

Volume 90

April 1, 2023–September 30, 2023

Semiannual Report to Congress

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



A Message from the Inspector General

I am pleased to submit our *Semiannual Report to Congress* summarizing the activities of the U.S. Department of Labor (DOL or Department), Office of Inspector General (OIG), for the 6-month period ending September 30, 2023.

As reflected in our semiannual report, my office continues to highlight the major issues facing DOL through the OIG's independent audits and investigations. The OIG remains committed to conducting independent and objective oversight to improve DOL programs relied upon by millions of Americans.

The OIG has started to rebalance our oversight post-pandemic with a continued focus on priority areas such as: (1) worker benefit programs, including unemployment insurance (UI) and workers' compensation; (2) worker safety and health, including occupational and miner safety and health and workplace rights; and (3) employment and training programs, including grants and the Job Corps program. While the pandemic-related UI programs have ended, the integrity of DOL's UI program continues to be threatened by ongoing fraudulent activity and programmatic weaknesses that preceded and were exacerbated by the pandemic. As I noted in the last semiannual report, OIG oversight of the UI program still remains significantly challenged due to resource limitations, data access, and the expiring statute of limitations related to pandemic UI fraud.

Resource Limitations

Current resource limitations have hampered the OIG's ability to meet our core mission and the challenges associated with pandemic-related oversight. The OIG's Fiscal Year (FY) 2021 and FY 2022 appropriations remained flat, and the FY 2023 appropriation was \$11 million less than requested. Moreover, our supplemental pandemic funding will be completely expended by the first half of FY 2024.

As a result, the OIG had to make severe investigative capacity cuts of approximately 20 percent during FY 2023 and, based on current resources, may make an additional 20 or more percent cut by the end of FY 2024. Similarly, from an audit perspective, we canceled 10 audits planned for FY 2023 and may need to discontinue other planned work in the coming months.



Statute of Limitations

Currently, the statute of limitations for many pandemic-related UI fraud cases will begin to expire in early 2025 as the statutes most often used to prosecute UI fraud have 5-year limitations. We are concerned that, unless Congress acts to extend the statute of limitations for fraud associated with pandemic-related UI programs, many groups and individuals that have defrauded the UI program may escape justice. The expansion of the statute of limitations would provide investigators and prosecutors time to pursue and hold accountable those who defrauded the UI program and victimized the American people during the pandemic.

Data Access

The barriers to the OIG's ongoing, timely, and complete access to state UI claimant data and wage records directly and adversely impact our ability to provide independent oversight to help DOL reduce improper payments in its programs. While DOL has facilitated temporary access to UI claimant data and wage records, the Department continues to interpret regulations as prohibiting the Employment and Training Administration (ETA) from requiring State Workforce Agencies (SWA) to provide UI data to the OIG for all audit and investigative purposes other than those involving specific instances of suspected fraud. This interpretation and subsequent guidance to SWAs contradict the Inspector General Act of 1978, as amended, which authorizes Inspector General access to DOL grant recipient information related to DOL programs, including SWAs' UI data.

To date, ETA has only implemented temporary solutions that are not sufficient to resolve the OIG's recommendation or concerns. ETA has required sharing of state UI data as a condition of fraud prevention grants to provide such access through 2025 and recently issued guidance supporting additional grants that would provide access for potentially the next 2 to 5 years. According to ETA, 52 of 53 SWAs received grants. Additionally, ETA announced its intent to amend its regulations to facilitate the OIG's ongoing access by February 2025, and, in July 2023, requested public comment on potential revisions that would require states to disclose unemployment compensation data to the OIG for oversight, including audits.

OIG Accomplishments

Despite these challenges, OIG staff continues to deliver high-quality oversight. In total, during this reporting period, the OIG issued 17 audit reports with 49 recommendations for corrective action and identified approximately \$278 million in questioned costs and \$6.3 billion in funds put to better use. Among our many significant findings, we reported:

- Non-traditional claimants received necessary Pandemic Unemployment Assistance (PUA) benefits as intended, but the program was weakened by, at a minimum, nearly \$35 billion in overpayments, including fraud;

- ETA did not provide adequate oversight over \$1 billion in emergency UI administrative grants and did not verify if states were qualified for the grants before transferring all grant funds to the states' accounts;
- ETA and states did not effectively execute the \$6.3 billion funded to the 53 SWAs through the Emergency Unemployment Relief for Government Entities and Nonprofit Organizations program or ensure full compliance with pandemic-related provisions;
- ETA did not evaluate the capability of SWAs' UI information technology systems to successfully administer UI benefits;
- The Occupational Safety and Health Administration (OSHA) needs to do more to address high injury and illness rates of warehouse workers; and
- OSHA did not effectively manage the awarding process for emergency supplemental funds under ARPA to maximize coverage across states' State Plans and had insufficient controls in place to expend funds designated for State Plans.

The OIG's investigative work also yielded impressive results, with a total of 212 investigative reports issued / cases closed, 247 indictments, 236 convictions, and more than \$133 million in monetary accomplishments. Highlights of this work follow:

- A former federal employee was sentenced to 18 years in prison for leading a \$3.5 million pandemic UI fraud scheme;
- An international firearms dealer involved in a \$1.9 million pandemic UI relief fraud scheme was sentenced to more than 7 years in prison;
- Nine defendants were sentenced to more than 63 years combined imprisonment in a \$126 million, years-long, multistate pharmaceutical compounding fraud scheme to submit false and fraudulent claims to the Office of Workers' Compensation Programs and TRICARE;
- Two owners and a manager of a Virginia commercial laundry business were sentenced to prison for their roles in a labor trafficking and money laundering conspiracy; and
- A Guatemalan man was sentenced to over 6 years in prison for his role in the forced labor of two minor Guatemalan victims.

These outstanding accomplishments reflect the dedication and commitment to our mission by the hard-working OIG staff.

In closing, I would like to thank Congress and the Department for their support of our work to identify improvements to DOL programs and operations and to protect the interests and benefits of the nation's workers and retirees.


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 non-financial resources.

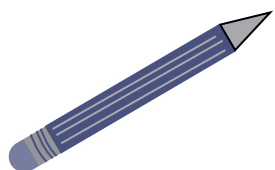
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Audit Statistics

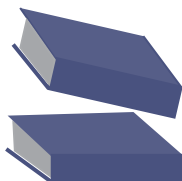
17

Audits and Other
Reports Issued



49

Recommendations for
Corrective Action



\$6.3 Billion

in Funds Put to
Better Use



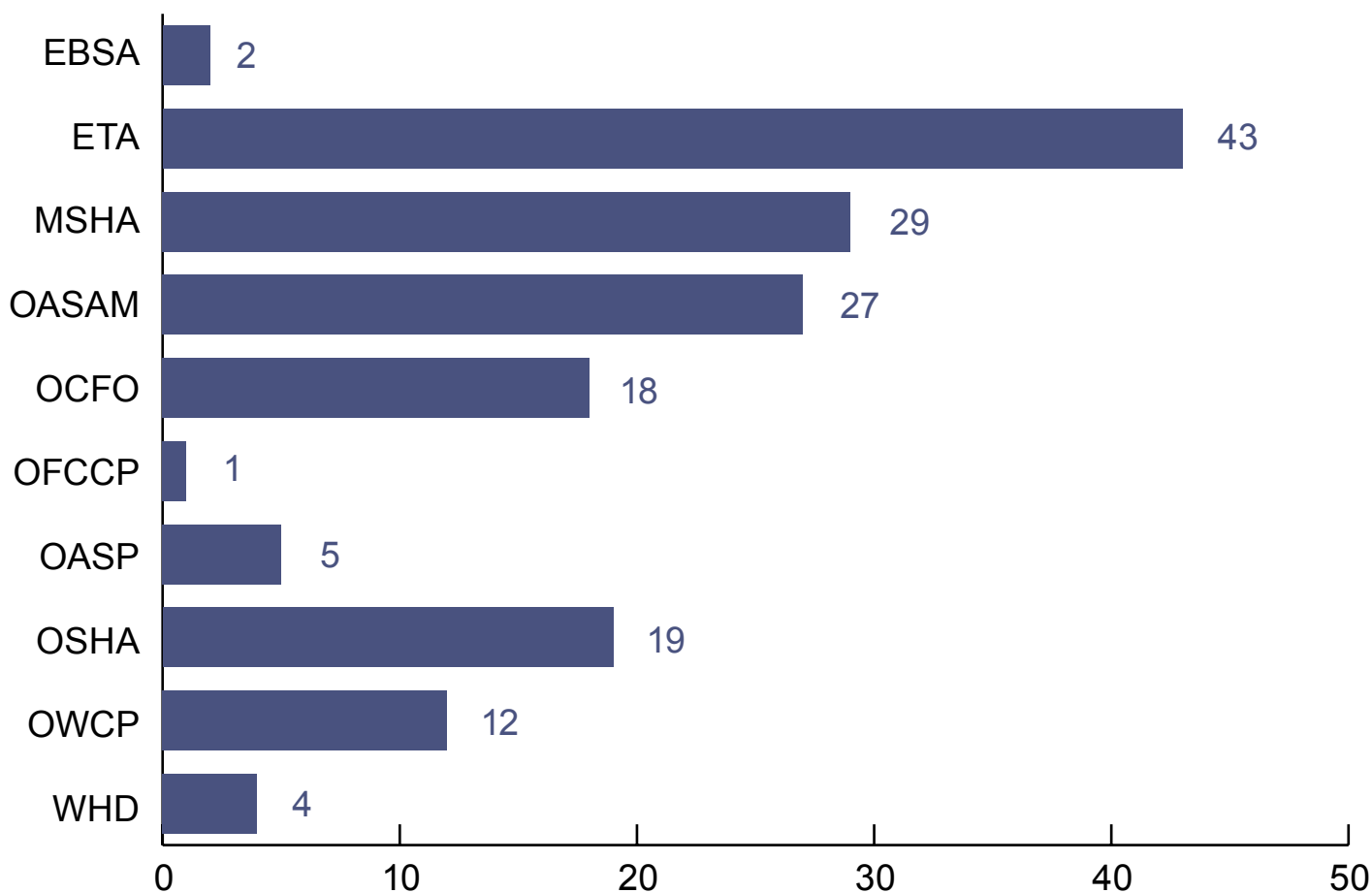
\$278 Million

in Questioned
Costs



OIG Unimplemented Recommendations

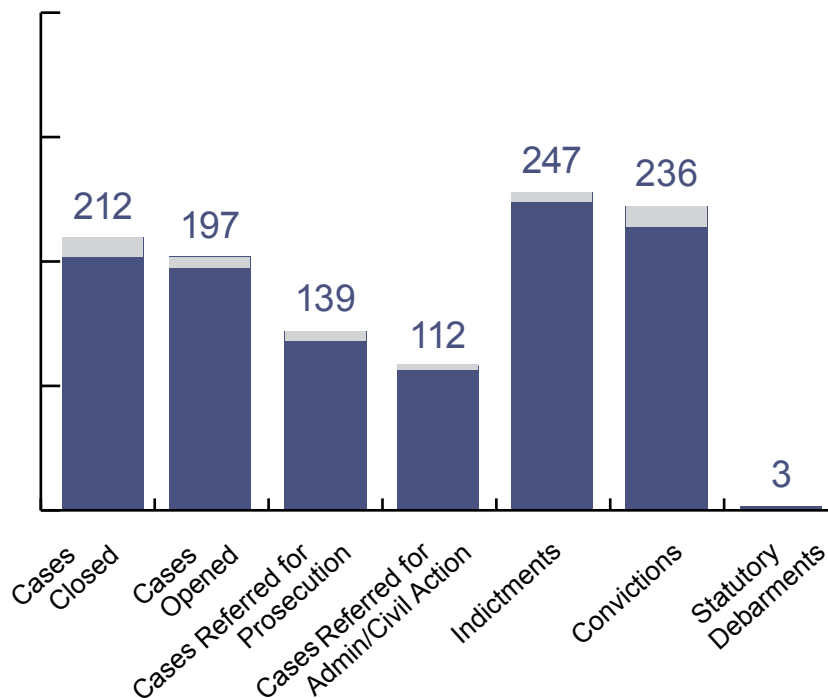
OIG recommendations not fully implemented as of September 30, 2023



Investigative Statistics

Investigative Results

Labor Racketeering
 Program Fraud

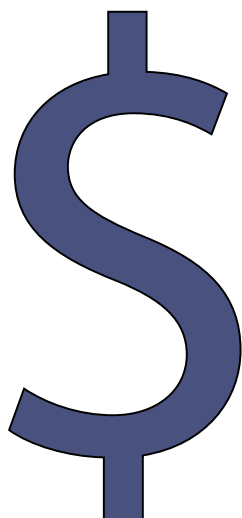


197/212



197 investigative cases opened and 212 cases closed

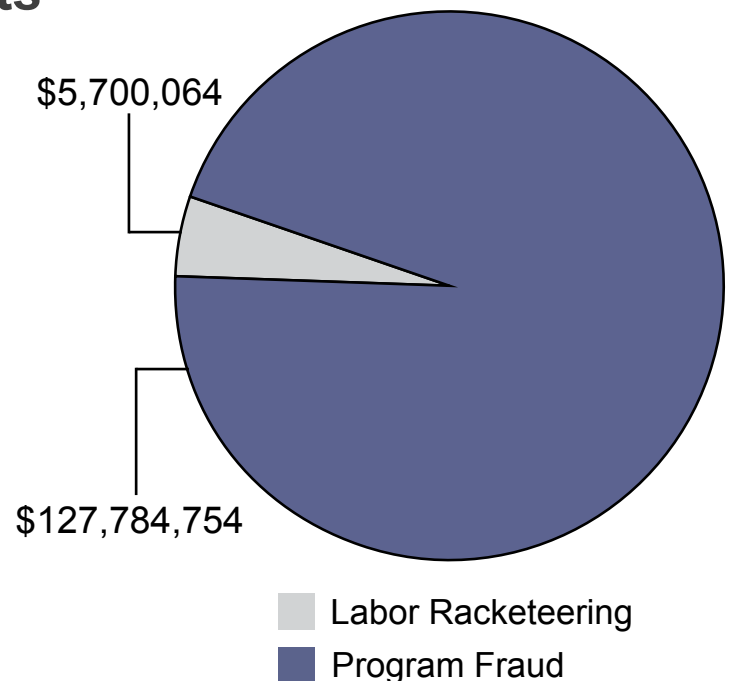
Monetary Accomplishments



Types include:

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

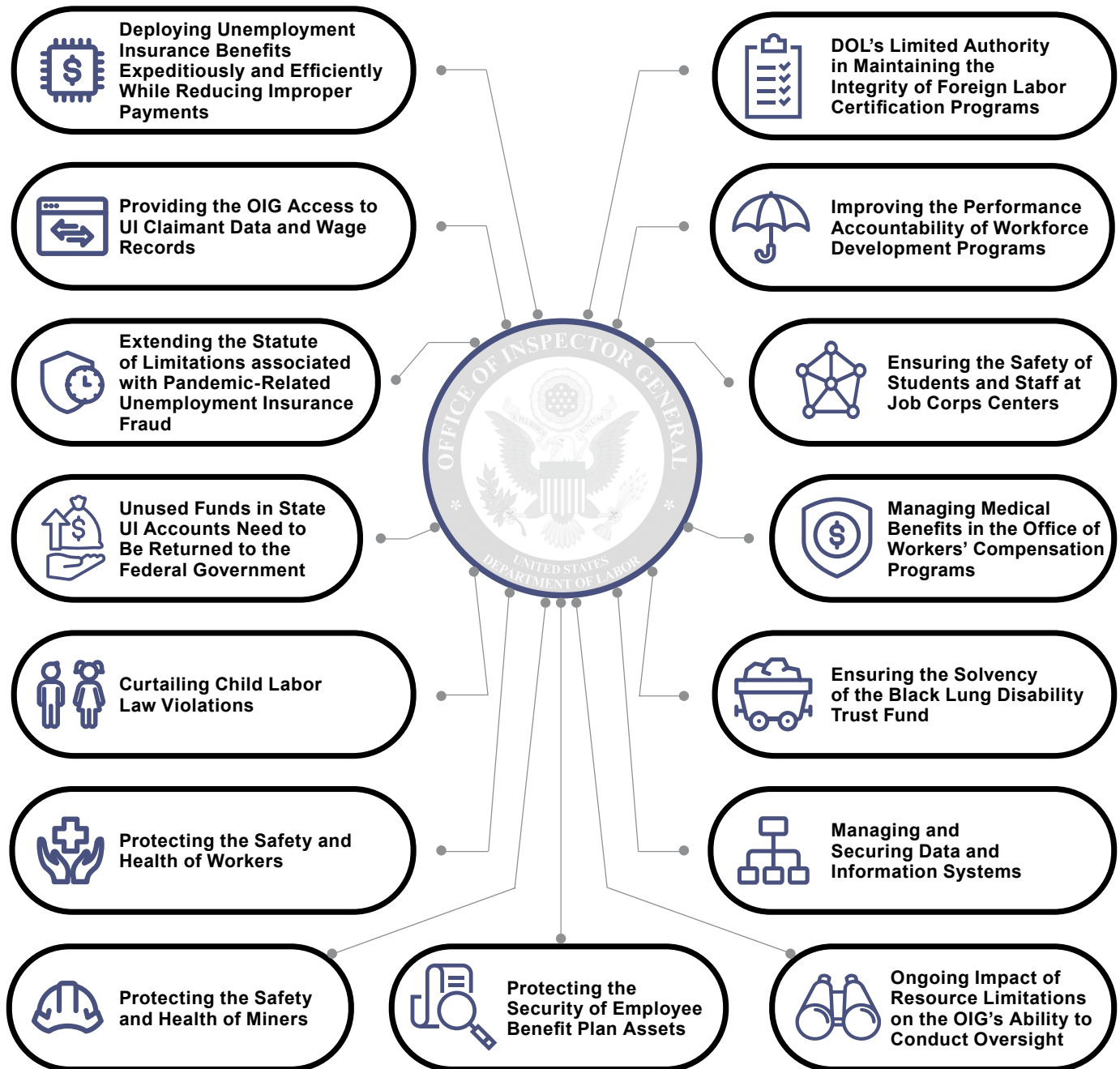
\$133,484,818
 Total



Significant Concerns

Significant Concerns

The Office of Inspector General (OIG) has identified the following areas of significant concern that cause the U.S. Department of Labor (DOL or 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. Many of these issues are detailed 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 OIG has long reported significant concerns with the Department and states' ability to deploy unemployment insurance (UI) program benefits expeditiously and efficiently while ensuring integrity and adequate oversight. We renewed this concern in March 2020 at the onset of the COVID-19 pandemic as UI claims began to rise to historically unprecedented levels—far higher than state systems were designed to handle. In the more than 3 years since, our concern has grown as workers waited for UI benefits, improper payments soared, and our audit and investigative work found program weaknesses and related criminal activity has persisted throughout and after the federal emergency. We remain particularly concerned about deployment of UI benefits in response to emergencies, including natural disasters and economic downturns. Unless more is done now at the federal and state level to increase systemic integrity in the UI program, the program's weaknesses will continue to negatively impact American taxpayers and workers both under current conditions and in the face of the next emergency.

Based on years of oversight relating to DOL's UI program, including the response to past disasters, our April 2020 advisory

report outlined areas of concern that the Department and states should consider as they implemented the Coronavirus Aid, Relief, and Economic Security (CARES) Act UI provisions. One of these areas was state preparedness, specifically, the issues of staffing and system capabilities. Our audit work has confirmed these issues persisted into the pandemic. For example, many states had not developed or implemented UI information technology (IT) modernization plans that improved the timeliness or accuracy of UI benefits processing.¹

We found that, during the year following passage of the CARES Act, more than six million Americans waited a month or more for pandemic-related UI benefits.

Rapid deployment of CARES Act funding was critical to helping workers in need. OIG work found continuing programmatic weaknesses led to certain workers, unemployed through no fault of their own, suffering lengthy delays in receiving benefits. We found that, during the year following passage of the CARES Act, more than six million Americans waited a month or more for pandemic-related UI benefits. Further, states are still challenged in paying claimants timely. In August 2023, only 34 percent of reporting states were paying regular UI claimants timely versus 75 percent before the pandemic started.²

¹ COVID-19: Audit of State Workforce Agencies' Information Technology Systems Capability in Processing Unemployment Insurance Claims, Report No. 19-23-008-03-315 (September 19, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-008-03-315.pdf>

² Based on OIG analysis of data on the Employment and Training Administration's public reporting on States' UI Benefit Timeliness and Quality, available at: <https://oui.doleta.gov/unemploy/btq.asp>

Significant Concerns

Reducing Improper Payments, including Fraud

For over 20 years, the OIG has reported on weaknesses in the Department's ability to measure, report, and reduce improper payments in the UI program, which has experienced some of the highest improper payment rates across the federal government. The reported improper payment rate estimate for the regular UI program has been above 10 percent³ for 16 of the last 19 years.⁴

Our recommendations have specifically included the need for the Department to estimate improper payments within federally funded temporary emergency programs, such as Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). More than a year after our August 2020 recommendation,⁵ the Employment and Training Administration (ETA) began applying its measured estimated improper payment rate for regular UI to FPUC and PEUC. In December 2021, ETA reported an estimated improper payment rate of 18.71 percent, and, in December 2022, ETA reported an estimated improper payment rate of 21.52 percent, both of

WHAT IS AN IMPROPER PAYMENT?

A payment is improper if it should not have been made or was to the wrong recipient.

*

Examples include overpayments and underpayments.

*

An improper payment can be unintentional or intentional.

*

Intentional improper payments are more commonly referred to as financial fraud.

which were applied to FPUC and PEUC. Based on audit and investigative work, the improper payment rate for pandemic-related UI programs was likely higher than 21.52 percent.

In congressional testimony in February 2023,⁶ we noted that more than \$888 billion in total federal and state UI benefits were paid for

3 To fully comply with the Payment Integrity Information Act of 2019, agencies must report an improper payment rate of less than 10 percent for each program and activity for which an estimate was published.

4 UI improper payments data for Fiscal Year 2004 through Fiscal Year 2022 as reported to the Office of Management and Budget.

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 7, 2020), available at:

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

6 "The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; House Committee on Ways and Means (February 8, 2023), available at: <https://www.oig.dol.gov/public/testimony/02082023.pdf>

Significant Concerns

benefit weeks during the UI pandemic period.⁷ Applying the estimated 21.52 percent improper payment rate to the approximate \$888 billion in pandemic UI expenditures, at least \$191 billion in pandemic UI payments could have been improperly paid, with a significant portion attributable to fraud.⁸

The potential loss of \$191 billion of taxpayer money highlights the need for systemic improvements. For perspective, \$191 billion could have provided more than \$3.5 billion to each state workforce agency (SWA)⁹ toward ensuring preparedness for emergencies, including modernizing UI IT systems, enhancing staffing levels, and formulating robust contingency plans. To recover the improperly paid benefits and mitigate the impact of these losses, collaboration between ETA and the states is vital. These issues have persisted after the pandemic; the OIG is seeing, and ETA

and states are still reporting, elevated levels of improper payments in the UI program.

In August 2023, the Department reported that the PUA program had a total improper payment rate of 35.9 percent.¹⁰ According to ETA officials, the small-scale review used to calculate the improper payment rate estimate for PUA cannot be used to estimate the PUA fraud rate. The fraud rate—which is a subset of the improper payment rate—for pandemic-related UI programs was likely higher than the fraud rate for regular UI programs. Notably, in the first 6 months after the CARES Act passed, we found 4 states paid \$1 out of every \$5 in PUA benefits to likely fraudsters. In 2023,¹¹ the Government Accountability Office (GAO) estimated the pandemic-related fraud rate, including PUA, was about 11 to 15 percent for the period April 2020 to May 2023, and estimated up to \$135 billion was lost to fraud.

7 With the exception of PUA, for which claims could be backdated to January 27, 2020, we define the UI pandemic period as March 27, 2020, through September 6, 2021.

8 Fraud is a type of improper payment. The Office of Management and Budget explains that, at a high level, a payment is “improper” if made in an incorrect amount or to the wrong recipient. Improper payments can result in a money loss that was either unintentional (accidental) or intentional (fraud). For more information, see Office of Management and Budget, Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement, Memorandum (March 5, 2021), last accessed September 27, 2022, available at: <https://www.whitehouse.gov/wp-content/uploads/2021/03/M-21-19.pdf>.

9 When referring to UI, this Semiannual Report to Congress uses “state” or “SWA” to refer to the administrative body that administers the program within the state, district, or territory. For the 50 states, as well as the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and the District of Columbia, that administrative body is a SWA. There are, therefore, 53 SWAs. The CARES Act also provided certain UI benefits to American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Marshall Islands, and the Republic of Palau, provided they signed an agreement with the Department.

10 This breakdown includes an overpayment rate of 17 percent, an underpayment rate of 1.5 percent, and a 17.4 percent rate for benefits whose classification—whether valid, overpaid, or underpaid—could not be determined. This information was reported in ETA’s report, “Pandemic Unemployment Assistance Improper Payment Rate Report” (August 21, 2023), last accessed October 13, 2023, available at: https://oui.doleta.gov/unemploy/improp_pay.asp#.

11 GAO, Unemployment Insurance: Estimated Amount of Fraud during Pandemic Likely between \$100 Billion and \$135 Billion, GAO-23-106696 (September 2023), available at: <https://www.gao.gov/assets/gao-23-106696.pdf>

Significant Concerns

We continue to review and evaluate improper payment rate estimates.¹² Estimating the improper payment rate for all emergency UI programs is critical for the efficient operation of the program. ETA and the states, under their program operating responsibilities, must determine the improper payment rate, including the fraud rate, for pandemic UI programs.

Combatting Large-Scale Fraud

Inspector General Larry D. Turner, during his March 2022 congressional testimony,¹³ reported that the unprecedented infusion of federal funds into the UI program—combined with continuing program weaknesses and easily attainable stolen personally identifiable information (PII)—provided a high-value target for fraudsters to exploit. For example, an individual could make a fraudulent claim with relatively low risk of being caught and, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card.

Our investigators have identified crimes related to UI fraud committed by bad actors both in the United States and abroad, and our work

has resulted in the indictment/initial charging of over 1,550 criminals, including members of the Robles Park criminal organization—whose members and associates engaged in acts involving murder, assault, narcotics trafficking, identity theft, and other crimes; a massive and sophisticated criminal enterprise targeting the State of Maryland’s UI system; former state or federal employees; individuals using sham companies; a Nigerian national sentenced for both UI and elder fraud schemes; and even an individual who was sentenced to 77 months in prison and ordered to pay more than \$700,000 in restitution after bragging online about his efforts to defraud a state UI agency.

When the OIG identifies anti-fraud measures that may help the program, we share them with the Department and SWAs, as appropriate. For example, our investigators, auditors, and data scientists collaboratively identified¹⁴ \$46.9 billion in potentially fraudulent UI benefits paid in the now six high-risk areas,¹⁵ to individuals with Social Security numbers:

1. filed in multiple states,
2. of federal prisoners,

12 At the time of the publication of this semiannual report, the OIG has not audited the reported PUA improper payment rate. The OIG will assess that rate’s compliance with the Payment Integrity Information Act of 2019 for Fiscal Year 2023. That audit report will be available in Summer 2024.

13 “Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight,” Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; Senate Committee on Homeland Security and Governmental Affairs (March 17, 2022), available at: <https://www.oig.dol.gov/public/testimony/20220317.pdf>

14 Alert Memorandum: ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program, Report No. 19-23-012-03-315 (September 25, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-012-03-315.pdf>

15 Previously, we have reported on four high-risk areas; we added two areas: individuals with Social Security numbers belonging to persons under 14 and over 100 years of age.

Significant Concerns

3. used to file for UI claims with suspicious email accounts,
4. of deceased persons,
5. belonging to individuals under 14 years of age, and
6. belonging to individuals 100 years of age or older (see Figure 1).

We recommended states establish effective controls to mitigate fraud and other improper payments to ineligible claimants and are examining whether states took effective measures to address the initial four high-risk areas. Additionally, in Spring 2023, we started assessing the effects of waivers and blanket waivers on the recovery of UI overpayments, including fraud. While DOL provided guidance correctly stating that recovery of fraudulent payments may not be waived, we remain concerned that states may have unintentionally waived or will waive fraudulent payments.

As we reported, ETA and states made significant efforts under extreme circumstances; however,

the efforts were not sufficient to protect pandemic-related UI funds from historic levels of improper payments. In April 2022, ETA stated that a swift rollout of a new government benefit program would be 30 to 48 months. The OIG acknowledges ETA's statement that states' ability to provide benefit payments within 1 to 2 months for a new, temporary UI program is a very impressive achievement given the extensive, complex requirements and activities that were necessary for implementation. However, we remain concerned that, given the nature of emergency situations, states would be unlikely to have a lengthy rollout period for emergency programs. ETA and states must include risk planning that would identify measures to facilitate the creation of new programs similar to the ones created in response to the pandemic.

Providing the OIG Access to UI Claimant Data and Wage Records

Barriers to the OIG's ongoing, timely, and complete access to UI claimant data and wage records from SWAs remains a significant

Figure 1: Six High-Risk Areas for Potential UI Fraud



Source: OIG analysis

Significant Concerns

concern. This deficiency directly and adversely impacts the OIG's ability to provide independent oversight and combat fraud, waste, and abuse to help DOL improve the integrity of the UI programs. The power and use of data and predictive analytics enables the OIG to continuously monitor DOL programs and operations to detect and investigate fraud. Continuous monitoring serves as a deterrent to fraud, allows the OIG to promptly discover areas of weakness, and enables DOL management to timely correct problems.

To effectively address the challenges posed by the pandemic, we took a proactive stance, employing data analytics at both national and state levels to identify high-risk areas within the UI program. However, the OIG's ability to proactively detect UI fraud continues to be impacted by DOL's interpretation that the OIG's ongoing, timely, and complete access to UI claimant data and wage records is limited to the pandemic period and related grants.

