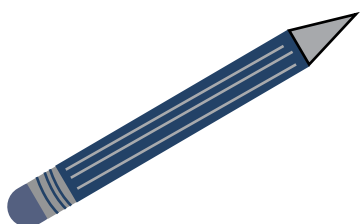
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Audit Statistics

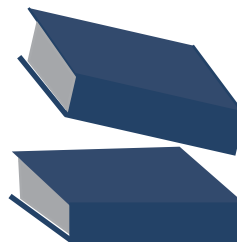
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Audits and Other
Reports Issued



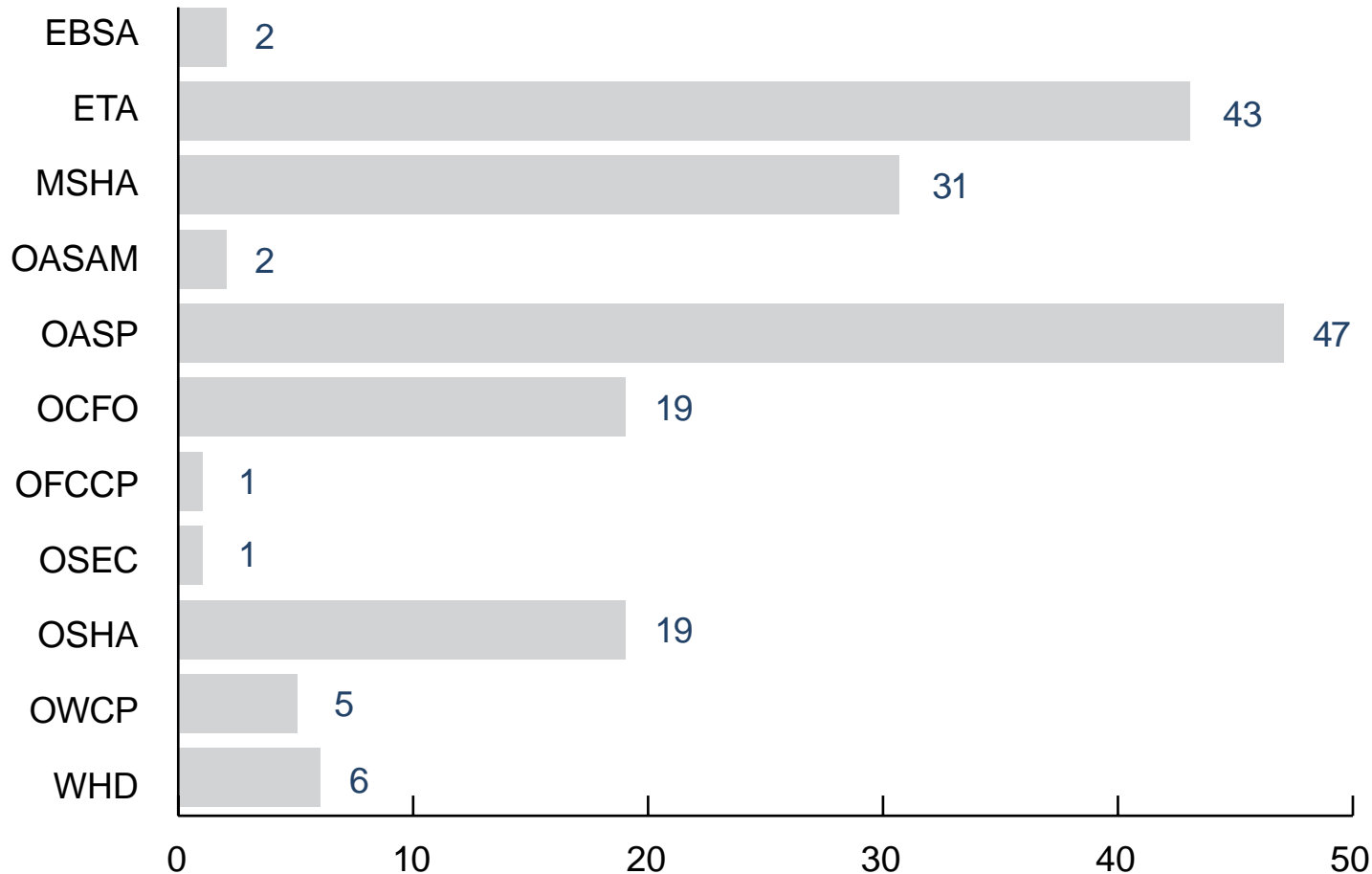
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Recommendations for
Corrective Action



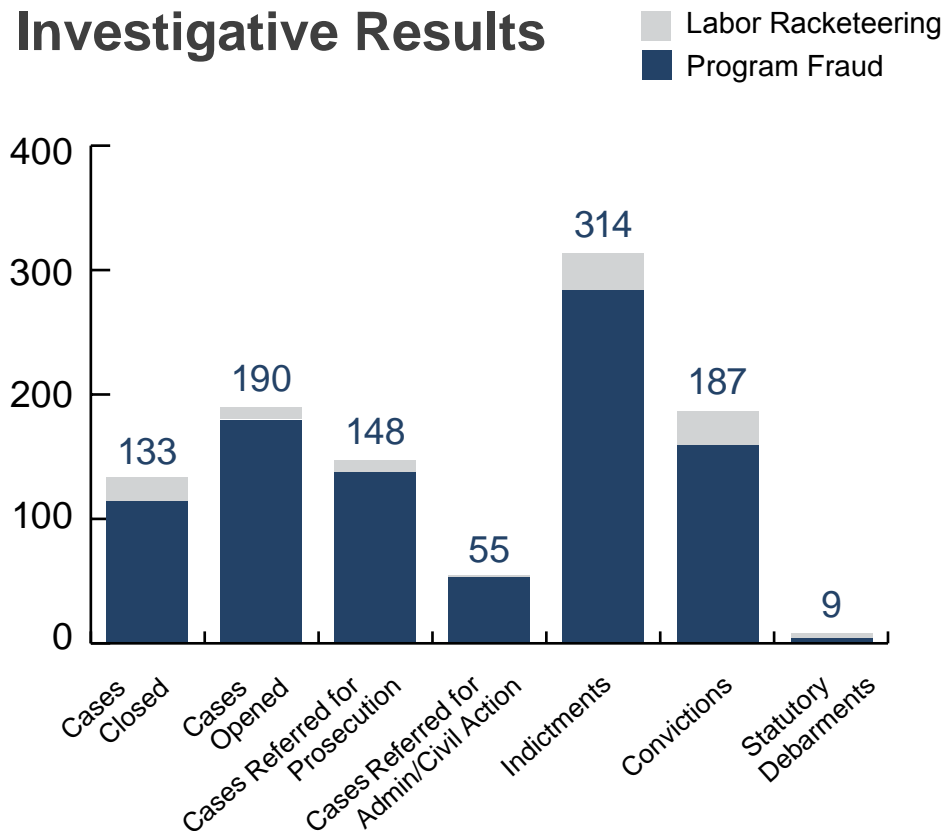
OIG Unimplemented Recommendations

OIG recommendations not fully implemented as of March 31, 2022



Investigative Statistics

Investigative Results

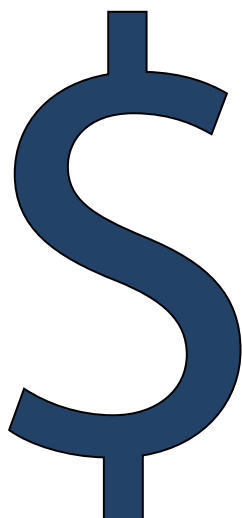


190 / 133



190 investigative cases opened and over 130 cases closed

Monetary Accomplishments



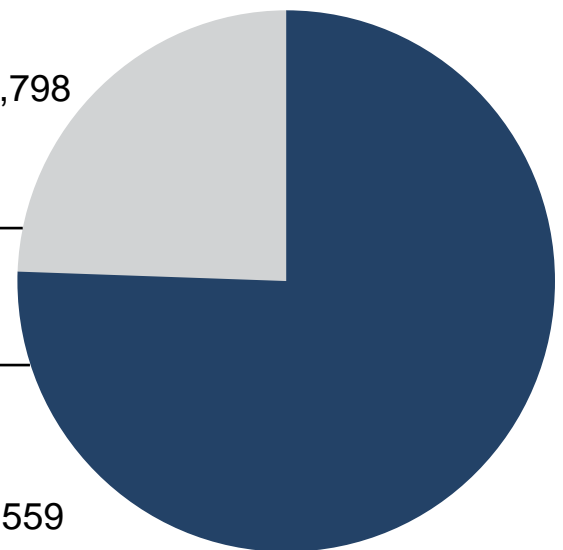
These include

Recoveries
Cost-Efficiencies
Restitutions
Fines/Penalties
Forfeitures
Civil Monetary Actions

\$90,260,357
Total

\$21,821,798

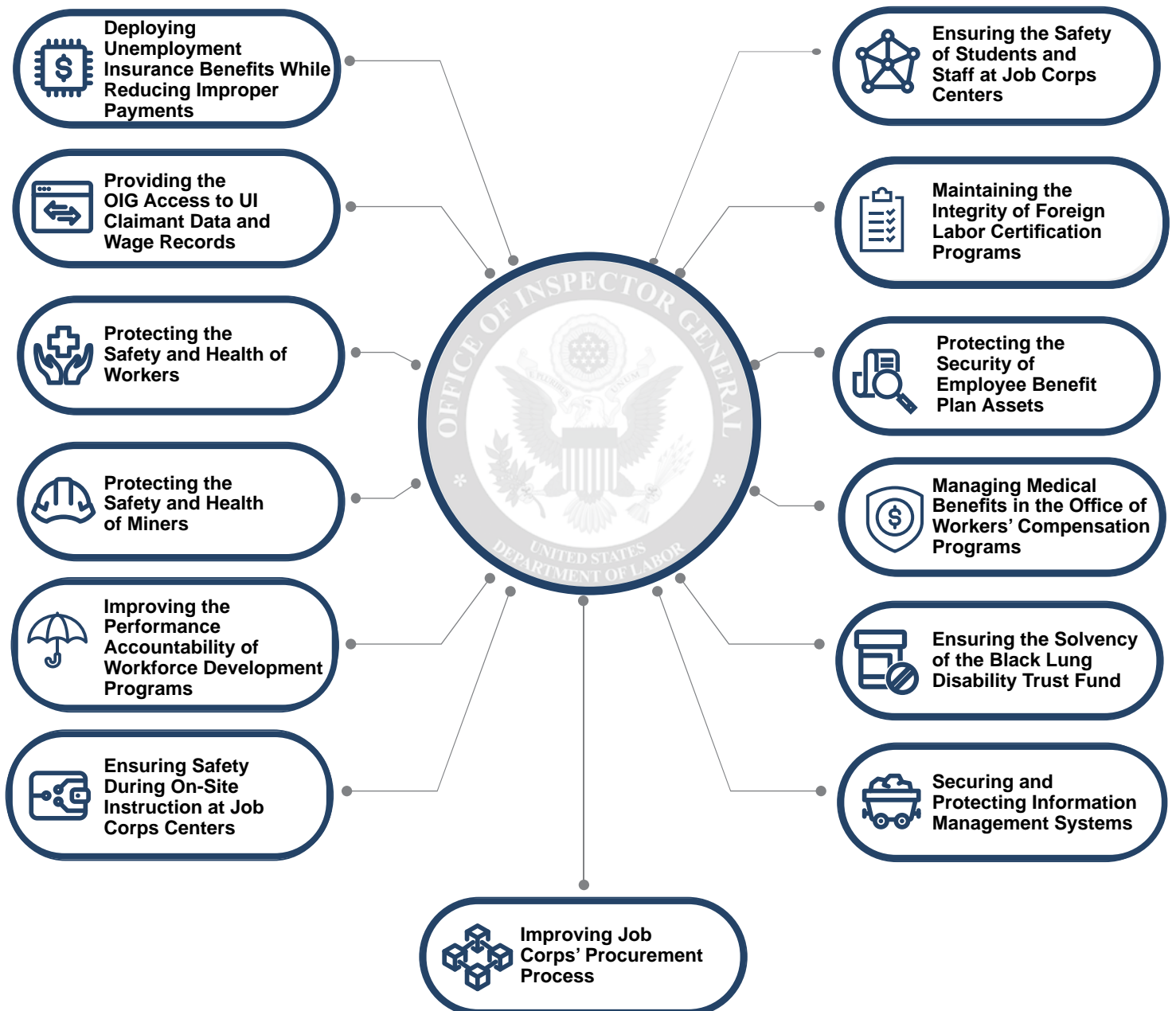
\$68,438,559



Labor Racketeering
Program Fraud

Significant Concerns

The OIG has identified the following areas of significant concern that cause the Department to be at particular risk for fraud, mismanagement, waste, abuse, or other deficiencies. The identified areas of concern reflect continuing matters as well as emerging issues. Most of these issues appear in our annual Top Management and Performance Challenges report, which can be found in its entirety at www.oig.dol.gov.



Significant Concerns

Deploying Unemployment Insurance Benefits Expeditiously and Efficiently While Reducing Improper Payments

The Office of Inspector General (OIG) has repeatedly reported significant concerns with the Department of Labor (DOL) and State Workforce Agencies' (SWA) ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly in response to national emergencies and disasters. The OIG reiterated these concerns following the economic downturn created by the COVID-19 pandemic and the unprecedented levels of federal funding allocated to the unemployment insurance (UI) program, currently estimated at approximately \$872.5 billion.

Following the start of the pandemic in the United States in early 2020, unemployment compensation claims rose exponentially to historically unprecedented levels. Prior to the pandemic, numbers of UI claims were low: on March 14, 2020, the Department reported 282,000 initial claims. Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle.¹ Within 5 months, through August 15, 2020, the Department reported 57.4 million initial claims, the largest increase since the Department began tracking UI data in 1967.

Rapid deployment of Coronavirus Aid, Relief, and Economic Security (CARES) Act funding was critical in helping workers in need. As the OIG's prior audit work has shown, quickly deploying funds can result in shortcomings in the effective and efficient implementation of stimulus programs.

¹ COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

For example, the OIG had audited the Disaster Unemployment Assistance (DUA) program and found the Department had not established adequate controls to ensure benefits were paid timely. Similarly, for three key CARES Act UI programs, we identified that, on average, it took between 25 and 50 days for the first payment to be disbursed. Continued programmatic weaknesses led to workers unemployed through no fault of their own suffering lengthy delays in receiving benefits.

In addition, anticipating and addressing the increased risk that came with the expanded funding was also vital to meeting the intent of the CARES Act. For example, we reported on the challenges presented by the Pandemic Unemployment Assistance (PUA) program. PUA's expanded coverage for a population of claimants who were traditionally ineligible to receive UI benefits² presented significant challenges to states. The OIG reported the risk of fraud and improper payments was even higher under PUA than with DUA because claimants could self-certify their eligibility for UI. In June 2020, the OIG provided a member briefing³ and a statement for the record⁴ to Congress highlighting challenges DOL and SWAs faced

² The new PUA program extended unemployment benefits to the self-employed, independent contractors, those with limited work history, and other individuals not traditionally eligible for unemployment benefits who were unable to work as a direct result of COVID-19.

³ "Subcommittee on Government Operations Briefing with the Inspector General for the Department of Labor." Statement of Scott S. Dahl, Inspector General, U.S. Department of Labor House Committee on Oversight and Reform; Subcommittee on Government Operations (June 1, 2020), available at: <https://www.oig.dol.gov/public/testimony/20200601.pdf>

Significant Concerns

in administering and overseeing the UI program as well as the substantially increased fraud risk. The reliance solely on claimant self-certifications without evidence of eligibility and wages during the program's first 9 months rendered the PUA program extremely susceptible to improper payments and fraud. Congress addressed the self-certification issue under the Continued Assistance for Unemployed Workers Act of 2020, requiring individuals receiving PUA to substantiate their employment.

Further, for over 20 years, the OIG has reported on the Department's limited ability to measure, report, and reduce improper payments in the UI program. Indeed, the UI program has experienced some of the highest improper payment rates across the federal government. The reported improper payment estimate for the regular UI program has been above 10 percent for 14 of the last 18 years. Our recommendations have specifically included the need for the Department to estimate improper payments within federally-funded temporary emergency programs. In August 2020, we recommended⁴ the Employment and Training Administration (ETA) estimate the improper payment rate for pandemic UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate of 18.71 percent for 2021,

⁴ "Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic." Statement for the Record of Scott S. Dahl, Inspector General, U.S. Department of Labor Senate Committee on Finance (June 9, 2020), available at: <https://www.oig.dol.gov/public/testimony/20200609.pdf>

⁵ COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation under the CARES Act, Report No. 19-20-008-03-315 (August 07, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf>

which ETA applied to two of three key pandemic UI programs. ETA states it will report the third program, PUA, in 2022.

Applying the 18.71 percent to the estimated \$872.5 billion in pandemic-related UI payments,⁶ at least \$163 billion in pandemic UI benefits could have been paid improperly, with a significant portion attributable to fraud. Based on our audit and investigative work, the improper payment rate for pandemic-related UI payments is likely higher.

The OIG has referred information to the Department and states on nearly \$17 billion of potentially fraudulent UI benefits paid from March 2020 to October 2020 in four specific high-risk areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file for UI claims with suspicious email accounts (see Figure 1).

As the OIG reported, the unprecedented infusion of federal funds into the UI program gave individuals and organized criminal groups a high-value target to exploit. That, combined with easily attainable stolen personally identifiable information (PII) and continuing UI program weaknesses identified by the OIG over the last several years, allowed criminals to defraud the system. Because many states were not prepared to process the extraordinary volume of new UI claims and struggled to implement new UI programs, many internal fraud controls that

⁶ ETA's reported improper payment rate estimate of 18.71 percent does not include the PUA program. However, it is the most current improper payment rate from ETA. Furthermore, PUA had control weaknesses that may have facilitated comparable or greater improper payments. Therefore, applying ETA's rate to all of the estimated \$872.5 billion in CARES Act UI payments including PUA would equate to at least \$163 billion in improper payments.

Significant Concerns

Figure 1: Four High-Risk Areas for Potential UI Fraud⁷



⁷ COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

had been traditionally used or recommended for the processing of UI claims were not initially implemented. This created a situation where fraudsters had a high-reward target where an individual could make a fraudulent claim with relatively low risk of being caught. For example, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card.

The volume of UI investigative matters currently under review is unprecedented in the OIG's history. Prior to the pandemic, the OIG opened approximately 120 UI investigative matters annually. Since the pandemic started, the OIG has received more than 144,000 UI fraud complaints from the U.S. Department of Justice's (DOJ) National Center for Disaster Fraud (NCDF) and has independently opened more than 39,000 investigative matters concerning UI fraud. That is an increase of more than 1,000 times in the volume of UI work that we are facing. UI investigations now account for approximately 94 percent of the OIG investigative case inventory, compared to approximately 11 percent prior to the pandemic.

While concerns persist within the UI program, DOL has instituted efforts to focus on program integrity when implementing the CARES Act and other pandemic-related UI programs. These efforts include establishing agreements with states to comply with all applicable requirements to receive funds, issuing operating guidance, and providing technical assistance to SWAs individually and through webinars. DOL has included requirements for SWAs to focus on program integrity in guidance relevant to pandemic-related UI funds. In addition, DOL has reinforced the need for SWAs to actively work with the OIG to address fraud in the UI program. DOL is also working with SWAs to further their participation with the UI Integrity Center, established by DOL through a cooperative agreement and operated by the National Association of State Workforce Agencies (NASWA).

On August 31, 2021, the Department announced the establishment of the Office of Unemployment Insurance Modernization to provide oversight and management of the \$2 billion appropriated to UI initiatives by the American Rescue Plan Act of 2021 (ARPA). The funding is aimed at preventing

Significant Concerns

and detecting fraud, promoting equitable access, ensuring timely benefits payments, and reducing backlogs. Of this \$2 billion in funding, three grant programs have been set up: (1) a \$140 million program for fraud prevention grants to be awarded to states to cover subscription costs for identity verification tools, establishment and expansion of data analytics, and implementation of cybersecurity defense strategies; (2) a separate \$260 million program for equity grants to be awarded to states to improve customer service and claimant outreach, reduce claims backlogs, and improve access for workers in communities that may have historically experienced barriers to access; and (3) up to \$200 million in funding to support states in improving UI systems and processes following a consultative assessment with a team of experts provided by DOL.

We plan to evaluate the effectiveness of the equity grants program as well as to continue our audit and investigative work on the Department's and States' ability to expeditiously and efficiently deploy UI benefits while reducing improper payments.

Providing the OIG Access to UI Claimant Data and Wage Records

The OIG's lack of direct access to UI claimant data and wage records from SWAs is of significant concern because this deficiency directly and adversely impedes the OIG's ability to combat fraud, waste, and abuse and provide independent oversight to help DOL reduce improper payments in its programs, including regular and temporary UI programs.

Prior to the pandemic, DOL required states to disclose UI data for fraud investigations with data sharing agreements. DOL asserted it lacked the

authority to require states to provide UI data to the OIG for audits. As a result, the OIG was forced to take the unprecedented step of using IG subpoenas to obtain this critical data. That process took many months and delayed our ability to detect fraud early in the pandemic. The Department revisited its position and, on August 3, 2021, issued an Unemployment Insurance Program Letter (UIPL) advising SWAs they must provide UI data to the OIG for benefits paid under the authority of the CARES Act. However, this was a temporary measure that applied to CARES Act UI programs, which sunsetted on September 6, 2021.⁸ Once the programs covered by the UIPL expired in September, the OIG was back to not having routine access due to the Department's interpretation of its own regulation that it lacked authority to require states to provide UI data to the OIG for audit and investigative purposes. While the Department has required states to provide OIG with access to UI data as a condition of receiving fraud prevention grants, those grants are not being provided to every state and the provision requiring OIG access is temporary and will expire with the grants on December 31, 2023.

The OIG requires permanent access to all UI program data to conduct effective oversight. In our June 16, 2021, alert memorandum,⁹ we recommended that ETA amend 20 CFR 603.5 and

⁸ The CARES Act UI programs ended on September 6, 2021; however, states continue to process backlogged claims, and they are required to submit payment data for the claims to the OIG.

⁹ Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of the Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

Significant Concerns

603.6(a) through the rulemaking process and that ETA meet with the OIG to develop a permanent approach for the OIG to access UI data. We were optimistic the Department would work on its regulation prior to the expiration of the CARES Act programs, but, while the Department has been cooperative, this did not happen. ETA has required sharing of state UI data as a condition of the fraud prevention grants offered under ARPA. However, the grants provide the OIG access only for those states that chose to participate and only through the end of 2023. Given that a few states are not receiving grants and ETA has not effectuated another viable alternative for access to non-grantee data in the short-term, the data provided to the OIG will be incomplete; additional IG subpoenas may be necessary. However, as noted, use of IG subpoenas to obtain UI data on a recurring basis is time-consuming and inefficient. Thus, the OIG would not be able to obtain UI data in a manner that would allow it to more timely detect fraud.

The OIG must have easy and expeditious access to state UI claimant and wage records to conduct appropriate audit and investigative oversight of UI funds. As outlined in June 2021, disclosure limitations regarding UI potential fraud data¹⁰ contradict the Inspector General Act of 1978, as amended. To obtain access to UI data, the OIG had to issue two separate sets of IG subpoenas. The resulting delays equated to the lack of detection and prevention of billions of dollars in potentially fraudulent claims at the

earliest opportunity. In support of the OIG's oversight activities, the OIG needs access to UI claimant data and wage records from SWAs to verify claimants' eligibility for UI benefits, including both initial eligibility (and amounts) and continuing eligibility. Direct and timely access to these records will permit the OIG to identify claimants who appear to be receiving benefits while also earning wages. Further, direct and timely access to UI data will allow the OIG to use our data analytics program to identify and investigate complex identity theft and multistate fraud schemes, as we have successfully done during the pandemic. The OIG could also use UI data to assess the outcomes of UI reemployment programs.

Congress should consider legislative action to authorize DOL and the OIG to have direct access to UI claimant data and wage records for our oversight responsibilities. Real time direct access to SWA UI claimant data and wage records systems would further enable the OIG to quickly identify large-scale fraud and expand its current efforts to share emerging fraud trends with ETA and SWAs in order to strengthen the UI program and prevent fraud before it occurs.

In addition, data analytics based on the direct access would further enable our auditors to identify program weaknesses and recommend corrective action that will improve the timeliness of UI benefit payments and the integrity of the UI program. To underscore this point, based on the data that was obtained by the OIG, our data scientists in our Office of Investigations and Office of Audit worked collaboratively to identify nearly \$17 billion in potential UI fraud paid in the four specific high-risk areas, such as to multistate claimants and deceased persons.

¹⁰ Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of the Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

Significant Concerns

Protecting the Safety and Health of Workers

The Occupational Safety and Health Administration (OSHA) is responsible for the safety and health of 130 million workers employed at more than 8 million establishments, and OSHA must ensure employers are providing the level of protection required under relevant laws and policies. The OIG remains concerned about OSHA's ability to target its compliance activities to areas where it can have the greatest impact.

OSHA carries out its compliance responsibilities through a combination of self-initiated inspections and those resulting from complaints and referrals. However, because of resource limitations, the program only reaches a fraction of the regulated entities. Consequently, OSHA must target the most egregious or persistent violators to protect the most vulnerable worker populations. OSHA faces challenges to ensure that workplaces where workers are exposed to safety and health violations are sufficiently covered.

While OSHA has issued several guidance documents to enhance safety provisions during the pandemic, guidance does not carry the weight of OSHA rules or standards. In June 2021, more than a year into the pandemic, OSHA issued an emergency temporary standard (ETS) that only covered the health care industry. This emergency standard expired in December 2021. OSHA then substantially withdrew the ETS, retaining only its logging and recordkeeping sections. Despite the withdrawal of the vaccine or testing elements of the ETS, OSHA indicated it is pursuing a final rule on the subject.¹¹ In addition,

¹¹ DOL OSHA, COVID-19 Vaccination and Testing ETS. Updated January 25, 2022. <https://www.osha.gov/coronavirus/ets2>

in September 2021, President Biden issued an executive order to write a rule requiring employers with at least 100 workers to require employees to get vaccinated or produce weekly test results showing they are virus free. This rule was issued as an ETS on November 5, 2021, but subsequently withdrawn by OSHA on January 26, 2022, after the U.S. Supreme Court ruled the Occupational Safety and Health Act of 1970 did not authorize the agency to issue it.

Protecting the Safety and Health of Miners

The Mine Safety and Health Administration's (MSHA) ability to complete mine inspections while safeguarding the health of miners and the agency's staff during the COVID-19 pandemic is a concern for the OIG. Some MSHA inspectors self-identified as being at high risk during the pandemic, which meant they were no longer required to perform mine inspections. The reduction in the number of inspectors able to conduct inspections, coupled with the logistical challenges of the pandemic, is a concern for the OIG. We are also concerned with the high incidence of powered haulage accidents in mines, which accounted for almost half of all mine fatalities in 2021 and have been continuing a trend in which powered haulage accidents account for a disproportionate share of overall fatalities over the last several years. MSHA also needs to develop strategies to address lung disease in coal mining states, particularly by updating regulations regarding silica content in respirable dust.¹² Respirable crystalline silica can cause deadly and incurable chronic conditions, such as black lung disease. MSHA regulations on respirable silica have not

¹² MSHA Needs to Improve Efforts to Protect Coal Miners From Respirable Crystalline Silica, Report No. 05-21-001-06-001 (November 12, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2021/05-21-001-06-001.pdf>

Significant Concerns

changed in many years, even as the acceptable limit for silica exposure for workers other than miners has been significantly decreased by OSHA regulations.

Improving the Performance Accountability of Workforce Development Programs

The OIG has concerns about the Department's ability to ensure its investment in workforce development programs is successful in advancing participants' skills and placing them in suitable employment. The pandemic continues to highlight the importance of the Department's workforce development programs assisting job seekers and employers in finding and filling available jobs and assisting workers in developing the right skills to fill new job openings. The Department's ability to obtain accurate and reliable data to measure, assess, and make decisions regarding the performance of grant recipients, contractors, and states in meeting the programs' goals is critical.

The Department needs to ensure its investments in credential attainment align with local employers' needs and are having the desired impact on participants' ability to obtain or advance in a job. In a 2018 audit¹³ that followed up on the employment status of a sample of Job Corps students 5 years after they left the program, we found that Job Corps faced challenges in demonstrating the extent to which its training programs helped those participants obtain meaningful jobs appropriate to their training.

In March 2018, ETA announced the National Health Emergency Grant program to help communities

¹³ Job Corps Could Not Demonstrate Beneficial Job Training Outcomes, Report No. 04-18-001-03-370 (March 30, 2018), available at: <https://www.oig.dol.gov/public/reports/oa/2018/04-18-001-03-370.pdf>

address the economic and workforce-related impacts of the opioid crisis. Research suggests that opioid dependency has been a leading cause of workforce exits for workers ages 25 to 54. To date, ETA has approved up to \$143 million in grants to address the opioid crisis. It is vital that the Department monitor the performance of the discretionary grants it has awarded for the delivery of services to employers and workers affected by the opioid crisis.

As expressed in a March 2022 advisory report,¹⁴ the OIG continues to be concerned about three areas in particular where our body of work has identified weaknesses: awarding grants, reviewing grantees' use of funds, and measuring grantee performance. Additional funding related to the COVID-19 pandemic has increased the need for ETA to ensure issues do not reoccur. Our June 2020 advisory report¹⁵ noted areas of concern that ETA should keep in mind when spending the additional \$345 million allocated under the CARES Act through grants to assist dislocated workers adversely affected by the pandemic. The areas of concern were related to program eligibility, effectiveness, and compliance and monitoring. While ETA has taken action to address many related findings and recommendations, it must also proactively monitor the three key areas identified in the March 2022 advisory report and continue to assess for these weaknesses to ensure they do not reoccur.