Prior to and during most of the pandemic period, DOL maintained that, under its regulations, SWAs were only required to disclose UI data to the OIG for specific fraud investigations. DOL asserted it lacked the authority to require SWAs to provide UI data to the OIG for audits and investigations, despite the Inspector General Act of 1978, as amended, authorizing the Inspector General's access for such purposes. As a result,

the OIG took the unprecedented step of using Inspector General subpoenas to obtain this critical data.

DOL continues to interpret regulations at 20 Code of Federal Regulations (C.F.R.) Part 603 as prohibiting ETA from requiring SWAs to provide UI data to the OIG for all audit purposes and for investigative purposes other than those involving specific instances of suspected fraud. This interpretation and subsequent guidance to SWAs contradict the Inspector General Act of 1978, as amended, which authorizes mandatory Inspector General access to information available to DOL, including grant recipient information related to DOL programs, such as SWAs' UI data.¹⁶ In our June 2021 alert memorandum,¹⁷ we recommended ETA amend its regulations to reinforce that SWAs' UI information must be provided to the OIG for all engagements authorized under the Inspector General Act of 1978, as amended.

To date, ETA has only implemented temporary solutions that are not sufficient to resolve the OIG's recommendation or concerns. ETA has required sharing of state UI data as a condition of fraud prevention grants to provide such access through 2025 and recently issued guidance supporting additional grants that would provide access for potentially the next 2 to 5 years. According to ETA, 52 of 53 SWAs received grants. ETA stated it was able

¹⁶ Further, only a federal statute, not DOL's regulations, can supersede the Inspector General's access authority, and only if it expressly states that it limits the Inspector General's authority.

¹⁷ 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

to require SWAs to provide UI data to the OIG due to temporary authority created by the CARES Act and subsequent pandemic-related legislation. Because DOL issued its guidance pursuant to pandemic-related legislation, DOL's guidance directs states that they must provide OIG access only for the pandemic period and until the expiration of the grants, which is contrary to the Inspector General Act of 1978, as amended.

The historic levels of improper payments that the OIG has identified, including potential fraud, support the conclusion that the OIG's continued access to state UI data is imperative.

ETA announced its intent to amend its regulations to facilitate the OIG's ongoing access by February 2025, and, in July 2023, requested public comment on potential revisions that would require states to disclose unemployment compensation data to the OIG for oversight, including audits. Until DOL implements a permanent solution ensuring the OIG's complete and timely access to UI program data and information, the Department's interpretation of its regulations may renew impediments to the OIG's access experienced prior to and during the pandemic.

While the OIG and ETA agree that changing regulations requires notice and comment rulemaking, an immediate and legally sound interim solution is available to ETA. In the alert memorandum issued September 21, 2022,¹⁸ the

OIG highlighted DOL's authority to amend its interpretation of its regulations without changing the regulations themselves. Specifically, ETA can issue guidance to inform SWAs that they must timely provide UI data without any constraints to the OIG for audits and investigations consistent with the Inspector General Act of 1978, as amended. The historic levels of improper payments that the OIG has identified, including potential fraud, support the conclusion that the OIG's continued access to state UI data is imperative.

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. 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 those records to assess program outcomes for UI reemployment programs, as well as other training programs, such as YouthBuild and Job Corps, where employment and wage increases are important factors in determining a program's success.

In addition to the Inspector General Act of 1978, as amended, Congress should consider legislative action that would specifically authorize DOL and the OIG to have ongoing, timely, and complete access to UI claimant data and wage records for our oversight

18 Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf>

Significant Concerns

responsibilities. Ongoing, timely, and complete 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 states to strengthen the UI program and deter fraud.

Extending the Statute of Limitations associated with Pandemic-Related Unemployment Insurance Fraud

We are increasingly concerned that, unless Congress acts urgently to extend the statute of limitations for fraud associated with pandemic-related UI programs, many groups and individuals that have defrauded the UI program may escape justice. As the primary federal law enforcement agency responsible for providing oversight of the UI program, the OIG has vigorously pursued pandemic-related UI fraud. As of September 30, 2023, OIG investigations have resulted in more than 1,550 individuals being charged with crimes involving UI fraud since March 2020.¹⁹

Even with the OIG's tireless efforts, the current statute of limitations associated with UI fraud means federal law enforcement may still fall short in fully investigating and prosecuting the most egregious cases of UI fraud, especially given the volume and complexity of UI fraud matters we are tasked to investigate. Currently, the statute of limitations for many of these cases will begin to expire in early 2025 as the statutes

most often used to prosecute UI fraud have 5-year limitations.

As previously stated, during the pandemic, the volume of the OIG's UI investigative matters increased a thousandfold. Prior to the pandemic, the OIG opened approximately 100 UI fraud investigative matters each year. As of September 2023, the OIG has opened more than 205,000 investigative matters related to the pandemic. We continue to receive, on average, 100 to 500 new UI fraud complaints each week from the National Center for Disaster Fraud.

As a direct result of the exponential increase in pandemic-related UI fraud referrals, OIG investigators are now carrying the largest case inventory in the OIG's history. We are still dedicating the majority of our investigative resources to addressing pandemic-related UI fraud matters. This issue is further exacerbated by the OIG's significant reduction in the number of investigators onboard due to the near exhaustion of supplemental pandemic funding, resulting in a significant decrease in investigative capacity.

Pandemic-related UI fraud referrals that we receive often include complex schemes involving criminal enterprises and bad actors who use sophisticated techniques to maintain their anonymity. For instance, in one pandemic-related UI fraud investigation into the theft of over \$4 million in UI benefits, conspirators orchestrated a scheme to file UI claims using stolen identities, which were often associated

¹⁹ For more details about OIG investigations, visit our Pandemic Response Portal at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

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with elderly citizens.²⁰ The conspirators then opened bank accounts using the stolen identities for the sole purpose of receiving fraudulent UI proceeds. They withdrew the fraudulent proceeds and purchased money orders made out to themselves and to an online vehicle auction company. The conspirators then laundered the UI funds by using the money orders to purchase salvaged automobiles in the United States and ship them to Nigeria. They also facilitated the transfer of conspiracy proceeds to overseas bank accounts. This complex fraud investigation spanned both domestic and foreign jurisdictions. The defendants have been convicted of conspiracy to commit wire fraud.



Criminal investigations like this one require significant resources and time. We leveraged additional resources by partnering with SWAs, the U.S. Department of Justice (DOJ), and other federal law enforcement agencies on the National Unemployment Insurance Task

Force, the COVID-19 Fraud Enforcement Task Force, and the COVID-19 Fraud Enforcement Strike Force teams to investigate and prosecute UI fraud. While these investigative resources helped us address the incredible volume of UI fraud matters, the process of collecting and cleaning the SWA data required a significant amount of time. We leveraged the UI data we were able to collect to identify those matters that posed the greatest risk to the UI program; however, to most effectively and efficiently investigate these matters, we need additional time, data, and resources.

Supplemental pandemic resources from Congress allowed the OIG to hire more criminal investigators and significantly expand the number of staff reviewing UI fraud matters. Unfortunately, the OIG is in the process of reducing staffing to pre-pandemic levels due to the near exhaustion of the supplemental funding provided by Congress. We have also been forced to eliminate all of the approximately 20 contract staff we have been using to triage the approximately 205,000 UI fraud complaints we received during the pandemic. Despite our dwindling resources, the OIG anticipates identifying and investigating pandemic-related UI fraud until the statute of limitations expires. Absent congressional action, the statute of limitations will begin to expire in early 2025.

In August 2022, an extension of the statute of limitations was implemented for crimes involving the U.S. Small Business Administration's Paycheck Protection Program (PPP) and

²⁰ Department of Justice, U.S. Attorney's Office, Northern District of Alabama, "Georgia Resident Pleads Guilty to COVID-19 Unemployment Fraud Targeting Several States," press release (June 8, 2022), available at: <https://www.justice.gov/usao-ndal/pr/georgia-resident-pleads-guilty-covid-19-unemployment-fraud-targeting-several-states>

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Economic Injury Disaster Loan (EIDL) program. Congress should likewise consider extending the statute of limitations for existing laws when pandemic-related UI programs are defrauded. The expansion of the statute of limitations would provide investigators and prosecutors time to pursue and hold accountable those who defrauded the UI program and victimized the American people during the pandemic.

Further, for similar reasons, Congress could consider extending the federal statute of limitations for states to pursue administrative recoveries in cases of proven overpayments, including fraud, and with appropriate due process.

Unused Funds in State UI Accounts Need to Be Returned to the Federal Government

As a result of recent work, we are concerned that a significant amount of pandemic-related federal funding remains in state UI accounts. For example, in two CARES Act UI programs, Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week (TFFF) and Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations (EURGENO),²¹ recent work has identified the need for reconciliation of more

than \$5 billion. These programs made funding available to SWAs through reimbursements that states drew down from state UI accounts. The programs ended in September 2021; some of the remaining funds may be attributable to adjustments to claims that SWAs still need to make. However, ETA and SWAs need to perform reconciliations to determine exactly how much money needs to be deobligated and returned to the U.S. Department of the Treasury (Treasury).

In two CARES Act UI programs, TFFF and EURGENO, recent work identified the need for reconciliation of more than \$5 billion.

During our audit of TFFF, we identified that ETA made approximately \$12.5 billion of funding available in the 53 SWAs' invested Federal Unemployment Accounts.²² The SWAs accessed the funds as reimbursement of 100 percent²³ of benefits paid to claimants for their first week of regular UI compensation. Overall, 53 states drew down about \$7.5 billion of the approximately \$12.5 billion made available, leaving nearly \$5 billion (40 percent) unused as of July 31, 2023—more than 22 months after the benefit eligibility period expired. ETA needs a plan for states to reconcile and close out these accounts for proper disposition of remaining funds. With no formal plan to return unused funds to Treasury,

21 In Unemployment Insurance Program Letter 18-20, ETA refers to EURGENO as "Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes."

22 Treasury transfers funds from the general fund to the Federal Unemployment Account in amounts estimated by ETA to be necessary to reimburse the states for first week regular UI compensation paid. The Federal Unemployment Account is an account within the federal Unemployment Trust Fund that pays for the costs to administer the UI program, emergency benefits, loans to state trust funds, and program expansions like the CARES Act.

23 Although this amount was temporarily reduced to 50 percent from January through mid-March of 2021, it was retroactively restored to 100 percent for that period through the program's expiration in September 2021.

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the remaining balances are vulnerable to fraud, waste, and abuse.

During our audit of EURGENO, we identified that ETA made approximately \$6.3 billion of relief funds available to the 53 SWAs' UI trust funds. EURGENO was designed to mitigate the effects of the pandemic on employers that reimburse SWAs for eligible UI benefits paid (reimbursing employers). The SWAs accessed relief funds to provide refunds to reimbursing employers or to fund credits extended to these employers—amounting to 50 percent²⁴ or 75 percent²⁵ of the employers' cost of UI benefits. However, the audit identified that, 16 months after EURGENO ended,²⁶ approximately \$844.1 million of EURGENO relief funds (19 percent of the total \$4.5 billion allocated), remained unused in 32 states' UI trust funds. Given that this data does not include 21 SWAs, there could potentially be millions of dollars more remaining in other states' UI trust funds that needs to be returned to the federal government.

Curtailing Child Labor Law Violations

Collectively, U.S. labor laws cover most private, state, and local government employment and protect more than 148 million of America's workers in more

than 10 million workplaces. The Fair Labor Standards Act of 1938 sets standards for minimum wage and overtime, among others, including youth employment. Enforced by DOL's Wage and Hour Division, the standards for youth employment are commonly known as child labor laws and are meant to ensure youth employment is safe, appropriate, and does not jeopardize youth health, wellbeing, or educational opportunities. We are concerned about the rise in child labor law violations and the recent reductions in child labor protections with additional proposals pending.

Since 2018, DOL has reported a 69 percent increase in children being employed in violation of child labor laws. In Fiscal Year (FY) 2022, DOL found 835 companies it investigated had employed more than 3,800 children in violation of child labor laws. Furthermore, the increase in child labor law violations is occurring while the Wage and Hour Division struggles to retain investigators. In addition, two laws recently passed in the States of Arkansas and Iowa to weaken child labor protections. Similarly, in 2023, six bills to weaken child labor protections have been introduced in the States of: Minnesota, Missouri, Nebraska, Ohio, and South Dakota. We are currently examining the Wage and Hour Division's efforts to curtail child labor

24 Under the CARES Act provisions, reimbursing employers were eligible to receive relief through refunds after they paid their bills in full. On August 3, 2020, the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 became law, which required states to provide reimbursing employers with 50 percent relief through credits.

25 On March 11, 2021, the American Rescue Plan Act of 2021 was signed into law, which increased the relief percentage from 50 percent to 75 percent, beginning after March 31, 2021. According to ETA guidance, this effectively increased the rate by the week ending April 11, 2021.

26 The EURGENO program ended on September 6, 2021. As of February 1, 2023, the total balance for the 32 states remained at approximately \$844.1 million.

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law violations and attempting to determine the cause for the rise of such violations.

Protecting the Safety and Health of Workers

Responsible for the safety and health of approximately 130 million workers employed at more than 8 million worksites, the Occupational Safety and Health Administration (OSHA) must ensure employers are providing the level of protection required under relevant laws and policies. Federal law entitles U.S. workers to a safe and healthful workplace. Failure to keep workplaces free of known safety and health hazards can lead to serious legal consequences, injuries, illnesses, and fatalities. 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. In FY 2023, OSHA conducted 34,273 inspections, including 17,480 unprogrammed inspections. Unprogrammed inspections result from employee complaints, injuries/fatalities, and referrals. OSHA must target the most egregious or persistent violators to protect the most vulnerable worker populations. OSHA has since increased its number of inspectors—from 750 in 2021, to 931 as of March 31, 2023. However, OSHA continues

to be challenged with reaching the number of worksites for which it is responsible.

In early 2023,²⁷ we found OSHA did not consistently ensure complaints and referrals were adequately addressed nor did it regularly enforce hazard abatement timelines. Specifically, we found OSHA did not consistently involve the complainant and/or witnesses in the investigation or inspection processes. Further, OSHA has no policy requiring Compliance Safety and Health Officers, those responsible for performing inspections and investigations, to interview or otherwise involve the complainant after the complaint is filed.

However, that person may have key insights to ensure alleged hazards are being addressed. OSHA interviewed the complainant in 50 percent of sampled complaints. In all sampled cases where OSHA interviewed the complainant and/or witnesses, each person was only interviewed once. Additionally, OSHA did not consistently follow procedures in its Field Operations Manual involving documentation of decision points, indicating a possible inadequacy in its inspection processes. Finally, OSHA did not regularly ensure safety and health violations from complaints and referrals were corrected in a timely manner.

In this reporting period, the OIG found²⁸ OSHA's Site-Specific Targeting programs—which were specifically designed to reach establishments

27 OSHA Needs to Better Address Complaints and Referrals for Increased Worker Safety, Report No. 20-23-001-10-105 (March 6, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/02-23-001-10-105.pdf>

28 COVID-19: OSHA Needs to Do More to Address High Injury Rates of Warehouse Workers, Report No. 19-23-013-10-105 (September 27, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/19-23-013-10-105.pdf>

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with high rates of serious injuries—had limited controls in place to ensure an adequate number of targeted Site-Specific Targeting program inspections occurred. It also did not timely monitor program activity to determine how many of the proposed inspections actually occurred until after the programs ended. Very few inspections of targeted establishments meant workers remain vulnerable to continuously high rates of injury and illness.