¹⁴ Advisory Report: ETA's Management of Workforce Development Grants: Key Concerns, Report No. 09-22-001-03-001 (March 31, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/09-22-001-03-001.pdf>

¹⁵ Advisory Report: CARES Act: Key Areas of Concern Regarding Implementation of Dislocated Worker Grant Provisions, Report No. 19-20-005-03-391 (June 23, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-005-03-391.pdf>

Significant Concerns

Ensuring Safety During On-Site Instruction at Job Corps Centers and Implementing Distance Learning During the Pandemic

The OIG is concerned about the ability of Job Corps to mitigate the risk and spread of COVID-19 across the centers. Like many other educational institutions, preventing outbreaks of COVID-19 at Job Corps centers continues to be a significant priority. Job Corps centers are mostly residential, with students and some staff living on campus. While Job Corps has implemented its distance learning programs, the OIG is concerned with two issues related to distance learning. First, many Job Corps programs, such as plumbing and carpentry, are intensively hands-on and may not successfully transition to a virtual training model. Second, many Job Corps students may not have access to the equipment or high-speed Internet services they need in order to effectively participate in distance learning. To address these concerns, Job Corps granted extensions allowing students to physically return to Job Corps to complete their hands-on training components and procured and distributed laptops and mobile hotspots to students to participate in distance learning. Finally, the OIG is concerned with the potential learning gaps, such as those caused by delays to in-person instruction, that occurred because of the temporary suspension of Job Corps instructional programs at the onset of the pandemic and with how Job Corps intends to remediate these potential learning gaps.

Ensuring the Safety of Students and Staff at Job Corps Centers

In addition to the safety challenges posed by the COVID-19 pandemic, averting on-campus violence and other potentially criminal behavior remains a

challenge for Job Corps centers. The OIG audits from 2015¹⁶ and 2017¹⁷ revealed that some Job Corps centers failed to report and investigate serious misconduct, such as drug abuse and assaults. The audits also disclosed that some Job Corps centers downgraded incidents of violence to lesser infractions, creating an unsafe environment for students and staff. The follow-up work we completed in December 2017¹⁸ and our ongoing review of Job Corps' corrective actions showed that Job Corps has taken steps to improve center safety and security by establishing internal controls and revising policy. However, student misconduct concerns continue, and a March 2021 OIG audit report¹⁹ showed that the current process does not provide Job Corps centers the appropriate tools and resources to properly evaluate applicants for substance abuse and mental health issues as they enter the program and does not ensure centers have the necessary resources to mitigate them. While ETA told us it increased nursing and mental health consultants' hours at every center to help address these concerns, it determined pre-enrollment

¹⁶ Job Corps Needs to Improve Enforcement and Oversight of Student Disciplinary Policies to Better Protect Students and Staff at Centers, Report No. 26-15-001-03-370 (February 27, 2015), available at: <https://www.oig.dol.gov/public/reports/oa/2015/26-15-001-03-370.pdf>

¹⁷ Review of Job Corps Center Safety and Security, Report No. 26-17-001-03-370 (March 31, 2017), available at: <https://www.oig.dol.gov/public/reports/oa/2017/26-17-001-03-370.pdf>

¹⁸ Job Corps Took Action to Mitigate Violence, Drugs and Other Student Misconduct at Centers, But More Needs to Be Done, Report No. 26-18-001-03-370 (December 29, 2017), available at: <https://www.oig.dol.gov/public/reports/oa/2018/26-18-003-03-370.pdf>

¹⁹ Job Corps Should Improve Its Pre-Admission Evaluation Process, Report No. 05-21-001-03-370 (March 25, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/05-21-001-03-370.pdf>

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behavioral assessments, of the type OIG identified, are not feasible legally or programmatically and pre-enrollment academic readiness screening of prospective students does not align with the program's eligibility criteria and overall purpose to serve a diverse collection of youth. The OIG continues to monitor various safety initiatives and actions taken by Job Corps to keep students and staff safe.

Maintaining the Integrity of Foreign Labor Certification Programs

The DOL foreign labor certification (FLC) programs are intended to permit U.S. employers to hire foreign workers to meet their workforce needs while protecting U.S. workers' jobs, wages, and working conditions. DOL's administration of FLC programs under current laws has been a concern for the OIG for decades. Investigations have shown these visa programs, in particular the H-1B program for workers in specialty occupations, to be susceptible to significant fraud and abuse from perpetrators, including certain immigration agents, attorneys, labor brokers, employers, and, most often, organized criminal enterprises.

In 2003, the OIG issued a white paper²⁰ outlining vulnerabilities that then existed in four FLC programs, permanent employment certification program (PERM), H-1B, H-2A, and H-2B, and, in 2020, we issued a similar report.²¹ We found the

²⁰ Overview and Assessment of Vulnerabilities in the Department of Labor's Alien Labor Certification Programs, Report No. 06-03-007-03-321 (September 30, 2003), available at: <https://www.oig.dol.gov/public/reports/oa/2003/06-03-007-03-321.pdf>

²¹ Overview of Vulnerabilities and Challenges in Foreign Labor Certification Programs, Report No. 06-21-001-03-321 (November 13, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2021/06-21-001-03-321.pdf>

post-2003 rules revamped the PERM, H-2A, and H-2B visa programs, and addressed some of the vulnerabilities cited in audits and investigations by the OIG and the Government Accountability Office. Those same rules created challenges regarding DOL's responsibilities. Additionally, DOL continues to have limited authority over the H-1B and PERM programs which challenges the goal of protecting the welfare of the nation's workforce.

The statute limits DOL's ability to deny H-1B applications. Specifically, DOL may only deny incomplete and obviously inaccurate H-1B applications and has only limited authority to conduct H-1B investigations in the absence of a complaint. DOL has recently established a process to begin utilizing the Secretary-initiated H-1B investigations. The PERM program itself is persistently vulnerable to employers not complying with its qualifying criteria. Therefore, both the PERM and H-1B programs remain highly prone to fraud.

With various new DOL rules going into effect since 2003, there have been opportunities for the PERM, H-2A, and H-2B visa programs to change. For example, these new rules implemented employer attestation programs, which allow employers to agree to the conditions of employment without providing supporting documentation to validate their agreements. However, DOL has identified instances in which employers are not complying with the conditions of employment, thereby reinforcing how susceptible these programs are to fraud.

Finally, DOL has established a risk-based process to determine which H-2A and H-2B applications to audit. The new selection process identifies appropriate risk factors based on adjudication experience and available H-2A and H-2B application processing data. DOL has implemented the process

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and started the audits. Because the process is still new, it is difficult for ETA to determine whether the applications audited were those most likely to result in violations eligible for employer debarment.

Protecting the Security of Employee Benefit Plan Assets

The OIG remains concerned about the Employee Benefits Security Administration's (EBSA) ability to protect the benefit plans of about 158 million workers, retirees, and their families under the Employee Retirement Income Security Act (ERISA) of 1974. In particular, the OIG is concerned about the statutory limitations on EBSA's oversight authority and inadequate resources to conduct compliance and enforcement. A decades-long challenge to EBSA's compliance program, ERISA provisions allow billions of dollars in pension assets to escape full audit scrutiny. In 2013, we reported²² that as much as \$3.3 trillion in pension assets, including an estimated \$800 billion in hard-to-value alternative investments, held in otherwise regulated entities such as banks, received limited-scope audits that provided few assurances to participants regarding the financial health of their plans. EBSA needs to focus its limited available resources on investigations that are most likely to result in the deterrence, detection, and correction of ERISA violations, particularly given the number of benefit plans EBSA oversees relative to the number of investigators it employs. Finally, EBSA lacks the authority under the Federal Employees' Retirement System Act (FERSA) to effectively oversee more than \$769.4 billion in federal employee Thrift

Savings Plan (TSP) assets. FERSA requires EBSA to conduct regular compliance audits to determine whether the Federal Retirement Thrift Investment Board (FRTIB), an independent agency, is fulfilling its fiduciary duties and properly safeguarding TSP participants' assets; however, EBSA has no legal authority to compel FRTIB to implement its recommendations.

Managing Medical Benefits in the Office of Workers' Compensation Programs

The OIG has concerns about the ability of the Office of Workers' Compensation Programs' (OWCP) to effectively manage rising home health care costs in the Energy Employees Occupational Illness Compensation Program Act (Energy Workers) program, and about the use and cost of pharmaceuticals in the Federal Employees' Compensation Act (FECA) program. The Department needs to make sure it has controls in place to ensure that the medical benefits it provides to energy workers and FECA program claimants are safe, effective, medically necessary, and cost-effective.

In the Energy Workers program, with an aging claimant population and an increased demand for home health care services, there is a potential for providers to exploit these benefits through unauthorized or unnecessary billing. Since 2010, home health care costs paid by the Energy Workers program have grown from \$100 million to more than \$675 million, amounting to 74 percent of all medical benefits paid by the program in Fiscal Year (FY) 2020. OWCP needs to continue its efforts to analyze home health care billing for abusive practices and to identify and refer allegations involving potential fraud or abuse to the OIG for further investigation.

²² EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments, Report No. 09-13-001-12-121 (September 30, 2013), available at: <https://www.oig.dol.gov/public/reports/oa/2013/09-13-001-12-121.pdf>

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In the FECA program, we are currently conducting an audit to determine if OWCP effectively managed pharmaceutical spending from FY 2015 to FY 2020. Past audits have identified internal control weaknesses related to OWCP's management of pharmaceuticals. For example, OWCP allowed increases in billing statements for compounded drugs to go undetected and failed to identify the overuse of opioids. Given the high risk of fraud related to prescription payments, OWCP needs to analyze and monitor FECA program costs to promptly detect and address emerging issues before they manifest into material concerns.

Consistent with prior audit recommendations by the OIG, OWCP imposed restrictions on opioid prescriptions in September 2019. In addition, in March 2021, OWCP contracted with a pharmacy benefits manager (PBM) that will be responsible for pharmaceutical transactions, including implementation of FECA eligibility determinations and pricing for pharmaceutical drugs. OWCP needs to provide adequate oversight over the PBM to ensure that it is providing the most cost-effective and safe medical benefits. OWCP should also continue to monitor the COVID-19 pandemic and potential impacts on its ability to provide timely and effective benefits to injured workers.

Ensuring the Solvency of the Black Lung Disability Trust Fund

Miners and their dependent survivors receive lifetime benefits when awarded under the Black Lung Benefits Act. Mine operators pay these benefits when possible, and the Black Lung Disability Trust Fund (BLDTF) pays the benefits when a miner's former employer does not or cannot assume liability. The OIG's primary concern is that the current annual income of the BLDTF (primarily from an excise tax

on coal) is not sufficient to cover annual benefit obligations to meet administrative costs and to service past debt. The BLDTF expenditures have consistently exceeded revenue and it has essentially borrowed with interest from the U.S. Department of the Treasury's (Treasury) general fund almost every year since 1979. According to DOL's FY 2021 Agency Financial Report, the BLDTF had to borrow approximately \$2.3 billion to cover its expenditures, which included debt and interest payments. As of September 30, 2021, the BLDTF was carrying close to a \$6.1 billion deficit balance, which is projected to grow to nearly \$13 billion (in constant dollars) by September 30, 2046.

The excise tax that funds the BLDTF is levied on domestic sales of coal mined in the United States. On January 1, 2022, the temporary increased tax rates of \$1.10 per ton of underground-mined coal and \$0.55 per ton of surface-mined coal sold were reduced to the rates originally set when the trust fund was established in 1978 at \$0.50 per ton of underground-mined coal and \$0.25 per ton of surface-mined coal. The House Committee on Education and Labor introduced the bill, Black Lung Benefits Disability Trust Fund Solvency Act of 2022, to extend the temporary excise tax rates for 10 years through December 31, 2031, but it has not yet been enacted in law. The excise tax rate reduction plus the reduction in coal production will result in decreased cash inflows to the BLDTF. The Congressional Research Service reported in 2019 that "the decline in the excise tax rates will likely put additional financial strain on a trust fund that already borrows from the general fund to meet obligations."²³

²³ Congressional Research Service, The Black Lung Program, the Black Lung Disability Trust Fund, and the Excise Tax on Coal: Background and Policy Options, Report No. R45261 (January 18, 2019), available at: <https://crsreports.congress.gov/product/pdf/R/R45261/9>

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Securing and Protecting Information Management Systems

We remain concerned about the Department's ability to safeguard its data and information systems. The Department's agencies rely on its information technology (IT) systems to obtain and create vast amounts of information and data in carrying out their missions, and included in these data are the PII and personal health information of the public, including federal employees. Over the past several years, the Department has made significant changes in the way it provides IT services to its program agencies. These changes included transitioning from a program agency-operated model to a shared services model, centralizing information technology under the Office of the Assistant Secretary for Administration and Management. While these changes have made improvements in managing the Department's information technology, we continue to have concerns in the following areas:

- information system security,
- supply chain,
- cloud/third party,
- end user/remote security.

Securing the Department's information systems remains a concern as we continue to identify recurring deficiencies in the Department's efforts to manage and implement security controls within identity and configuration management. In addition, we determined the Department has not adequately implemented the technology tools required to manage and monitor IT security. Recurring deficiencies were identified in four of the five information security functional areas (as defined by the National Institute of Standards and Technology Cybersecurity Framework) and occurred



in the performance of security control assessments, account management controls, configuration management, and maintenance of system security plans. These deficiencies continue to hinder the Department in identifying security weaknesses; protecting its systems and data; and detecting, responding to, and recovering from incidents.

While Supply Chain Risk Management (SCRM) has been an on-going concern, recent cyber attacks, such as the 2020 Solar Winds attack, which took advantage of the supply chain process, has increased awareness and related concerns throughout the industry and the federal government. As a new domain for our annual information security testing, we determined that DOL has not adequately defined SCRM policies, procedures, and strategies.

The Department continues to move its information systems to a shared services model and expand its use of cloud and third-party providers for its information systems, infrastructure, and services.

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DOL's ability to provide oversight and management required of these systems and services is still an issue. We continue to identify deficiencies in the Department's oversight of information systems managed and/or operated by a third-party on behalf of the Department. As DOL continues this transition, the Department's ability to provide the oversight and to retain the specialized knowledge and expertise required to protect and manage its systems, including the contracted systems, remains at risk. Our recent reviews identified inadequate oversight of continuous monitoring reviews and third-party systems. Also, prior year recommendations regarding validation of annual third-party and cloud service provider assessments and continuous monitoring training remained unimplemented.

As we return to the office, the Department is changing its work and IT landscape to significantly expand remote and telework operations for its employees. This expansion raises our concern with the DOL's ability to secure the changing and expanding endpoint security requirements. In the past few years, more DOL employees are teleworking and more computers are connected remotely or connected as a service to primary office locations. DOL needs to ensure the endpoint security between all connection points and review data transmission. Network access control becomes less coordinated as different "software as a service" (SaaS) methods and non-centralized systems are required to be managed independently. Unpatched systems are continual targets and patching may or may not be a portion of a service rather than a direct responsibility. Without the technical, contractual, and wider scoped training, cyberattacks and data fraud are due to increase with the shift in working patterns and new remote services.

These areas of concern represent ongoing risks to the confidentiality, integrity, and availability of DOL's information systems, which are necessary to support the Department's mission. Our concern is whether DOL can implement the necessary strategies and tools to provide sufficient capability and effective security for the Department's data and information systems as well as to support the execution of its mission.

Improving Job Corps' Procurement Process

Job Corps spends about \$1 billion on goods and services annually for 121 centers and is currently transitioning center operations from cost reimbursement to fixed-price contracts. The Department believes that this transition will lower government risk, reduce the administrative burden, generate more pre-award efficiencies, and encourage more competition for contracts. Increased competition among contractors should lead to better contractor performance with fewer staffing shortages and improved services, including those for centers' safety and security.

We are concerned about the transition to fixed-price contracting because prior OIG work in this area found that Job Corps procurement processes did not ensure the best value for taxpayers.²⁴ As the Department moves to fixed-price contracting, the Department must continue to ensure its contract requirements are well developed, contract competition is fair, and sound post-award oversight is used to quickly ameliorate deficiencies and poor performance.

²⁴ Job Corps National Contracting Needs Improvement to Ensure Best Value, Report No. 26-13-004-03-370 (September 27, 2013), available at: <https://www.oig.dol.gov/public/reports/oa/2013/26-13-004-03-370.pdf>



Worker and Retiree Benefit Programs

Unemployment Insurance Programs

Enacted more than 80 years ago as a federal-state partnership, the unemployment insurance (UI) program is the Department's largest income-maintenance program. This multibillion-dollar program provides unemployment benefits to eligible workers who become unemployed through no fault of their own. Although the program's framework is determined by federal law, the benefits for individuals depend on state law and, generally, state funding of benefits that are administered by State Workforce Agencies (SWA) in jurisdictions covering the 50 states, the District of Columbia, and U.S. territories, under the oversight of DOL's Employment and Training Administration (ETA). The federal government pays the program's administrative expenses.

OIG OVERSIGHT OF THE UI PROGRAM

BACKGROUND

The OIG has remained committed to meeting the challenges created by the COVID-19 pandemic and to assisting DOL and Congress in improving the efficiency and integrity of the UI program. Strengthening the UI program to prevent fraud before it occurs and to detect it when it does are key objectives to ensure that unemployed workers expeditiously receive much-needed benefits while safeguarding tax dollars directed toward that goal.

OVERVIEW OF THE UI PROGRAM

The UI program is a joint federal-state program that is the first economic line of defense against the collective impact of unemployment. The program acts as a safety-net for individuals who lose their jobs through no fault of their own. The UI program is required to make timely weekly benefit payments to provide needed assistance to unemployed workers. It is equally important that the program have sufficient controls in place to quickly determine that benefits are or were

paid to the right person in the correct amount. Each SWA:²⁵

- administers a separate UI program under its laws, but follows uniform guidelines established by federal law;
- establishes requirements for eligibility, benefit amounts, and the length of time that benefits can be paid; and
- manages the personnel and system resources to administer their respective programs.

UI benefits are generally funded by state employer taxes with administrative costs funded by the federal government. The UI program requires states to make weekly benefit payments while ensuring claimants meet eligibility requirements. Extensions and expansions of coverage and benefits, such as those provided by the CARES Act and subsequent legislation, are normally funded by the federal government.

²⁵ There are 53 SWAs, including the 50 states, the U.S. Virgin Islands, Puerto Rico, and the District of Columbia. The CARES Act also provided certain UI benefits to American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Marshall Islands, and the Republic of Palau, provided the territory signs an agreement with the Department.

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DOL's ETA is the federal agency responsible for providing program direction and oversight. The OIG conducts independent oversight of the UI program through audits to strengthen the integrity and efficiency of the program and criminal investigations to detect and deter large-scale fraud. The OIG's federal criminal investigations are time and resource-intensive and one of the last lines of defense in safeguarding the UI program from fraud.

OIG SIGNIFICANT CONCERNS

The OIG has repeatedly reported significant concerns with DOL and SWA's ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly in response to national emergencies and disasters. The OIG reiterated these concerns following the economic downturn created by the pandemic and the unprecedented levels of federal funding allocated to the UI program, currently estimated at approximately \$872.5 billion. Less than a month after the CARES Act passed, we published an advisory report²⁶ outlining areas of concern that ETA and the states should consider as they implemented the UI provisions included in the CARES Act. Our identification of these areas represents years of work relating to DOL's UI program, including the use of prior stimulus funds and response to past disasters.

Deploying Benefits Expeditiously and Efficiently

Rapid deployment of CARES Act funding was critical in helping workers in need. However,

²⁶ CARES ACT: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions Report No. 19-20-001-03-315 (April 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

anticipating and addressing the increased risk that came with the expanded funding was also vital to meeting the intent of the act. As the OIG's prior audit work has shown, quickly deploying funds can result in shortcomings in the effective and efficient implementation of stimulus programs. For example, a 2011 audit report²⁷ found states took over a year to spend most of the American Reinvestment and Recovery Act of 2009 (Recovery Act) funding available for emergency staffing, and at least 40 percent of funding for this purpose was unspent after 15 months. In addition, a separate audit report on the Recovery Act²⁸ found \$1.3 billion of the \$7 billion DOL provided to states for UI modernization, including IT modernization, would likely not have been spent before their period of availability expired. To access these funds, states had to meet certain UI law modernization criteria; once accessed, the funds could be spent for several purposes including to modernize IT systems. Of the funds spent from the \$7 billion, states did not always take advantage of the opportunity to modernize their IT systems.

To implement the new UI programs authorized by the CARES Act in March 2020, states needed sufficient staffing and system resources to manage the extraordinary increases in the number of claims and payments. Since the start of the pandemic, our

²⁷ Recovery Act: DOL Could Have Better Monitored the Use of Re-employment Services Funds to Adhere to Standards for Transparency and Accountability, Report No. 18-11-005-03-315 (March 31, 2011), available at: <https://www.oig.dol.gov/public/reports/oa/2011/18-11-005-03-315.pdf>

²⁸ Recovery Act: More Than \$1.3 Billion in Unemployment Insurance Modernization Incentive Payments Are Unlikely to Be Claimed by States, Report No. 18-10-012-03-315 (September 30, 2010), available at: <https://www.oig.dol.gov/public/reports/oa/2010/18-10-012-03-315.pdf>

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audit work confirmed the Department and states continued to face challenges in these areas as they endeavored to implement the new temporary UI programs authorized by the CARES Act. State preparedness through staffing and systems was one of the six areas we reported in April 2020 as a continued challenge for the Department and states.

Furthermore, we also reported on the program that posed the greatest risk to the UI system, the Pandemic Unemployment Assistance (PUA) program. PUA's expanded coverage for a population of claimants who were traditionally ineligible to receive UI benefits²⁹ presented significant challenges to states as they designed and implemented processes to determine initial and continued program eligibility. The OIG reported the risk of fraud and improper payments was even higher under PUA because claimants could self-certify their eligibility for UI and alerted ETA to establish methods to detect fraud and recover improper payments.

Our subsequent reports identified continued programmatic weaknesses in each of these same areas. For example, the OIG had audited the Disaster Unemployment Assistance (DUA) program and found the Department had not established adequate controls to ensure benefits were paid timely.³⁰ Similarly, for PUA, we

identified that it took, on average, 38 days for the first payment after the CARES Act passed. Also, we identified delays in payments for two other new programs: it took 25 days for the Federal Pandemic Unemployment Compensation (FPUC) program and 50 days for the Pandemic Emergency Unemployment Compensation (PEUC) program.³¹ Continued programmatic weaknesses led to workers unemployed through no fault of their own suffering lengthy delays in receiving benefits.

History of Improper Payments, Including Fraud

For more than 20 years, the OIG has reported on the Department's challenges to measure, report, and reduce improper payments in the UI program. Indeed, the UI program has experienced some of the highest improper payment rates across the federal government. The reported improper payment estimate for the regular UI program has been above 10 percent for 14 of the last 18 years.

The UI program requires states to make weekly benefit payments while ensuring claimants meet eligibility requirements. A SWA may determine a payment is improper after a claimant receives benefits based on new information that was unavailable when the SWA approved the benefit payment or as a result of the requirement that claimants be provided with due process prior to stopping payment of benefits. Improper payments have occurred as a result of four top causes:

²⁹ The new PUA program extended unemployment benefits to self-employed, independent contractors, those with limited work history, and other individuals not traditionally eligible for unemployment benefits who were unable to work as a direct result of COVID-19.

³⁰ ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation, Report No. 04-20-002-03-315 (September 29, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/04-20-002-03-315.pdf>

³¹ Also, the 12 states we selected for in-depth analysis were generally unable to demonstrate they met the payment promptness standard ETA established for regular UI payments, which is to pay 87 percent of claimants within 14 or 21 days.

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- **Claimants Do Not Meet Work Search Requirements**³² – Claimants who fail to demonstrate they meet state requirements for work search;
- **Benefit Year Earnings** – Claimants who continue to claim benefits after they return to work, or who misreport earnings during a week in which benefits are claimed;
- **Employers Do Not Timely Report Employees' Separation** – Employers or their third-party administrators who fail to provide timely and adequate information about why individuals separated from their employment; and
- **Fraud** – Claims based on fraudulent schemes, such as those perpetrated during the pandemic.

A PERFECT STORM

Following the start of the pandemic in the United States in early 2020, unemployment compensation claims rose exponentially to historically unprecedented levels. Prior to the pandemic, numbers of UI claims were low: on March 14, 2020, the Department reported 282,000 initial claims. Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle. Within 5 months, through August 15, 2020, the Department reported 57.4 million initial claims, the largest increase since the Department began tracking UI data in 1967.

³² The Middle Class Tax Relief and Job Creation Act of 2012, requires that individuals receiving UI benefits must be able to work, available to work, and actively seeking work, as a condition of eligibility for regular compensation for any week. Accordingly, states generally require that unemployed workers demonstrate they were actively seeking work. Work search overpayments occur when states pay UI claimants who do not demonstrate that they were actively seeking work.

The CARES Act provided significant funding to the state-federal UI program, which resulted in hundreds of billions of dollars in additional payments. New UI programs under the CARES Act meant more workers qualified,³³ all unemployed workers received a supplement per week in addition to their regular benefit amount, and individuals who exhausted their regular unemployment benefits were provided additional weeks of unemployment compensation. Also, UI claims could be backdated to the beginning of the eligibility period. With the legislative extensions, claimants could receive up to 79 weeks of UI payments.

In June 2020, the OIG provided a member briefing³⁴ and a statement for the record³⁵ to Congress highlighting challenges DOL and SWAs faced in administering and overseeing the UI program as well as the substantially increased fraud risk. The expanded coverage offered under the PUA program posed significant challenges to states as they implemented processes to determine initial and continued program eligibility for participants. The reliance solely on claimant

³³ The PUA program provided UI benefits to those not traditionally eligible for UI who are unable to work as a direct result of the public health emergency.

³⁴ "Subcommittee on Government Operations Briefing with the Inspector General for the Department of Labor." Statement of Scott S. Dahl, Inspector General, U.S. Department of Labor House Committee on Oversight and Reform; Subcommittee on Government Operations (June 1, 2020), available at: <https://www.oig.dol.gov/public/testimony/20200601.pdf>

³⁵ "Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic." Statement for the Record of Scott S. Dahl, Inspector General, U.S. Department of Labor Senate Committee on Finance (June 9, 2020), available at: <https://www.oig.dol.gov/public/testimony/20200609.pdf>

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self-certifications without evidence of eligibility and wages during the program's first 9 months rendered the PUA program extremely susceptible to improper payments and fraud.

The unprecedented infusion of federal funds into the UI program gave individuals and organized criminal groups a high-value target to exploit. That, combined with easily attainable stolen personally identifiable information and continuing UI program weaknesses identified by the OIG over the last several years, allowed criminals to defraud the system. Because many states were not prepared to process the extraordinary volume of new UI claims and struggled to implement new UI programs, many internal fraud controls that had been traditionally used or recommended for the processing of UI claims were not initially implemented. This created a situation where fraudsters had a high-reward target where an individual could make a fraudulent claim with relatively low risk of being caught. For example, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card.

Estimating the overall improper payment rate for the pandemic UI programs is critical for the efficient operation of the program. The OIG maintains that ETA and the SWAs, under their program operating responsibilities, must determine the improper payment rate, including the fraud rate, for pandemic UI programs. The Inspector General Act of 1978 prohibits the OIG from undertaking program operating responsibilities. In August 2020, we recommended that ETA estimate the improper payment rate for pandemic UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate of 18.71 percent. The OIG notes this estimate is based on the regular UI program and

has been applied to two of three key pandemic UI programs, PEUC and FPUC. ETA states it will report the third program, PUA, in 2022.

Applying the 18.71 percent to the estimated \$872.5 billion in pandemic UI payments,³⁶ at least \$163 billion in pandemic UI benefits could have been paid improperly, with a significant portion attributable to fraud. Based on the OIG's audit and investigative work, the improper payment rate for pandemic UI programs is likely higher than 18.71 percent.

OIG PANDEMIC INVESTIGATIVE WORK

The volume of UI investigative matters currently under review is unprecedented in the OIG's history. Prior to the pandemic, the OIG opened approximately 120 UI investigative matters annually. Since the pandemic started, the OIG has received more than 144,000 UI fraud complaints from the U.S. Department of Justice's (DOJ) National Center for Disaster Fraud (NCDF) and has independently opened more than 39,000 investigative matters concerning UI fraud. That is an increase of more than 1,000 times in the volume of UI work that we are facing. UI investigations now account for approximately 94 percent of the OIG investigative case inventory, compared to approximately 11 percent prior to the pandemic.

In response to the extraordinary increase in oversight demands, the OIG hired additional criminal

³⁶ ETA's reported improper payment rate estimate of 18.71 percent does not include the PUA program. However, it is the most current improper payment rate from ETA. Furthermore, PUA had control weaknesses that may have facilitated comparable or greater improper payments. Therefore, applying ETA's rate to all of the estimated \$872.5 billion in CARES Act UI payments including PUA would equate to at least \$163 billion in improper payments.