Further, OSHA's ability to target enforcement is also impacted by its limited visibility. We found, on average, between 2016 and 2020, 59 percent of establishments in all industries failed to submit their mandatory annual injury and illness reports to OSHA. Additionally, OSHA could not identify if an establishment met the criteria for mandatory reporting and, therefore, could neither proactively remind specific establishments that they must report nor effectively cite employers for non-compliance. Non-reporting continues to be a challenge for OSHA and results in an incomplete view of workplace injury and illness.

Protecting the Safety and Health of Miners

The Mine Safety and Health Administration's (MSHA) mission is to prevent death, injury, and illness from mining and promote safe and healthful workplaces for U.S. miners. The OIG is significantly concerned about four aspects of MSHA's ability to successfully fulfill its mission: (1) conducting inspections, (2) writing violations for identified hazards, (3) reducing fatalities, and (4) completing rulemaking for respiratory protection of miners.



First, we are concerned regarding MSHA's ability to conduct inspections. The Federal Mine Safety and Health Act of 1977 requires MSHA to inspect every underground mine at least four times per year and every surface mine at least two times per year. Although MSHA has reported a nearly 100 percent completion rate, MSHA may not be completing all of its mandatory inspections. The agency is challenged with identifying when a mine needs a change in the mine's operating status or verifying its status, which factors into how many inspections MSHA conducts at the mine. Not maintaining an accurate mine status in its system has also led to other significant issues, such as abandoned mines not being sealed in accordance with the Federal Mine Safety and Health Act of 1977 and potentially presenting a danger to the public.

Second, we are concerned about MSHA's ability to write violations for hazards that it identifies

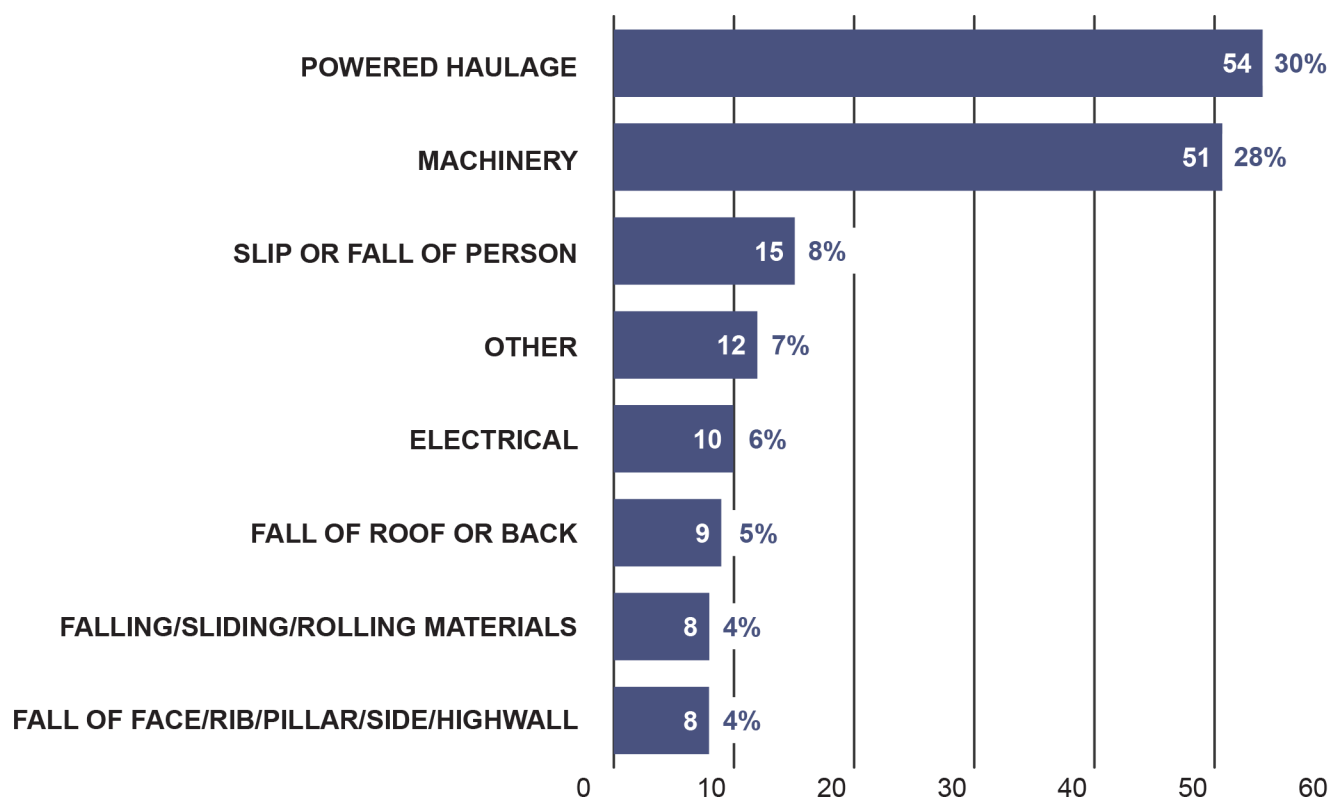
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during inspections. An OIG audit²⁹ found MSHA inspectors were not writing violations that adhered to the Federal Mine Safety and Health Act of 1977 and MSHA guidance for two reasons: (1) they were not following the guidance and (2) system controls were missing or improperly designed. We also found MSHA inspectors were extending violations for unjustified reasons and not timely verifying whether mine operators had abated hazards by required due dates. This was generally due to inspectors being responsible for mines located across large geographic areas and not revisiting the mines by the due dates.

Third, we are concerned about the high level of miner fatalities in two areas. According to MSHA's data, powered haulage and machinery accidents are the leading causes of miner fatalities (see Figure 2). Together, they accounted for half of all mine fatalities since 2022 and that percentage has already increased as of September 2023.

MSHA has taken steps to reduce powered haulage fatalities, such as when it launched an enforcement initiative in November 2021 with guidance on preventing accidents and meeting with mine personnel to emphasize best safety

Figure 2: Number and Percentage of Top 8 Classes of Mining Fatalities, Calendar Years 2018–2023



Source: MSHA's Accident Injuries public dataset, as of September 8, 2023

²⁹ MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated, Report No. 05-21-002-06-001 (March 31, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/05-21-002-06-001.pdf>

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practices and training. In addition, MSHA has issued safety guidance for powered haulage equipment and implemented an enhanced enforcement program. The OIG will continue to monitor MSHA's efforts to decrease powered haulage accidents.

Also, MSHA has started taking steps to reduce machinery-based fatalities. For instance, in October 2023, MSHA issued a safety alert identifying recent fatal machinery accidents and best practices for miners to mitigate the risk of accidents occurring. Likewise, in September 2023, MSHA submitted its final rule on Safety Programs for Surface Mobile Equipment to the Office of Management and Budget (OMB), which would require mine operators to establish a written safety program for mobile equipment and powered haulage equipment (except belt conveyors) used at surface mines and surface areas of underground mines. The OIG will continue to monitor MSHA's efforts to decrease machinery-based accidents.

Finally, while MSHA has issued a proposed rule to lower the allowable respirable crystalline silica exposure level for miners in July 2023, we are still concerned about MSHA's ability to complete rulemaking for respiratory protection of miners. It has started and restarted its rulemaking efforts for respirable crystalline silica regulations at least six times since 1996. An OIG audit found MSHA's allowable limit for respirable crystalline silica had remained unchanged for more than 50 years. This proposed rule would allow MSHA to issue a citation and monetary penalty at coal mines when violations of its respirable crystalline silica exposure limit occur (current MSHA standards already allow this at metal nonmetal mines).

The Federal Mine Safety and Health Act of 1977 gives the U.S. Secretary of Labor authority to develop, promulgate, and revise mining health or safety standards for the protection of life and prevention of injuries and illnesses. Respirable crystalline silica can cause deadly and incurable chronic conditions, such as black lung disease.

Protecting the Security of Employee Benefit Plan Assets

The OIG remains concerned about the Employee Benefits Security Administration's (EBSA) ability to protect the integrity of pension, health, and other benefit plans of about 153 million workers, retirees, and their families under the Employee Retirement Income Security Act of 1974 (ERISA). 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. The act generally requires every employee benefit plan with more than 100 participants to obtain an audit of the plan's financial statements each year. However, an exemption in the law allowed auditors to perform "limited-scope audits." These audits excluded pension plan assets already certified by certain banks or insurance carriers and provided little to no confirmation regarding the actual existence or value of the assets.

In 2013 and in 2014, we reported that as much as \$3 trillion in pension assets—including an estimated \$800 billion in hard-to-value alternative investments held in otherwise

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regulated entities such as banks—received limited-scope audits that provided weak assurance to participants regarding the financial health of their plans. In 2019, the American Institute of Certified Public Accountants updated its accounting standards related to these types of audits. The new standards replaced limited-scope audits with audits from ERISA Section 103(a)(3)(C) and imposed new performance requirements on plan management and auditors. In FY 2024, we plan to follow up on our previous work on EBSA's oversight of limited-scope audits.

EBSA needs to focus its limited available resources on investigations that are most likely to result in the prevention, detection, and correction of Employee Retirement Income Security Act of 1974 violations. This is particularly important 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 to effectively oversee hundreds of billions in federal employee Thrift Savings Plan assets.³⁰ The Federal Employees' Retirement System Act requires EBSA to conduct regular compliance audits to determine whether the Federal Retirement Thrift Investment Board, an independent agency, is fulfilling its fiduciary duties and properly safeguarding Thrift Savings Plan participants' assets.

However, EBSA has limited legal authority to compel the Federal Retirement Thrift Investment Board to implement its recommendations, which includes enforcing its recommendations to

improve the Thrift Savings Plan's cybersecurity posture. As a significant portion of the Thrift Savings Plan's infrastructure was recently transferred to an outside third-party vendor, we are concerned about the threat cybersecurity breaches pose to the Thrift Savings Plan. More generally, identifying and mitigating cyber threats requires a high degree of technical expertise. Cyber threats potentially place at risk trillions of dollars in other ERISA-covered retirement plan assets.

DOL's Limited Authority in 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. Our work has 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 immigration agents, attorneys, labor brokers, employers, and organized criminal enterprises. Over the last decade, the OIG, along with federal partners, has conducted 160 criminal investigations related to fraud in FLC programs. Of particular concern, OIG investigations have uncovered criminal misuse of FLC programs to engage in human trafficking—with victims being exploited for economic gain.

³⁰ The total value of Thrift Savings Plan assets fluctuates over time and is affected by market volatility.

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As we have reported since 2003,³¹ DOL continues to have limited authority over the H-1B program and permanent employment certification program (PERM), which challenges the goal of protecting the welfare of the nation's workforce. The statute limits DOL's ability to deny H-1B applications and to investigate potential violations. 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. Without statutory authority, the Department generally cannot verify employers' attestations to the H-1B certifications unless a complaint is filed or the Department utilizes a Secretary-initiated investigation.

As foreign workers are generally reluctant to file complaints for fear of retaliation and losing their jobs, the Department's process is unlikely to result in verification action being taken. The PERM program itself is persistently vulnerable to employers not complying with its qualifying criteria. Therefore, both the PERM and H-1B programs remain prone to fraud. With various new DOL rules going into effect since 2003, including implementing employer self-attestation programs, there have been opportunities for the PERM, H-2A, and H-2B visa programs to change. 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.

³¹ 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>; also see: 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>

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FLC vulnerabilities have also been exploited to facilitate labor trafficking, a type of human trafficking. For example, in a recent OIG investigation, four individuals were sentenced as part of a federal racketeering conspiracy, which victimized Mexican agricultural workers admitted to the United States under the H-2A temporary visa program. The investigation revealed the conspirators committed multiple offenses, including subjecting H-2A workers to forced labor, harboring and concealing workers, visa fraud, and fraud in foreign labor contracting. The conspirators used coercive means to obtain thousands of hours of physically demanding agricultural labor from the victimized H-2A workers, all for lesser pay. The coercive means used included confiscating the workers' passports; subjecting the workers to crowded, unsanitary, and degrading living conditions; isolating the workers and limiting their ability to interact with anyone other than employees; and subjecting workers to debt manipulation.

In some instances, employers commit FLC fraud to engage in forced labor or labor trafficking. Engaging in the FLC process allows prospective employers to recruit skilled, motivated, and legally well-intentioned workers, and also entice them to the jobsite. This saves the employer from paying costly human smuggling expenses and limits liability associated with smuggling or the harboring of undocumented workforces. Once the workers are onsite, the employer can control/compel labor and services by: holding their travel documents; threatening to revoke their visas and "blacklisting" them in the future; controlling how much money they possess; and limiting their access to adequate food, housing, or outside contact. Often, the goal is to use the exploited work force to increase

employer wealth. These case examples illustrate how criminals exploit weaknesses in the FLC programs to commit even more serious crimes, such as forced labor and labor trafficking. Therefore, it is crucial that the Department do all it can to ensure the integrity of these programs.

Improving the Performance Accountability of Workforce Development Programs

The OIG has concerns about the Department's ability to ensure its investments in workforce development programs are successful in enhancing participants' skills and placing them in good employment. The pandemic's impact on the workforce highlighted the importance of these programs in 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.

Our audit work from September 2020 found that, although ETA had data to determine whether or not participants were employed after exiting grant-funded training programs, ETA lacked data to measure the impact credentials had on participants' outcomes and did not ensure participants' data was accurate, valid, and reliable. Similarly, in a 2018 audit, we found that Job Corps was unable to demonstrate the extent to which its training programs helped participants obtain meaningful jobs appropriate to their training within 5 years of completing the program.

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As expressed in a March 2022 advisory report, the OIG continues to be concerned about three areas in particular where our body of work has identified weaknesses: (1) awarding grants, (2) reviewing grant recipients' use of funds, and (3) measuring grant recipient performance. While ETA took action to address many prior years' findings and recommendations related to eligibility, effectiveness, and compliance and monitoring, it must also proactively monitor key areas and continue to assess for these weaknesses to ensure they do not reoccur.



In September 2023, we reported³² ETA needs to improve its oversight of grant recipients and sub-recipients³³ in the State of New Jersey to ensure that grant funds serve their intended purposes. We found ETA did not ensure recipients effectively: (1) used over \$100 million to serve the intended population; (2) enrolled eligible individuals in the grant programs, costing \$96,580 in training services; and (3) complied

with federal requirements when paying \$168,460 in services. We also questioned \$6.9 million in grant funding because the sub-recipients could not show how these funds were used.

The OIG is also concerned about the Department's ability to ensure its investments into Registered Apprenticeships develop new pathways to good-quality jobs. Congress invested \$285 million into the Registered Apprenticeship Program in FY 2023. However, a 2021 audit of the American Apprenticeship Initiative Grant Program found systemic weaknesses in the execution of the grants, planning, and awarding processes. As such, the OIG continues to be concerned that issues and challenges continue to exist within this program.