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investigators; increased the caseload of investigators already onboard; deployed federal and contract staff to review DOL and SWAs' efforts; and strengthened our data analytics program. In addition, we took several other actions to augment our efforts, including the following:

- initiated the development of a National Unemployment Insurance Fraud Task Force (NUIFTF),³⁷ alongside DOJ;
- collaborated with DOJ on the strategic assignment of 12 term-appointed assistant United States attorneys assigned solely to prosecute UI fraud;
- established a multi-disciplinary Pandemic Rapid Response Team within the OIG;
- appointed a National UI Fraud Coordinator to manage our national investigative response to UI fraud;
- appointed seven Regional UI Fraud Coordinators to partner with SWAs and federal, state, and local law enforcement on UI fraud matters in their geographic areas of responsibility;
- leveraged resources from the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Pandemic Response Accountability Committee (PRAC);
- collaborated with states' auditors to help develop their audit strategies for the CARES Act UI programs; and
- implemented an extensive outreach and education program targeted to SWAs, the Department, financial institutions and their associations, law enforcement agencies, and the public to inform and raise awareness

regarding fraud trends, best practices, red flags, and more.³⁸

When the OIG identifies anti-fraud measures that may help the program detect and stop fraud, we share them with the Department and SWAs as appropriate. For example, in alert memoranda issued in February³⁹ and June 2021,⁴⁰ our investigators, auditors, and data scientists collaborated to identify nearly \$17 billion of potentially fraudulent UI benefits paid in four high risk areas to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file for UI claims with suspicious email accounts. We shared our methodology and the underlying data with the Department and the SWAs, and we recommended they establish effective controls to mitigate fraud and other improper payments to ineligible claimants, including the four high-risk areas identified in the

³⁸ The OIG has issued or assisted in issuing: UI fraud consumer protection guide; UI fraud investigations guide; UI fraud alert for state/local law enforcement; UI text message phishing alert; UI fraud and phishing alert; UI fraud and identity theft alert; and UI detection and mitigation alert for financial institutions. Available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm

³⁹ Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf>

⁴⁰ Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

³⁷ National Unemployment Insurance Fraud Task Force, available at: <https://www.justice.gov/coronavirus/national-unemployment-insurance-fraud-task-force>

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During the execution of a UI fraud search warrant, OIG agents recovered approximately 30 UI debit cards, over \$500,000 in cash, and several notebooks containing PII.

memoranda. The data provided to DOL and the states included more than 3 million suspicious claims. We are currently in the process of updating our UI dataset. Once that process is complete, we plan to examine whether SWAs took effective measures to address these four high-risk areas.

As of February 2022, our UI investigations have resulted in: the execution of more than 450 search warrants, 749 UI fraud related indictments, and over \$830 million in investigative monetary results. We have also referred over 8,000 fraud matters that do not meet federal prosecution guidelines back to the SWAs for further action.

In one recent OIG investigation, 11 members and associates of the Brooklyn-based Woo Gang were charged with a multi-million-dollar pandemic UI fraud scheme.⁴¹ In another recent OIG investigation, a one-time California Employment Development Department employee was sentenced to more than 5 years in prison for fraudulently obtaining nearly \$4.3 million in pandemic relief funds.⁴²

Working with Domestic and International Law Enforcement Partners

Early in the pandemic, the OIG worked with the DOJ to create the NUIFTF, a nine agency federal task force focused on law enforcement intelligence sharing, deconfliction, joint national and regional messaging, and the effective use of investigative and prosecutorial resources. The NUIFTF has also worked closely with partners at the International Organized Crime Intelligence and Operations Center (IOC 2) to develop a deconfliction process to coordinate investigative information across federal law enforcement agencies. Through data analytics and a leads generation process, the NUIFTF and IOC-2 partner agencies have identified significant fraud being committed against the UI program by

⁴¹ Department of Justice, “11 Members and Associates of the Brooklyn-Based Woo Gang Charged with Multi-Million Dollar COVID-19 Unemployment Insurance Fraud,” Press Release, February 17, 2022, available at: https://www.oig.dol.gov/public/Press%20Releases/11_Members_and_Associates_of_the_Brooklyn-Based_Woo_Gang_Charged_with_Multi-Million_Dollar_COVID.pdf

⁴² Department of Justice, “One-Time EDD Employee Sentenced to More Than 5 Years in Prison for Fraudulently Obtaining Nearly \$4.3 Million in COVID Relief Funds,” Press Release (February 4, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/One-Time_EDD_Employee_Sentenced_to_More_Than_5_Years_in_Prison_for_Fraudulently_Obtaining_Nearly.pdf

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domestic and international criminal organizations. Many of these include street-level criminal organizations with ties to illegal guns and drugs. These investigations are ongoing and actively being investigated through the NUIFTF.

The OIG has also been very engaged on DOJ's COVID-19 Fraud Enforcement Task Force (CFETF). We also have representation on CFETF subcommittees involving communication, forfeiture, and data, and co-chairs the task force's criminal enterprise subcommittee.

The OIG has also participated in other initiatives that have fallen outside the framework of the NUIFTF and CFETF. For example, in 2020 and 2021, the OIG supported DOJ's annual Money Mule Initiative,⁴³ which aimed to raise awareness about and suppress money mule activity. The OIG conducted extensive internal and external outreach regarding money mules and identified and targeted money mules in coordination with DOJ and other partner agencies.

In addition, the OIG issued alerts to financial institutions about UI fraud both on its own and jointly with its partners, such as U.S. Secret Service (USSS), Financial Crimes Enforcement Network (FinCEN), and NUIFTF. One such joint OIG/USSS alert, "Detection and Mitigation of Unemployment Insurance Fraud Guidance for Financial Institutions," served as a framework for the recovery of millions of dollars of fraudulent UI funds being held by financial institutions. Later, in 2021, the OIG authored a NUIFTF alert that was issued through FinCEN to financial institutions requesting that they identify funds they froze due to suspicion of fraud. The OIG created a process with

DOJ and the USSS to collect that data and work with those financial institutions to return fraudulent funds to SWAs. The OIG and its law enforcement partners are working with more than 350 financial institutions in response to our request.

The PRAC has also played a pivotal role in amplifying the ability of OIGs to share information and conduct internal and external outreach to stakeholders that have been impacted by pandemic fraud. For example, the OIG worked with the PRAC on social media tool kits related to money mule activity and erroneous Forms 1099-G that were issued to victims of UI fraud. The OIG has also worked with the PRAC, DOJ, and USSS to create a web-based survey where financial institutions can more broadly report UI and other types of pandemic fraud. This information is being collected by the PRAC, analyzed by its partners, and, if appropriate, sent to field personnel for further action.

The OIG, through its membership in IOC-2, has also been engaged with several allied national police agencies to strategize about pandemic-related fraud and how to best establish practices to share information. The issue of pandemic fraud has not only been an issue for the United States, but it has also negatively impacted our foreign partners' pandemic entitlement programs. We have conducted outreach and education related to pandemic fraud, including UI fraud, with our Five Eyes partner countries as participants on the International Public Sector Fraud Forum.⁴⁴

⁴³ Additional information about DOJ's Money Mule Initiative available at: <https://www.justice.gov/civil/consumer-protection-branch/money-mule-initiative>

⁴⁴ The Five Eyes countries include Australia, Canada, New Zealand, the United Kingdom and the United States. The International Public Sector Fraud Forum consists of representatives from organizations from the Five Eyes countries, whose collective aim is to share best and leading practices in fraud management and control across public borders.

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The OIG, IOC-2, and our federal law enforcement partners have identified numerous instances of international organized criminal groups engaged in UI fraud. We will continue to work with our domestic and international law enforcement partners on these matters.

OIG PANDEMIC OVERSIGHT WORK

In April 2020, shortly after CARES Act enactment, we published our Pandemic Response Oversight Plan⁴⁵ detailing how the OIG would conduct its pandemic oversight, with a significant focus on the UI program. We designed our four-phased pandemic response oversight plan to provide recommendations to DOL to address current and emerging vulnerabilities with the pandemic response and to prevent similar vulnerabilities from hampering preparedness for future emergencies. Phases 1 and 2, which are complete, focused on DOL's plans, guidance, and initial implementation of administration and oversight activities. Phase 3 audit work, assessing program results and more, is ongoing. Our Phase 4 work plans include reporting on lessons learned for UI, worker safety and health, and employment and training.

At the start of the pandemic, we examined past audits including those related to the Recovery Act and the DUA program, and we assessed comparable lessons learned as applicable to the UI program. As a result, in April 2020, we issued the previously noted advisory report⁴⁶ identifying six initial areas of concern for

ETA and the states to consider while implementing CARES Act UI provisions: (1) state preparedness (including staffing and systems), (2) initial eligibility determination, (3) benefit amount, (4) return to work, (5) improper payment detection and recovery, and (6) program monitoring. Our identification of these areas represents at least 16 years of work relating to DOL's UI program, including the use of prior stimulus funds and response to past disasters. The advisory report summarized dozens of OIG recommendations to implement corrective action in these areas.

We have issued several subsequent reports, including alert memoranda for urgent concerns, involving the UI program, including:

- In May 2020, we issued an alert memorandum⁴⁷ describing our concerns regarding claimant self-certification in the PUA program. In our view, reliance on such self-certifications rendered the PUA program highly vulnerable to improper payments and fraud. Subsequent to our work identifying fraud risks associated with self-certification in the PUA program, including this alert memorandum and the next two described reports, Congress took action to require supporting documentation to improve SWAs' abilities to ensure proper claimant eligibility and to mitigate fraud.
- In August 2020, we reported⁴⁸ states did not use existing tools effectively to combat fraud and

⁴⁵ Pandemic Response Oversight Plan (updated March 21, 2022), available at: <https://www.oig.dol.gov/public/oaprojects/Updated%20Pandemic%20Response%20Oversight%20Plan%202022%20for%20Publication.pdf>

⁴⁶ Advisory Report: CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

⁴⁷ Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report No. 19-20-002-03-315 (May 26, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf>

⁴⁸ COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under The CARES Act, Report No. 19-20-008-03-315 (August 7, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf>

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other improper payments. We also stated ETA should work with the OIG to obtain access to state claimant data that could be used to identify and disrupt fraudulent schemes that threaten the integrity of UI programs, including those under the CARES Act.

- In October 2020, we reported⁴⁹ where states confirmed our concerns about fraud in the UI program. Specifically, states cited the PUA self-certification requirement as a top fraud vulnerability. Despite states' deployment of strategies and tools for mitigating fraud, 53 percent of respondents still cited fraud vulnerabilities within the PUA program. States reported inherent vulnerability in the PUA self certification process, systems issues, and inadequate fraud screening tools.
- In February 2021, we issued an alert memorandum⁵⁰ that identified more than \$5.4 billion of potentially fraudulent UI benefits paid in specific high-risk areas as previously mentioned—to individuals with Social Security numbers: filed in multiple states, of deceased persons, of federal prisoners, and used to file for UI claims with suspicious email accounts. In June 2021, we issued a subsequent alert

memorandum⁵¹ where we increased that identification to almost \$17 billion in potential fraud in these same four high-risk areas. The potentially fraudulent UI payments we identified occurred during a limited time period, from March 2020 to October 2020, and covered only the four noted high-risk areas.

- In May 2021, we reported⁵² that DOL and states struggled to implement the three key new UI programs that posed the greatest risk for fraud, waste, and abuse: PUA, PEUC, and FPUC. Specifically, DOL's guidance and oversight did not ensure states: implemented the programs and paid benefits promptly, performed required and recommended improper payment detection and recovery activities, and reported accurate and complete program activities. This occurred primarily because states' information technology (IT) systems were not modernized, staffing resources were insufficient to manage the increased number of new claims, and, according to state officials, ETA's guidance was untimely and unclear.
- In September 2021, we reported⁵³ on our assessment of DOL and states' strategies

⁴⁹ COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with The CARES Act UI Program Self-Certification Requirement, Report No. 19-21-001-03-315 (October 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-001-03-315.pdf>

⁵⁰ Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf>

⁵¹ Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of the Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

⁵² COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

⁵³ Unemployment Insurance Overpayments Related to Work Search Underscore the Need for More Consistent State Requirements, Report No. 04-21-001-03-315 (September 29, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/04-21-001-03-315.pdf>

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to reduce UI overpayments related to work search—the leading cause of improper payments prior to the pandemic. We found ETA and state strategies did not consistently reduce UI overpayments related to work search. The agency was unable to consistently reduce these overpayments mainly because states had varying work search laws and requirements, with some more stringent than others. For example, in one state, we determined that, on average during Program Year (PY) 2018,⁵⁴ a claimant could complete one valid work search contact in as few as 11 seconds. In addition, ETA inappropriately excluded certain types of overpayments from improper payment estimates for the UI program. As a result, UI improper payment rates were considerably understated for FYs 2017 through 2020.

- In November 2021, we issued⁵⁵ the Department a qualified opinion, for the first time in 25 years, on its consolidated financial statements and reported one material weakness related to UI COVID-19 funding. This was partially due to the Department being unable to provide sufficient evidence for \$47.3 billion it estimated for UI claims for unemployed weeks that occurred prior to the expiration of the UI pandemic programs that were still in appeal or had not yet been processed as of September 30, 2021. This was also due to unreliable reporting of \$4.4 billion in UI benefit overpayments due to certain states non-reporting of UI overpayment activity.

⁵⁴ PYs start July 1 and end June 30 each year; PY 2018 started July 1, 2018, and ended June 30, 2019.

⁵⁵ FY 2021 Independent Auditor's Report on the DOL Financial Statements, Report No. 22-22-003-13-001 (November 19, 2021); available at: <https://www.oig.dol.gov/public/reports/oa/2022/22-22-003-13-001.pdf>

OIG RECOMMENDATIONS

The OIG has made several recommendations to DOL and Congress to improve the efficiency and integrity of the UI program. Key recommendations follow.

OIG Recommendations to DOL

OIG Access to Claim and Wage Data

- Facilitate the OIG's access to UI claim data for audit and investigative purposes
- Take immediate action to require the National Association of State Workforce Agencies (NASWA) to refer information to ETA and the OIG on suspected fraud, waste, abuse, mismanagement, or misconduct

Staffing and Systems for Prompt Payments during Emergencies

- Continue to work with states to develop, operate, and maintain a modular set of technological capabilities (i.e., staffing and replacing IT legacy systems) to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment
- Create a rapid response team consisting of federal and state officials capable of providing technical and other assistance to SWAs impacted by major disasters
- Conduct a study to assess: the technological needs of the UI programs to determine the capabilities that need to be upgraded or replaced, the features necessary to effectively respond to rapid changes in the volume of claims in times of emergency or high unemployment, the capabilities needed to ensure effective and equitable delivery of benefits, and the capabilities to minimize fraudulent activities

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- Develop standards for providing clear and reasonable timeframes to implement temporary programs to establish expectations for prompt benefit payments to claimants

Controls for Improper Payments

- Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to potentially ineligible claimants, including multistate claimants, claimants who used Social Security numbers of deceased persons and federal prisoners, and claimants with suspicious email accounts
- Develop and implement cause-level reduction targets to gauge and monitor the effectiveness of strategies implemented by states to reduce work search overpayments
- Include in the UI improper payment estimate: (1) overpayments related to work search formal/informal warnings; and (2) payments to claimants who provide no or insufficient documentation to support eligibility with respect to work search
- Incorporate the impact of UI improper payments related to temporary programs, such as those created by the CARES Act, into the traditionally estimated improper payment rate calculations
- Develop policies and procedures to coordinate with SWAs to obtain the necessary UI program information needed (for DOL financial statements) to support related balances and assumptions and to perform benchmarking and/or other analyses to validate new assumptions

Guidance and Assistance to States

- Assist states with claims, overpayment, and fraud reporting to create clear and accurate information, and then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery

- Examine the effectiveness of the Benefit Accuracy Measurement (BAM)⁵⁶ program contact verification process to ensure it reflects the current methods claimants use to seek work
- Inform states that formal and informal warnings are not permissible under Federal work search law

Coordination with Congress

- Work with Congress to establish legislation requiring SWAs to cross-match in high-risk areas, including to individuals with Social Security numbers: filed in multiple states, of deceased persons, of federal prisoners, and with suspicious email accounts

DOL Recommendations to Congress

In addition, Congress should consider legislative proposals included in prior DOL budget requests and pass legislation to improve UI program integrity. The DOL proposals include the following:

- allow the Secretary of Labor greater authority to require SWAs to implement UI corrective actions related to performance and integrity;
- require SWAs to use NASWA's Integrity Data Hub (IDH) and the State Information Data Exchange System;
- require SWAs to cross-match UI claims against the National Directory of New Hires (NDNH);

⁵⁶ BAM is a quality control statistical survey used to identify errors and support corrective action in the state UI system. It usually focuses on the three major UI programs: regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-service members. The BAM data are an estimate of the total improper payments in the UI program, in each state and the nation as a whole, based on a statistically valid examination of a sample of paid and denied claims.

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- require SWAs to cross-match UI claims with the U.S. Social Security Administration's prisoner database and other repositories of prisoner information;
- allow SWAs to retain 5 percent of UI overpayment recoveries for program integrity purposes; and
- require SWAs to use UI penalty and interest collections solely for UI administration.

These legislative proposals are consistent with previous OIG findings and recommendations to improve the UI program.

DOL'S PROGRESS

While concerns persist within the UI program, DOL has instituted efforts to focus on program integrity when implementing the CARES Act and other pandemic-related UI programs. These efforts include establishing agreements with states to comply with all applicable requirements to receive funds, issuing operating guidance, and providing technical assistance to SWAs individually and through webinars. DOL has included requirements for SWAs to focus on program integrity in guidance relevant to pandemic-related UI funds. In addition, DOL has reinforced the need for SWAs to actively work with the OIG to address fraud in the UI program.

The Department has facilitated the OIG's access to UI data but only for benefit weeks covered by CARES Act programs and related extensions. In addition, ETA has required grant recipients to share state UI data with the OIG as a condition of the fraud prevention grants offered under the American Rescue Plan Act of 2021 (ARPA), which will provide such access through December 31, 2023. However, a few

states will not receive the grants, and the data provided to the OIG will be incomplete. The OIG needs access to all UI program data to effectively do its job.

Further, the UI Integrity Center, established by DOL through a cooperative agreement and operated by NASWA, has continued to develop the IDH to serve as a secure portal for SWAs to cross-match public and private sources of data, including new tools that will help prevent improper payments. DOL is working with NASWA's Integrity Center to further enhance SWA participation in and use of NASWA's IDH through additional guidance and regular communication with SWAs.

On August 31, 2021, the Department announced the establishment of the Office of Unemployment Insurance Modernization to provide oversight and management of the \$2 billion appropriated to UI initiatives by ARPA. The funding is aimed at preventing and detecting fraud, promoting equitable access, ensuring timely benefits payments, and reducing backlogs. Of this \$2 billion in funding, three grant programs have been set up: (1) a \$140 million program for fraud prevention grants to be awarded to states to cover subscription costs for identity verification tools, establishment and expansion of data analytics, and implementation of cybersecurity defense strategies; (2) a separate \$260 million program for equity grants to be awarded to states to improve customer service and claimant outreach, reduce claims backlogs, and improve access for workers in communities that may have historically experienced barriers to access; and (3) up to \$200 million in funding to support states in improving UI systems and processes following a consultative assessment with a team of experts provided by DOL.

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OIG ONGOING AND PLANNED WORK

The OIG's efforts to strengthen and protect the UI program continue. In addition to working with our law enforcement partners to combat fraud in the program, we will be issuing additional audit reports covering critical areas of concern and opportunities for improvement in the UI program. Planned and in-progress⁵⁷ Phase 3 audit work includes:

- ETA's efforts to ensure UI program integrity;*
- state efforts to ensure claimant eligibility;*
- DOL's oversight of emergency UI administrative transfers to states;*
- ETA and state efforts to detect and recover overpayments;*
- adequacy of state IT resources;*
- adequacy of state staffing resources;*
- effectiveness of programs for nontraditional claimants;*
- effectiveness of the Temporary Full Federal Funding program;*
- effectiveness of the Short-Time Compensation program;*
- effectiveness of the Mixed Earners Unemployment Compensation;*
- effectiveness of the Emergency Unemployment Relief for Governmental Entities and Non-Profit Organizations program;*
- Pandemic Response Accountability Committee's (PRAC) Case Study Project on federal pandemic response funds in select geographic areas;*
- states' compliance with CARES Act UI reporting requirements;*
- ETA and states' efforts to address multistate claimants;



- ETA and states' efforts to address claimants using the Social Security numbers of deceased persons;
- ETA and states' efforts to address claimants using the Social Security numbers of federal prisoners;
- ETA and states' efforts to address claimants with suspicious email accounts;
- ARPA Equity Grants; and
- impact of waivers on UI overpayments, fraud investigations, and recoveries.

For more information about the OIG's work, please visit our Pandemic Response Portal.⁵⁸

Melrose Man Sentenced to 87 Months in Prison for Unemployment Insurance Scam

On October 13, 2021, Alan Scott was sentenced to 87 months in prison and more than \$340,000 in restitution to the Massachusetts Department of Unemployment Assistance (Massachusetts DUA).

Over the course of 6 years, Scott submitted numerous fraudulent UI claims with the Massachusetts DUA. Scott submitted these claims using his own identity, as

⁵⁷ Audits in progress are marked with an asterisk (*).

⁵⁸ Our Pandemic Response Portal is available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm

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well as the identities of various individuals, including some who were not eligible for unemployment benefits, as they were incarcerated at the time and could not have been employed as reported. Moreover, the fraudulent claims all reported prior employment at a non-operational Massachusetts-based business also associated with Scott. As a result of these fraudulent claims, the Massachusetts DUA sent unemployment benefits funds to several addresses connected to Scott and deposited funds into accounts he controlled. Scott also submitted fraudulent Pandemic Unemployment Assistance claims in the names of others.

This was a joint investigation with Homeland Security Investigations, the U.S. Postal Inspection Service (USPIS), and the Commonwealth of Massachusetts, Department of Unemployment Assistance. *United States v. Alan Scott* (D. Massachusetts)

Michigan State Contractor Sentenced for Role in \$3.8 Million Pandemic Unemployment Insurance Fraud Scheme

On October 28, 2021, Brandi Hawkins was sentenced for her role in a multi million dollar UI fraud scheme aimed at defrauding the State of Michigan and the U.S. government of funds earmarked for unemployment assistance during the COVID-19 pandemic. Hawkins was sentenced to 58 months in prison and ordered to pay restitution of almost \$3.8 million.

Hawkins was a State of Michigan Unemployment Insurance Agency contract employee hired as an Unemployment Insurance examiner. Hawkins's duties included reviewing, processing, and verifying the legitimacy of UI claims. In spring 2020, Hawkins worked with outside actors who entered numerous false claims into the State of Michigan's

Unemployment Insurance Agency system, many of which were filed using stolen identities. Once the claims were filed, the outside actors signaled Hawkins, who then released payment on the claims in exchange for bribes. Hawkins used her insider access to fraudulently release payment on more than 700 claims, resulting in the fraudulent disbursement of more than \$3.7 million of federal and state funds intended for unemployment assistance during the pandemic. If every fraudulent claim released by Hawkins had been disbursed in full, the resulting loss of federal and state funds would have exceeded \$12 million.

This is a joint investigation with the Federal Bureau of Investigation (FBI), the Internal Revenue Service Criminal Investigations Division (IRS-CI), U.S. Secret Service (USSS), and USPIS. *United States v. Brandi Hawkins* (E.D. Michigan)

Michigan Resident Pled Guilty to Identity Theft and Wire Fraud for Fraudulently Receiving More than \$1.6 Million in Unemployment Insurance Benefits

On November 10, 2021, Jordan Armstrong pled guilty to identity theft and wire fraud for his role in a scheme to defraud numerous states out of more than \$1.6 million in UI benefits.

Between approximately May 2020 and October 2020, Armstrong filed for pandemic-related UI benefits using PII fraudulently obtained from victims. In total, Armstrong filed or attempted to file over 300 claims for unemployment benefits in 17 states and received more than \$1.6 million in fraudulent UI benefits.

This is a joint investigation with the FBI and multiple SWAs. *United States v. Jordan Armstrong* (E.D. Michigan)

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Virginia Woman Responsible for Defrauding the Federal Government of More than \$1.5 Million in Unemployment Benefits Sentenced to 10 Years in Prison

On December 17, 2021, Farren Ricketts was sentenced to 120 months in prison and 36 months supervised release due to her June 21, 2021, guilty plea to conspiracy to defraud the United States, mail fraud conspiracy, and aggravated identity theft.

Ricketts and her co-conspirators concocted a scheme to gather PII and then submit unemployment insurance (UI) benefit claims to the Virginia Employment Commission for individuals who were known to be ineligible to receive such benefits, including various inmates in Virginia Department of Corrections facilities.

Ricketts established a business, “Ricketts Advisory, LLC,” and advertised it as a financial services company that helped with filing pandemic-related UI benefit claims. In addition to receiving UI benefits herself, Ricketts charged fees to over 120 of her co-conspirator “clients” for the service of filing their fraudulent claims.

Between May 2020 and February 2021, Ricketts and her co-conspirators filed more than 150 fraudulent claims for pandemic-related unemployment benefits. Ricketts created fraudulent documents to support the claims, including fraudulent IRS forms purporting to show pre-pandemic income for many of these filings.

This was a joint investigation with the IRS-CI; the City of Norton Police Department, Virginia; and the Russell County Sheriff’s Office, Virginia. *United States v. Farren Ricketts* (W.D. Virginia)

Two Michigan Residents Pled Guilty to Unemployment Insurance Fraud Scheme

On December 8, 2021, Mitchacole Johnson and Larry Witherspoon pled guilty to wire fraud for filing more than 66 fraudulent unemployment insurance claims that defrauded multiple states of more than \$1.3 million, with attempted fraud nearing \$3.5 million.

Johnson filed a number of claims in her own name, while Witherspoon filed multiple claims in the names of people who had names similar to his own. Both Johnson and Witherspoon filed their claims using the Social Security numbers of other people and had the benefits deposited into a variety of bank accounts they controlled, some connected to pre-paid debit cards.

This was a joint investigation with the FBI and the Michigan Unemployment Insurance Agency. *United States v. Mitchacole Johnson and Larry Witherspoon* (E.D. Michigan)

Three Members of Robles Park Criminal Enterprise Pled Guilty to Racketeering and Pandemic Unemployment Assistance Fraud

In December 2021 and January 2022, three members of the Robles Park criminal enterprise pled guilty to numerous charges, including racketeering conspiracy, conspiracy to commit fraud, and aggravated identity theft. Robles Park is a criminal organization whose members and associates engaged in acts involving murder, assault, intimidation, narcotics trafficking, access device fraud, identity theft, obstruction of justice, and other crimes.

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Tywon Spann, Kareem Spann, and Eriaus Bentley conspired to conduct and participate in the conduct of the affairs of the criminal enterprise through a pattern of racketeering activity to include narcotics trafficking, wire fraud, and identity theft. The three defendants admitted to unlawfully obtaining the PII of others in order to submit false applications for UI benefits. Over \$420,000 in UI benefits were paid to Robles Park members in the form of bank debit cards issued in the names of victims who did not give their PII or permission to use their PII.

This investigation is currently ongoing and is being worked jointly with the FBI and the Tampa Police Department, Florida. *United States v. Tywon Spann, United States v. Kareem Spann, United States v. Eriaus Bentley* (M.D. Florida)

Former NFL Wide Receiver Sentenced for His Role in a Scheme to Defraud the State of California Employment Development Department

On January 6, 2022, Kenbrell Thompkins was sentenced to 25 months in prison after pleading guilty to one count of access device fraud and one count of aggravated identity theft. A preliminary order of forfeiture was entered, ordering Thompkins to forfeit \$6,000 previously seized by law enforcement. Thompkins was also ordered to pay over \$132,000 in restitution.

In August and September 2020, Thompkins used the Social Security numbers and PII of unsuspecting Florida residents to obtain pandemic-related unemployment insurance benefits in the form of prepaid debit cards from California. Thompkins then withdrew thousands of dollars from such cards via ATMs. Thompkins researched internet tutorials for the application of unemployment insurance benefits

in states outside of Florida. There were more than 10 victims of Thompkins' scheme.

This was a joint investigation with the Aventura Police Department, Florida. *United States v. Kenbrell Thompkins* (S.D. Florida)

Virginia Inmate Sentenced to 115 Months in Prison for Involvement in Pandemic Unemployment Benefits Scheme

On January 13, 2022, Michael Lee Lewis Jr. was sentenced to 115 months in federal prison for his involvement in a scheme to obtain pandemic-related UI benefits by using the PII of more than 30 Virginia prison inmates. Lewis was also ordered to pay more than \$227,000 in restitution and forfeit \$5,000 seized during the investigation.

In 2020, Lewis was incarcerated at the Augusta Correctional Center in Craigsville, Virginia. Beginning in May 2020, he worked with co-conspirators to collect the PII of other inmates to fraudulently apply for Virginia UI benefits during the COVID-19 pandemic. Lewis provided his co-conspirators with information for fellow inmates at the Augusta Correctional Center, which resulted in the filing of more than 20 fraudulent UI claims using the names and identifiers of those inmates, who were not eligible to collect UI benefits. Lewis and his co-conspirators, along with the prisoners whose information was used in the fraudulent UI claim applications, shared the proceeds of the crimes, which amounted to more than \$330,000.

This is a joint investigation with the U.S. Department of Homeland Security OIG and the Virginia Department of Corrections. *United States v. Mary Landon Benton et al.* (E.D. Virginia).

Worker and Retiree Benefit Programs

Maryland Man Sentenced to 39 Months in Prison for Leading Computer Fraud and Identity Theft Ring that Targeted State Workforce Computers

On March 3, 2022, Jason “JR” Trowbridge was sentenced to 39 months in prison and fined \$30,000 pursuant to his November 2021 guilty plea to conspiracy to misuse Social Security numbers, misuse of a Social Security number, and aggravated identity theft.

Trowbridge owned and operated Paymerica Corporation located in Frederick, Maryland. Paymerica researched where purported debtors worked and sold their employer information—called place-of-employment information or “POE”—to debt collectors and companies selling information to debt collectors. In the debt collecting industry, the process is known as “skiptracing.”