Ensuring the Safety of Students and Staff at Job Corps Centers

Ensuring the safety and health of students and staff at Job Corps centers continues to be a concern due to ongoing issues with on-campus violence. In Program Year 2022, Job Corps centers reported almost 1,300 on-campus assaults. Job Corps centers are mostly residential, with students living on-campus. Preventing on-campus violence and other potentially criminal behavior remains a challenge for Job Corps centers.

OIG audits from 2015 and 2017 found that some Job Corps centers failed to report and

32 COVID-19: The Employment and Training Administration Needs to Improve Oversight of Grants Awarded in New Jersey, Report No. 19-23-016-03-391 (September 28, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-016-03-391.pdf>

33 A sub-recipient is a non-federal entity that receives a sub-award from a pass-through entity to carry out part of a federal program. It does not include an individual who is a beneficiary of the program.

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investigate serious misconduct, such as drug abuse and assaults. The audits also determined 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 2017 and our review of Job Corps' corrective actions showed Job Corps has taken steps to improve center safety and security by establishing stronger internal controls and security measures, including the installation of security cameras, perimeter fencing, and better lighting at centers. However, concerns continue.

Job Corps' participants can range in age from 16 to 27 years old.³⁴ The significant age range poses a number of challenges. Given the occurrence of sexual assaults and harassment on center campuses, there is an inherent risk with having adults cohabitate with minors. The OIG is currently performing an audit focused on whether Job Corps ensured the safety of and mitigated program disruptions involving its minor students.

A March 2021 OIG audit report showed Job Corps centers lacked the appropriate tools and resources to properly evaluate and mitigate issues related to substance abuse and mental health. We found that center personnel frequently attributed student and staff safety concerns to mental health or substance abuse, or both. The use of fentanyl, a potentially lethal and extremely addictive drug, is also an emerging concern. The OIG

continues to monitor various safety initiatives and actions taken by Job Corps to keep students and staff safe.

Managing Medical Benefits in the Office of Workers' Compensation Programs

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

Our audit work in the FECA program continues to identify concerns with OWCP's management of pharmaceuticals. In March 2023,³⁵ we reported OWCP did not effectively manage pharmaceutical spending in the FECA program from FY 2015 through FY 2020. Specifically, OWCP did not pay the best available prices for prescription drugs that resulted in up to \$321 million in excess spending during the audit period. OWCP also did not effectively monitor pharmaceutical policy changes to ensure implementation, which resulted in claimants receiving thousands of inappropriate prescriptions and potentially lethal drugs,

³⁴ Individuals aged 16 through 24 years are eligible to enroll in Job Corps and, once enrolled, can be in training for up to 3 years before finishing the program.

³⁵ OWCP Did Not Ensure Best Prices and Allowed Inappropriate, Potentially Lethal Prescriptions in the FECA Program, Report No. 03-23-001-04-431 (March 31, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/03-23-001-04-431.pdf>

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including 1,330 prescriptions for fast-acting fentanyl after issuing a policy that restricted its use. We also found OWCP failed to timely identify and address emerging issues and did not perform sufficient oversight of prescription drugs that are highly scrutinized and rarely covered in workers' compensation programs.

To strengthen its management of FECA's pharmaceutical program, OWCP needs to

implement processes that ensure competitive prices for prescription drugs (see Figure 3), improve its monitoring of pharmaceutical policy changes, and proactively identify emerging issues before they become critical problems.

In March 2021, consistent with our prior audit recommendations, OWCP implemented a pharmacy benefit manager³⁶ responsible for FECA pharmaceutical transactions, including

Figure 3: Tools to Ensure Competitive Prices for Prescription Drugs



Source: OIG graphic representation of Harper, Rains, Knight & Company, P.A. analysis

³⁶ Pharmacy benefit managers are third-party administrators of prescription drug programs, primarily responsible for: developing and maintaining formularies, which include an approved listing of prescriptions; negotiating discounts and rebates with drug manufacturers; and processing and paying prescription drug claims.

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pricing for prescription drugs. In addition, OWCP is in the process of expanding pharmacy benefit manager coverage to the Energy and Black Lung Benefits programs. While using a pharmacy benefit manager may improve OWCP's management of pharmaceuticals, it does not relieve OWCP from its management responsibilities. OWCP needs to provide adequate oversight over the pharmacy benefit manager to ensure the pharmaceutical benefits it provides are safe, effective, medically necessary, and economical. We plan to conduct follow-up work focusing on how effectively OWCP's pharmacy benefit manager reduced opioid-related risks, pharmaceutical costs, and fraud.

In the Energy program, with an aging claimant population and an increased demand for home health care services, there is a risk of providers exploiting these benefits through unethical practices. Since 2010, home and residential health care costs paid by the Energy program have grown from almost \$100 million to more than \$860 million, representing approximately 82 percent of total medical benefits paid by the program in FY 2022. 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.

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 (Trust Fund) 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 Trust Fund (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 Trust Fund expenditures have consistently exceeded revenue, and the Trust Fund has essentially borrowed with interest from Treasury's general fund almost every year since 1979. According to DOL's FY 2023 Agency Financial Report, the Trust Fund had to borrow approximately \$2.73 billion to cover its expenditures, which included debt and interest payments. As of September 30, 2023, the Trust Fund was carrying close to a \$6.36 billion deficit balance, which is projected to grow to \$12.64 billion (in constant dollars) by September 30, 2048.

The excise tax that funds the Trust Fund is levied on domestic sales of coal mined in the United States. On August 16, 2022, the Inflation Reduction Act of 2022 made permanent the temporary increased excise tax rates of \$1.10 per ton of underground-mined coal and \$0.55 per ton of surface-mined coal, with a cap of 4.4 percent of the sales price. However, we remain concerned the permanent tax increases are still not sufficient to ensure solvency of the Trust Fund. The Department has proposed a new rule to strengthen security requirements for coal mine operators requesting authorization to self-insure liabilities that it believes would decrease the potential burden of those liabilities on the Trust Fund should the operator become insolvent.

Significant Concerns

Managing and Securing Data and Information Systems

We remain concerned about the Department's ability to manage and secure its data and information systems. The Department and its program agencies depend on reliable and secure IT systems to perform their mission critical functions. In carrying out their missions, the agencies obtain and create vast amounts of information and data, and included in these data are the PII and personal health information of the public, including federal employees. The Department moved to an IT shared services model that centralized IT for approximately 70 percent of its information systems under the Office of the Assistant Secretary for Administration and Management. While we have seen some improvements in the Department's IT management, we continue to have concerns with its governance structure and information security program.

Fundamentally, we continue to be concerned that DOL has not fully empowered the Chief Information Officer position to

ensure the Department's IT governance is effectively implemented. Specifically, the Chief Information Officer's authority is limited by both structural design and lack of representation in enterprise level discussions. DOL's Chief Information Officer reports to the Assistant Secretary for Administration and Management—not the Secretary or Deputy Secretary as required by law—and the Chief Information Officer position does not have sufficient authority or representation on key senior level management boards.

In addition, we continue to have concerns with the Department's information security program in the following areas:

- cybersecurity oversight,
- supply chain,
- cloud/third-party,
- end user/remote security, and
- emerging technology and security requirements, such as zero trust architecture.

Securing the Department's information systems remains a concern as we continue to identify

WHAT IS ZERO TRUST ARCHITECTURE?



A cybersecurity approach in which users must prove their authenticity each time they access a network application or data as it assumes a network's security is always at risk to external and internal threats

Significant Concerns

recurring deficiencies in the Department's efforts to manage and implement security controls throughout its information security program.³⁷ While the Department has moved information systems to its IT shared services model to improve management and security of the systems, the Department has not adequately implemented information security controls and technology tools required to manage and monitor IT security. Further, we are still concerned that the remaining systems and agencies that are not part of the IT shared services environment are not receiving the governance and oversight required to sufficiently secure all of DOL's data and information systems.

These areas represent ongoing risks to the confidentiality, integrity, and availability of DOL's information systems, which are necessary to support the Department's mission.

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

Ongoing Impact of Resource Limitations on the OIG's Ability to Conduct Oversight

We are significantly concerned about the ongoing impact of resource limitations on our ability to conduct oversight. The OIG is in the process of significantly reducing its workforce through attrition and has had to reduce our planned oversight efforts due to budgetary constraints. Essentially, the degree to which we can continue our level of oversight work depends on the availability of resources. Moreover, the statute of limitations for most pandemic-related UI fraud will begin to expire in early 2025³⁸ and we continue to face challenges with data access, both of which are also significant concerns previously mentioned in this document that may impede oversight.

We will continue to efficiently and effectively use our available resources; however, at current funding levels, resource limitations have resulted and will continue to result in a reduction of oversight in both the Offices of Audit and Investigations. For example, due to budget constraints, we cancelled 10 contracted audits planned for FY 2023, in the areas of: dislocated worker grants (1), job training (5), worker safety (1), and UI (3). These cancellations will result in fewer recommendations for improvement of Department programs and operations. Further,

³⁷ Under the Federal Information Security Modernization Act of 2014, the OIG is required to perform annual independent evaluations of the Department's information security program and practices. These annual reports have consistently identified such deficiencies. For the most recent, see: FY 2022 FISMA DOL Information Security Report: DOL's Information Security Program Not Remaining Current with Security Requirements, Report No. 23-23-001-07-725 (February 10, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/23-23-001-07-725.pdf>.

³⁸ For most crimes of fraud committed against the UI program, an indictment must be returned by a grand jury or information must be instituted within 5 years of the offense being committed.

Significant Concerns

the OIG will not have the investigative capacity to review the approximately 166,000 open UI fraud complaints and to conduct investigations of each instance of suspected fraud before the statute of limitations expires.

The immense challenges we continue to face have not stopped OIG auditors or investigators from producing impactful oversight. As of September 30, 2023,³⁹ our pandemic response oversight has identified more than \$74 billion in funds for better use and investigative monetary results of over \$1 billion (see Table 1).

While we have efficiently deployed our available resources to produce impactful results and will continue to do so, there is much more to do. For example, our investigators continue to work tirelessly to seek recoveries from and indictments for those responsible for pandemic-related fraud. Even though the COVID-19 public health emergency has ended, the OIG continues its work focused on assisting DOL to recover from this unprecedented emergency and to prepare for any future emergencies.

Table 1: DOL OIG’s Cumulative Pandemic-Related Results, as of September 30, 2023

Results	2023
Audit Reports	47
Recommendations	136
Funds Identified for Better Use	\$74 billion+
Questioned Costs	\$277 million+
Indictments/Initial Charges	1,552
Convictions	957
Months of Incarceration Ordered	19,000+
Investigative Monetary Results	\$1 billion+

³⁹ Pandemic Response Oversight Plan, Revised June 30, 2023, available at: <https://www.oig.dol.gov/public/oaprojects/2023%20Revised%20Pandemic%20Response%20Oversight%20Plan.pdf>



Worker and Retiree Benefit Programs

Unemployment Insurance Programs

Enacted more than 80 years ago as a federal-state partnership, the unemployment insurance program is the Department's largest income-maintenance program. This multi-billion-dollar program provides unemployment benefits to eligible workers who become unemployed through no fault of their own. The program is generally administered by states with oversight from DOL's Employment and Training Administration.

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. Recovering improper payments creates challenges for all involved. Strengthening programs to prevent improper payments in the first place is critical for program integrity and good stewardship of taxpayer funding.

Overview of the UI Program

A joint federal-state program, UI is the first economic line of defense against the collective impact of unemployment and acts as a safety-net for individuals who lose their jobs through no fault of their own. The UI program requires states to make benefit payments in a timely manner, providing needed assistance to unemployed workers while ensuring claimants

meet eligibility requirements. It is equally important that the program has sufficient controls in place to quickly determine that benefits are or were paid to the right person in the correct amount. Each SWA:

- administers a separate UI program under its jurisdiction's 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 its respective programs.

In normal circumstances, UI benefits are generally funded by state employer taxes with administrative costs funded by the federal government. Extensions and expansions of coverage and benefits, such as those provided by the CARES Act and subsequent legislation, are also normally funded in whole or in part by the federal government.

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 through criminal investigations to detect and deter large-scale fraud. The OIG's

Worker and Retiree Benefit Programs

federal criminal investigations are time- and resource-intensive and one of the last lines of defense in safeguarding the UI program from fraud.

OIG Historical Concerns regarding the UI Program

The OIG has long reported significant concerns with the Department and states' ability to deploy UI program benefits expeditiously and efficiently while ensuring integrity and adequate oversight. We renewed this concern in March 2020 at the onset of the COVID-19 pandemic as UI claims began to rise to historically unprecedented levels—far higher than state systems were designed to handle. In the more than 3 years since, our concern has grown as workers waited for UI benefits, improper payments soared, and our audit and investigative work found program weaknesses and related criminal activity has persisted throughout and after the federal emergency. We remain particularly concerned about deployment of UI benefits in response to emergencies, including natural disasters and economic downturns. Unless more is done now at the federal and state level to increase systemic integrity in the UI program, the program's weaknesses will continue to negatively impact American taxpayers and

workers both under current conditions and in the face of the next emergency.

Our April 2020 advisory report⁴⁰ outlined areas of concern the Department and the states should consider as they implemented the CARES Act UI programs. Our identification of these areas represents years of work relating to DOL's UI program, including the response to past disasters. One of these areas was state preparedness, specifically, the issues of staffing and system capabilities. Our audit work has confirmed these issues persisted into the pandemic.⁴¹ For example, many states had not developed or implemented UI IT modernization plans that improved the timeliness or accuracy of UI benefits processing.⁴² Ensuring states have these plans in place—and are actively pursuing implementation—would be a strong step toward improving the administration of benefits, particularly during a future crisis.

Deploying Benefits Expeditiously and Efficiently

Rapid deployment of CARES Act funding was critical in helping workers in need. Staff at ETA and states struggled during the COVID-19 pandemic as SWAs worked to ensure timely and accurate UI benefits in a time of national emergency. Anticipating and addressing the

40 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>

41 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>

42 COVID-19: Audit of State Workforce Agencies' Information Technology Systems Capability in Processing Unemployment Insurance Claims, Report No. 19-23-008-03-315 (September 19, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/19-23-008-03-315.pdf>

Worker and Retiree Benefit Programs

increased risk that came with the expanded funding was also vital to meeting the intent of the CARES 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 report⁴³ 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 on the Recovery Act⁴⁴ 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 the period of availability expired. To access these funds, states had to meet certain 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, states needed sufficient staffing and system resources to manage the extraordinary increases in the number of claims. Our pandemic audit work has confirmed that ETA and states continued to face challenges in these areas as they endeavored to implement the new temporary UI programs, including PUA, PEUC, and FPUC.

Our subsequent reports found continuing programmatic weaknesses led to certain workers, unemployed through no fault of their own, suffering lengthy delays in receiving benefits. For example, states without modernized IT systems faced difficulty in promptly implementing the CARES Act programs.⁴⁵ Further, for the PEUC program, we identified that it took 49 states, on average, 50 days to implement the program.⁴⁶ However, states with modernized IT were able to implement the PEUC program 15 days faster. Similarly, modernized states implemented the PUA program 8 days faster.

Also, from April 1, 2020, to March 31, 2021, only 5 of the 53 SWAs were able to timely pay

43 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>

44 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>

45 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>

46 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 to 21 days.