To obtain the place-of-employment information, Trowbridge directed members of the conspiracy to pretend to be debtors and create thousands of false online UI applications in the unknowing debtors’ names and with the debtors’ personal identifiers, including Social Security numbers, and to complete the applications to the point where each debtor’s last known place of employment appeared. After confirming that the debtors worked for the relevant employers, Paymerica sold the place of employment information for approximately \$90 per debtor. Over the course of approximately 3 years, Paymerica made nearly \$1 million selling the stolen place of employment information.

This is a joint investigation with the New York State Department of Labor, Office of Special Investigations. *United States v. Jason “JR” Trowbridge, aka Ted Frost*. (N.D. New York)

Office of Workers' Compensation Programs

The Office of Workers' Compensation Programs (OWCP) administers four major workers' compensation programs: the Federal Employees' Compensation Act (FECA) program, the Energy Employees Occupational Illness Compensation Program, the Longshore and Harbor Workers' Compensation program, and the Coal Mine Workers' Compensation program.

FECA is the largest of the programs and provides workers' compensation coverage to millions of federal, postal, and other employees for work-related injuries and illnesses. Benefits include those for wage loss, medical expenses, vocational rehabilitation, and for survivors for covered employees' employment-related deaths.

Houston Clinic Owner Sentenced in Illegal Kickback and Money Laundering Scheme

On January 6, 2022, Anurag Dass, aka Anna Dass, was sentenced to 24 months in prison and ordered to pay more than \$2.2 million in restitution.

Dass operated A&A Pain and Wellness Center, Inc. (A&A), located in Houston, Texas, along with her brother Anukul Dass, aka Andy Dass. Anna Dass admitted that she submitted or caused others to file false claims with the Office of Workers' Compensation Programs (OWCP) for patients that Stephen Hunt directed to the clinic. Hunt was a former employee of the U.S. Postal Service who was injured on the job and filed his own claim with OWCP.

The Dass siblings conspired with Hunt, causing him to direct injured federal workers to the center for medical treatment and health care services. Hunt received referral fees based on the type and amount



of services the federal worker, or claimant, received from A&A. Hunt also charged injured federal workers whom he had referred to A&A a fee for his representation and services through a company he controlled under the name Zentec.

Hunt and Andy Dass were previously convicted for their roles in the scheme, each pleading guilty to illegal kickbacks.

This was a joint investigation with the U.S. Postal Service OIG. *United States v. Anurag Dass, a/k/a Anna Dass* (S.D. Texas)

Employee Benefit Plans

The Employee Benefits Security Administration (EBSA) is responsible for ensuring the security of retirement, health, and other workplace-related benefits of America's workers and their families. EBSA works to educate and assist the nearly 158 million workers, retirees, and family members who are covered by nearly 734,000 private retirement plans, 2 million health plans, and 662,000 other welfare benefit plans that together hold estimated assets of \$13.3 trillion, as well as plan sponsors and members of the employee benefits community.

Louisiana Couple Sentenced in \$48 Million Medical Reimbursement Account Program Fraud Scheme

On March 17, 2022, Denis J. Joachim and his wife, Donna K. Joachim, along with their company, The Total Financial Group, Inc. (TTFG) were sentenced for their roles in creating, marketing, and operating what they claimed to be a Medical Reimbursement Program. Denis Joachim was sentenced to 97 months in prison, followed by 36 months of supervised release. Donna K. Joachim was sentenced to 12 months and 1 day in prison followed by 36 months of supervised release, and TTFG received 12 months of probation and a special assessment fee in excess of \$2,000. As part of their guilty pleas, the defendants have agreed to forfeit assets seized with a collective value of approximately \$6,300,000.

TTFG was a Louisiana business incorporated by Denis and Donna Joachim. TTFG and its owners created and marketed a Medical Reimbursement Account program called "Classic 105" that was subject to the Employee Retirement Income Security Act of 1974 (ERISA). Classic 105 claimed to be a Multiple Employer Welfare Arrangement that was marketed to employers as a supplemental benefits plan to reimburse their employees for medical expenses, such as co-pays and deductibles. In total, TTFG took in more than \$25 million in fees from the employer-clients and employee participants. However, TTFG never obtained a single loan or insurance policy for the Classic 105 program, and

participants never made any actual contributions. Rather, TTFG arranged for the contribution, loan, and insurance policy to appear as a series of "paper transactions" that, in effect, did nothing more than reduce participants' taxable wages and employers' Federal Insurance Contributions Act (FICA) payments improperly, without their knowledge of the impropriety. Consequently, TTFG and the Joachims caused the underpayment of at least \$23 million in FICA taxes, as well as the underreporting and underpayment of personal federal income taxes, federal unemployment taxes, and state unemployment taxes—amounts for which the employer-clients and employee-participants may be individually responsible.

The only money actually paid to TTFG were the fees, which the Joachims used for personal expenses, including the purchase of a 26-foot boat; a 2016 Grand Design Solitude recreational trailer; a Chevrolet Corvette; a Jeep Wrangler; a Dodge Ram truck; a Mercedes-Benz CL 550 automobile; a GMC Yukon XL Denali; multiple CAN AM Maverick 1000R off-road vehicles; jet skis; their Covington residence; real property located adjacent to their Covington residence; two residences located in Madisonville, Louisiana; 40 acres of property in Bush, Louisiana; and 125 acres of property in Spring City, Tennessee.

This is a joint investigation with EBSA, the FBI, and the IRS-CI. *United States v. Denis John Joachim v. Donna Kennedy Joachim v. The Total Financial Group, Inc.* (E.D. Louisiana)



Worker Safety, Health, and Workplace Rights

Occupational Safety and Health Administration

The mission of the Occupational Safety and Health Administration (OSHA) is to ensure that employers provide every worker in America safe and healthy working conditions. OSHA pursues this mission by setting and enforcing workplace safety and health standards; by investigating whistleblower complaints; by providing training, outreach, and education; and by encouraging continuous improvement in workplace safety and health.

COVID-19: To Protect Mission Critical Workers, OSHA Could Leverage Inspection Collaboration Opportunities with External Federal Agencies

The mission of OSHA to ensure safe and healthful work environments meant a specific challenge during the COVID-19 pandemic: to prevent, to the greatest extent possible, transmission of a highly contagious virus in worksites with mission critical employees. Such employees work in industries at highest risk of COVID-19 exposure including meat processing plants, nursing homes, hospitals, grocery stores, restaurants, department stores, and correctional institutions. As of January 2022, more than 1 million mission critical employees contracted COVID-19, with many resulting fatalities. Reducing morbidity and mortality rates of these essential workers required a whole-of-government approach from multiple agencies. During the pandemic, OSHA reduced inspections, particularly onsite inspections as a means to reduce person-to-person contact while already having a historically low number of Compliance Safety and Health Officers (CSHO) and an increased volume of complaints. Given these challenges, we conducted this audit to determine to what extent OSHA collaborated with external federal agencies' enforcement or oversight personnel to help safeguard U.S. workers during the pandemic. We found OSHA did not collaborate to encourage referrals of potential COVID-19 safety and health

hazards from external federal agency personnel active in industries with a high risk of COVID-19 exposure. High-risk industries have oversight and enforcement personnel on-site from at least three external federal agencies (see Figure 2).

OSHA viewed collaboration with these external agencies as separate from its enforcement capabilities, rather than as a way to enhance its enforcement. However, both the Wage and Hour Division (WHD) and OSHA indicated collaboration helped them achieve their individual missions. Not only did OSHA not leverage opportunities for collaboration with external agencies, it also did not identify those external agencies with enforcement or oversight personnel who would be active at worksites and could inform OSHA's hazard-specific outreach and training.

OSHA and WHD entered into a collaborative Memorandum of Understanding (MOU) in August 2021 that recognized the value of a collaborative partnership to protect the health and wellbeing of the nation's workforce. However, OSHA did not create any additional MOUs nor update any existing ones focusing on collaboration with external federal agencies that conduct enforcement or oversight activities of high-risk industries and could have made referrals during the pandemic.

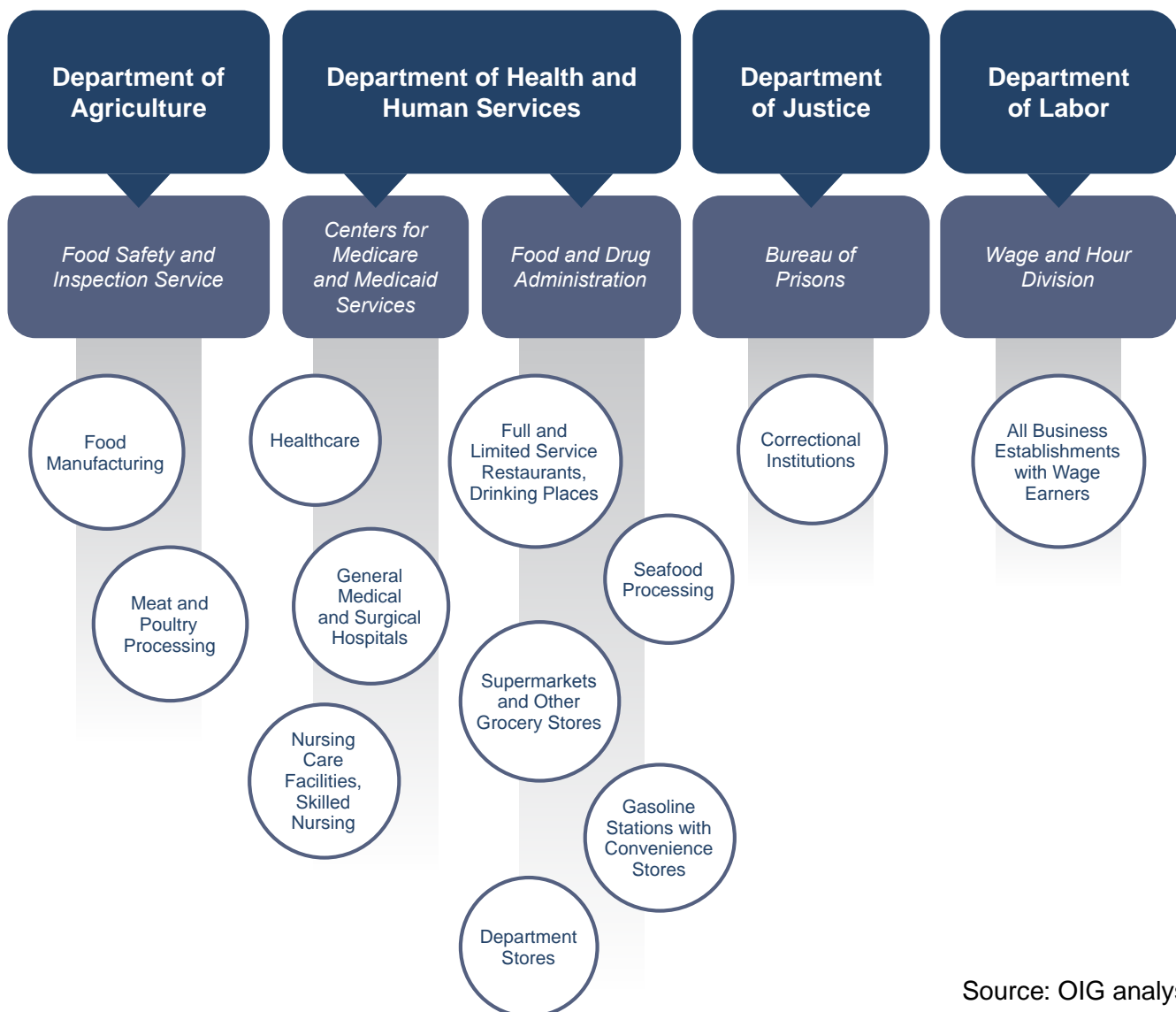
However, during the current pandemic, OSHA could have done more in terms of collaborative efforts by identifying those external federal agencies with

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enforcement or oversight personnel in higher-risk industries and using their input to inform hazard-specific outreach and training. OSHA could have also tracked and analyzed its referral information to determine the outreach and types of training those agencies might need to increase the likelihood of referrals being made to OSHA. It also could have explored mechanisms, such as MOUs or other written agreements, with federal agencies that oversee high-risk industries and updated its existing MOUs with external agencies to ensure they are current and include accountability characteristics.

We made two recommendations to OSHA to establish interagency collaboration by devising a plan with training and outreach to be activated during a large-scale safety and health crises and exploring the use of MOUs or other such written agreements. OSHA generally disagreed with the report and provided a number of comments. We considered OSHA's comments and adjusted the report as appropriate. However, OSHA's response did not change our conclusions in the report.

Figure 2: U.S. Federal Agencies with Enforcement or Oversight Personnel in COVID-19 High Risk Industries



Source: OIG analysis

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For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/19-22-003-10-105.pdf>, Report No. 19-22-003-10-105 (March 31, 2022).

Nebraska Railcar Cleaning Services and Owners Sentenced for Violating Environmental and Worker Safety Laws Related to Workers' 2015 Deaths

On January 14, 2022, Nebraska Railcar Cleaning Services LLC (NRCS), as well as its president and owner, Steven Braithwaite, and its vice president and co-owner, Adam Braithwaite, were sentenced in Omaha, Nebraska. NRCS was sentenced to 60 months' probation and fined \$21,000. Adam Braithwaite was sentenced to 12 months and 1 day in prison and \$100,000 in restitution. Steven Braithwaite was sentenced to 30 months in prison and \$100,000 in restitution.

The sentencings were a result of guilty pleas stemming from an investigation into an April 2015 fatal railcar explosion that killed two workers and injured a third. The charges include conspiracy, violating worker safety standards resulting in worker deaths, violating the Resource Conservation and Recovery Act (RCRA), and submitting false documents to OSHA.

NRCS was in the business of cleaning railcars, which often involved NRCS sending workers inside the cars' tanks to scrape and remove various fuel residual products, including highly flammable compounds such as benzene. Prior to the April 2015 explosion, OSHA officials conducted inspections and notified NRCS that it was in violation of safety regulations concerning confined space entries. Steven Braithwaite ultimately entered into a written agreement with OSHA, in which he represented that NRCS had been testing for benzene since July 2014. Adam Braithwaite also submitted falsified documents to OSHA purporting to

show that NRCS had been purchasing equipment to test the contents of railcars for benzene and had taken other required safety precautions, though NRCS had not actually taken those steps.

In 2015, NRCS received an inquiry from one of its customers about cleaning product residue from a rail tanker car that contained a highly flammable product and benzene. NRCS responded that it could clean the railcar. However, NRCS did not test the tanker car's benzene as required. On April 14, 2015, approximately one hour after two employees were sent into the tanker to complete the cleaning job, its contents ignited and exploded, killing both employees and injuring a third.

This was a joint investigation with the U.S. Environmental Protection Agency Criminal Investigation Division. *United States v. Nebraska Railcar Cleaning Services* (D. Nebraska)

Owner of an Idaho Tanker Company Sentenced to Prison for Lying to OSHA and Violating Department of Transportation Safety Standards

On November 19, 2021, Loren Jacobson, an owner of a tanker testing and repair company, KCCS Inc., was sentenced to 1 month in federal prison, 5 months of home confinement, and a \$15,000 fine for lying to an Occupational Safety and Health Administration (OSHA) official and for making an illegal repair to a cargo tanker in violation of the Hazardous Materials Transportation Act.

In August 2018, an explosion occurred at KCCS during a cargo tanker repair, which severely injured a KCCS employee. After the explosion, an OSHA investigator interviewed Jacobson about the circumstances surrounding the accident, and Jacobson lied to the OSHA investigator during

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the interview. Jacobson also did not possess the necessary certification to conduct cargo tanker repairs, which he regularly conducted at KCCS. Jacobson had a routine practice of making repairs despite knowing that he did not have the required certification to do so. In addition, he sent employees into the cargo tankers to weld patches from the inside so that the illegal repairs would not be visible from the outside. Jacobson directed one of his employees to make a hidden repair of this type on the tanker that subsequently exploded, in violation of OSHA safety standards.

This was a joint investigation with the *U.S. Department of Transportation Office of Inspector General. U.S. v. Loren Jacobson*, (D. Idaho) Philadelphia Business Owner Convicted at Trial of Bribing an OSHA Inspector

On December 13, 2021, Tony Ren, owner of Hua Da Construction, was convicted at trial of two counts of bribing a public official. In September 2021, Ren was charged in an indictment with two counts of bribery. The charges arose from Ren's attempts to bribe an OSHA compliance safety and health officer (CSHO).

In October 2017, an OSHA CSHO conducted an inspection of a construction worksite in Philadelphia, Pennsylvania, in response to an imminent hazard report. During the inspection, the CSHO observed numerous violations of OSHA standards including debris in passageways, electrical issues, holes in the floor, and gas tanks with broken pressure gauges. On two separate dates in November 2017, Ren offered cash bribes to the OSHA CSHO in exchange for the official falsifying the inspection results and agreeing not to report the violations so that Ren could avoid the substantial financial penalties that would follow. This was a joint investigation with OSHA. *United States v. Tony Ren* (E.D. Pennsylvania)

New Jersey Man Admits to Conspiring with Brother, an OSHA Compliance Officer, to Extort Contractors

On December 21, 2021, Paul Idrovo pled guilty to conspiring to commit an act of extortion under cover of his brother's position as a compliance safety and health officer (CSHO) with the Occupational Safety and Health Administration (OSHA). Paul Idrovo was previously charged in September 2020, along with his brother, Alvaro Idrovo, with conspiring to commit an offense against the United States based on the extortion of a New Jersey contractor.

According to court documents and statements made in open court, while acting in an official capacity as an OSHA CSHO, Alvaro Idrovo misrepresented to contractors in New Jersey that they were facing significant OSHA fines and penalties if they did not obtain OSHA safety training from a specific individual. Alvaro Idrovo would provide the contractors with the phone number for the required trainer, allegedly named "Jose Diaz" or "Paul Mejia," when in fact the phone number actually belonged to Paul Idrovo, posing under these names to conceal the brothers' relationship.

In furtherance of their fraud scheme, the brothers, who initially demanded higher sums of cash, ultimately charged the contractors \$4,000 to \$6,000 each for the safety training. Paul Idrovo collected the cash and provided the contractors with fraudulent computer generated safety and health certificates that falsely stated the employees had received OSHA-certified safety training from "Jose Diaz" and "Paul Mejia." Paul Idrovo shared portions of the extortion payments with Alvaro Idrovo.

This is a joint investigation with the FBI. *United States v. Alvaro Idrovo et al.* (D. New Jersey)

Bureau of International Labor Affairs

The Bureau of International Labor Affairs (ILAB) strengthens global labor standards, enforces labor commitments among trading partners, promotes racial and gender equity, and combats international child labor, forced labor, and human trafficking.

ILAB Properly Performed Oversight in Compliance with the USAID Memorandum of Agreement and Ensured IMPAQ International, LLC Was in Compliance with the Cooperative Agreement Requirements

To better support ILAB's mission to promote a fair global playing field for workers around the world, the United States Agency for International Development (USAID) transferred \$4 million to ILAB under a memorandum of agreement (MOA). On September 26, 2017, ILAB awarded the \$4 million through a cooperative agreement to IMPAQ International, LLC (IMPAQ), and on June 4, 2020, ILAB awarded additional funding to IMPAQ in the amount of \$345,000 for a total funded amount of \$4,345,000. IMPAQ used the funding to support the "Labor Market Supply and Demand in the Northern Triangle: Leveraging Data to Build an Efficient Labor Market in Central America" project, which focuses on increasing the efficiency of El Salvador, Guatemala, and Honduras labor markets by strengthening their information systems to create useful labor market intelligence. The Inspector General for the agency receiving the transfer or allocation of such USAID funds is statutorily required to perform periodic audits regarding the use of the funds.⁵⁹

The OIG contracted with the independent certified public accounting firm of Castro & Company, LLC (Castro) to conduct a performance audit to determine if ILAB: (1) ensured IMPAQ performed in accordance with the cooperative agreement requirements; (2) ensured costs claimed under the cooperative agreement were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreement; and (3) properly performed oversight over IMPAQ in compliance with the MOA and its policies and procedures.

Castro determined ILAB ensured IMPAQ performed in accordance with the cooperative agreement requirements; ensured IMPAQ's claimed costs were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreement; and properly performed oversight over IMPAQ in compliance with the MOA and its policies and procedures.

Although IMPAQ did not meet five performance indicator targets, both IMPAQ and ILAB made adjustments to better monitor the indicators, and Castro determined this issue did not affect IMPAQ in achieving the overall project goals or ILAB's monitoring of project performance. In addition, Castro identified a best practice used by ILAB that enabled IMPAQ to achieve the majority of the performance objectives. To help ensure performance

⁵⁹ According to Public Law 114-113, Division K, Title VII, General Provisions


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compliance, ILAB developed and implemented Management Procedures and Guidelines specific to cooperative agreements that outlines the monitoring procedures in place over those agreements. These controls contributed to greater success in IMPAQ achieving the performance objectives. Castro suggested ILAB expand the use of these best practices across all ILAB projects to ensure the achievement of project objectives.

As ILAB properly performed oversight in compliance with the USAID MOA and ensured IMPAQ was in compliance with the cooperative agreement requirements, the audit report had no recommendations.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/17-22-001-01-070.pdf>, Report No. 17-22-001-01-070 (February 11, 2022).





Employment and Training Programs

Employment and Training Administration Programs

The Employment and Training Administration (ETA) provides employment assistance, labor market information, and job training through the administration of programs authorized by the Workforce Innovation and Opportunity Act (WIOA) for adults, youth, dislocated workers, and other targeted populations. WIOA grant funds are allocated to state and local areas based on a formula distribution and to governmental and private entities through competitive grant awards.

COVID-19: Delays in Providing Disaster Relief Jeopardize \$366 Million Disaster Worker Grant Program

The CARES Act provided additional funding to ETA under Division B, Title VIII, for Disaster National Dislocated Worker Grants (DWG). Of the \$366 million ETA awarded in 57 grants from April 2020 to August 2020, \$248 million were CARES Act funds for training and employment services and other necessary expenses directly related to the consequences of the COVID-19 pandemic. Prior OIG audits⁶⁰ have raised concerns about ETA's grant investments not achieving performance goals, including significant delays in grantees providing disaster relief employment and training services, and ETA needing to provide better oversight of DWGs. Due to these concerns, the OIG contracted with an independent certified public accounting firm (firm) to determine if ETA administered the CARES Act-funded DWG program in accordance with applicable federal regulations and guidelines.

The firm found ETA generally administered the DWG program in accordance with applicable federal regulations and guidelines. However, there was a significant delay in grantees providing disaster relief employment and training services. For the first 9 months of the grants, DWG grantees did not perform at a rate that would enable them to meet planned outcomes as DWGs are expected to be utilized over a 24-month period. With over 38 percent of the grant periods elapsed and minimal (8 percent) grant spending, there is a lack of evidence to support that grantees will effectively use the funds and deliver services by the end of the grant periods. Collectively, grantees had limited planned participants enrolled and employed (see Figure 3).

These issues occurred in part because ETA relied on existing DWG guidance and measures and did not establish additional metrics or guidance to assist grantees with the timely delivery of services to quickly assist dislocated workers with disaster relief activities.

The firm made four recommendations to ETA to provide dedicated technical assistance to four states and provide close monitoring for the remaining DWGs to ensure performance and to amend its guidance to include specified timeline provisions and technical assistance. Any of the remaining funds (determined as not needed) should be returned to the Treasury or

⁶⁰ For example, ETA Needs to Improve its Disaster National Dislocated Worker Program, Report No. 02 21 002-03-391 (January 29, 2021), available at <https://www.oig.dol.gov/public/reports/oa/2021/02-21-002-03-391.pdf>

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recouped as soon as practicable so that these funds can be made available for other allowable purposes.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/19-22-002-03-391.pdf>, Report No. 19-22-002-03-391 (January 28, 2022).

Advisory Report: ETA's Management of Workforce Development Grants: Key Concerns

As part of its efforts to provide employment assistance and job training, ETA administers grants to fund public employment and training programs, such as those to assist dislocated workers. Over the past decade, the OIG has reported numerous issues with ETA's management of federal grant funds. This advisory report reviewed 17 reports published from March 2011 to September 2021 that identified upwards of \$489 million in grant funds that were inefficiently used, including funds put to better use and questioned costs, and numerous findings related to ETA's grants management. While ETA has made progress in addressing our specific findings and recommendations, our work over the years shows similar deficiencies continue to emerge and persist. This advisory report covered three key areas of concern meriting attention from ETA relating to: (1) awarding grants, (2) reviewing grantees' use of funds, and (3) measuring grantee performance.

For awarding grants, ETA must have sufficient controls to ensure grant applicants' proposals meet all solicitation requirements. In 2015 and 2019, the OIG identified concerns with ETA's grant award processes. For example, in 2019, ETA awarded \$183 million to deliver technical training to help participants get jobs in H-1B occupations even though all grantees detailed non-H-1B-related occupational training in their proposals. Further, our review of 400 participants revealed only 7 percent received H-1B-related training and only 5 percent obtained and retained H-1B-related jobs. ETA has made progress in this area, and we closed the corresponding recommendations. However, continued attention is necessary as ETA needs sufficient controls in its grant award processes to ensure past issues do not reoccur.

For reviewing grantees' use of funds, ETA must have sufficient controls to ensure its grantees use grant funds as intended (i.e., in accordance with applicable requirements). In both 2018 and 2021, the OIG found grant funds were misused by grantees or could have been put to better use. Weaknesses in ETA's review of grantees' spending allowed this to occur. For example, in 2021, we reported \$2.5 million in disaster grant funds meant for hurricane cleanup remained unspent after 2 years. ETA has taken action to address most of our prior recommendations related to this second area. However, it is crucial ETA continue to strengthen its processes in reviewing grantees'

Figure 3: Grantees Not Meeting Planned Outcomes



Source: OIG analysis of ETA and grantee data

Employment and Training Programs

use of funds to ensure limited resources are used efficiently and as intended.

In addition, ETA needs to ensure it properly measures how well its grantees perform, especially in relation to the specific program objectives. Our recent audit work from 2018 to 2020 found ETA could not determine if its programs were effective because it did not have clear performance goals, performance metrics, and/or the underlying data was inaccurate and incomplete. For example, in 2020, we reported ETA awarded 64 grants intended to help previously incarcerated youth overcome employment barriers and prevent reincarceration due to a new offense. We found ETA lacked outcome data at the time these grants were operating for nearly half of participants aged 17 and under—a group that constituted approximately two thirds of program enrollment—because it did not establish procedures to account for participants who exited the program. ETA also lacked complete data to determine if grantees achieved certain outcomes.

As a result, ETA could not show if the grants improved education and employment outcomes for program participants. ETA has made progress in this third area, and we closed many of the corresponding recommendations. However, the frequency and similarity of the issues we identified underscore the importance of ETA continuing to establish performance goals and metrics that accurately measure grantees' performance using reliable and accurate data.

While ETA has taken action to address many of the related findings and recommendations from our last decade of reports, it must also proactively monitor these three key areas—awarding grants, reviewing grantees' use of funds, and measuring grantee performance—and continue to assess for these weaknesses to ensure they do not reoccur. Such weaknesses can and have resulted in the inefficient

use of hundreds of millions of dollars of grant funds. We therefore advise ETA to prioritize these areas and make any necessary adjustments to better utilize its resources and improve performance to ensure grant funds are used properly.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/09-22-001-03-001.pdf>, Report No. 09-22-001-03-001 (March 31, 2022).

Career Coach Sentenced to 2 Years in Prison for Stealing More than \$68,000 from Workforce Development Program

On January 6, 2022, Jessica Miller was sentenced to 24 months in prison and ordered to pay over \$71,000 in restitution to DOL and a financial institution after pleading guilty to wire fraud for defrauding the federal government.

From July 2016 to November 2019, Jessica Miller was employed as a career coach to provide training to job seekers, using federal funds made available by DOL under the Workforce Innovation and Opportunity Act (WIOA).

As a career coach, Miller was responsible for providing career guidance, case management, and follow-up to participants in the youth program. Miller previously admitted in court that, while serving as a career coach, she engaged in a scheme to divert government funds for her own benefit.

Among other schemes, Miller created fraudulent documents that falsely indicated that qualified individuals had made reimbursable purchases and were seeking reimbursement for those costs. Miller then submitted the fraudulent documents and cashed the reimbursement checks. Miller also created and submitted fraudulent documents, which included

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students' forged signatures, indicating that students had successfully completed certain milestones that entitled them to gift cards, which Miller retained for herself.

To further perpetuate the scheme, Miller opened bank and other accounts in the names of students without their knowledge and consent and used those accounts to cash the fraudulent reimbursement checks. In total, Miller defrauded at least 40 individuals and diverted more than \$68,000 in government funds for her own personal enrichment.

This was a joint investigation with the North Carolina State Bureau of Investigations and the Conover Police Department, North Carolina. *United States v. Jessica Anne Miller* (W.D. North Carolina)

Middlefield Man Pled Guilty to Defrauding State Jobs Programs

On November 15, 2021, David Kania pled guilty to offenses stemming from his fraud against several state-run wage subsidy and job training programs.

Kania was the owner and operator of three small businesses, principally in the dietary supplement and beverage industry. Between 2013 and 2018, through his companies, Kania applied for and received state subsidies for employing unemployed jobseekers, including veterans, and for providing training to employees. A portion of these state subsidies were funded through the U.S. Department of Labor Ready-to-Work Partnership initiative, which was formed to expedite the employment of Americans struggling with long-term unemployment. In order to receive funds, Kania submitted false documents to the Connecticut Department of Labor and the state Workforce Investment Board, which administer wage subsidy programs, showing that he had hired certain workers and that they worked for his businesses for a certain period of time, when he knew that to be false. Kania

also submitted false invoices to the Manufacturing Innovation Fund (MIF) Program for training that was never provided. Through this scheme, Kania caused more than \$940,000 in loss to the wage subsidy programs and \$115,000 in loss to the MIF Program. Kania also underreported his total income on his 2014 through 2018 federal tax returns by failing to account for almost \$300,000 in business funds that he used for personal expenses.

This is a joint investigation with the IRS-CI. *United States v. David Kania* (D. Connecticut)

Vermont Woman Pled Guilty to Nonprofit Embezzlement

On November 10, 2021, Louise Larivee, the former Abenaki Self-Help Association (ASHAI) grant director, pled guilty in United States District Court to a federal fraud charge. The guilty plea came on the third day of a jury trial.

ASHAI functioned as the service arm of the Abenaki Nation, promoting economic and social development through programmatic efforts in education, employment, and economic development. Each year, ASHAI received tens of thousands of dollars in grant money from the U.S. Department of Labor.

Between 2013 and 2017, Larivee and a co-conspirator embezzled more than \$100,000 from ASHAI. At Larivee's request, a co-conspirator issued checks and provided cash to Larivee that significantly exceeded Larivee's authorized compensation. Larivee also received travel reimbursement checks based on fraudulently inflated mileage claims. The co-conspirator covered up this fraud by sending tax forms to the IRS that concealed the true amount of ASHAI funds that were being paid to Larivee.

United States v. Louise Larivee (D. Vermont)

Job Corps

The Job Corps program provides education, training, and support services to thousands of disadvantaged, at-risk youths, ages 16–24, at more than 120 Job Corps centers nationwide, both residential and nonresidential. The goal of the over \$1.7 billion program is to offer an intensive intervention to members of this targeted population as a means to help them learn vocational skills, earn a high school diploma or general equivalency diploma, and find and keep a good job.

COVID-19: Safety and Remote Learning Challenges Continue for Job Corps

In March 2020, Job Corps, administered by ETA, suspended operations at 121 campuses and sent nearly 29,000 students home. Over the following months, Job Corps centers developed protocols to resume on-campus operations and transitioned from in-person to remote instruction. As of August 2021, on-campus operations had resumed at 113 centers. Given a previous OIG report⁶¹ that described the many hurdles Job Corps faced fulfilling its mission and operational responsibilities, we conducted a performance audit to determine how the COVID-19 pandemic impacted Job Corps' efforts to safely and effectively educate its students. We found the pandemic had a significant impact on Job Corps' efforts to develop and implement protocols to safely resume on-campus operations and provide effective remote instruction.



While Job Corps established specific requirements for safely returning students and staff to centers, such as reducing capacity and installing barriers to help with physical distancing, we found gaps in the oversight of COVID-19 safety precautions for resuming on-campus operations. This included not visiting centers (virtually or in-person) to verify safety precautions were followed before and after centers resumed on-campus operations and not rejecting center plans that did not address checklist requirements. By July 2021, Job Corps brought students and staff back to 112 centers, but it reviewed less than half of them for compliance with select safety requirements (e.g., masking and

⁶¹ COVID-19: ETA Should Continue to Closely Monitor Impact on Job Corps Program, Report No. 19-20-007-03-370 (July 28, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-007-03-370.pdf>

Employment and Training Programs

installing physical barriers). Instead, Job Corps relied on written explanations and declarations from centers and infrequent assessments. These gaps diminished Job Corps' ability to detect and correct COVID-19 risks timely, if at all, and to maintain a safe environment for students and staff at campuses during the pandemic.

Furthermore, since suspending in-person instruction and shifting to remote learning, Job Corps encountered many challenges ranging from an inadequate remote learning infrastructure to ensuring students had the resources to learn remotely. For example, more than 68 percent of its students needed basic tools, including computers and internet access. In addition, Job Corps could not perform key aspects of basic skills and technical instruction programs virtually. Centers developed innovative alternatives to in-person instruction, such as live-streaming instructor demonstrations and supplying material kits for students to practice at home. However, for many students, the

hands-on, skill-based portions of training were effectively on hold until they returned to campus. Partly as a result, Job Corps' student enrollment dropped 56 percent from March 2020 to April 2021, trades training completions dropped to zero from April 2020 to April 2021, and the average length of time it took students to complete the program more than doubled from approximately 8 months to 18 months.

We made four recommendations to ETA focusing on continuing COVID-19 safety protocol development and monitoring, identifying and closing student learning gaps, and increasing oversight of remote instructional programs. ETA agreed with our recommendations and indicated the agency has already taken action to implement some of the recommendations.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/19-22-001-03-370.pdf>, Report No. 19-22-001-03-370 (November 12, 2021).



Foreign Labor Certification Programs

ETA administers a number of Foreign Labor Certification (FLC) programs that allow U.S. employers to employ foreign workers to meet domestic worker shortages, PERM, H-1B, H-2A, and H-2B. The PERM program allows an employer to hire foreign nationals to work in the United States on a permanent basis, while the H-1B, H-2A, and H-2B programs are for temporary employment in the United States. The H-1B program allows employers to hire foreign workers on a temporary basis in specialty occupations or as fashion models. The H-2A program allows employers to hire foreign workers for temporary agricultural jobs, in contrast to the H-2B program which is for temporary non agricultural jobs. ETA ensures the admission of foreign workers into the United States on a PERM, H-2A, or H-2B visa will not adversely affect job opportunities, wages, and working conditions of U.S. workers. The OIG also investigates labor trafficking cases that involve fraud against FLC programs.

Northern California Man Sentenced to 15 Months in Prison and Ordered to Forfeit More than \$533,000 in Work Visa Fraud Scheme

On November 22, 2021, Kishore Kavuru was sentenced to 15 months of prison and ordered to forfeit more than \$533,000 for his role in orchestrating a work visa fraud scheme.

Kavuru, the owner and chief executive officer of four IT consulting companies that specialized in obtaining H-1B visas for foreign skilled workers, engaged in a scheme from 2009 through at

least 2017 to obtain H-1B visas from government agencies by submitting H-1B applications that contained false and fraudulent statements. Kavuru admitted to submitting more than 100 applications that falsely described available H-1B positions and falsely stated that the H-1B workers were to be placed at specific companies. Kavuru admitted he knew at the time he submitted the applications that the companies did not have the named jobs and that he did not intend to place the workers at those companies. None of those foreign skilled workers were ever placed at those companies.



Kavuru further admitted that he required the H-1B foreign skilled workers to pay him thousands of dollars in cash for the cost of preparing and submitting their H-1B visa petitions, which is a violation of DOL regulations. He also admitted to requiring his H-1B visa recipients to go unpaid for months while he looked for legitimate H-1B positions for them, violating DOL regulations by failing to pay H-1B workers while they were “benched” in this manner.

This is a joint investigation with Homeland Security Investigations. *U.S. v. Kishore Kavuru* (N.D. California)



Labor Racketeering

Labor Racketeering

Under the Inspector General Act of 1978, the OIG is responsible for investigating labor racketeering and the influence of organized criminal enterprises involving unions, employee benefit plans, and labor-management relations.

Labor racketeering refers to the infiltration, exploitation, or control of a union, employee benefit plan, employer entity, or workforce, carried out through illegal, violent, or fraudulent means. OIG labor racketeering investigations focus largely on individuals and organized criminal enterprises engaged in embezzlement, extortion, violence against union members or employers, and other related criminal activities.

Our investigations continue to identify fraudulent payments from employers to union representatives in order to gain favorable labor agreements for the employer. Our investigations have also identified complex financial and investment schemes used to defraud union affiliated benefit plans, resulting in millions of dollars in losses to plan participants.

Illinois Politician Pled Guilty to Fraud Related to Union Employment

On March 8, 2022, former Illinois State Senator Thomas E. Cullerton pled guilty to embezzlement of union funds in connection to his employment with Teamsters Joint Council 25.

Cullerton was hired in early 2013 as a purported union organizer and remained on the payroll until February 2016. During his Teamsters employment, Cullerton received a salary commensurate with other full-time organizers, monthly car and telephone allowances, and annual bonuses. The union also paid for Cullerton's participation in union-sponsored pension, health and welfare benefit programs.

As part of the plea agreement, Cullerton admitted that he did little to no work as an organizer during his employment with the Teamsters. Cullerton also admitted that he routinely ignored requests from supervisors that he perform the job functions of an organizer. Cullerton received approximately

\$249,000 in salary, benefit plan contributions, and reimbursed medical claims during his employment. Cullerton was first elected to the Illinois Senate in November 2012. He resigned from his Senate post in February 2022.

This is a joint investigation with the FBI. *United States v. Thomas E. Cullerton* (N.D. Illinois)

Former International Labor Union Official Sentenced to 24 Months in Prison for Health Care Fraud and Union Embezzlement

On October 14, 2021, Roderick Bennett, the former chief of staff for the Laborers' International Union of North America (LIUNA), headquartered in Washington, DC, was sentenced to 24 months in federal prison and ordered to pay more than \$155,000 in restitution to LIUNA.

In July 2021, a jury found Bennett guilty of health care fraud for fraudulently placing his girlfriend on the union health care plan designed for LIUNA

Labor Racketeering

headquarters employees when he knew she was ineligible to participate in the plan. Bennett previously pled guilty to three counts of theft or embezzlement from a labor organization in November 2018 stemming from unauthorized personal purchases that he made using his LIUNA-issued credit card, which exceeded \$150,000.

This was a joint investigation with OLMS and EBSA. *United States v. Roderick Bennett* (D. District of Columbia)

IBEW Local 98 Business Manager and Philadelphia City Councilmember Found Guilty of Public Corruption

On November 15, 2021, John Dougherty, business manager of Local 98 of the International

Brotherhood of Electrical Workers (IBEW Local 98), and Robert Henon, City of Philadelphia councilmember, were convicted at trial of multiple crimes involving public corruption including conspiracy to commit honest services fraud, and Henon was convicted of bribery.

Evidence presented during the trial demonstrated that Henon received a salary from IBEW Local 98 and other things of value from Dougherty and, in exchange, Henon used his position as a member of the City of Philadelphia's City Council to serve Dougherty's interests, thereby defrauding the City of Philadelphia and its citizens of the right to Henon's honest services as a member of the City Council.

This is a joint investigation with the IRS–CI, FBI, OLMS, and EBSA. *United States v. John Dougherty et al.* (E.D. Pennsylvania)

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Departmental Management

Departmental Management

The OIG performs oversight work involving the Department's operations, financial management, and information technology (IT) services.

FY 2021 Independent Auditors' Report on the DOL Financial Statements

The OIG contracted with the independent certified public accounting firm KPMG LLP (KPMG) to audit DOL's annual financial statements, which comprise the consolidated financial statements and sustainability financial statements. KPMG issued a modified opinion on the consolidated financial statements—DOL's first such in 25 years—and one material weakness on internal control over financial reporting.

Overall, KPMG found the sustainability financial statements presented fairly, in all material respects, DOL's social insurance information and its changes in social insurance amounts in accordance with U.S. generally accepted accounting principles. KPMG also found the consolidated financial statements presented fairly DOL's financial position and its net costs, changes in net position, and budgetary resources in accordance with U.S. generally accepted accounting principles.

KPMG modified its opinion because they were unable to obtain sufficient appropriate audit evidence about the methodology and certain underlying assumptions used to estimate the balances included in \$47.3 billion in obligations related to the COVID-19 pandemic-related UI programs. Consequently, they were unable to determine whether any adjustments to these amounts were necessary and the completeness of the benefit overpayment receivable, which included \$4.4 billion in UI benefit overpayments related to COVID-19.

In addition, KPMG identified certain deficiencies in internal control that they considered to be a material weakness and determined improvements were needed in controls over financial reporting related to unemployment trust fund (UTF) balances and activity. New UI pandemic programs, including Federal Pandemic Unemployment Compensation (FPUC) and Pandemic Unemployment Assistance (PUA), resulted in a significant increase in UI benefit disbursement and related activity in UTF. However, KPMG found certain management controls were not sufficiently designed and documented to support the specific items reviewed, analyses performed, and conclusions reached for certain UTF balances and related transactions. These deficiencies resulted in material corrections to the FY 2021 DOL financial statements and notes and increased the risk that other misstatements could occur and not be prevented or detected and corrected in a timely manner.

To address these deficiencies, KPMG provided three recommendations to the Assistant Secretary for Employment and Training and two recommendations to the Acting Chief Financial Officer. Management agreed with the recommendations and indicated actions have already been taken to improve policies and procedures for internal control.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-003-13-001.pdf>, Report No. 22-22-003-13-001 (November 19, 2021).

Departmental Management

Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2021

In a separate Management Advisory Comments report, the independent public accounting firm provided additional information to DOL management on issues identified during the OIG-contracted financial statement audit that did not rise to the level of significant deficiencies. The additional information represented opportunities for DOL to improve internal controls or achieve other operating efficiencies. The firm identified three new comments and six prior-year comments still present in FY 2021 and noted the resolution of seven prior-year comments closed in FY 2021. By satisfactorily addressing the outstanding comments in the report, departmental management will help ensure that these issues do not rise to the level of significant deficiencies in the future.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-004-13-001.pdf>, Report No. 22-22-004-13-001 (December 20, 2021).

Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund

The OIG contracted with an independent certified public accounting firm to audit the Federal Employees' Compensation Act (FECA) Special Benefit Fund's Schedule of Actuarial Liability, Net Intra-governmental Accounts Receivable, and Benefit Expense Fund as of, and for the year ended, September 30, 2021. The firm issued an unmodified opinion, meaning the schedule was presented fairly in all material respects and in conformity with U.S. generally accepted accounting principles. The firm also performed certain tests of controls and compliance with laws

and regulations related to the fund, which disclosed a significant deficiency that we have reported every year since 2017 pertaining to internal controls over claims examiners' review of FECA claims. The firm also performed agreed-upon procedures and identified certain differences as a result of performing the procedures over the actuarial liability and the benefit expense.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-001-04-431.pdf>, Report No. 22-22-001-04-431 (November 3, 2021).

Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report

The Longshore and Harbor Workers' Compensation Act (LHWCA) provides medical benefits, compensation for lost wages, and rehabilitation services for job-related injuries and diseases sustained by private-sector workers in certain maritime and related employment. The LHWCA also extends benefits to dependents if any injury results in the worker's death. The OIG contracted with an independent public accounting firm (firm) to audit the financial statements of the LHWCA's Special Fund (Fund) as of September 30, 2020. The firm issued an unmodified opinion, meaning the financial statements presented fairly, in all material respects, the financial position of the Fund, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

As part of its audit, the firm also considered the Fund's internal control over financial reporting (internal control), but not for the purpose of expressing its opinion on the effectiveness of the Fund's internal

Departmental Management

control nor to identify all deficiencies that might be material weaknesses or significant deficiencies. The firm identified certain deficiencies in internal control it considered to be a significant deficiency, instances where the claims examiners' reviews were not performed in accordance with the relevant procedure manual and also instances of incorrectly calculated benefit payment amounts. As part of obtaining reasonable assurance, the firm also performed certain tests of the Fund's compliance with applicable laws and regulations and its test results disclosed no instances of noncompliance or other matters required to be reported under Government Auditing Standards.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-005-04-432.pdf>, Report No. 22-22-005-04-432 (March 31, 2022).

District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Independent Auditors' Report

The District of Columbia Workmen's Compensation Act of 1928 (DCCA) provides medical benefits, compensation for lost wages and rehabilitation services for job-related injuries, diseases, or death of certain private-sector workers in the District of Columbia. The DCCA Special Fund (Fund) also extends benefits to dependents if any injury resulted in the employee's death. The OIG contracted with an independent public accounting firm (firm) to audit the financial statements of the Fund as of September 30, 2020. The firm issued an unmodified opinion, meaning the financial statements presented fairly, in all material respects, the financial position of the Fund, and its net costs, changes in net position, and budgetary resources for the years then ended in accordance with U.S. generally accepted accounting principles.

As part of its audit, the firm also considered the Fund's internal control over financial reporting (internal control), but not for the purpose of expressing its opinion on the effectiveness of the Fund's internal control nor to identify all deficiencies that might be material weaknesses or significant deficiencies.⁶² While the firm did not identify any deficiencies in internal control that it considered to be material weaknesses, it did identify certain deficiencies in internal control that it considered to be a significant deficiency, instances where the claims examiners' reviews were not performed in accordance with the relevant procedure manual and also instances of incorrectly calculated benefit payment amounts. As part of obtaining reasonable assurance, the firm also performed certain tests of the Fund's compliance with applicable laws and regulations and its test results disclosed no instances of noncompliance or other matters required to be reported under Government Auditing Standards.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-006-04-432.pdf>, Report No. 22-22-006-04-432 (March 31, 2022).

The U.S. Department of Labor Digital Accountability and Transparency Act of 2014 Performance Audit

The Digital Accountability and Transparency Act of 2014 (DATA Act) established standards intended to help taxpayers and policymakers understand how

⁶² A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Departmental Management

federal agencies spend taxpayer dollars and improve agencies' spending oversight and data centric decision-making. In addition to agency reporting requirements, each federal agency's Inspector General must audit a statistical sample of the spending data submitted by its agency focusing on 59 specific data elements required to be tested under the DATA Act.

To evaluate DOL's compliance with these standards, DOL OIG contracted with the independent certified public accounting firm of KPMG LLP (KPMG) to determine: (1) the completeness, accuracy, timeliness, and quality of DOL's FY 2020 third quarter and FY 2021 first quarter financial and award data submitted for publication on USASpending.gov and (2) DOL's implementation and use of the government-wide financial data standards established by Office of Management and Budget (OMB) and the U.S. Department of the Treasury (Treasury).

KPMG determined DOL submitted data of a moderate quality because certain data was not submitted completely, accurately, or timely. In 17,203 individual data elements, KPMG identified a total of 5,368 errors, which resulted in the following projected error rates: 5.32 percent for completeness, 20.93 percent for accuracy, and 4.75 percent for timeliness. KPMG also determined DOL implemented and, except as noted below, is consistently using the government-wide financial data standards established by OMB and the Treasury under the DATA Act.

KPMG identified one instance in which DOL was not consistently reporting data elements in accordance with DATA Act guidance. Specifically, the Transaction Obligated Amount for obligations at the award and object class level did not contain data for 156 of 254 grants samples reviewed and 85 of 131 procurement samples reviewed. As a result, KPMG identified an internal control deficiency relevant to the audit objectives and proposed recommendations for management.

We made three recommendations to the Acting Chief Financial Officer, which supersede the recommendations made in the 2019 OIG DATA Act report.⁶³ Management agreed with our recommendations and indicated actions have already been taken to improve data accuracy.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-002-13-001.pdf>, Report No. 22-22-002-13-001 (November 8, 2021).

FY 2021 FISMA DOL Information Security Report: Information Security Continuous Monitoring Controls Remain Deficient

Under the Federal Information Security Modernization Act of 2014 (FISMA), DOL OIG is required to perform annual independent evaluations of the Department's information security program and practices. We contracted with KPMG LLP (KPMG) to conduct an independent audit of DOL's FY 2021 information security program. The objective of this audit was to determine if DOL implemented an effective information security program for the period October 1, 2020, through September 30, 2021. KPMG determined DOL's information security program was not effective for FY 2021.

KPMG reported 16 findings for DOL's information security program. These findings were identified within four of five Cybersecurity Functions and six of nine FISMA Metric Domains. The findings were based on the 45 control deficiencies resulting from KPMG's testing of 20 DOL systems and entity-wide controls.

⁶³ DATA Act: DOL's Reported Data Generally Met Quality Standards but Accuracy Issues Remain, DOL Report No. 03-20-001-13-001 (November 21, 2019), available at: <https://www.oig.dol.gov/public/reports/oa/2020/03-20-001-13-001.pdf>

Departmental Management

For an information security program to be considered effective, the majority of the FY 2021 IG FISMA Reporting Metrics must be rated at least Managed and Measurable (Level 4). Based on KPMG's testing results and the CyberScope⁶⁴ analysis, DOL's information security program was assessed as not effective because the majority were rated Consistently Implemented (Level 3). Although DOL established and maintained its information security program and practices for its information systems for the five Cybersecurity Functions and nine FISMA Metric Domains, KPMG found weaknesses that demonstrated the information security program had not achieved a Level 4 rating in three of the five Cybersecurity Functions: Identify, Detect, and Recover (see Table 1).

In reviewing the results from KPMG's testing, we are concerned the Chief Information Officer's (CIO) oversight over DOL's information technology is not ensuring progress on implementing Information Security Continuous Monitoring controls. We continue to identify issues with the system authorization process, system security plans, and security control assessments. The CIO needs to obtain authority and access to further implement robust monitoring

capabilities that continually assess the security state of the systems and hold the agency and system owners accountable for identified compliance gaps.

Furthermore, in comparing the FY 2021 results to the FY 2020 FISMA assessment, we identified similar issues with access management, audit log review, and configuration management at the system level, which, due to the restructuring of DOL's information technology, leads to additional concern that the findings identified might also apply to other DOL systems.

KPMG made 18 recommendations to strengthen DOL's information security program. To improve and progress the maturity of the information security program, the CIO should apply these recommendations to its entire universe of systems. The CIO generally concurred with the findings and recommendations in our report and stated the Department has addressed or developed plans to address all recommendations.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/23-22-001-07-725.pdf>, Report No. 23-22-001-07-725 (January 28, 2022).

Table 1: Maturity Levels for Cybersecurity Functions

Cybersecurity Function - Domains	Maturity Level
Identify – Risk Management (RM) and Supply Chain Risk Management (SCRM) ⁶⁵	Consistently Implemented (Level 3)
Protect – Configuration Management (CM), Identity and Access Management (IAM), Data Protection and Privacy (DPP), and Security Training (ST)	Managed and Measurable (Level 4)
Detect – Information Security Continuous Monitoring (ISCM)	Consistently Implemented (Level 3)
Respond – Incident Response (IR)	Managed and Measurable (Level 4)
Recover – Contingency Planning (CP)	Consistently Implemented (Level 3)

Source: IG CyberScope entries

⁶⁴ The Office of Management and Budget and Department of Homeland Security's web-based application for IT security reporting by federal agencies.

⁶⁵ While we assessed the maturity levels of the SCRM metrics, they are not considered in the overall maturity results used in determining the effectiveness of the Identify Function and the overall information security program.

Single Audits

A single audit provides an organization-wide examination of an entity expending federal assistance funds received for its operations. The audit is typically conducted annually by an independent certified public accountant, and its objective is to provide assurance to the U.S. government regarding the management and use of funds by recipients such as states, schools, universities, and nonprofits.

Under Uniform Guidance,⁶⁶ cognizant federal agencies must oversee the implementation of single audit requirements. DOL is currently cognizant for six entities, and the OIG periodically performs quality control reviews (QCR) of the entities' single audits. During this reporting period, we conducted two QCRs: one on the Single Audit of the Center for Workforce Inclusion, Inc. for the Year Ended June 30, 2020, and the other on the Single Audit of Job Service North Dakota for the Fiscal Year Ended June 30, 2020.

Quality Control Review Single Audit of the Center for Workforce Inclusion, Inc. for the Year Ended June 30, 2020

The single audit—which covered one DOL major program with funds totaling \$46,123,049—was completed by Gorfine, Schiller & Gardyn, P.A. (firm). We found the firm's audit work did not meet certain requirements of OMB Uniform Guidance, including the Compliance Supplement, Generally Accepted Government Auditing Standards, and Generally Accepted Auditing Standards. Specifically, the firm did not adequately address three of the six applicable OMB compliance supplement requirements. These inadequately addressed requirements included activities allowed or unallowed, allowable costs/cost principles, and reporting.

⁶⁶ Uniform Guidance refers to 2 C.F.R. Part 200, OMB's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

For the activities allowed or unallowed and the allowable costs/cost principles requirements, the cash disbursement sample audit work was incomplete, the sample population was not verified, and the testing conducted was not properly documented. As a result of our review, the firm provided us with additional documentation supporting the testing of internal control and compliance testing over cash disbursements.



However, the firm did not conduct internal control and compliance testing of the subrecipients' financial and programmatic reporting, which is required for reporting. Additional work is required to bring this single audit into compliance.

We made two recommendations to the firm to communicate with the Employment and Training Administration once it has conducted internal control

Departmental Management

and compliance testing of the subrecipients' financial and programmatic reporting and review its FY 2020 single audit report, updating it if needed after the additional work is completed.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/24-22-001-03-360.pdf>, Report No. 24-22-001-03-360 (January 6, 2022).

Quality Control Review Single Audit of Job Service North Dakota for the Fiscal Year Ended June 30, 2020

The single audit—which covered two DOL major programs with funds totaling \$433,486,066—was completed by Brady, Martz & Associates, P.C. (firm). Based on our review of the audit

documentation related to DOL-funded programs, we determined that the firm's audit work was acceptable. However, their report did not meet certain requirements of applicable standards, including generally accepted government auditing standards, generally accepted auditing standards, and Uniform Guidance. Specifically, certain elements were omitted from the 2020 Independent Auditor's Report due to their oversight. Since we have discussed these matters with the firm's management and they have already taken corrective action, we consider these deficiencies resolved and closed, and have no recommendations in our report.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/24-22-002-03-315.pdf>, Report No. 24-22-002-03-315 (March 21, 2022).



Employee Integrity Investigations

Employee Integrity Investigations

The OIG is responsible for investigating possible misconduct or criminal activities involving DOL employees or individuals providing services to the Department.

Closed Investigations Not Disclosed to Public

- The OIG conducted an investigation as to whether a senior employee accessed government systems without authorization and disclosed protected information. The OIG did not establish facts to support the allegations.
- The OIG conducted an investigation into a senior employee for use of a government vehicle in furtherance of a personal business during duty hours. The OIG found evidence to support the allegation. Criminal charges were declined by DOJ in lieu of internal administrative remedies, however the employee retired prior to the investigative report being completed and provided to management.



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OIG Whistleblower Activities

OIG Whistleblower Activities

Whistleblower Protection Coordinator (WPC)

DOL employees, contractors, subcontractors, and grantees perform an important service by reporting evidence of wrongdoing, including misconduct, fraud, waste, and abuse in DOL programs. Whistleblowers should never be subjected to, or threatened with, retaliation for having engaged in a protected communication or protected activity. The DOL OIG plays a vital role in ensuring that DOL employees and employees of DOL grantees and contractors are informed of their rights and protections against retaliation for “blowing the whistle.” This work is done by the OIG Whistleblower Protection Coordinator (WPC) Program, which is housed in the OIG’s Office of Legal Services.

Pursuant to Section 2 of the Whistleblower Protection Coordination Act of 2018 (S.1869, June 25, 2018), every inspector general’s office is required to designate a whistleblower protection coordinator. According to Section 2, the WPC (1) educates agency employees about prohibitions against retaliation for protected disclosures; (2) educates agency employees who have made or are contemplating making a protected disclosure about their rights and the remedies against retaliation for protected disclosures, including the means by which employees may seek review of any allegation of reprisal, as well as the roles of the OIG, the Office of Special Counsel (OSC), the Merit Systems Protection Board, and any other relevant entities; and (3) provides general information about the timeliness of such cases, the availability of any alternative dispute mechanisms, and avenues for

potential relief. Within DOL OIG, an Associate Counsel to the Inspector General has been designated to serve as the WPC. Pursuant to this designation, the WPC has

- provided input into training that was presented to, and required to be completed by, all DOL employees, entitled “Prohibited Personnel Practices, Whistleblower Protection”;
- provided live training to all DOL supervisors and managers entitled “Responding to Whistleblower Retaliation Complaints/Overview of Prohibited Personnel Practices – Annual Training”;
- developed training for new employees titled “Whistleblower Rights and Protections for DOL Employees” which is included in all DOL employees’ New Employee Orientation;
- updated the DOL OIG public facing website titled “Whistleblower Protection Coordinator”, which is available to all DOL and OIG employees, to provide information on whistleblower protections and options for DOL employees and employees of DOL contractors and grantees;
- established a dedicated e-mail address (OIGWhistleblower@oig.dol.gov) to receive and respond to whistleblower-related inquiries from DOL employees;
- worked with DOL to help obtain recertification of its 2302(c) program (October 2019);
- obtained the OIG’s recertification of its 2302(c) program (June 2020); and
- monitored whistleblower retaliation complaints received by the OIG, as well as whistleblower retaliation investigations conducted by the OIG.

OIG WHISTLEBLOWER ACTIVITIES

Whistleblower Retaliation Investigations

The OIG can initiate its own investigations into allegations of improper or illegal retaliation brought by DOL employees or, on a discretionary basis, refer such allegations to OSC for review and investigation.

Further, pursuant to 41 U.S.C. § 4712, the OIG is required, with some exceptions, to investigate whistleblower retaliation allegations made by employees of DOL contractors or grantees.

Whistleblower Retaliation Investigations October 1, 2021 – March 31, 2022

Pending DOL employee complaint investigations	3
Pending Grantee/Contractor employee complaint investigations	5
Reports pending with DOL	2
Decision issued by the DOL Assistant Secretary for Administration and Management	1





OLG Congressional Testimony

OIG Congressional Testimony

During this semiannual reporting period, the OIG testified before one congressional committee. The full text of our testimony is available on our website at www.oig.dol.gov/testimony.htm

- March 17, 2022 – Larry D. Turner, Inspector General, U.S. Department of Labor, testified before the Senate Committee on Homeland Security and Governmental Affairs. The hearing was titled “*Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight.*”



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Legislative Recommendations

Legislative Recommendations

The Inspector General Act requires the OIG to review existing or proposed legislation and regulations, and to make recommendations in the Semiannual Report concerning their impact both on the economy and efficiency of the Department's programs and on the prevention of fraud, waste, and abuse. The OIG continues to propose the following legislative actions to increase efficiency and protect the Department's programs.