Worker and Retiree Benefit Programs

benefits, including the FPUC supplement, to regular UI claimants.⁴⁷ As a result, during the year following passage of the CARES Act, more than six million Americans waited a month or more for pandemic-related UI benefits. Further, states are still challenged in paying claimants timely. In August 2023, only 34 percent of states were paying regular UI claimants timely versus 75 percent before the pandemic started.⁴⁸

Only 34 percent of states paid regular UI claimants timely versus 75 percent before the pandemic started.

Additionally, we identified that states may have inadvertently applied a racial or gender bias when providing benefits to claimants and did not provide adequate protections for claimants' personal data. Facial recognition can serve as an effective tool in preventing fraudulent payments. However, ETA and states need to implement proper oversight mechanisms.

Specifically, to combat imposter claims, 45 percent of states hired identity verification service contractors that used facial recognition technology. In 2019, the National Institute of Standards and Technology's⁴⁹ Information Technology Laboratory reported⁵⁰ it found empirical evidence that the algorithms⁵¹ used in current facial recognition technology have a racial and gender bias. Furthermore, 15 of 24 (63 percent) state contracts did not include privacy security measures recommended to protect UI claimants' biometric data.⁵²

Further, we issued audit reports that advised ETA to establish methods to detect and recover improper payments, including fraud, and reported on the PUA program, which posed a significant risk to the UI system. PUA's expanded coverage, for a population of claimants who were traditionally ineligible to receive UI benefits,⁵³ presented significant challenges to states. Further, we found the risk

47 COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at:

<https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>

48 Based on OIG analysis of data on ETA's public reporting on States' UI Benefit Timeliness and Quality, available at: <https://oui.doleta.gov/unemploy/btq.asp>

49 Founded in 1901, the National Institute of Standards and Technology is a physical sciences laboratory and non regulatory agency under the U.S. Department of Commerce.

50 National Institute of Standards and Technology, "National Institute of Standards and Technology Study Evaluates Effects of Race, Age, Sex on Face Recognition Software" (December 19, 2019), available at:

<https://www.nist.gov/news-events/news/2019/12/nist-study-evaluates-effects-race-age-sex-face-recognition-software>

51 An algorithm can be defined as a set of mathematical instructions or rules that, especially if given to a computer, will help to calculate an answer to a problem.

52 Alert Memorandum: ETA and States Need to Ensure the Use of Identity Verification Service Contractors Results in Equitable Access to UI Benefits and Secure Biometric Data, Report No. 19-23-005-03-315 (March 31, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-005-03-315.pdf>

53 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.

Worker and Retiree Benefit Programs

of improper payments including fraud was even higher under PUA because claimants could selfcertify their eligibility for benefits.

Moreover, in an effort to expeditiously and efficiently provide UI benefits, states improperly paid billions of dollars. In May 2021, ETA provided guidance to states on the waiving of recovery of overpayments when the claimant was without fault and if the repayment would be contrary to equity and good conscience as allowable by the CARES Act. This guidance also outlined limited circumstances when the states could use blanket waivers in lieu of recovering overpayments.

As of September 30, 2023, states reported waiving recovery of more than \$4.8 billion in overpayments for the three key CARES Act programs: PUA, FPUC, and PEUC.

In Spring 2023, we started assessing the effects of waivers and blanket waivers on the recovery of UI overpayments, including fraud. While DOL provided guidance correctly stating recovery of fraudulent payments may not be waived, we remain concerned that states may have unintentionally waived or will waive fraudulent payments. As of September 30, 2023, states reported waiving recovery of more than \$4.8 billion in overpayments for the three key CARES Act programs: PUA, FPUC, and PEUC.

History of Improper Payments, including Fraud

For over 20 years, the OIG has reported on weaknesses in the Department's ability to measure, report, and reduce improper payments in the UI program, which has experienced some of the highest improper payment rates across the federal government. The reported improper payment rate estimate for the regular UI program has been above 10 percent⁵⁴ for 16 of the last 19 years.⁵⁵

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

Improper payments have largely resulted from a combination of four primary causes. First, some claimants fail to demonstrate that they meet their states' requirements for searching for new jobs (work search).⁵⁶ Second, some claimants continue to claim UI benefits after returning to work or misreport earnings (benefit year earnings). Third, some

⁵⁴ To fully comply with the Payment Integrity Information Act of 2019, agencies must report an improper payment rate of less than 10 percent for each program and activity for which an estimate was published.

⁵⁵ UI improper payments data for FY 2004 through FY 2022 as reported to the Office of Management and Budget.

⁵⁶ 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 comply with a state's required work search activities.

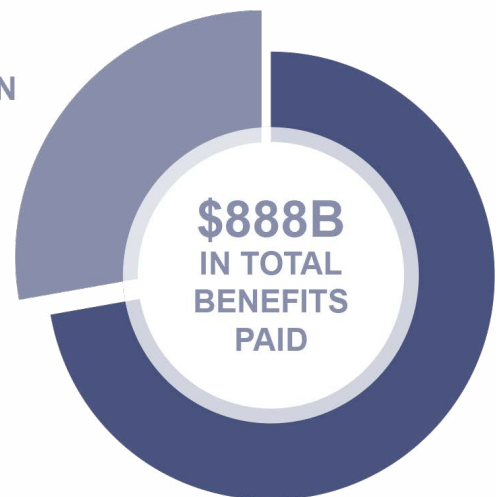
Worker and Retiree Benefit Programs

employers, or their third-party administrators, fail to provide prompt and adequate information about why individuals left their employment (employee separation). Finally, some improper payments have been caused by fraud, such as those arising from schemes perpetrated during the pandemic.⁵⁷

Our recommendations have specifically included the need for the Department to estimate improper payments within federally funded temporary emergency programs. In August 2020, we recommended⁵⁸ ETA estimate the improper payment rate for pandemic-related UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate of 18.71 percent that it applied to two of the three key pandemic UI programs, PEUC and FPUC. Additionally, in December 2022, ETA reported an improper payment rate estimate of 21.52 percent, which it also applied to PEUC and FPUC.⁵⁹

In congressional testimony in February 2023,⁶⁰ we noted that more than \$888 billion in total federal and state UI benefits were paid for benefit weeks during the UI pandemic period.⁶¹ Applying the estimated 21.52 percent improper payment rate to the approximate \$888 billion in pandemic UI expenditures, at least \$191 billion in pandemic UI payments could have been improperly paid, with a significant portion attributable to fraud.

**AT LEAST
\$191B
ESTIMATED IN
IMPROPER
PAYMENTS**



⁵⁷ ETA has included fraud as an element of the leading causes rather than as a separate cause. From July 2016 to March 2020, the other three causes resulted in over \$9 billion in improper payments. Of this total, more than \$3 billion was attributable to fraud. Since the pandemic started, fraud has significantly increased.

⁵⁸ 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>

⁵⁹ In FY 2021, the Department found the PUA, PEUC, and FPUC programs to be susceptible to significant improper payments. The Payment Integrity Information Act of 2019 and its implementing guidance in Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement, requires the Department to produce an improper payment and unknown payment rate in the FY following the FY in which the risk assessment determination was made. ETA's reported improper payment rate estimate of 21.52 percent does not include the PUA program.

⁶⁰ "The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; House Committee on Ways and Means (February 8, 2023), available at: <https://www.oig.dol.gov/public/testimony/02082023.pdf>

⁶¹ With the exception of PUA, for which claims could be backdated to January 27, 2020, we define the UI pandemic period as March 27, 2020, through September 6, 2021. We also note that, according to ETA, it cannot provide final total costs of the programs because states are still processing claims that were for weeks of unemployment prior to expiration of the programs.

Worker and Retiree Benefit Programs

The potential loss of \$191 billion of taxpayer money highlights the urgent need for systemic improvements. For perspective, \$191 billion could have provided more than \$3.5 billion to each SWA toward ensuring preparedness for emergencies, including modernizing UI IT systems, enhancing staffing levels, and formulating robust contingency plans. To recover the improperly paid benefits and mitigate the impact of these losses, collaboration between ETA and the states is vital. These issues have persisted after the pandemic; the OIG is seeing, and ETA and states are still reporting, elevated levels of improper payments in the UI program.

Also, based on audit and investigative work, the improper payment rate for pandemic-related UI programs was likely higher than 21.52 percent. For example, ETA's previously reported improper payment rate estimates have not included the PUA program. In August 2023, the Department reported that the PUA program had a total improper payment rate of 35.9 percent.⁶² According to ETA officials, the small-scale review used to calculate the improper payment rate estimate for PUA

cannot be used to estimate the PUA fraud rate.

In the last 2 years, ETA estimated fraud rates of 8.57 percent and 7.73 percent, respectively.⁶³ Notably, neither of these rates included PUA. The fraud rate—which is a subset of the improper payment rate—for pandemic-related UI programs was likely higher than the fraud rate for regular UI programs. In fact, in the first 6 months after the CARES Act passed, we found 4 states paid \$1 out of every \$5 in PUA benefits to likely fraudsters. In 2023, GAO estimated the pandemic-related fraud rate, including PUA, was 11 to 15 percent for the period April 2020 to May 2023, and estimated up to \$135 billion was lost to fraud.⁶⁴

We continue to review and evaluate improper payment rate estimates.⁶⁵ Estimating the improper payment rate for all emergency UI programs is critical for the efficient operation of the program. ETA and the states, under their program operating responsibilities, must determine the improper payment rate, including the fraud rate, for pandemic UI programs.

62 This breakdown includes an overpayment rate of 17 percent, an underpayment rate of 1.5 percent, and a 17.4 percent rate for benefits whose classification—whether valid, overpaid, or underpaid—could not be determined. This information was reported in ETA's report, "Pandemic Unemployment Assistance Improper Payment Rate Report" (August 21, 2023), last accessed October 13, 2023, available at: https://oui.doleta.gov/unemploy/improp_pay.asp#.

63 ETA estimated the fraud rate as part of their Benefit Accuracy Measurement system reporting for the program years July 1, 2020, through June 30, 2021, and July 1, 2021, through June 30, 2022. The Benefit Accuracy Measurement system is designed to determine the accuracy of paid and denied claims in three major UI programs: regular State UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex Servicemembers.

64 GAO, Unemployment Insurance: Estimated Amount of Fraud during Pandemic Likely between \$100 Billion and \$135 Billion, GAO-23-106696 (September 2023), available at: <https://www.gao.gov/assets/gao-23-106696.pdf>

65 At the time of the publication of this semiannual report, the OIG has not audited the reported PUA improper payment rate. The OIG will assess that rate's compliance with the Payment Integrity Information Act of 2019 for Fiscal Year 2023. That audit report will be available in Summer 2024.

Worker and Retiree Benefit Programs

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 historically low. On March 14, 2020, the Department reported 282,000 initial unemployment claims. Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle.⁶⁶ Within 5 months, through August 15, 2020, the Department reported more than 57 million initial claims, the largest increase since the Department began tracking UI data in 1967.

The CARES Act provided significant funding to the UI program, which resulted in hundreds of billions of dollars in additional payments. New UI programs under the CARES Act meant more workers qualified.⁶⁷ Further, unemployed workers received a supplemental payment for certain weeks in addition to their regular benefit amount and individuals who exhausted their regular unemployment benefits were

provided additional weeks of unemployment compensation. Also, certain UI claims could be backdated to the beginning of the eligibility period. With the legislative extensions, claimants could receive up to 79 weeks of pandemic-related UI payments.

In June 2020, the Inspector General provided a member briefing⁶⁸ and a statement for the record⁶⁹ to Congress highlighting challenges DOL and states 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 CARES Act initially allowed reliance solely on claimant self-certifications without documentation substantiating the individual's prior employment or self-employment. This initial reliance during PUA's first 9 months rendered the program particularly susceptible to improper payments, including fraud. In March 2022 before the U.S. Senate Committee on Homeland Security and Governmental

66 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>

67 The PUA program covered workers not typically covered by UI who could self-certify that they were able to and available for work but unemployed due to COVID-19-related reasons.

68 "Subcommittee on Government Operations Briefing with the Inspector General for the Department of Labor," Member Briefing, Opening 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>

69 "Unemployment Insurance during COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic," Hearing, 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>

Worker and Retiree Benefit Programs

Affairs,⁷⁰ in February 2023 before the U.S. House Committee on Ways and Means⁷¹ and in March 2023 before the U.S. House Committee on Oversight and Accountability,⁷² the Inspector General provided oral and written testimony that spoke to the continuation of many of these concerns and challenges.

During his March 2022 and March 2023 congressional testimonies, Inspector General Larry D. Turner reported that the unprecedented infusion of federal funds into the UI program combined with continuing program weaknesses and easily attainable stolen PII provided a high-value target for fraudsters to exploit. Because some states were not prepared to process the extraordinary volume of new UI claims and struggled to implement the new programs, some controls were not initially implemented.

For example, an individual could make a fraudulent claim with relatively low risk of being caught and, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card. In fact, in a later audit, we found 1 claim that

was filed from a 3-bedroom house shared the same physical address as 90 other claims and used the same email address as 145 other claims.⁷³ In total, the likely fraudster(s) received more than \$1.5 million in unemployment benefits. In the same audit, we found that, from March 28, 2020, to September 30, 2020, in 4 states, potentially fraudulent claims were paid more than 60 percent of the time.

As previously mentioned, PUA had control weaknesses that may have facilitated comparable or greater improper payments. During the program's first 9 months, PUA claimants did not have to provide evidence of earnings and states relied on claimant self-certifications of eligibility. We found the inclusion of self-certification allowed states to streamline the payment process and deliver assistance to those in need. However, it also rendered the program particularly susceptible to improper payments, including fraud.

Subsequent to our work identifying the fraud risks, Congress took action under the Continued Assistance for Unemployed Workers Act of

70 "Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; Senate Committee on Homeland Security and Governmental Affairs (March 17, 2022), available at: <https://www.oig.dol.gov/public/testimony/20220317.pdf>

71 "The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; House Committee on Ways and Means (February 8, 2023), available at: <https://www.oig.dol.gov/public/testimony/02082023.pdf>

72 "Waste, Fraud, and Abuse Go Viral: Inspectors General on Curing the Disease," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; House Committee on Oversight and Accountability, Subcommittee on Government Operations and the Federal Workforce (March 9, 2023), available at: <https://www.oig.dol.gov/public/testimony/03092023.pdf>

73 COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>

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Over 70 debit and credit cards seized during a search warrant. The subject had applied for the cards in other people's names and at least 20 were UI debit cards. The investigation involved over \$500,000 in fraudulent unemployment claims.

2020 to require supporting documentation from claimants to improve states' abilities to ensure proper claimant eligibility and to mitigate fraud. However, a significant amount of UI benefits had already been paid to likely fraudsters.

For instance, despite ETA providing states guidance on areas of improper payments as early as May 2020, control issues occurred in

some states with the PUA forms that claimants used to certify their continuing eligibility for UI benefits. ETA notified one state in June 2020 that its form did not include the required questions confirming that claimants are able and available to work. However, by then, that state had paid more than \$4 billion in PUA benefits, including FPUC. Similarly, in July 2020, ETA notified another state that its PUA monetary determination form did not have a procedure in place for re-determining the claimant's weekly benefit if the claimant did not provide proof of earnings or provided insufficient proof. That state responded that the problem would be addressed by the end of August 2020. However, by the end of August, that state had paid more than \$25 billion in PUA benefits, including FPUC.

When the OIG identifies anti-fraud measures that may help the program, we share them with the Department and SWAs as appropriate. For example, we have published four alert memoranda⁷⁴ on specific high-risk areas. As of September 2023, our investigators, auditors, and data scientists have collaboratively identified \$46.9 billion in potentially fraudulent UI benefits paid from March 2020 to April 2022

74 (1) 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>;

(2) 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>;

(3) Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at:

<https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf>; and

(4) Alert Memorandum: ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program, Report No. 19-23-012-03-315 (September 25, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/19-23-012-03-315.pdf>

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in the now six specific high-risk areas,⁷⁵ to individuals with Social Security numbers:

1. filed in multiple states,
2. of federal prisoners,
3. used to file for UI claims with suspicious email accounts,
4. of deceased persons,
5. belonging to individuals under 14 years of age, and
6. belonging to individuals 100 years of age or older (see Table 2).

For the first four high-risk areas, we have shared our methodology and underlying data with DOL for further dissemination to the SWAs

and are working to share data supporting the additional high-risk areas. We recommended states establish effective controls to mitigate fraud and other improper payments to ineligible claimants and are examining whether states took effective measures to address the initial four high-risk areas.

OIG Pandemic Investigative Work

The volume of UI investigative matters is unprecedented in the OIG's history. Prior to the pandemic, the OIG opened approximately 100 UI investigative matters annually. Since April 1, 2020, the OIG has opened over 205,000 investigative matters involving the UI program, of which approximately 166,000

Table 2: Potential Fraud in Six High-Risk Areas, March 2020–April 2022

High-Risk Area	Total Number of Claimants*	Total Potential Fraud Identified
Multistate Claimants	2,011,191	\$28,967,047,154
Deceased Persons	205,494	\$139,483,136
Federal Prisoners**	46,985	\$267,382,013
Suspicious Emails	2,281,136	\$16,265,578,304
Under Age 14	45,594	\$1,225,663,851
Age 100 or Older	4,895	\$66,541,872
Totals***	4,595,295	\$46,931,696,330

*Claimants can represent more than one claim.

**Federal prisoner data was only available for analysis for the period March 2020 through October 2020.

***Totals do not include duplicates that were identified in one or more areas.

Source: OIG analysis of data from SWAs, DOJ, Federal Bureau of Prisons, and the U.S. Social Security Administration.

⁷⁵ Previously, we have reported on four high-risk areas; we added two areas: individuals with Social Security numbers belonging to persons under 14 and over 100 years of age.

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are still under review. That is a thousandfold increase in the volume of UI work. UI investigations now account for approximately 97 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 investigators, increased the caseload of investigators already onboard, deployed staff to review DOL and SWAs' efforts, and strengthened our data analytics program.

In response to the extraordinary increase in oversight demands, the OIG: hired additional criminal investigators, increased the caseload of investigators already onboard, deployed 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 UI Fraud Task Force,⁷⁶ 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, Pandemic Response Accountability Committee (PRAC);
- collaborated with state auditors to help develop their audit strategies for the CARES Act UI programs;
- joined the DOJ COVID-19 Fraud Enforcement Task Force;⁷⁷
- implemented an extensive outreach and education program targeted to SWAs, the Department, financial institutions and their associations, law enforcement agencies, and the public. The program raised awareness about fraud trends, best practices, red flags, and more;⁷⁸

⁷⁶ More information on the National UI Fraud Task Force is available at:

<https://www.justice.gov/coronavirus/national-unemployment-insurance-fraud-task-force>.

⁷⁷ DOJ Office of Public Affairs, "Attorney General Announces Task Force to Combat COVID-19 Fraud," press release (May 17, 2021), available at: <https://www.justice.gov/opa/pr/attorney-general-announces-task-force-combat-covid-19-fraud>

⁷⁸ For example, the OIG has issued or assisted in issuing the following alerts: 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. These are available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

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- joined DOJ's Pandemic Fraud Strike Force Teams initiative;⁷⁹ and
- engaged with foreign law enforcement partners and agencies to raise awareness of American pandemic-related UI fraud issues and establish ongoing collaboration.

As the primary federal law enforcement agency responsible for providing oversight of the UI program, the OIG has vigorously pursued pandemic-related UI fraud. In fact, in September 2022, the OIG announced⁸⁰ that its investigations have resulted in more than 1,000 individuals being charged with crimes involving UI fraud since March 2020. Since then, that number has risen.⁸¹

As the primary federal law enforcement agency responsible for providing oversight of the UI program, the OIG has vigorously pursued pandemic-related UI fraud.

As of September 2023, our pandemic investigations have resulted in upwards of 850 search warrants executed and over 1,550 individuals charged with crimes related to UI fraud. These charges resulted in more than:

950 convictions; 19,000 months of incarceration; and over \$1 billion in investigative monetary results. We have also referred over 45,000 fraud matters that do not meet federal prosecution guidelines back to the states for further action.

In one recent investigation, the primary defendant in the case, a former federal employee, was sentenced to 192 months of federal incarceration for her role in a mail/wire fraud conspiracy, plus an additional 24 months of incarceration for aggravated identity theft. The defendant was convicted for her role in a conspiracy to defraud at least 5 SWAs of more than \$3.5 million in pandemic-related UI benefits. To obtain these UI benefits, the defendant and others filed false and misleading applications in the names of identity theft victims, co-conspirators, and inmates of state and federal prisons. Among other information, the defendant and her co-conspirators included in these applications materially false wage and employment histories and contact information that did not, in fact, belong to the purported applicants. The defendant was ordered by the court to pay more than \$2 million in restitution, jointly and severally with 3 other convicted codefendants. The court also ordered forfeiture in the amount of over

⁷⁹ The OIG joined DOJ and other federal law enforcement partners as participants on the DOJ's COVID-19 Fraud Strike Force Teams initiative, announced on September 14, 2022. These Strike Force teams operated out of U.S. Attorneys' Offices in the Southern District of Florida, the District of Maryland, and a joint effort between the Central and Eastern Districts of California. They used dedicated special agents from the OIG to focus on significant fraud schemes with an international nexus. DOJ, "Department Announces COVID-19 Fraud Strike Force Teams," press release (September 14, 2022), available at: <https://www.justice.gov/opa/pr/justice-department-announces-covid-19-fraud-strike-force-teams> department announces COVID-19-fraud-strike-force-teams

⁸⁰ "Labor Watchdog's Pandemic Work Results in More Than 1,000 Individuals Charged with UI Fraud and \$45.6 Billion Identified in Potentially Fraudulent Pandemic UI Benefits," press release (September 22, 2022), available at: <https://www.oig.dol.gov/public/Press%20Releases/DOL-OIG%20Pandemic%20Work%20Results%20in%20More%20Than%201000%20Individuals%20Charged%20with%20UI%20Fraud.pdf>

⁸¹ For more details about OIG investigations, visit our Pandemic Response Portal at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

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During the execution of a search warrant, OIG agents discovered evidence of unemployment fraud and significant drug paraphernalia. The investigation is associated with approximately \$1.3 million in fraud.

\$1.6 million, which represents the specific amount of fraudulent UI benefits directly attributable to the defendant, for which she is solely liable.

In another OIG investigation, a defendant was sentenced to 92 months of federal incarceration for his role in a scheme involving the possession of 15 or more access devices⁸² and possession of a firearm by a convicted felon. Additionally, he was sentenced to 24 more months of consecutive incarceration for aggravated identity theft.

The investigation revealed that the defendant possessed the identities of approximately 72 identity theft victims and he used those identities to apply for UI benefits in 25 states. The court also ordered the defendant to pay restitution in the amount of \$491,074 to 15 SWAs.

Working with Domestic and International Law Enforcement Partners

Early in the pandemic, the OIG worked with the DOJ to create the National UI Fraud Task Force, a nine-agency federal task force focused on law enforcement intelligence sharing, deconfliction, joint national messaging, and the effective use of investigative and prosecutorial resources. The National UI Fraud Task Force 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 National UI Fraud Task Force and IOC-2 partner agencies have identified significant fraud committed against the UI program by 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 National UI Fraud Task Force, the COVID-19 Fraud Enforcement Task Force, and the COVID-19 Fraud Strike Force Teams initiative.

The OIG has been very engaged on DOJ's COVID-19 Fraud Enforcement Task Force. We have representation on its subcommittees involving communication, forfeiture, corporations and large business fraud, and

⁸² Pursuant to 18 U.S.C. § 1029, the term "access device" means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument).

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data, and we co-chair the task force's Criminal Enterprise Subcommittee.

The OIG has also participated in other initiatives. For example, since 2020, the OIG has supported DOJ's annual Money Mule Initiative,⁸³ which aimed to raise awareness about and suppress money mule activity. Money mules are people who, at someone else's direction, receive and move money obtained from victims of fraud. 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 the U.S. Secret Service (Secret Service), the Financial Crimes Enforcement Network, and the National UI Fraud Task Force. One such joint OIG/Secret Service alert⁸⁴ 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 National UI Fraud Task Force alert issued through the Financial Crimes Enforcement Network to financial institutions requesting they identify funds they froze due to suspicion of fraud. The OIG created a process with DOJ and the Secret Service 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 hundreds of financial institutions in response to our request.

The OIG has also conducted extensive engagement with foreign law enforcement partners, including the European Union Agency for Law Enforcement Cooperation,⁸⁵ International Criminal Police Organization,⁸⁶ and other national law enforcement agencies. These efforts focused on introducing foreign partners to the OIG's mission, briefing partners on pandemic fraud trends, and collaborating to examine the movement of pandemic-related UI funds transnationally.

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 1099-G forms that were issued to victims of UI fraud. The OIG has also worked with the PRAC, DOJ, and the Secret Service 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.

83 More information about DOJ's Money Mule Initiative is available at:

<https://www.justice.gov/civil/consumer-protection-branch/money-mule-initiative>.

84 Secret Service and OIG, "Detection and Mitigation of Unemployment Insurance Fraud Guidance for Financial Institutions," July 6, 2020, available at:

https://www.neach.org/Portals/0/USSS-DOL%20OIG%20UI%20Advisory%207_6_2020.pdf

85 Commonly known as "EUROPOL"

86 Commonly known as "INTERPOL"

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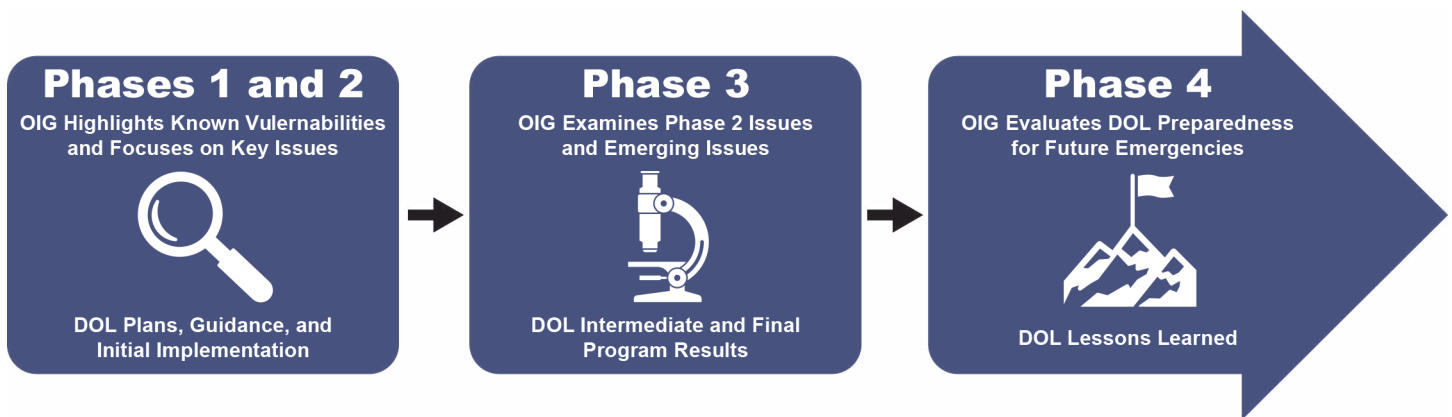
The OIG, through its membership in IOC-2, has also been engaged with several allied national law enforcement agencies to strategize about pandemic-related fraud and how to best establish practices to share information. The issue of pandemic fraud has not only been an issue for the United States, but it has also negatively impacted our foreign partners' pandemic 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.⁸⁷ 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 Plan detailing how the OIG would conduct its pandemic oversight, with a significant focus on the UI program. We designed our four-phased 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 (see Figure 4).

During Phases 1 and 2, which are complete, we reviewed DOL's plans, guidance, and initial implementation, highlighting significant vulnerabilities. During Phase 3, which is ongoing, we are taking a deep dive into key

Figure 4: The OIG's Four-Phased Design for Pandemic Oversight



Source: OIG Pandemic Response Oversight Plan

⁸⁷ Five Eyes is an intelligence alliance. 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. International Public Sector Fraud Forum guidance is available at: <https://www.gov.uk/government/publications/international-public-sector-fraud-forum-guidance>.

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and emerging issues. Our Phase 4 work plans include reporting on lessons learned for UI, worker safety and health, and employment training and recovery from the overall toll on workers since COVID-19 first appeared in the United States. Based on the work performed under this oversight plan, we continue to make recommendations for DOL to strengthen and enhance programs prior to the start of emergencies. We published two plan updates and one revision.⁸⁸



At the start of the pandemic, we examined past audits, including those related to the Recovery Act and the Disaster Unemployment Assistance

program,⁸⁹ and we assessed comparable lessons learned. As a result, in April 2020, we issued the previously noted advisory report⁹⁰ identifying six initial areas of concern for ETA and the states to consider while implementing CARES Act UI provisions:

1. state preparedness, specifically the issues of staffing and system capabilities,
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 years of work relating to DOL's UI program, including the use of prior stimulus funds and response to past disasters. The advisory report outlined years of weaknesses and recommendations identified by the OIG to strengthen the UI program. Many of the weaknesses previously identified became once again apparent during the pandemic. DOL and states must apply lessons learned to correct additional weaknesses identified prior to the next disaster.

⁸⁸ Pandemic Response Oversight Plan, Revised June 30, 2023, available at:

<https://www.oig.dol.gov/public/oaprojects/2023%20Revised%20Pandemic%20Response%20Oversight%20Plan.pdf>

⁸⁹ Examples include: 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>; Recovery Act: States Challenged in Detecting and Reducing Unemployment Insurance Improper Payments, Report No. 18-16-005-03-315 (August 2, 2016), available at: <https://www.oig.dol.gov/public/reports/oa/2016/18-16-005-03-315.pdf>; and Audit of Florida Disaster Unemployment Assistance Grant Number 1359 - DR (March 26, 2004), Report No. 04-04-004-03-315 (March 26, 2004), available at: <https://www.oig.dol.gov/public/reports/oa/2004/04-04-004-03-315.pdf>.