Allow DOL and the OIG Access to UI Claimant Data and Wage Records

Congress should consider legislative action to allow DOL and the OIG to have direct access to State Workforce Agency (SWA) unemployment insurance (UI) claimant data and wage records for our respective oversight responsibilities. The Department has stated that outside of the temporary authority provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, it lacks the authority to require SWAs to provide the OIG with access to UI claimant data and wage records unless the OIG is conducting an investigation into a particular instance of suspected UI fraud. The Department is unable to cite any law enacted by Congress to support its opinion. Contrary to the Department's view on the matter, the Inspector General Act of 1978, as amended, authorizes the OIG's access to information related to the Department's programs, unless Congress enacts law that expressly refers to the OIG and limits the OIG's right of access. Furthermore, in a June 2021 alert memorandum,⁶⁷ the OIG recommended that the Employment and Training Administration (ETA) amend its regulations through rulemaking to reinforce that UI information must be provided to the OIG for all Inspector General (IG) engagements.

This lack of direct and real-time access to data has severely hampered the OIG's ability to effectively

oversee the UI program. In order to overcome this and effectively oversee UI benefits provided in response to the COVID-19 pandemic, the OIG issued multiple IG subpoenas to all SWAs, seeking UI claimant data. OIG data scientists then normalized and analyzed the data to identify potential fraud and programmatic weaknesses. The Department revisited its position and on August 3, 2021, issued an Unemployment Insurance Program Letter (UIPL) advising SWAs they must provide UI data to the OIG for benefits paid under the authority of the CARES Act. However, this was a temporary measure that applied to CARES Act UI programs, which sunsetted on September 6, 2021,⁶⁸ and without such data access on a permanent-basis, the OIG is unable to provide effective oversight of the UI program. The OIG has communicated in the past the value of receiving periodic reporting on this data, such as on a monthly or quarterly basis, rather than through

⁶⁷ Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

⁶⁸ The CARES Act UI programs ended on September 6, 2021; however, states continue to process backlogged claims, and they are required to submit payment data for the claims to the OIG.

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recurring issuances of IG subpoenas. The repeated use of IG subpoenas to obtain UI data on a recurring basis is time-consuming and inefficient. Thus, the OIG would not be able to obtain UI data in a manner that would allow the OIG to more timely detect fraud.

The results of our efforts have shown that data analytics is a vital tool in performing our oversight function. The OIG's efforts resulted in the identification of billions in improper payments, with most attributable to potential fraud. The OIG was further able to recommend programmatic changes to put billions in federal funds to better use. In addition, the OIG shared portions of our methodology with ETA to allow the Department and SWAs to stop fraud before it occurs.

Real-time access to SWA UI claimant data and wage records systems would assist in the Department's programmatic oversight responsibilities to identify improper payments and weak controls. This access is also vital to the OIG's oversight responsibility and would enable the OIG to quickly identify and investigate large-scale fraud. It would also allow the OIG to expand our current efforts to share emerging fraud trends with ETA and SWAs in order to strengthen the UI program and likely prevent fraud before it occurs. In addition, conducting data analytics based on direct access would further enable our auditors to identify program weaknesses and recommend corrective actions that would improve the timeliness of UI benefit payments and the integrity of the UI program.

Enact the UI Integrity Legislative Proposals

In October 2016, the Department submitted a legislative package to Congress proposing changes that would help address UI program integrity and the



high improper payment rates experienced in the UI program. Similar proposals have also been included in each of the President's budget requests since FY 2018. The OIG encourages Congress to consider and adopt proposals to aid the Department's efforts to combat improper payments in the UI program. The proposals from the President's FY 2021 budget request include the following:

- allow the Secretary of Labor greater authority to require SWAs to implement UI corrective actions related to performance and integrity;
- require SWAs to use NASWA's Integrity Data Hub (IDH) and the State Information Data Exchange System;
- require SWAs to cross-match UI claims against the National Directory of New Hires (NDNH);
- require SWAs to cross-match UI claims with the U.S. Social Security Administration's prisoner database and other repositories of prisoner information;
- allow SWAs to retain 5 percent of UI overpayment recoveries for program integrity purposes; and
- require SWAs to use UI penalty and interest collections solely for UI administration.

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These legislative proposals are consistent with previous OIG findings and recommendations to address UI improper payments. In order to maintain UI program integrity, the OIG has recommended, as of February 2021, establishing legislation that requires SWAs to cross-match high-risk areas, including UI benefits paid to individuals with Social Security numbers: filed in multiple states, belonging to deceased persons and federal prisoners, or used to file for UI claims with suspicious email accounts.

Provide Authority to Ensure the Integrity of the H-1B Program

If DOL is to have a meaningful role in the foreign labor certification process for H 1B specialty occupation visas, it must have the statutory authority to ensure the integrity of that process. This authority should include the ability to verify the accuracy of information provided on labor condition applications, and to initiate its own H-1B investigations more broadly. Currently, the Department is statutorily required to certify an H-1B application unless it determines that the application is “incomplete or obviously inaccurate.” However, unlike investigations into the H-2A and H 2B programs, DOL may not initiate its own H-1B investigations based on reasons outside the four statutory criteria: (1) a credible source complaint, (2) aggrieved party, (3) Secretary initiated random investigation of a willful violator, or (4) Secretary initiated investigation of any H-1B employer.⁶⁹

Our concern with the Department's limited ability to ensure the integrity of the certification process

⁶⁹ DOL Needs to Improve Debarment Processes to Ensure Foreign Labor Program Violators Are Held Accountable, Report No. 06-20-001-03-321 (September 30, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/06-20-001-03-321.pdf>

is heightened by the results of OIG analyses and investigations showing that the program is susceptible to significant fraud and abuse, particularly by employers and attorneys. For example, some staffing companies utilize the H-1B program without having scheduled jobs already lined up. Some employers and attorneys misrepresent their need for workers to DOL, then reassign the extra workers to other companies or require foreign workers to find their own work. There have also been instances when companies illegally generated profit by requiring foreign workers to pay fees and recurring payments to secure H-1B visas. Without statutory authority to ensure program integrity, the Department cannot verify employers' attestations to the H-1B certifications unless a complaint is filed or the Department utilizes a Secretary-initiated investigation, for which DOL developed a process in FY 2021. As foreign workers are generally reluctant to file complaints for fear of retaliation and losing their jobs, it is unlikely to result in verification action being taken.

Amend Pension Protection Laws

Legislative changes to the Employment Retirement Security Act of 1974 (ERISA) and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG continues to recommend the following legislative actions:

- **Repeal ERISA's limited-scope audit exemption.** This exemption excludes pension plan assets invested in financial institutions, such as banks and savings and loan firms, from audits of employee benefit plans. Notwithstanding recent changes to auditing standards that strengthen limited-scope audits, these audits prevent independent public accountants who are auditing pension plans

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from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no opinion" audits offer no substantive assurance of asset integrity either to plan participants or to the Department.

- **Expand the authority of the Employee Benefits Security Administration (EBSA) to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment as well as the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is essential as benefit plan audits help protect participants and beneficiaries by ensuring the proper valuation of plan assets and computation of benefits.
- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This change would ensure the timely reporting of violations and would more actively involve auditors in safeguarding pension assets as a first line of defense against the abuse of workers' pension plans.
- **Strengthen criminal penalties in U.S.C. Title 18.** Three sections of U.S.C. Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Section 664 prohibits embezzlement or theft from employee pension and welfare plans; Section 1027 prohibits making false statements

in documents required by ERISA; and Section 1954 prohibits giving or accepting bribes related to the operation of ERISA-covered plans. Sections 664 and 1027 subject violators to up to 5 years' imprisonment, while Section 1954 calls for up to 3 years' imprisonment for violators. The OIG recommends raising the maximum penalty up to 10 years for all three violations to correspond with the 10-year penalty imposed by Section 669 (for theft from health care benefit programs), which would serve as a greater deterrent and, consequently, further protect employee pension plans.

Improve the Integrity of the FECA Program

Legislative reforms should be considered in the following areas to improve the effectiveness and integrity of the Federal Employees' Compensation Act (FECA) program:

- **Provide statutory access to the National Directory of New Hires (NDNH) and Social Security wage records.** Currently, the Department has no access to the NDNH data and can access Social Security wage information only if the claimant gives it permission. Granting the Department routine access to these databases would aid in detecting fraud committed by individuals receiving FECA wage loss compensation but failing to report income they have earned.
- **Establish a 3-day waiting period at the beginning of the claims process.** FECA legislation provides for a 3-day waiting period, which is intended to discourage the filing of frivolous claims. As currently written, however, the legislation places the waiting period at the end of the 45-day continuation-of-pay period, thereby negating its purpose. Legislation

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that passed in 2006 placed the waiting period for postal employees immediately after an employment-related injury. If the intent of the law is to ensure a true waiting period before an employee applies for benefits, then that period should likewise come immediately after an employment-related injury—for all federal workers, not exclusively postal employees. This proposal was included in the President's FY 2021 budget as part of the Office of Workers' Compensation Programs' (OWCP) FECA reform.

- **Allow the temporary suspension of questionable medical providers pending the outcome of investigations.** While FECA regulations allow OWCP to exclude a provider through administrative means, OWCP must give notice to the provider and afford the provider an opportunity for a hearing before DOL's Office of Administrative Law Judges. This process and the various procedures involved can be lengthy. Legislative changes are necessary to enable DOL to immediately suspend all FECA providers who have been indicted for fraudulent billing practices from providing further medical services and receiving payments. This proposal was included in the President's FY 2021 budget as part of OWCP's FECA reform.

Authorize OIG Participation in Asset Forfeiture Funds to Combat UI Fraud and Other Crimes

Legislative authority in the area of asset forfeiture would increase the OIG's ability to effectively and efficiently investigate UI fraud and other crimes



and to recover fraudulently obtained funds.⁷⁰ Asset forfeiture is a critical legal tool that serves a number of compelling law enforcement purposes. It is designed to deprive criminals of the proceeds of their crimes, to break the financial backbone of organized criminal syndicates, and to recover property that may be used to compensate victims and deter criminal activity. Currently, the OIG is not a participant in the Department of the Treasury (Treasury) or Department of Justice (DOJ) forfeiture funds. The lack of authority to participate in these funds limits the OIG's ability to effectively recover ill gotten proceeds of UI fraud and other crimes under the OIG's jurisdiction. Statutory authority to seize and forfeit illicit funds would allow the OIG to participate in the Treasury and DOJ forfeiture funds, thus enabling the OIG to better combat UI fraud and other crimes in the future.

⁷⁰ According to DOJ, forfeiture "is the legal process by which title to an asset is transferred to the government... because that asset was derived from, used to facilitate, or involved in criminal conduct in a manner that subjects it to forfeiture under an applicable asset forfeiture statute." Department of Justice, Asset Forfeiture Policy Manual (2021), available at: <https://www.justice.gov/criminal-afmls/file/839521/download>



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Reporting Requirements Under the Following Acts

Inspector General Act of 1978

REPORTING	REQUIREMENT	PAGE
Section 4(a)(2)	Recommendations on existing and proposed legislation and regulations relating to the programs and operations of DOL	71
Section 5(a)(1)	Description of significant problems, abuses, and deficiencies relating to the administration of programs and operations	All
Section 5(a)(2)	Description of recommendations for corrective action with respect to significant problems, abuses, and deficiencies	All
Section 5(a)(3)	Significant recommendations from previous semiannual reports on which corrective action has not been completed	84
Section 5(a)(4)	Matters referred to prosecutive authorities and the prosecutions and convictions which have resulted	98
Section 5(a)(5) and Section 6(c)(2)	Summary of each report made to the head of DOL under section 6(c)(2) (information or assistance requested and unreasonably refused in the judgment of the IG).	None to report
Section 5(a)(6)	List of audit reports, inspection reports, and evaluation reports subdivided according to subject matter	81
Section 5(a)(7)	Summary of particularly significant reports	All
Section 5(a)(8)	Statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the total dollar value of questioned costs, including unsupported costs, for reports—(A); (D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	80
Section 5(a)(9)	Statistical tables on management decisions on recommendations that funds be put to better use (A); (D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	79
Section 5(a)(10)	Summary of each audit report, inspection report, and evaluation report issued before the commencement of the reporting period— (A) for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report; (B) for which no establishment comment was returned within 60 days of providing the report to the establishment; and (C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations.	89-97
Section 5(a)(11)	Description and explanation for any significant revised management decision	None to report

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Section 5(a)(12)	Information on any significant management decisions with which the inspector general disagrees	None to report
Section 5(a)(13)	Information from the Federal Financial Management Improvement Act Section 804(b) — instances in which an agency has not met intermediate target dates in a remediation plan, and the reasons	None to report
Section 5(a)(14)	Peer review reporting (A) results of any peer review conducted by another OIG; or (B) a statement identifying the date of the last peer review conducted	101
Section 5(a)(15)	Outstanding peer review recommendations	None to report
Section 5(a)(16)	Peer reviews conducted by DOL OIG and recommendations outstanding or not fully implemented	101
Section 5(a)(17)	Statistical tables on investigative findings showing total number of — (A) reports issued (B) persons referred to the U.S. Department of Justice for prosecution (C) persons referred to state and local prosecuting authorities (D) indictments and criminal informations that resulted from any prior referral to prosecuting authorities	98
Section 5(a)(18)	Metrics used for developing the data for the statistical tables	98
Section 5(a)(19)	Under Section 5(a) (17) Summary of investigations of senior government employees where allegations of misconduct were substantiated — including the facts, circumstances, status, and disposition of the matter	67
Section 5(a)(20)	Description of whistleblower retaliation cases including information about the official found to have engaged in retaliation and what, if any, consequences that establishment imposed to hold that official accountable	68
Section 5(a)(21)	Summary of instances of attempted departmental interference with the independence of the office, including— with budget constraints and incidents in which the establishment has: resisted or objected to oversight activities, or restricted or significantly delayed access to information	None to report
Section 5(a)(22)	A) Descriptions of inspections, evaluations, audits, and investigations that are closed and were not disclosed to the public; and (B) Descriptions of investigations conducted by the office involving a senior government employee that are closed and were not disclosed to the public.	67

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

REPORTING	REQUIREMENT	PAGE
Section 989(C)	Peer review reporting	101

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Funds Recommended for Better Use

Funds Put to a Better Use Agreed to by DOL⁷¹

	Number of Reports	Dollar Value (\$ millions)
For which no management decision had been made as of the commencement of the reporting period.	1	156
Issued during the reporting period	0	0
Subtotal	1	156
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management		156
• Dollar value of recommendations that were not agreed to by management		0
For which no management decision had been made as of the end of the reporting period	0	0

Funds Put to a Better Use Implemented by DOL

	Number of Reports	Dollar Value (\$ millions)
For which final action had not been taken as of the commencement of the reporting period.	4	39,160
For which management or appeal decisions were made during the reporting period	1	156
Subtotal	5	39,316
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were actually completed	2	5.6
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		0
For which no final action had been taken by the end of the period	3	\$39,311

⁷¹ The term “recommendation that funds be put to better use” means a recommendation by the OIG that funds could be used more efficiently or achieve greater program effectiveness if management took actions to implement and complete the recommendation. This term is defined by the Inspector General Act and includes, among other things, reductions in future outlays; deobligation of funds from programs or operations; costs not incurred in the future by implementing recommended improvements related to the operations of the establishment, a contractor, or a grantee; and any other savings specifically identified, including reverting funds to the U.S. Treasury to be used for other purposes.

Appendices

Questioned Costs

Resolution Activity: Questioned Costs⁷²

	Number of Reports	Questioned Costs (\$ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	0	0
Issued during the reporting period	0	0
Subtotal	0	0
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		0
• Dollar value of costs not disallowed		0
For which no management decision had been made as of the end of the reporting period		
For which no management decision had been made within six months of issuance	0	0

Closure Activity: Disallowed Costs

	Number of Reports	Disallowed Costs (\$ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	2	2.0
Issued during the reporting period	0	0
Subtotal	2	2.0
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs	1	1.9
• Dollar value of costs not disallowed		0
For which no management decision had been made as of the end of the reporting period		
For which no management decision had been made within six months of issuance	1	0.1

⁷² As defined by the Inspector General Act, questioned costs include alleged violations of law, regulations, contracts, grants, or agreements; costs not supported by adequate documentation; or the expenditure of funds for an intended purpose that was unnecessary or unreasonable. Disallowed costs are costs that the OIG questioned during an audit as unsupported or unallowable and that the grant/contracting officer has determined the auditee should repay. The Department is responsible for collecting the debts established. The amount collected may be less than the amount disallowed, and monies recovered usually cannot be used to fund other program operations and are returned to the U.S. Treasury.

Appendices

Final Audit Reports Issued

Report Name	Number of Recommendations	Questioned Costs (\$)	Funds Put To Better Use (\$)
Bureau of International Labor Affairs			
ILAB Properly Performed Oversight in Compliance with the USAID Memorandum of Agreement and Ensured IMPAQ International LLC Was in Compliance with the Cooperative Agreement Requirement; Report No. 17-22-001-01-070; 02/11/22	0	0	0
Employment and Training Administration			
COVID-19: Safety and Remote Learning Challenges Continue for Job Corps; Report No. 19-22-001-03-370; 11/12/21	4	0	0
COVID-19: Delays in Providing Disaster Relief Jeopardize \$366 Million Disaster Worker Grant Program; Report No. 19-22-002-03-391; 01/28/22	4	0	0
Occupational Safety and Health Administration			
COVID-19 To Protect Mission Critical Workers, OSHA Could Leverage Inspection Collaboration Opportunities with External Federal Agencies; Report No. 19-22-003-10-105; 3/31/22	2	0	0
Office of the Chief Financial Officer			
The U.S. Department of Labor Digital Accountability and Transparency Act Audit of 2014 Performance Audit; Report No. 22-22-002-13-001; 11/08/21	3	0	0
FY 2021 Independent Auditor's Report on the DOL Financial Statements; Report No. 22-22-003-13-001; 11/19/21	5	0	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements, for the Year Ended September 30, 2021; Report No. 22-22-004-13-001; 12/20/21	9	0	0
Office of the Chief Information Officer			
FY 2021 FISMA DOL Information Security Report: Information Security Continuous Monitoring Controls Remain Deficient; Report No. 23-22-001-07-725; 01/28/22	18	0	0
Office of Workers' Compensation Programs			
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund – FY 2021; Report No. 22-22-001-04-431; 11/03/21 ⁷³	0	0	0
District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Independent Auditors' Report. September 30, 2020 and 2019; Report No. 22-22-006-04-432; 03/31/22	1	0	0
Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report September 30, 2020 and 2019; Report No. 22-22-005-04-432; 03/31/22	1	0	0
Total (11 Reports)			
Final Audit Total (11 Reports)	47	0	0

⁷³ The FY 2022 report was issued with 2 recommendations that are currently documented in the FY 2021 Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund.

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Other Reports

Report Name	Number of Recommendations
Employment and Training Programs	
Workforce Innovation and Opportunity Act	
Quality Control Review - Single Audit of the Center for Workforce Inclusion, Inc. for the Year Ended June 30, 2020; Report No. 24-22-001-03-360; 01/06/22	2
Quality Control Review - Single Audit of Job Service North Dakota for the Year Ended June 30, 2020; Report No. 24-22-002-03-315; 03/21/22	0
Advisory Report – ETA's Management of Workforce Development Grants: Key Concerns; Report No. 09-22-001-03-001; 03/31/22	0
Congressional Testimony	
Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs	
Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight; Report No. 19-22-003-03-315; 03/17/22	0
Other Reports Total (4 Reports)	2

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Unresolved Audit Reports Over 6 Months Old

Agency	Report Name	Number of Unimplemented Recommendations	Questioned Costs (\$)
Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency			
ETA	Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	4	0
ETA	COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20	2	0
ETA	Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General; Report No. 19-21-005-03-315; 06/16/21	4	0
ETA	Unemployment Insurance Overpayments Related to Work Search Underscore the Need for More Consistent State Requirements; Report No. 04-21-001-03-315; 09/29/21	1	0
ETA	ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program; Report No. 05-21-004-03-375; 09/30/21	1	0
MSHA	MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05 17 002 06-001; 03/31/17	2	0
MSHA	MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No. 23-19-002-06-001; 08/16/19	1	0
MSHA	MSHA Needs to Improve Efforts to Protect Coal Miners From Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/20	2	0
MSHA	MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated; Report No. 05-21-002-06-001; 03/31/21	1	0
OASAM	FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
OCFO	DOL Needs to Do More to Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	2	0

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OCFO	The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Did Not Represent Total Program Year Expenses; Report No. 22-21-007-13-001; 08/06/21	1	0
OFCCP	OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20	1	0
OSEC	DOL's IT Governance Lacked the Framework Necessary to Support the Overall Mission; Report No. 23-21-002-01-001; 09/30/21	1	0
WHD	DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	1	0
Agency Management Decision or Grant/Contracting Officer's Final Determination Not Issued By Close of Period			
Total Nonmonetary Recommendations and Questioned Costs		25	0
Agency	Report Name	Number of Recommendations	Funds Recommended for Better Use (\$)
Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency			
Total Funds Recommended for Better Use		0	0
Total Audit Exceptions and Funds Recommended for Better Use		25	0
Total Funds Recommended for Better Use		0	0
Total Audit Exceptions and Funds Recommended for Better Use		25	0

Corrective Actions Taken by the Department

During this reporting period, we took final action to close recommendations within reports based on corrective action taken by the Department. The following is a summary of the most significant actions.

DOL Needs to Improve Debarment Processes to Ensure Foreign Labor Program Violators Are Held Accountable; Report No. 06-20-001-03-321; 09/30/20

Based on our work, we found DOL has not fully utilized the H-1B program investigation process to determine employer debarment and has not established a risk-based process for determining the number of H-2A and H-2B applications to audit. Specifically, the DOL Wage and Hour Division (WHD) generally cannot initiate H-1B investigations unless it receives a complaint from an aggrieved party or a credible source, and while the Secretary has authority to initiate investigations, DOL has never utilized this option. Further, DOL has not established a risk-based process for determining the number of H-2A and H-2B applications to audit.

In response to our audit, WHD developed procedures to initiate Secretary-certified investigations and held training for Secretary-certified investigations with enforcement staff. DOL also updated its Memorandum of Agreement (MOA) with the U.S. Department of Homeland Security (DHS) and established processes by which DHS will refer suspected employer violations within the H-1B program to DOL. The enhanced collaboration and sources of information will be used by DOL in support of Secretary-certified investigations. Also, WHD provided training to its enforcement staff that dealt with H-1B debarment and assessing employer willfulness. Further, if DOL management so requests, WHD can provide technical assistance to Congress in support of any proposed statutory changes to DOL or WHD's authority to initiate investigations as requested and appropriate. Finally, DOL has established a risk-based process for selecting H-2A and H-2B applications for audit.

Better Strategies Are Needed to Improve the Timeliness and Accuracy of Davis-Bacon Act Prevailing Wage Rates; Report No. 04-19-001-15-001; 03/29/19

For more than 20 years, Congress, the Office of Management and Budget, DOL OIG, and the Government Accountability Office have raised concerns about the timeliness and accuracy of prevailing wage rates mandated by the Davis-Bacon Act and published by DOL WHD. Construction workers completing contracts financed wholly or in part with federal funds must be paid no less than the minimum wage rates WHD determines to prevail in the area where the work is performed. Our audit found WHD had improved the time it took to complete wage surveys, but it still needed to make improvements to ensure wage determinations were updated in the shortest amount of time. More importantly, WHD needed to ensure contract awards did not include outdated wage determinations that contain prevailing wage rates. We also found WHD continued to face challenges in securing sufficient wage data from the local areas that prevailing wages represented.

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In response to our audit, WHD has taken a number of initiatives to improve the timeliness and accuracy of its wage surveys, including the development of a risk-based strategy for future wage surveys that focuses on areas with older wage rates, a likelihood of survey sufficiency, and an increased demand for construction. WHD also updated historical wage determinations by removing published, non-union, specialty wage rates over 10 years old from the General Service Administrations' website. In addition, WHD developed a public awareness campaign and is redesigning its electronic survey form to facilitate increased participation from contractors in the wage survey process.

ETA Needs to Improve Its Disaster National Dislocated Worker Program; Report No. 02-21-002-03-391; 01/29/21

In the aftermath of 2017 hurricanes Harvey, Irma, and Maria, and the 2017 wildfires in California, Congress passed the Bipartisan Budget Act of 2018. The act provided \$100 million in additional funding for cleanup and restoration and for career and supportive services for people affected by these disasters. We found the Employment and Training Administration (ETA) provided minimal oversight of its state grantees and needed to improve the administration of the Disaster National Dislocated Worker Grants (DWG) program to ensure: (1) grantees help local areas restore communities in a timely manner; (2) out-of-work participants receive expeditious disaster relief assistance; (3) a greater number of participants obtain employment as intended by the grants; and (4) disaster relief funds are efficiently and effectively used.

In response to our audit, ETA took corrective actions to improve its DWG program, which included: (1) adding a performance metric to its operating plan to assess DWG progress with the goal of accelerating enrollments; (2) developing guidance to aid reviewers in evaluating DWG programs, identifying areas where additional assistance is required, and ensuring local areas maximize the use of disaster-relief funds; (3) conducting technical assistance for grant cohorts through meetings and newly-developed materials; and (4) publishing Training and Employment Guidance Letter (TEGL) 12-19, and Change 1 to TEGL 12-19, which added clarifications for funding decisions and required grant recipients to gather additional eligibility information for individuals who used self-attestation at initial enrollment.

ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation; Report No. 04-20-002-03-315; 09/29/20

In FY 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 ETA, granted approximately \$85 million in Disaster Unemployment Assistance (DUA) program funds to the states of Florida,

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Georgia, Texas, and the islands of Puerto Rico and the U.S. Virgin Islands (USVI). The DUA program is responsible for providing timely unemployment benefits to individuals who have become unemployed because of a presidential-declared disaster but are not eligible for regular Unemployment Insurance (UI). Our audit found that ETA did not have adequate policies in place to provide timely oversight or ensure states provided periodic training to staff and developed standard procedures to substantiate a claimant's eligibility. In addition, ETA did not establish adequate controls to ensure states paid only eligible claimants and paid them promptly as administratively feasible.

In response to our audit, ETA published Unemployment Insurance Program Letter (UIPL) No. 24-21 on August 20, 2021, and Training and Employment Notice (TEN) No. 13-21 on October 19, 2021. UIPL 24-21 requires states to conduct and/or attend DUA-related training, as well as establish and maintain Standard Operating Procedures (SOP) for DUA programs. TEN No. 13-21 requires states to include annual assurances in all State Quality Service Plan narratives, indicating (1) the date the state will conduct and/or attend DUA training during the fiscal year, and (2) they have a DUA SOP and continue to maintain it. These requirements begin in FY 2022. Additionally, TEN No. 13-21 announced the availability of a DUA SOP template.

ILAB Properly Performed Oversight in Compliance with the USAID Memorandum of Agreement and Ensured that Catholic Relief Services Was in Compliance with the Cooperative Agreement Requirements; Report No. 17-21-003-01-070; 09/23/21

The Bureau of International Labor Affairs (ILAB) awarded \$3,478,000 received from the United States Agency for International Development (USAID) through a Memorandum of Agreement (MOA) to Catholic Relief Services (CRS). The Inspector General for the agency receiving the transfer or allocation of such USAID funds is statutorily required to perform periodic audits regarding the use of the funds. ILAB is responsible for ensuring that CRS performed in accordance with the cooperative agreement requirements; costs claimed were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreement; and oversight was properly performed.

Our audit found that although ILAB properly performed oversight over CRS in compliance with the MOA and its policies and procedures, we identified one instance where ILAB did not perform a thorough review of the CRS Inventory Listing, which resulted in a vehicle purchase that deviated from the approved budget justification. However, the purchased vehicle cost less than what was approved and achieved the purpose for which the original vehicle was approved. In response to our audit, ILAB updated its policies and procedures to require grantees to submit annually an Inventory Listing and notify the Grant Officer Representative of variations between actual equipment/real property purchases and approved planned expenditure amounts and budget justification. A memorandum was issued to all ILAB cooperative agreement recipients to notify them of these changes.

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Unimplemented Recommendations

During this reporting period, we encountered four instances of audits or evaluations provided to the Department for comment that were not responded to within 60 days. However, agencies have provided management decisions in response to all audits and evaluations issued before the commencement of this reporting period.

From October 1, 2011, through September 30, 2021, the OIG made audit recommendations to the Department, of which 181 have not been fully implemented. These 181 recommendations include 126 recommendations resulting from audits issued since the end of FY 2019, and in many cases, the Department has corrective action plans in place.

RECOMMENDATIONS MADE PRIOR TO OCTOBER 1, 2021, NOT YET IMPLEMENTED

Fiscal Year	Total Number of Recommendations Made	Unimplemented Recommendations	
		Total Number	Monetary Impact (\$)
2011	319	6	0
2012	213	1	0
2013	195	0	0
2014	128	1	0
2015	163	6	0
2016	100	1	0
2017	112	9	0
2018	98	3	0
2019	84	28	0
2020	105	34	95,699
2021	133	92	39,311,226,638
Total	1,650	181	\$39,311,322,337

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High-Priority Unimplemented Recommendations

The following table summarizes the unimplemented recommendations the OIG considers to be the highest priorities for the Department.

Report Title; Report Number; Date Issued	Unimplemented Recommendation(s)
Worker Safety	
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	Clarify mine operators' responsibilities for local coordination under the Mine Improvement and New Emergency Response (MINER) Act, including coordination and communication between the operator, mine rescue teams, and local emergency response personnel, and familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.
COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105; 08/14/20	Continue to monitor and evaluate the Region II triage pilot and consider extending the triage process to all regions to expedite screening whistleblower complaints.
MSHA Needs to Improve Efforts to Protect Coal Miners from Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/20	Adopt a lower legal exposure limit for silica in coal mines based on recent scientific evidence. Establish a separate standard for silica that allows MSHA to issue citations and monetary penalties when violations of its silica exposure limit occur. Enhance its sampling program to increase the frequency of inspector samples where needed (e.g., by implementing a risk-based approach).
COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk; Report No. 19-21-003-10-105; 02/25/21	Improve OSHA's inspection strategy by prioritizing very high- and high-risk employers for COVID-19-related onsite inspections as businesses reopen and increase operations in various localities across the United States. Ensure remote inspections are tracked retroactive to February 1, 2020, and going forward. Compare remote inspections to onsite inspections and document analysis of the frequency and timeliness of inspectors in identifying and ensuring abatement of worksite hazards. Analyze and determine whether establishing an infectious disease-specific emergency temporary standard (ETS) is necessary to help control the spread of COVID-19 as employees return to worksites.
OSHA's Diminished Enforcement Left More Workers at Risk for Exposure to Silica; Report No. 02-21-003-10-105; 09/29/21	Implement a policy for future emphasis programs that minimizes the lapse in enforcement between canceled, revised, or new programs. Provide the OIG with "read-only" access to the OSHA Information System to facilitate data requests on future audits. Establish meaningful goals and processes to assess whether OSHA's outreach events are achieving the desired results in reaching a targeted number of workers at risk of exposure to silica.

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Employment and Training Programs	
ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program; Report No. 05-21-004-03-375; 09/30/21	Improve funding opportunity announcements for discretionary grant programs by: evaluating program goals using the SMART concept or a similar approach, and including required metrics that directly measure the success of each program goal, are clear, and are easily verifiable; having a scoring element covering completeness of applicant proposals for items requested in the announcement that reduces in points when the proposal is missing an element(s), significantly changes the wording of an element(s), or incorrectly addresses an element(s); and identifying targeted occupations in the Funding Opportunity Announcement language and/or scoring elements, or requiring submission of the career pathway to an H-1B occupation as support during apprenticeship program registrations or apprentice registrations.
Employee Benefits	
OWCP'S Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	Develop effective procedures, including seeking legislative authority to conduct matches with Social Security Information (SSA) retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly.
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-Insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16	Reduce or eliminate exemption thresholds for small plans.
OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 05/14/19	Ensure the Pharmacy Benefits Manager (PBM) implements a drug utilization review as specified in the contract. Ensure the PBM, when developing its formulary, considers all classes of drugs to determine if prior authorization or letters of medical necessity would be appropriate.
Unemployment Insurance Benefits	
COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20	Include CARES Act UI transactions in the Benefit Accuracy Measurement (BAM) or develop an alternative methodology to reliably estimate improper payments for those programs. Issue guidance directing states to provide access to state UI claimant data, in order to prevent and detect fraud.
Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21	Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including the areas identified in the memorandum: UI benefits paid to multi-state claimants, claimants who used the Social Security numbers of deceased individuals, potentially ineligible federal inmates, and claimants with suspicious email accounts. Effective controls will help prevent similar or greater amounts of fraud and allow those funds to be put to better use. Work with Congress to establish legislation requiring SWAs to cross match high-risk areas, including the four areas identified in the memo.
COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21	Continue to work with states to develop, operate, and maintain a modular set of technological capabilities to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment.

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Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General; Report No. 19-21-005-03-315; 06/16/21	Amend 20 CFR 603.5 and 603.6(a) through the rulemaking process to reinforce that UI information must be provided to DOL OIG for all IG engagements authorized under the IG Act, including audits, evaluations, and investigations. Continue to work with the OIG, and within 30 days of the memorandum, meet with the OIG to develop a permanent approach for OIG access to UI data.
Alert Memorandum: The Employment and Training Administration Does Not Require the National Association of State Workforce Agencies to Report Suspected Unemployment Insurance Fraud Data to the Office of Inspector General or the Employment and Training Administration; Report No. 19-21-006-03-315; 07/01/21	Take immediate action to require the National Association of State Workforce Agencies (NASWA) to refer information to ETA and the OIG on suspected fraud, waste, abuse, mismanagement, or misconduct, per Department of Labor Manual Series (DLMS) 8-106(D)(3). Such actions could include modification of ETA's grant award or issuance of unemployment insurance program policy guidance to ensure ETA complies with the notice requirement and its grantees comply with the reporting requirements of the DLMS. Continue to work with the OIG and, within 30 days of this memorandum, meet with the OIG to develop a permanent approach to OIG access to the UI Integrity Data Hub (IDH) data.
Departmental Management	
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	Realign the organizational structure as it relates to the CIO to address organizational independence issues.
DOL Did Not Comply with Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18	Maintain its current focus on increasing its technical assistance and funding to states to improve the improper payment reduction strategies in order to ensure compliance with the improper payments estimate rate threshold.
Stronger Controls Needed Over Web Application Security; Report No. 23-20-001-07-725; 11/14/19	Establish and maintain a comprehensive inventory of web applications, identifying which applications are public-facing and contain sensitive information. Review and update the DOL Plan of Action and Milestones (POA&M) policy to ensure agency corrective actions and timeframes are implemented. Establish and verify the implementation of Department-wide policies and procedures specific to associated risks to web applications, securing web servers, and web application programming.
FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered by Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19	Implement improvements in DOL's information security program for the following areas: Risk Management, Configuration Management, Identity and Access Management, Data Protection and Privacy, Information Security Continuous Monitoring, and Contingency Planning.
DOL Needs to Do More to Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	Establish and implement procedures to ensure the E2 Solutions (E2) travel and management tool is managed in compliance with contractual security requirements and DOL computer security policies for contracted information systems. Establish and implement procedures to ensure E2 account management practices enforce DOL's security policies.
DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	Develop policies and procedures to document its rationale and supporting evidence for key decisions in the development of economic regulatory analysis. Develop policies and procedures to document its rationale and supporting evidence when DOL determines the prescribed regulatory guidance does not apply. Enforce policies and procedures that require employees to maintain records that document government business. Employees should not be discouraged from maintaining such records. Develop policies and procedures to ensure that after a regulatory action has been published in the Federal Register, or otherwise issued to the public, DOL identifies for the public in a complete, clear, and simple manner the substantive changes between the draft submitted to the Office of Information and Regulatory Affairs (OIRA) for review and the action subsequently announced.

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FY 2020 FISMA DOL Information Security Report: Progress Needed to Improve Risk Management and Continuous Monitoring Information Security Controls; Report No. 23-21-001-07-725; 12/22/20	Provide training to responsible personnel over the third-party continuous monitoring review checklist. Enforce DOL policies and procedures regarding separation of duties so developers do not possess the ability to migrate changes to production. Enforce DOL security baseline policies with DOL's Cloud Service Providers (CSP) and develop a security configuration checklist for the CSPs. Develop sufficiently defined quantitative and qualitative metrics that provide meaningful indications of security status and trend analysis at all risk management tiers. Implement a process for approving deviations from established configuration settings.
The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Did Not Represent Total Program Year Expenses; Report No. 22-21-007-13-001; 08/06/21	Develop procedures to ensure changes to its improper payment process are communicated to OMB in a timely manner and those communications are properly maintained for subsequent review and inspection.
Job Corps Safety	
Job Corps Should Improve Its Pre-Admission Evaluation Process; Report No. 05-21-001-03-370; 03/25/21	Make a final determination on the legality and permissibility of pre-enrollment behavioral assessment tools, such as drug screenings, trial periods, or personality or aptitude tests that would be appropriate for use within Job Corps. Perform cost/benefit analyses to determine which, if any, of these pre-enrollment behavioral suitability assessment tools would be beneficial to Job Corps. Incorporate the results of these recommendations, as appropriate, in revising guidance to improve the assessment process.

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Summary of Reports with Unimplemented Recommendations with Cost Savings / Funds Put to Better Use

Report Name	Number of Unimplemented Recommendations	Funds Put to Better Use (\$)
Employment and Training Administration		
<p>Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21</p> <p>Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including the areas identified in the memorandum: UI benefits paid to multi-state claimants, claimants who used the Social Security numbers of deceased individuals, potentially ineligible federal inmates, and claimants with suspicious email accounts. Effective controls will help prevent similar or greater amounts of fraud and allow those funds to be put to better use.</p>	1	5,409,966,198
<p>COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21</p> <p>Continue to work with states to develop, operate, and maintain a modular set of technological capabilities to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment.</p>	1	33,745,677,576
<p>ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program; Report No. 05-21-004-03-375; 9/30/21</p> <p>Improve funding opportunity announcements for discretionary grant programs by conducting the following: Evaluate program goals using the SMART concept or a similar approach, and including required metrics that directly measure the success of each program goal, are clear, and are easily verifiable; have a scoring element covering completeness of applicant proposals for items requested in the announcement that reduces in points when the proposal is missing an element(s), significantly changes the wording of an element(s), or incorrectly addresses an element(s); and identify targeted occupations in the FOA language and/or scoring elements, or requiring submission of the career pathway to an H-1B occupation as support during apprenticeship program registrations or apprentice registrations.</p>	1	155,582,864
Total	3	\$39,311,226,638

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Reports with Unimplemented Recommendations for Management Improvement or Disallowed Costs Owed

The following table lists all OIG reports issued prior to this semiannual reporting period with recommendations that have not yet been fully implemented (as of March 31, 2022).

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed (\$)
Employee Benefits Security Administration		
Limited-Scope Audits Provide Inadequate Protections to Retirement Plan Participants; Report No. 05-14-005-12-121; 09/30/14	1	0
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-Insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16	1	0
Employment and Training Administration		
Investigative Advisory Report – Weaknesses Contributing to Fraud in the Unemployment Insurance Program; Report No. 50-15-001-03-315; 07/24/15	6	0
ETA Violated the Bona Fide Needs Rule and the Antideficiency Act; Report No. 26-17-002-03-370; 09/21/17	1	0
Experience Works, Inc. Misused More Than \$4 Million in SCSEP Grant Funds; Report No. 26-18-002-03-360; 09/28/18	1	0
Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	5	0

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ETA Had No Reasonable Assurance That \$183 Million in H-1B TST Grant Funds Helped Participants Get H-1B Jobs; Report No. 06-19-001-03-391; 09/27/19	1	0
COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20	2	0
ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation; Report No. 04-20-002-03-315; 09/29/20	2	95,699
Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21	1	0
Job Corps Should Improve Its Pre-Admission Evaluation Process; Report No. 05-21-001-03-370; 03/25/21	3	0
COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21	3	0
Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General; Report No. 19-21-005-03-315; 06/16/21	4	0
Alert Memorandum: The Employment and Training Administration Does Not Require the National Association of State Workforce Agencies to Report Suspected Unemployment Insurance Fraud Data to the Office of Inspector General or the Employment and Training Administration; Report No. 19-21-006-03-315; 07/01/21	2	0
Unemployment Insurance Overpayments Related to Work Search Underscore the Need for More Consistent State Requirements; Report No. 04-21-001-03-315; 09/29/21	3	0
ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program; Report No. 05-21-004-03-375; 09/30/21	6	0
Mine Safety and Health Administration		
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/2017	6	0
MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No. 23-19-002-06-001; 08/16/19	2	0
MSHA Can Improve its Pre-Assessment Conferencing Program; Report No. 05-19-001-06-001; 09/23/19	9	0
COVID-19: MSHA Faces Multiple Challenges in Responding to the Pandemic; Report No. 19-20-006-06-001; 07/24/20	1	0
MSHA Needs to Improve Efforts to Protect Coal Miners From Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/21/20	3	0
MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated; Report No. 05-21-002-06-001; 03/31/21	10	0

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Office of the Assistant Secretary for Administration and Management		
Ineffective Accounting for Sensitive Information Technology Hardware and Software Assets Places DOL at Significant Risk; Report No. 23-11-001-07-001; 03/31/11	6	0
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
FY18 FISMA DOL Information Security Report; Report No. 23-19-001-07-725; 03/13/19	5	0
Alert Memorandum: Security Vulnerability Relating to DOL Information Security Property; Report No. 50-19-002-07-725; 06/17/19	2	0
Stronger Controls Needed Over Web Application Security; Report No. 23-20-001-07-725; 11/14/19	3	0
FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered By Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19	12	0
FY 2020 FISMA DOL Information Security Report: Progress Needed to Improve Risk Management and Continuous Monitoring Information Security Controls; Report No. 23-21-001-07-725; 12/22/20	18	0
Office of the Assistant Secretary for Policy		
DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	2	0
Office of the Chief Financial Officer		
DOL Did Not Comply With Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18	1	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2019; Report No. 22-20-005-13-001; 12/19/19	6	0
DOL Needs To Do More To Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	2	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements, for the Year Ended September 30, 2020; Report No. 22-21-005-13-001; 12/18/20	9	0
The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Did Not Represent Total Program Year Expenses; Report No. 22-21-007-13-001; 08/06/21	1	0
Office of Federal Contract Compliance Programs		
OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20	1	0

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Office of the Secretary		
DOL Needs to Do More to Implement the Geospatial Data Act of 2018; Report No. 23-20-004-01-001; 09/30/20	1	0
DOL's IT Governance Lacked the Framework Necessary to Support the Overall Mission; Report No. 23-21-002-01-001; 09/30/21	5	0
Occupational Safety and Health Administration		
OSHA Needs to Improve the Guidance for Its Fatality and Severe Injury Reporting Program to Better Protect Workers;	1	0
OSHA Procedures for Issuing Guidance Were Not Adequate and Mostly Not Followed; Report No. 02-19-001-10-105; 03/28/19	4	0
Review of the Occupational Safety and Health Administration's Referral to and Reclamation of Debt from the U.S. Department of the Treasury; Report No. 22-20-006-10-001; 03/16/20	1	0
COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105; 08/14/20	2	0
Region IX Whistleblower Protection Program Complaints Were Not Complete or Timely; Report No. 02-21-001-10-105; 11/23/20	4	0
COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk; Report No. 19-21-003-10-105; 02/25/21	4	0
OSHA's Diminished Enforcement Left More Workers at Risk for Exposure to Silica; Report No. 02-21-003-10-105; 09/29/21	3	0
Office of Workers' Compensation Programs		
OWCP'S Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	1	0
Interim Report on Audit of Pharmaceutical Management in DOL Benefit Programs - OWCP Needs Better Controls Over Compounded Prescription Drugs; Report No. 03-17-001-04-431; 05/23/17	1	0
Alert Memorandum: Vulnerability in OWCP FECA Bill Pay Processing System; Report No. 50-20-001-04-430; 05/07/20	1	0
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund; Report No. 22-21-001-04-431; 10/30/20	2	0
Wage and Hour Division		
DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	2	0
COVID-19: The Pandemic Highlighted the Need to Strengthen Wage and Hour Division's Enforcement Controls; Report No. 19-21-008-15-001; 09/30/21	4	0
Totals	178	\$95,699

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Investigative Statistics

	Division Totals	Total
Investigative Reports Issued / Cases Closed (includes investigative reports issued, case closing reports, and matters referred for possible civil and/or administrative action):		133
Program Fraud Labor Racketeering	114 19	
Cases Opened:		190
Program Fraud Labor Racketeering	180 10	
Cases Referred for Prosecution (each case is measured as a singular statistic and may include more than one person or business entity):		148
Program Fraud Labor Racketeering	138 10	
Cases Referred for Administrative/Civil Action (each case is measured as a singular statistic and may include more than one person or business entity):		55
Program Fraud Labor Racketeering	53 2	
Persons Referred to the Department of Justice for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution):		180
Program Fraud Labor Racketeering	160 20	
Persons Referred to State and Local Prosecuting Authorities for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution):		28
Program Fraud Labor Racketeering	28 0	
Indictments and Criminal Informations That Resulted from Any Prior Referral to Prosecuting Authorities (includes sealed and unsealed indictments):		314
Program Fraud Labor Racketeering	284 30	
Indictments (includes sealed and unsealed indictments):		314
Program Fraud Labor Racketeering	284 30	
Convictions:		187
Program Fraud Labor Racketeering	160 27	
Statutory Debarments:		9
Program Fraud Labor Racketeering	5 4	

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Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions: ⁷⁴		\$90,260,357
Program Fraud Labor Racketeering	\$68,438,559 \$21,821,798	

Recoveries (the dollar amount/value of an agency's action to recover or to reprogram funds or to make other adjustments in response to OIG investigations):	\$7,310,826
Cost-Efficiencies (the one-time or per annum dollar amount/value of management's commitment, in response to OIG investigations, to utilize the government's resources more efficiently):	\$21,760,565
Restitutions/Forfeitures (the dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations):	\$54,940,493
Fines/Penalties (the dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations):	0
Civil Monetary Actions (the dollar amount/value of forfeitures, settlements, damages, judgments, court costs, and other penalties resulting from OIG criminal investigations):	\$6,248,473
Total:	\$90,260,357

⁷⁴ The OIG assisted state workforce agencies recover more than \$835,000 in unemployment insurance benefits that were not directly related to an open OIG investigation and were not included in the statistics above.

Appendices

OIG Hotline

The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period October 31, 2021, through March 31, 2022, a total of 19,110 complaints were opened in the OIG Hotline's complaint management system. Of these, 13,899 were complaints received from the National Center on Disaster Fraud. Almost all of these complaints involve concerns regarding COVID-19-related unemployment benefits. During this reporting period, 6,524 referrals were made for further review and/or action in response to complaints opened in the OIG Hotline's complaint management system. Numerous individual complaints involving alleged fraud regarding COVID-19-related unemployment benefits were referred to both the OIG's Office of Investigations and the appropriate State Workforce Agency. During this reporting period, the OIG Hotline received additional complaints that are awaiting processing.

Complaints Received (complaints opened by method reported):	Totals
Telephone	166
E-mail/Internet	18,926
Mail	17
Fax	1
Walk-In	0
Total	19,110
Contacts Received (complaints opened by source):	Totals
Complaints from Individuals or Non-Governmental Organizations	5,162
Complaints/Inquiries from Congress	0
Referrals from GAO	0
Complaints from Other DOL Agencies	0
Complaints from Other (non-DOL) Government Agencies	13,948
Total	19,110
Disposition of Complaints Reviewed and Processed:	Totals
Referred to OIG Components for Further Review and/or Action	1,935
Referred to DOL Program Management for Further Review and/or Action	80
Referred to Non-DOL Agencies/Organizations	4,509
No Referral Required/Informational Contact	163
Total	6,687

Peer Review

The following meets the requirement under Section 5(14)(A)–(B) and (15)–(16) of the Inspector General Act, as amended, and Section 989C of the Dodd–Frank Wall Street Reform and Consumer Protection Act (P.L. 111–203) that the Inspectors General include their peer review results as an appendix to each semiannual report. Federal audit functions can receive a rating of “pass,” “pass with deficiencies,” or “fail.”

DOL OIG Peer Review of GSA OIG Audit Function

DOL OIG conducted a peer review of the system of quality control for General Services Administration (GSA) OIG’s audit function for the period ending March 31, 2021. The peer review report, which was issued on November 4, 2021, resulted in an opinion that the system of quality control was suitably designed and provided reasonable assurance that GSA OIG conformed to professional standards in the conduct of audits. The peer review report gave GSA OIG’s audit function a pass rating. We also issued a letter dated November 4, 2021, that sets forth findings that were not considered to be of sufficient significance to affect the opinion expressed in the peer review report.

Peer Review of DOL OIG Audit Function

The Department of the Treasury OIG conducted a peer review of the system of quality control for DOL OIG’s audit function for the period ending September 2018. The peer review report, which was issued on June 6, 2019, resulted in an opinion that the system of quality control was suitably designed and provided reasonable assurance of DOL OIG’s conforming to professional standards in the conduct of audits. The peer review gave DOL OIG a pass rating and made no recommendations.



Fiscal Year 2022 Audit Workplan

BUREAU OF LABOR STATISTICS (BLS) Discretionary Audit

1. **BLS Survey Response Rate – In Progress.** BLS is the principal federal agency responsible for measuring labor market activity, working conditions, and price changes in the nation's economy. The President, Congress, federal policymakers, public institutions, and private citizens use the economic information developed by BLS to guide and support decision-making. According to a 2013 study by the National Research Council, "[f]or many household surveys in the United States, response rates have been steadily declining for at least the past two decades." It is vital for BLS to incorporate new methodologies and technology into its data collection process to ensure expected response rates and reduced respondent burden. A decline in response rates could increase data collection costs and affect data quality, which may result in unreliable economic information developed by BLS. This audit focuses on how efficiently and effectively BLS is able to obtain data necessary to produce the economic information it is required to produce and if there are other sources to obtain the necessary data.

BUREAU OF INTERNATIONAL LABOR AFFAIRS (ILAB) Mandatory Audit

2. **Memoranda of Agreement between USAID and ILAB – Completed.** ILAB signed two agreements with the U.S. Agency for International Development (USAID) that transferred approximately \$7 million to ILAB for grant-funded projects. The projects are intended to ensure a fair global playing field for workers by enforcing trade commitments, strengthening labor standards, and combatting child labor, forced labor, and human trafficking. This mandatory audit focuses on how taxpayer dollars were spent and if the reported program results were reliable.

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA) Discretionary Audits

ETA Contract and Grant Programs

3. **COVID-19: ETA Efforts to Help Workers Who Lost Jobs Due to the Pandemic.** Although estimates vary widely, economists generally report that somewhere between 20 and 40 million jobs were lost in 2020 as a result of the COVID-19 pandemic and subsequent business closures. At the same time, the unemployment rate increased from 3.8 percent in 2019 to 8.6 percent in 2020. This audit will focus on steps taken by ETA to ensure workers who need job search assistance or training have access, in person or remotely, to resources to assist them with job placement.

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4. **COVID-19: ETA Job Training Programs Performance – In Progress.** In March 2020, the COVID-19 pandemic caused many of ETA's job training programs to cease operation. This interrupted participants' job training, hence potentially preventing them from completing their training and getting a job in the areas in which they were trained. This audit will assess the impact of the pandemic on ETA's job training programs by reviewing which and how many job training programs were interrupted and how ETA was able to resume training and ensure participants completed training programs they had started prior to the pandemic.

Job Corps

5. **COVID-19: Job Corps Training Program Performance during the Pandemic.** In the middle of March 2020, the COVID-19 pandemic forced Job Corps to quickly shut down its centers and send most of its 29,000 students home. As with most other schools in the United States, Job Corps had not planned for a transition to a distance learning program when in-person instruction abruptly ceased. This audit will review the impact that the sudden interruption of in-person instruction had on the ability of Job Corps to educate its students during the COVID-19 pandemic.
6. **Job Corps Fixed Price Contract Transition.** In 2019, Job Corps began to transition its contracts for educational, outreach, admissions, and career transition services to firm fixed-price contracts using the number of students enrolled at the center as the basis for the contract price. This transition is planned in phases and is expected to continue through 2024. The change to firm fixed price contracts, especially in a time of severely declining enrollment, raises questions about Job Corps' ability to control costs and monitor program performance. This audit will review Job Corps' strategy for monitoring and controlling costs and program performance using firm fixed-price contract vehicles.

Unemployment Insurance (UI) Program

7. **COVID-19: DOL's Oversight of Emergency UI Administrative Grants to States – In Progress.** The Families First Coronavirus Act provided \$1 billion to DOL to provide emergency administration grants to state UI agencies for the administration of their unemployment compensation programs. Administrative resources are critical to delivering an effective UI program that is relied upon by millions of American taxpayers, especially now during the pandemic. Funds provided through these emergency administrative grants may only be used for the administration of the UI program and are not available for the payment of UI benefits. This audit focuses on the Department's monitoring of the emergency administration grants and if these funds were accurately tracked and reported, at both the state and federal level.
8. **COVID-19: Audit of ETA's Oversight of UI Integrity of CARES Act Programs – In Progress.** States are responsible for administering their UI programs while DOL provides oversight and direction for the UI system nationwide. When Congress, through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, expanded UI for workers who were suddenly unemployed because of the pandemic, states were

OIG FY 2022 Audit Workplan

already processing a substantial influx in UI claims. States then had to implement three new UI programs, resulting in additional major challenges. Resources stretched, states attempted to pay benefits quickly, and the risks of fraud and increased improper payments rose significantly. As of March 31, 2021, states and the territories had drawn down a total of approximately \$495.2 billion to administer the new UI programs—98 percent of the total drawdown funding (\$505.6 billion) for all CARES Act programs. Over the years, ETA has implemented various program integrity and fraud reduction initiatives; however, these initiatives have offered only a partial solution. This audit evaluates ETA's role in managing the integrity of the UI programs under the CARES Act, including working with states and partners to identify and share best practices and data to reduce fraud.

9. **COVID-19: CARES Act UI Claimant Eligibility – In Progress.** As of January 2, 2021, DOL reported nearly 74 million initial jobless claims since March 14, 2020. This was the largest increase in initial jobless claims since DOL began tracking UI data in 1967. Among providing other relief, the approximately \$2.2 trillion CARES Act expanded UI benefits. Past audits of UI program expansions have shown that ETA did not adequately ensure proper controls were in place to ensure funds were paid to eligible claimants. States likely paid billions of dollars in benefits to individuals who were not eligible for CARES Act programs. This audit focuses on how effective states' controls were in ensuring that CARES Act UI program benefits were paid promptly and only to eligible claimants.
10. **COVID-19: Audit of States' Information Technology Systems Capability in Processing Unemployment Insurance Claims – In Progress.** From March 28, 2020, to August 1, 2020, unemployed workers submitted more than 57 million initial UI claims and another 502 million continued claims under regular and CARES Act UI programs. Many states and U.S. territories used antiquated information technology (IT) systems—some dating from the 1970s—to process the claims influx and implement the new CARES Act programs. The need for IT modernization had already become apparent during the Great Recession where some states' systems failed completely. In October 2020, the National Association of State Workforce Agencies (NASWA) UI IT Support Center reported that only 22 states had modernized their systems. Using outdated IT systems can cause payment delays and can also increase improper payments including fraud. This audit will determine to what extent the capability of states' IT systems impacted their ability to process timely and accurate UI claims.
11. **COVID-19: Audit of CARES Act Impact on Non-traditional Claimants – In Progress.** With the passage of the CARES Act in March 2020, the Department's UI program was expanded to provide emergency UI benefits to workers unemployed due to COVID-19. This included nontraditional claimants, such as self-employed workers, independent contractors, and individuals with limited work histories. While total expenditure of UI benefits approached \$500 billion by mid 2021, it is unclear how effective ETA and its state partners have been in delivering this assistance to nontraditional claimants. Our audit will determine if DOL and State Workforce Agencies' efforts ensured that nontraditional claimants received UI benefits as intended under the CARES Act and the Continued Assistance for Unemployed Workers Act (Continued Assistance Act).

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- 12. COVID-19: Audit of DOL and States' Efforts to Detect and Recover Improper Payments – In Progress.** Under the CARES Act, ETA was required to implement large-scale changes to its existing UI system, including establishing six new programs. The new programs were intended to provide expanded UI benefits to workers who were suddenly jobless as a direct result of the COVID-19 pandemic. Given the challenge of rapidly implementing new programs during a crisis situation, ETA and states faced an additional hurdle of using controls, previously identified as weak and deficient in published OIG reports and alert memorandums, to process more than 77 million seasonally adjusted initial jobless claims and 571 million seasonally adjusted continued claims over the course of the pandemic's first year. According to OIG's conservative estimate as of January 2, 2021, such circumstances increased the risk of UI improper payments (including fraud, waste, and abuse) to exceed a total of \$40 billion. This audit focuses on determining if ETA ensured states had adequate controls to prevent, detect, and recover improper payments stemming from UI benefits under the CARES Act and the Continued Assistance Act.
- 13. COVID-19: Audit of States' Use of Staffing to Support Implementation of CARES Act UI Programs – In Progress.** From March 2020, the unprecedented high rate of unemployment resulting from the COVID-19 pandemic led to challenges for states in processing UI claims, completing mandatory reporting, and performing required overpayment detection procedures due to insufficient staffing. DOL and states found themselves unprepared for the circumstances surrounding COVID-19 and struggled to implement CARES Act UI programs while unemployed workers faced lengthy delays in receiving UI benefits. The CARES Act provided states with temporary "emergency" flexibility through December 31, 2020, for additional staffing and to otherwise quickly process unemployment claims, and subsequent legislation extended these CARES Act UI provisions. This audit focuses on DOL's efforts to ensure states' staffing supported the implementation of UI programs under the CARES Act and its amendments.
- 14. COVID-19: Audit of the Temporary Full Federal Funding Program – In Progress.** Under the CARES Act, the Temporary Full Federal Funding (TFFF) program paid the cost of the first week of an eligible claimant's UI benefits for states with no waiting week. The program also paid the cost of the first week for those who chose to waive their waiting week requirements. This flexibility allowed eligible claimants to receive their benefits quickly and get the much-needed relief to offset the effects of COVID-19. As of July 2021, ETA had provided states more than \$6.8 billion through the TFFF program. This audit focuses on DOL's efforts to ensure states met program requirements and used the TFFF program as intended by the UI provisions of the CARES Act, the Continued Assistance Act, and the American Rescue Plan Act (ARPA).
- 15. COVID-19: Emergency Unemployment Relief for Government Entities and Nonprofit Organizations – In Progress.** The CARES Act created the Emergency Unemployment Relief for Government Entities and Nonprofit Organizations (EURGENO) program. It provided funds to reimburse governmental entities and certain nonprofits for amounts paid for unemployment between March 13, 2020, and September 6, 2021. This audit will determine to what extent ETA and states effectively executed the EURGENO program and ensured compliance with the UI provisions of the CARES Act and its amendments.

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- 16. COVID-19: Short-Time Compensation (STC) Program – In Progress.** Passage of the CARES Act expanded UI program benefits to new and existing programs, including the STC program. The CARES Act included provisions that increased the federal reimbursement to 100 percent of benefits for states that have an STC program in their laws and provided for a 50 percent reimbursement for states that do not have an STC program in their laws but agreed to operate a program on a temporary basis. The STC program acts as a work share program, with employers reducing the number of hours offered to employees and the state making up the difference in the form of benefit payments. The CARES Act provided for an estimated \$2.2 billion for benefit reimbursements and administrative costs. Twenty seven states have participated in the program and reported benefit reimbursement payments of approximately \$1.1 billion as of July 31, 2021. This audit will determine how states implemented the STC program for the benefit of unemployed individuals and to meet the intent of the program.
- 17. COVID-19: Mixed Earners Unemployment Compensation – In Progress.** The Mixed Earners Unemployment Compensation (MEUC) program is a new temporary, federal program under the Continued Assistance Act and ARPA. It provided additional benefits to certain self-employed individuals who are available for work for the week ending January 2, 2021, through the week ending September 4, 2021. This audit will determine how states implemented the MEUC program for the benefit of unemployed individuals and to meet the intent of the program.
- 18. COVID-19: Audit of DOL and States Oversight of UI Claimants Return to Work.** The CARES Act and its related extensions provided generous additional UI benefits to claimants that lost their employment due to the COVID-19 pandemic. However, business and state leaders reported that these generous UI benefits incentivized claimants to refuse suitable employment offers and led to labor shortages as the economy reopened. As a result, numerous states ended their participation in the enhanced federal jobless benefits program ahead of its expiration citing complaints from businesses that say they were unable to find workers. This audit will focus on DOL and states' compliance with return to work provisions under the CARES Act.
- 19. American Rescue Plan Act Equity Grants.** ARPA provided \$2 billion in funding to the Department to prevent and detect fraud, promote equitable access, ensure timely payment of benefits and reduce backlogs. This includes \$260 million in Equity Grants to improve claimant outreach and customer service processes and to implement strategies to reduce backlog and improve access for workers in communities that may historically experience barriers. These first-of-their-kind grants will provide funding for states to improve public awareness and service delivery as the Department seeks to address potential racial and ethnic disparities in the administration and delivery of UI benefits in some states. This audit will focus on the Department's and states' effectiveness in addressing the potential racial and ethnic disparities in the UI program.

OIG FY 2022 Audit Workplan

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA) Discretionary Audits

- 20. COVID-19: Impact of COVID-19 MSHA Mandatory Inspections – In Progress.** MSHA conducts certain mandatory inspections to help ensure miners are working in safe environments. Because of workforce limitations during the COVID-19 pandemic, the number and/or quality of mandatory MSHA inspections may have declined, putting miners at risk. Between January and December 2020, MSHA conducted 19,487 mandatory inspections at 12,684 mines. This audit will determine if COVID-19 impacted MSHA's ability to effectively conduct all mandatory inspections.
- 21. Integrity of Dust Sampling.** Miners are exposed to harmful substances in their work environments daily. MSHA monitors many of these substances, including airborne toxins such as coal dust and respirable crystalline silica. Since 1990, at least 150 mine operators, agents, and contractors have submitted fraudulent dust samples that MSHA needed to regulate airborne toxins in mines. This audit will assess MSHA's efforts to address sample manipulation.
- 22. Mine Rescue Response Plan.** When disaster strikes, a well-prepared mine rescue effort can mean the difference between life and death for trapped miners. Insufficient personnel, equipment, or training could hamper MSHA's ability to respond quickly and effectively in mine rescue situations. Prior OIG work found MSHA had not provided adequate oversight of mine emergency response plans, which included planning by both mine operators and MSHA. This audit will assess MSHA's preparedness in responding to emergencies requiring mine rescue operations.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) Discretionary Audits

- 23. COVID-19: OSHA Operations and Efforts to Protect Workers – In Progress.** Since the beginning of the COVID-19 pandemic in March 2020, OSHA has reduced its number of inspections and increased its number of non-formal complaint investigations. In July 2020, OSHA was named in a lawsuit by meatpacking employees who said OSHA was failing to do its job properly. OSHA stated its existing regulations and updated pandemic guidelines were sufficient to keep workers safe. This audit focuses on the impact of the COVID 19 pandemic on OSHA operations, including the number and types of inspections it has been using to safeguard workers, and OSHA's future plans to ensure safe and healthy working conditions during pandemics.

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- 24. COVID-19: OSHA Inspection Collaboration Audit – Completed.** While many industries suffered the impact of COVID-19 outbreaks during the pandemic, health care and meatpacking workers have had some of the highest rates of COVID-19 infections. OSHA has been performing inspections of worker safety in these environments, while the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) have been performing on site inspections to ensure patient care and product quality. However, according to HHS and USDA OIG officials, their inspectors have not been reporting employee safety and health issues to OSHA. This audit focuses on OSHA's efforts to promote collaboration with other federal agencies that also conduct on-site inspections for potential workplace safety and health violations, especially during the pandemic.
- 25. COVID-19: OSHA Effectiveness of the National Emphasis Program (NEP).** Due to the COVID-19 pandemic, OSHA has received a surge of complaints while garnering the attention of Congress, labor unions, and the media with requests to act swiftly on behalf of the 130 million workers at more than 8 million worksites nationwide whom OSHA is responsible for protecting. OSHA launched the NEP on March 12, 2021, to focus on companies that put the largest number of workers at serious risk of contracting COVID-19, and on employers that engage in retaliation against employees who complain about unsafe or unhealthful conditions or exercise other rights under the Occupational Safety and Health (OSH) Act. The audit will focus on OSHA's efforts to administer the NEP to ensure that employees in high-hazard industries or work tasks are protected from the hazard of contracting COVID-19 and from retaliation.
- 26. COVID-19: OSHA's Adequacy of Plans and Use of Funds under the American Rescue Plan Act Funds – In Progress.** With increased concern regarding the safety and health of workers during the COVID-19 pandemic, OSHA has received a significant rise in complaints. We previously reported OSHA received 15 percent more complaints from February to October 2020, than during a similar period in 2019. To address the continued impact of COVID-19 on the economy, public health, state and local governments, individuals, and businesses, on March 11, 2021, Congress passed ARPA. ARPA provides relief to OSHA in the amount of no less than \$100 million. This audit focuses on whether OSHA adequately developed plans to use ARPA funds to carry out COVID-19 related worker protection activities, and whether OSHA has controls in place to effectively use ARPA funds to protect workers from COVID-19, particularly in high-risk workplaces, including health care industries, meat and poultry processing facilities, agricultural workplaces, and correctional facilities.
- 27. COVID-19: OSHA Effectiveness of Whistleblower Complaint Corrective Actions.** OSHA received a 30 percent increase in whistleblower complaints during the early months of the COVID-19 pandemic. OSHA enforces whistleblower provisions found in 25 statutes that protect employees from retaliation for reporting unsafe or unhealthful conditions or otherwise exercising their rights provided under the statutes.

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Prior to the pandemic, OSHA averaged 9 months to close a whistleblower complaint investigation, already much longer than the 30-, 60-, or 90-day statutory timeframes. Potential for even greater delays exist with the significant increase of whistleblower complaints received during the pandemic and decrease in the Whistleblower Protection Programs' full-time employment. These delays can leave workers to suffer emotionally and financially. The audit will focus on OSHA's efforts to implement corrective actions that improve the Whistleblower Protection Program to ensure workers are protected from retaliation.

- 28. COVID-19: OSHA Future Pandemic Planning Adequacy.** The COVID-19 pandemic has raised specific concerns about the safety and health of workers. OSHA, under the OSH Act, shall issue an Emergency Temporary Standard (ETS) if the agency determines that employees are exposed to grave danger from substances or agents determined to be toxic or physically harmful or from new hazards, and an ETS is necessary to protect employees from such danger. Since the start of the pandemic OSHA has received numerous complaints and requests from Congress and other stakeholders to issue an ETS. While OSHA has issued numerous pieces of guidance, guidance itself is not enforceable and cannot operate in lieu of an ETS. OSHA initially proposed a broad-based ETS, covering multiple industries, but changed course and only issued an ETS for healthcare on June 21, 2021. This audit will (1) determine if OSHA has plans to issue an ETS covering other high-risk industries, (2) review the effectiveness OSHA's plans for addressing future pandemics, and (3) evaluate other actions OSHA has taken to safeguard workers in high-risk industries during the ongoing pandemic.
- 29. Use of Complainant Interviews in OSHA Complaint Inspections – In Progress.** OSHA conducts approximately 9,000 complaint inspections annually and issues citations in 24 percent of those inspections. Inspectors are not required to interview complainants at any point during the inspection process, which could result in OSHA having little interaction with complainants and witnesses during complaint inspections. This audit focuses on OSHA's use of complainant and witness testimony during a complaint inspection to ensure the complaint or referral was addressed adequately.
- 30. Rising Injury Rates among Online Retailers' Warehouse Workers – In Progress.** High-speed fulfillment of online orders has become the industry standard, with large online retailers promising free 2-day, next-day, and even same-day deliveries of orders. To accomplish such speedy deliveries, warehouses around the nation have been forced to work ever faster, and some have reported increased pressure to meet production quotas. This may be having a significant impact on the health and safety of warehouse workers. For example, injury rates among warehouse workers have skyrocketed, with one organization reporting that injury rates at a leading online retailer are 80 percent higher and also more severe than at other online retailers' warehouses. The State of California recently passed legislation to help protect warehouse workers by empowering state safety regulators to take additional enforcement actions. This audit will review what, if any, actions OSHA has taken to address the rising injury rates and severity of injuries at online retailers' warehouse facilities.

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OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT (OASAM)

Mandatory Audit

- 31. Federal Information Security Management Act (FISMA) Audit – Annual – In Progress.** In performing its various missions, DOL collects and processes sensitive information through approximately 77 major information systems. FISMA recognizes the significant risks involved with information technology and its important role in fulfilling agency missions. As such, FISMA sets a framework for securing all federal government systems by developing security standards and methods for measuring the effectiveness of those security standards. This audit will focus on the status of the DOL Information Security Program in implementing an effective framework to secure DOL information systems.

Discretionary Audit

- 32. IT Modernization – In Progress.** IT modernization is critical to preventing security breaches, excessive costs, missed deadlines, and low-quality IT products and services. DOL recently transitioned to an IT Shared Services model providing OASAM greater control over IT and IT funding. Our audit will focus on the management of IT modernization efforts across the Department, including software integration, legacy systems, and shared services.

OFFICE OF THE CHIEF FINANCIAL OFFICER (OCFO)

Mandatory Audits

- 33. DOL Consolidated Financial Statements Audit – Annual – In Progress.** We will determine if DOL's consolidated financial statements present fairly, in all material respects, the financial position of DOL as of September 30, 2022. We will consider DOL's internal controls over financial reporting and test DOL's compliance with applicable laws, regulations, contracts, and grant agreements that have a direct and material effect on the consolidated financial statements.
- 34. Review of DOL's Improper Payment Reporting in the Annual Financial Report – Annual – In Progress.** In FY 2020, the UI program and Federal Employees' Compensation Act (FECA) reported outlays of \$86.9 billion and \$3 billion, respectively, with an estimated improper payment rate of 9.17 percent and 2.34 percent, respectively. Based on the Department's risk assessments, the UI and FECA programs continue to be considered the most susceptible to improper payments of all DOL programs. This audit will determine if DOL complied with the Payment Integrity Information Act of 2019, which required DOL to: (1) conduct a program-specific risk assessment for each required program or activity, (2) publish and meet annual reduction targets for each program assessed to be at risk for improper payments, and (3) report information on the efforts of each program to reduce improper payments.

OIG FY 2022 Audit Workplan

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY (OASP) Mandatory Audits

- 35. DOL Implementation of Geospatial Data Audit – Biannual.** Congress enacted the Geospatial Data Act of 2018 (GDA) to foster efficient management of geospatial data, technologies, and infrastructure through enhanced coordination among federal, state, local, and tribal governments, along with the private sector and academia. The GDA applies to federal agencies that collect, produce, acquire, maintain, distribute, use, or preserve geospatial data. To improve the management and oversight of geospatial data and related investments, the GDA identified 13 requirements for federal agencies to implement. This audit will focus on the extent DOL implemented the requirements and improved its management of geospatial data.

OFFICE OF WORKERS' COMPENSATION PROGRAMS (OWCP) Mandatory Audits

- 36. Report Relating to the Federal Employees' Compensation Act Special Benefit Fund – Annual – In Progress.** We will determine if: (1) the Schedule of Actuarial Liability, Net Intra-Governmental Accounts Receivable, and Benefit Expense was fairly presented for the year ending September 30, 2022; and (2) internal controls over financial reporting related to the Schedule were in compliance with laws and regulations that could have a direct and material effect on the Schedule.
- 37. Longshore and Harbor Workers' Compensation Act (LHWCA) Special Fund – Annual.** We will determine if DOL's LHWCA Special Fund financial statements presented fairly, in all material respects, the financial position of the LHWCA Special Funds as of September 30, 2021.
- 38. District of Columbia Workmen's Compensation Act (DCCA) Special Fund Financial Statement Audits – Annual.** We will determine if DOL's DCCA Special Fund financial statements presented fairly, in all material respects, the financial position of the DCCA Special Funds as of September 30, 2021.
- 39. FECA Statement on Standards for Attestation Engagements No. 18 – Annual – In Progress.** We will determine if DOL's Integrated Federal Employees' Compensation System transaction processing for application and general controls, as described in the report, were fairly presented, suitably designed, and effectively operating for the period October 1, 2021, through June 30, 2022.

OIG FY 2022 Audit Workplan

Discretionary Audits

- 40. COVID-19: Oversight and Adjudication of COVID-19 FECA Claims.** In response to the COVID-19 pandemic, OWCP created new procedures to specifically address COVID-19 claims received from federal workers engaged in high-risk employment. In addition, the ARPA made it easier for federal workers diagnosed with COVID 19 to establish coverage. OWCP must ensure claims resulting from the pandemic are appropriately adjudicated to reduce the risk of fraud and abuse while at the same time ensuring claimants receive benefits they are entitled to receive. As of late June 2021, OWCP had received over 15,000 COVID-19 FECA claims and paid out over \$6.3 million in benefits. Given this influx of claims, this audit will focus on an after-the-fact review of OWCP's administration and oversight of COVID-19 claims received by the FECA program.
- 41. Energy Employees' Claims Processing – In Progress.** From its inception to the end of FY 2020, the OWCP Energy program awarded approximately 127,000 claimants compensation and medical benefits totaling over \$18.52 billion. One of the major functions of the Energy program is to determine whether an individual qualifies for Part B and/or Part E benefits. As of October 3, 2021, the Energy program had denied 42 percent of claims filed under Part B and 47 percent of claims filed under Part E. This audit will determine the reasons claims are denied and why claims are denied at such a high rate.
- 42. Managing Pharmaceutical Spending in FECA – In Progress.** Recent OIG audit work found OWCP had not done enough to ensure it paid the best price for prescription drugs. Specifically, the audits noted OWCP lacked a pharmacy benefits manager to help contain costs and had not determined if alternative drug pricing methodologies would be more competitive. This ongoing audit focuses on identifying the major factors influencing pharmaceutical spending in the FECA program, including any impact from the COVID-19 pandemic, and determining if OWCP effectively manages pharmaceutical spending in the FECA program.
- 43. Medical Bill Pay Processing Data Integrity – In Progress.** In 2020, OWCP launched a new bill pay processing system: the Workers' Compensation Medical Bill Processing (WCMBP) system. OWCP and its programs rely on accurate and complete data from this new system and OWCP's legacy systems to provide the efficient and effective processing of medical bills and case management. This audit assesses OWCP's processes and controls to determine the reliability of the OWCP's data in managing the workers' compensation programs.

OIG FY 2022 Audit Workplan

WAGE AND HOUR DIVISION (WHD) Discretionary Audits

- 44. WHD Enforcement Program.** WHD enforces laws that address more than 147.8 million workers with minimum wage, overtime pay, migrant and seasonal protections, prevailing wages on government-funded contracts, and other wage protections. To complement its enforcement efforts, WHD uses a variety of methods to help employers understand their labor responsibilities, such as opinion letters, compliance videos, outreach events, and compliance partnerships. This audit will focus on how WHD has met its enforcement requirements and leveraged its resources between compliance assistance and enforcement activities.

VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS) Discretionary Audits

- 45. COVID-19: VETS Reintegration and Training Programs.** The COVID-19 pandemic has presented new challenges for VETS in its mission to prepare America's veterans, transitioning service members, and military spouses for meaningful careers; provide them with employment resources and expertise; protect their employment rights; and promote their employment opportunities. The audit will focus on how the pandemic impacted VETS reintegration and training programs, as well as the effectiveness of the training programs during a health crisis.

MULTI-AGENCY Mandatory Audits

- 46. Charge Card Risk Assessment – Annual.** The Government Charge Card Abuse Prevention Act of 2012 was designed to prevent recurring waste, fraud, and abuse of government charge cards, and requires agencies to implement safeguards and internal controls to reduce these risks. This audit will determine if DOL has established controls over its purchase and travel card programs to prevent and detect illegal, improper, or erroneous purchases and payments.
- 47. Single Audit Compliance, Quality Control Reviews of Single Audit Reports – Annual – In Progress.** We will determine if selected independent auditors complied with the requirements of the Single Audit Act and if there is a need for any follow-up work.

Discretionary Audits

- 48. Enterprise Risk Management. OMB Circular A-123 requires agencies to implement an Enterprise Risk Management (ERM) process.** Agencies' ERM efforts are to be coordinated with the Government Performance and Results Modernization Act of 2010's strategic planning and review process, the internal control process required by the Federal Managers' Financial Integrity Act, and GAO's Green Book. We will determine if management has implemented an effective ERM process that identifies, assesses, responds, and reports on risks.

Addendum to FY 2022 Audit Annual Workplan

The Department OIG issued a revised Pandemic Response Oversight Plan⁷⁵ on March 21, 2022, which included areas for pandemic-related audit focus. This addendum to our FY 2022 Annual Workplan provides brief descriptions of those areas and also PRAC projects that were not included in the workplan.

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA) Discretionary Audits

ETA Contract and Grant Programs

- 49. COVID-19: ETA's Administration of Grant Funds Provided under the CARES Act.** ETA has obligated over \$15 billion in federal grant funds of which \$345 million was specifically provided under the CARES Act. Over the past decade, we reported numerous issues with ETA's management of federal grant funds not achieving performance goals and identified upwards of \$489 million in grant funds that could have been put to better use. These audits, to be performed by contractors, will review how effectively ETA ensured these funds were used as intended.

Job Corps

- 50. COVID-19: Ensuring Job Corps Funds Were Properly and Efficiently Used during the COVID-19 Pandemic.** In March 2020, during the COVID-19 pandemic, Job Corps shut down 121 centers and sent almost 29,000 students home. From about March 2020 to April 2021, student enrollment plummeted 56 percent and the number of students who completed trades training also dropped to zero. For FY 2021, Job Corps received over \$1.7 billion in funding, generally the same amount as in prior years. While Job Corps allowed centers to use budget underrun funds to purchase supplies and equipment to deploy remote learning and to ensure student and staff safety when it reopened centers, there is a risk all these funds were not used appropriately or efficiently. This audit will review how Job Corps' funds were spent from March 2020 through about December 2021.

Unemployment Insurance (UI) Program

- 51. COVID-19: DOL's Oversight of the UI Program's Emergency Administrative Grants.** The Emergency Unemployment Insurance Stabilization Access Act (EUISAA) of 2020 required the Secretary of Labor to provide for grants in FY 2020 to states' federal Unemployment Trust Funds. The \$1 billion in grants

⁷⁵ Pandemic Response Oversight Plan (updated March 21, 2022), available at: <https://www.oig.dol.gov/public/oaprojects/Updated%20Pandemic%20Response%20Oversight%20Plan%202022%20for%20Publication.pdf>

OIG FY 2022 Audit Workplan

to states were to be used only to administer their unemployment compensation laws, including securing adequate resources to address the drastic increase in UI claims resulting from the economic downturn precipitated by COVID-19. This audit will determine if ETA provided adequate oversight of states' use of emergency administrative grant funds.

- 52. COVID-19: ETA and States' Efforts to Address Multistate UI Claimants.** In February 2021, we alerted the Department⁷⁶ to nearly \$17 billion we had identified in potential fraud paid in four high-risk areas, of which multistate claimants is the largest area. Through ETA, the OIG provided states with our underlying methodology and also specific claimant information for follow up action. This audit will examine the extent to which ETA and states have taken action to follow up on potentially fraudulent CARES Act UI claims identified and referred by OIG.
- 53. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Social Security Numbers of Deceased Persons.** UI claimants filing with Social Security numbers of deceased persons was another of the four high risk areas in which we identified nearly \$17 billion in potential fraud. Similarly, through ETA, the OIG provided states with our underlying methodology and specific claimant information for follow up action. This audit will examine the extent to which ETA and states have taken action to follow up on potentially fraudulent CARES Act UI claims filed with Social Security numbers of deceased persons.
- 54. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Social Security Numbers of Federal Prisoners.** UI claimants filing with Social Security numbers of federal prisoners was another of the four high-risk areas in which we identified nearly \$17 billion in potential fraud. Here also, through ETA, the OIG provided states with our underlying methodology and specific claimant information for follow up action. This audit will examine the extent to which ETA and states have taken action to follow up on potentially fraudulent CARES Act UI claims filed with Social Security numbers of federal prisoners.
- 55. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Suspicious Email Accounts.** UI claimants filing with suspicious email accounts was also one of the four high-risk areas in which we identified nearly \$17 billion in potential fraud. Here also, through ETA, the OIG provided states with our underlying methodology and specific claimant information for follow up action. This audit will examine the extent to which ETA and states have taken action to follow up on potentially fraudulent CARES Act UI claims filed with suspicious email accounts.

⁷⁶ Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf>

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- 56. COVID-19: Impact of Waivers on UI Overpayments, Fraud Investigations, and Recoveries.** On February 7, 2022, the Department issued Unemployment Insurance Program Letter (UIPL) 20 21, Change 1,⁷⁷ allowing states to waive certain UI overpayments. There are concerns these waivers could adversely impact the pursuit of fraud in the UI program. Also, the waivers could potentially allow for fraudulent CARES Act UI payments to go uncollected. This audit will determine the impact of waivers on UI overpayments, fraud investigations, and recoveries.
- 57. COVID-19: Audit of States' Compliance with CARES Act UI Program Reporting – In Progress.** In two separate prior reports, we identified issues with states' non- or incorrect reporting of overpayments in CARES Act UI programs. In May 2021, we reported⁷⁸ that 42 percent of states did not complete the required quarterly reporting for overpayments for the period of March 2020 to September 2020. In November 2021, we issued⁷⁹ the Department a qualified opinion, for the first time in 25 years, on its consolidated financial statements. This was partially due to unreliable reporting of overpayment activity with respect to CARES Act UI programs. This audit examines the extent to which states complied with reporting requirements for UI programs authorized by the CARES Act and related subsequent legislation.
- 58. PRAC – DOL Programs – Case Study Project – In Progress.** The focus of this oversight project will be to identify the federal pandemic response program funds provided to select geographic areas and the purpose of those funds and to determine if the federal program spending aligned with the intended goals and objectives. This project will be under the direction of the PRAC and in coordination with nine other OIGs.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION (EBSA) Discretionary Audit

- 59. COVID-19: Pandemic's Impact on Enforcement of Employee Retirement Income Security Act (ERISA) Requirements.** ARPA provided a 100 percent federal subsidy of Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 premiums from April 1, 2021, through September 30, 2021, for certain COBRA participants. Employers that do not satisfy COBRA continuation coverage requirements may be investigated by the Employee Benefits Security Administration (EBSA). This audit will determine if EBSA effectively provided compliance assistance and enforced certain ARPA requirements, such as ensuring employers provided coverage to COBRA-eligible individuals during the COVID-19 pandemic.

⁷⁷ Employment and Training Administration, UIPL No. 20-21, Change 1, "Additional State Instructions for Processing Waivers of Recovery of Overpayments under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended" (February 7, 2022), available at: https://wdr.doleta.gov/directives/attach/UIPL/UIPL_20-21_Change_1.pdf (last accessed April 6, 2022)

⁷⁸ COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

⁷⁹ FY 2021 Independent Auditors' Report on the DOL Financial Statements, Report No. 22-22-003-13-001 (November 19, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2022/22-22-003-13-001.pdf>

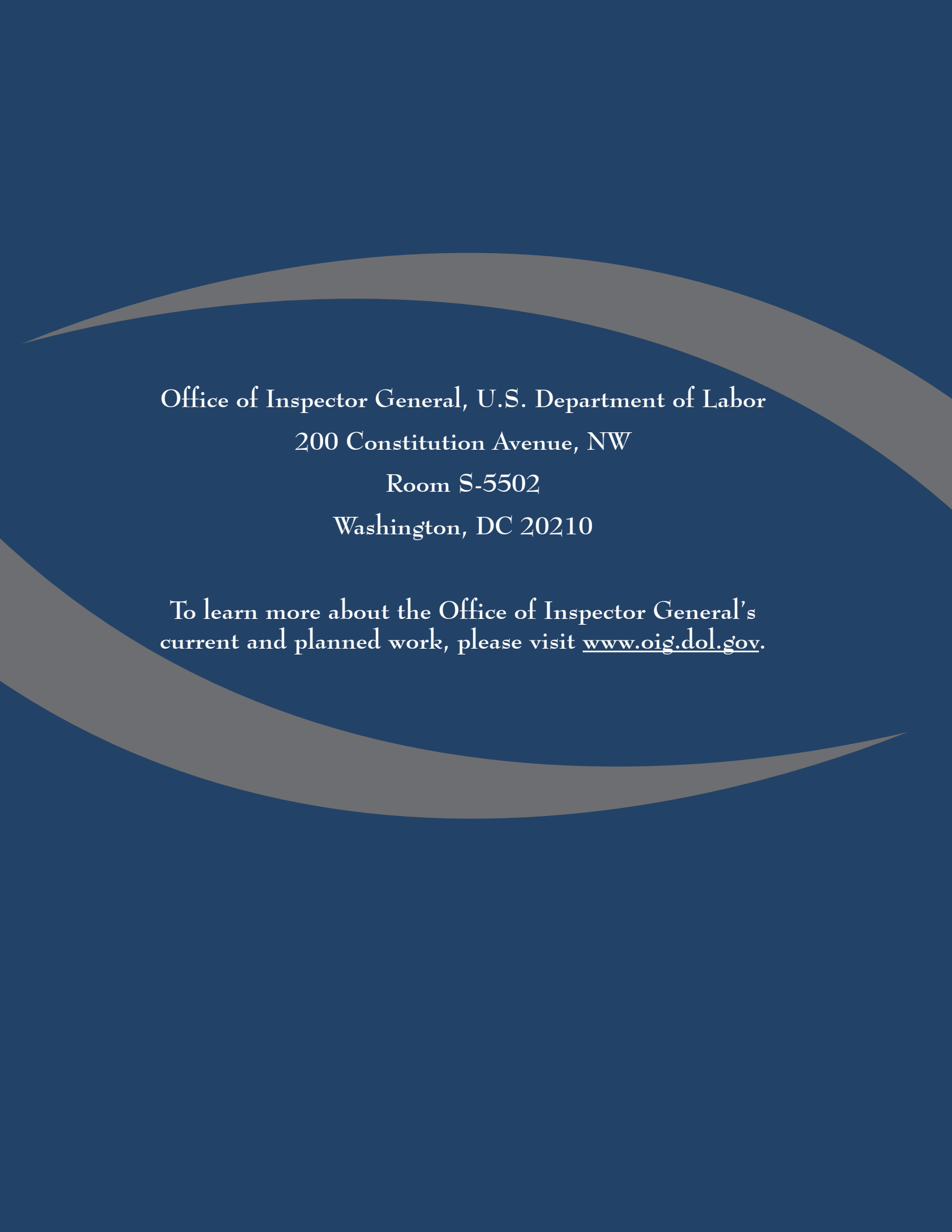
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OFFICE OF WORKERS' COMPENSATION PROGRAMS (OWCP) Discretionary Audit

- 60. PRAC – Telehealth Services in OWCP – In Progress.** During the COVID-19 pandemic, federal health care programs used several strategies, such as telehealth services, so patients could receive medical services where needed, whether at home or elsewhere. This ongoing project with the PRAC will provide information on: the types of telehealth services available across OWCP; potential program integrity risks associated with increased telehealth utilization during the pandemic; and how the pandemic, and resulting expansion of telehealth, affected patient access for a single service type. This PRAC project is being performed in coordination with five other IGs.

WAGE AND HOUR DIVISION (WHD) Discretionary Audits

- 61. COVID-19: WHD Enforcement Challenges during the COVID-19 Pandemic.** During the COVID-19 pandemic, Congress passed the Families First Coronavirus Response Act (FFCRA), which provided requirements for paid sick and family leave. Previous audit work identified challenges WHD faced as it implemented and enforced the FFCRA requirements and made several recommendations, such as developing a plan to monitor effectiveness of WHD's oversight of the FFCRA program. FFCRA expired on December 31, 2020. While ARPA does not require employers to provide paid leave for employee absences related to COVID 19, it extended the tax credit through September 30, 2021. Building on previous work, this audit will determine the extent to which WHD has addressed our recommendations and improved its enforcement of the numerous laws under its jurisdiction as enforcement challenges resulting from the pandemic continue.

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