⁹⁰ 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>

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We have issued several subsequent reports, including alert memoranda addressing urgent concerns, involving the UI program, such as the following:

- In May 2020, we issued an alert memorandum⁹¹ 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 including fraud. Subsequent to our work, Congress took action to require claimants to submit documentation substantiating employment or self-employment to improve states' abilities to ensure proper claimant eligibility and to mitigate fraud through the Continued Assistance for Unemployed Workers Act of 2020.
- In August 2020, we reported⁹² states did not use existing tools effectively to combat fraud and 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 May 2021, we reported⁹³ that DOL and states struggled to implement the three pandemic 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, or reported accurate and complete program activities. This occurred primarily because states' 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 November 2021, we issued⁹⁴ the Department a qualified opinion, for the first time in 25 years, on its consolidated financial statements and reported one material weakness related to pandemic-related UI funding. There were two primary causes for this issue: (1) the Department being unable to support more than \$47 billion it estimated for UI claims in appeal or unprocessed as of September 30, 2021, and (2) unreliable reporting of more than \$4 billion in UI benefit overpayments due to certain states' non-reporting of UI overpayment activity.

91 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>

92 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>

93 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>

94 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>

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- In July 2022, we reported⁹⁵ that the Department did not meet the requirements for compliance with the Payment Integrity Information Act of 2019 (PIIA) for FY 2021. PIIA requires federal agencies to identify programs susceptible to significant improper payments, estimate the improper payments for those programs, and report on actions to reduce the improper payments in those programs. While DOL met three of the six compliance requirements for UI programs, we found DOL did not meet the other three requirements: it did not publish all improper payment estimates, did not demonstrate improvement from the improper target rate published in FY 2020, and did not report an improper payment rate of less than 10 percent.

Our examination of required reports identified that some states did not submit reports to ETA or reported zero activity.

- In August 2022, we issued an alert memorandum⁹⁶ about deficient reporting by states regarding the CARES Act UI programs. Our examination of required reports identified that some states did not submit reports to ETA or reported zero activity. For instance, seven states

reported zero overpayments for the PUA program. This lack of accurate state performance information hinders Congress and ETA's ability to: assess state activities, mitigate overpayments risks, identify program weaknesses, and improve future temporary programs.

- In September 2022, we reported⁹⁷ ETA and states did not protect pandemic-related UI funds from historic levels of improper payments, including fraud, nor from payment delays. We attributed this to four causes: lack of eligibility testing, untimely oversight, PUA self-certification, and the 3-month suspension of a primary oversight tool. Additionally, DOL's interpretation of its regulations hindered the OIG's timely and complete access to UI claims data to assist in detecting and deterring fraud. We estimated that, in the initial 6 months after the CARES Act passed, 4 states paid \$30.4 billion in PUA and FPUC benefits improperly, including \$9.9 billion paid to likely fraudsters. Further, based on our analysis of ETA's timeliness reports, at least 6.2 million American workers nationwide waited a month or more for pandemic-related UI benefits during the year after the CARES Act passed.

95 The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2021, Report No. 22-22-007-13-001 (July 1, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/22-22-007-13-001.pdf>

96 Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs, Report No. 19-22-004-03-315 (August 2, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-004-03-315.pdf>

97 COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>

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- In December 2022, for the second straight year, we issued⁹⁸ the Department a qualified opinion on its consolidated financial statements and reported one material weakness related to pandemic-related UI funding. There were two primary causes for this issue: (1) the Department was unable to support \$7.9 billion it estimated in remaining pandemic-related UI claims in appeal or unprocessed as of September 30, 2022, and (2) the Department was unable to support the \$3.5 billion it estimated in remaining pandemic-related UI benefit overpayment receivables.
- In March 2023, we issued an alert memorandum⁹⁹ about urgent equity and security concerns in the UI program, including facial recognition technology. Resulting from the economic impact of the pandemic, UI programs have become a target for fraud with significant numbers of imposter claims being filed with stolen or synthetic¹⁰⁰ identities. Approximately 45 percent of states hired identity verification service contractors that used facial recognition technology. The National Institute of Standards and Technology has reported that it found empirical evidence the algorithms used in current facial recognition

technology have a racial and gender bias. Furthermore, some states did not implement necessary privacy security measures recommended to protect UI claimants' biometric data. Less than a month after we issued our report, ETA provided additional guidance to states regarding biometrics and facial recognition.



- In June 2023, we reported¹⁰¹ that, again, DOL did not meet the requirements for compliance with PIIA for FY 2022. While DOL met four of the six compliance requirements for UI excluding PUA, it did not meet the other two: it did not demonstrate improvement from the improper payment rate published in FY 2021 and it did not report an improper payment rate of less than 10 percent. For PUA, we reported DOL did not meet four of the six compliance requirements

98 FY 2022 Independent Auditor's Report on the DOL Financial Statements, Report No. 22-23-002-13001 (December 13, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2023/22-23-002-13-001.pdf>

99 Alert Memorandum: ETA and States Need to Ensure the Use of Identity Verification Service Contractors Results in Equitable Access to UI Benefits and Secure Biometric Data, Report No. 19-23-005-03-315 (March 31, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-005-03-315.pdf>

100 A synthetic identity is a false identity created from a combination of real and fake information.

101 The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2022, Report No. 22-23-006-13-001 (June 9, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/22-23-006-13-001.pdf>

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for the PUA program: it did not publish improper payment estimates, programmatic corrective action plans, reduction targets, and an improper payment rate.

- In July 2023, we found¹⁰² ETA did not provide adequate oversight of the emergency UI administrative grants. Specifically, ETA did not verify if states were qualified for the grants before transferring all grant funds to the states' accounts. In our review of 14 states, we found ETA qualified these states to receive more than \$136 million in emergency administrative grant funds. Additionally, we found ETA could not provide reasonable assurance that states used the emergency administrative grants to administer UI programs. These funds were monitored through single audits that did not disclose how states used the funds.
- In July 2023, we released¹⁰³ a memorandum detailing our collaboration with the PRAC to evaluate the federal government's COVID-19 response in six local communities: Springfield, Massachusetts; Coeur d'Alene, Idaho; Marion County, Georgia; Sheridan County, Nebraska; White Earth Reservation in Minnesota; and Jicarilla Apache Reservation in New Mexico. Our assessment centered on DOL's expanded UI benefits for pandemic-affected workers. From

March 27, 2020, to September 6, 2021, the OIG found that over 33,400 beneficiaries in these areas collectively received more than \$516 million.

We found ETA needs to improve its oversight of the Integrity Data Hub.

- In September 2023, we issued¹⁰⁴ a memorandum reporting on three key matters related to the National Association of State Workforce Agencies (NASWA) resulting from our audit of ETA's oversight of UI integrity for three key CARES Act programs. We found ETA needs to improve its oversight of the Integrity Data Hub (IDH). ETA did not ensure an initial assessment of NASWA's IDH was performed in compliance with federal requirements, nor did ETA provide documentation it evaluated NASWA's security assessment reports. Further, we found the IDH was less effective at identifying potentially improper multistate claims when compared to the OIG's data.
- As of September 2023, we have issued four alert memoranda that identified a cumulative total of \$46.9 billion in potentially fraudulent UI benefits paid from March 2020 through April 2022 in the previously mentioned six specific high-risk areas.

102 ETA Did Not Provide Adequate Oversight of Emergency Administrative Grants, Report No. 19-23-006-03-315 (July 27, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-006-03-315.pdf>

103 Tracking the Department of Labor's Unemployment Insurance Response to Local Communities During the Pandemic, Report No. 19-23-007-03-315 (July 10, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-007-03-315.pdf>

104 COVID-19 - ETA Can Improve its Oversight to Ensure Integrity over CARES Act UI Programs, Report No. 19-23-011-03-315 (September 22, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-011-03-315.pdf>

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- In September 2023, we reported¹⁰⁵ that the EURGENO program should have been better managed. EURGENO was designed to mitigate the effects of the pandemic on employers that reimburse the states for eligible UI benefits paid (reimbursing employers). However, reimbursing employers experienced delays in receiving pandemic relief, waiting anywhere from a month to more than a year. Additionally, states received funding for ineligible weeks and amounts that were later determined to be ineligible. Consequently, these states owe millions to the federal government, including approximately \$29 million in questioned costs across the 6 states we tested.
- In September 2023, we reported¹⁰⁶ that PUA for non-traditional claimants was weakened by billions in overpayments, including fraud. From April 1, 2020, to March 31, 2023, the 53 SWAs reported nearly \$35 billion in established PUA overpayments—benefit payments that SWAs investigated and found were improper. In total, states reported that over 15 percent of all PUA benefits paid were overpayments and approximately 61 percent of all FPUC overpayments occurred when PUA was the underlying benefit. The significant overpayments in the PUA program, including fraud, were caused by a combination of allowing claimants to self-certify their eligibility coupled with states' difficulties implementing new UI programs and meeting the substantial increase in claims volume.
- In September 2023, we reported¹⁰⁷ ETA and states did not always meet the requirements or statutory intent of the TFFF program. Specifically, individual claimants waited to receive urgently needed UI benefits, states received TFFF funding when they were not eligible, and states' TFFF accounts have unused fund balances. As of July 31, 2023, nearly \$5 billion remained unused and has not been reconciled, closed out for deobligation, and returned to Treasury. These issues occurred because ETA did not have sufficient controls in place to ensure states accessing funds were in fact eligible for reimbursements or that unused TFFF funds were returned to the federal government.
- In September 2023, we reported¹⁰⁸ that ETA did not evaluate the capability of SWAs' UI IT systems to successfully administer UI benefits. Further, ETA did not have sufficient information to know which SWAs' UI IT

105 COVID-19: Unemployment Relief For Governmental Entities and Nonprofit Organizations Should Have Been Better Managed, Report No. 19-23-010-03-315 (September 21, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/19-23-010-03-315.pdf>

106 COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments, including Fraud, Report No. 19-23-014-03-315 (September 27, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf>

107 COVID-19: ETA Needs a Plan to Reconcile and Return to the U.S. Treasury Nearly \$5 Billion Unused by States for a Temporary Unemployment Insurance Program, Report No. 19-23-015-03-315 (September 28, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf>

108 COVID-19: Audit of State Workforce Agencies' Information Technology Systems Capability in Processing Unemployment Insurance Claims, Report No. 19-23-008-03-315 (September 19, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/19-23-008-03-315.pdf>

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systems posed the greatest risk of failing because they did not require SWAs to develop UI IT modernization plans. Only 1 of the 10 SWAs we reviewed had developed or implemented UI IT modernization plans that improved the timeliness or accuracy of UI benefits processing. Similarly, of the 38 SWAs we surveyed, only 14 reported that they had implemented such plans. Ensuring SWAs have these plans in place and are actively pursuing implementation would be a strong step toward ETA ensuring SWAs improve administration of benefits, particularly during a future crisis.

- In September 2023, we reported¹⁰⁹ on our Quality Control Review (QCR) of the single audit performed by Scott and Company, LLC for 2021 for one state. Our review focused on the state's \$3.67 billion in UI expenditures. We found deficiencies in the firm's: planning and testing of UI, reporting on the lack of internal controls in the PUA program, and reporting the federal expenditures.

OIG Recommendations

The OIG has made several recommendations to DOL and Congress to improve the efficiency and integrity of the UI program. While action has been taken to resolve some recommendations, further action is needed to close them. Summaries of key recommendations that remain open follow. Additionally, we have highlighted four high-priority recommendations for Congress at the end of the section.

OIG Recommendations to DOL

OIG Access to UI Claimant Data and Wage Records

- Implement immediate measures to ensure ongoing OIG access to UI claimant data and wage records for all audit and investigative purposes
- Expedite regulatory updates to require ongoing disclosures of UI information to the OIG for all audits and investigations of federal programs

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 legacy IT systems) to modernize the delivery of UI benefits to sufficiently manage and process sudden spikes in claims volume during emergencies or high unemployment
- 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

109 Quality Control Review Single Audit of South Carolina Department of Employment and Workforce for the Year Ended June 30, 2021, Report No. 24-23-003-50-598 (September 26, 2023), available at:

<https://www.oig.dol.gov/public/reports/oa/2023/24-23-003-50-598.pdf>

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Controls for Improper Payments

- Obtain direct access to UI claims data from all SWAs
- Create an integrity program that:
 - incorporates a data analytics capability and
 - regularly monitors state UI claims data to detect and prevent improper payments, including fraud, and to identify trends and emerging issues that could negatively impact the UI program
- Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to potentially ineligible claimants in high-risk areas, such as UI benefits paid to individuals with Social Security numbers filed in multiple states and belonging to deceased persons
- Include CARES Act UI transactions in the Benefit Accuracy Measurement¹¹⁰ system or develop an alternative methodology to reliably estimate improper payments for those programs
- For DOL financial statements, design and implement controls to ensure management's reviews of UI program estimates are performed at a sufficient level of detail and adequate documentation is maintained to assess the reasonableness of the estimates

Reconciliation

- Develop procedures and establish a deadline to ensure reconciliation to determine the

amount of unused emergency UI funds to be returned to Treasury

- Determine the proper disposition of excess funds and take necessary actions, including recovery of questioned costs
- Capture lessons learned for future programs

Guidance and Assistance to States

- Assist states with claims, overpayment, and fraud reporting to create clear and accurate information. 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 system contact verification process to ensure it reflects the current methods claimants use to seek work
- Specify within ETA's policy the information states must include in their documentation to support compliance with the requirements to receive grant funds prior to disbursement of the funds

Coordination with Congress

- Work with Congress to establish legislation requiring SWAs to cross-match high-risk areas, such as UI benefits paid to individuals with Social Security numbers filed in multiple states and belonging to deceased persons
- Work with Congressional stakeholders to inform them of the urgency of the expiring statute of limitations concerning pandemic-related UI fraud

¹¹⁰ The Benefit Accuracy Measurement system, commonly known as BAM, is a quality control statistical survey used to identify errors and support corrective action in the state UI system. The 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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OIG Recommendations to Congress

In addition, the OIG encourages Congress to consider and adopt key DOL proposals to aid the Department's efforts to combat improper payments in the UI program. In its FY 2024 Congressional Budget Justification,¹¹¹ the Department proposed provisions designed to provide new and expanded tools and controls for states to help ensure workers are properly paid and to prevent improper payments, including fraud in the UI system.

The Department stated that the proposals collectively would result in savings of more than \$2 billion over the 10-year budget window. These are similar to DOL proposals included in prior DOL budget requests that would help address UI program integrity and the high improper payment rates in the UI program. These proposals include the following:

- require SWAs to cross-match UI claims against the National Directory of New Hires;
- require SWAs to cross-match UI claims with a system(s)...that contains information on individuals who are incarcerated;
- require states to disclose information to the OIG;
- allow SWAs to retain up to 5 percent of recovered fraudulent UI overpayments for program integrity use;
- require SWAs to use [UI] penalty and interest collections solely for UI administration; and
- permit the Department to collect and store states' UI claimant data.

These legislative proposals are consistent with previous OIG reporting to improve the UI program.

The OIG recommended that Congress extend the statute of limitations for fraud involving pandemic-related UI programs, which will begin to expire in early 2025.

The OIG has also recommended that Congress ensure DOL and the OIG have ongoing, timely, and complete access to UI claimant data and wage records for our respective oversight responsibilities. In addition, the OIG recommended Congress authorize OIG participation in asset forfeiture funds to combat UI fraud and other crimes.

Further, in our Fall 2022 and Spring 2023 Semiannual Reports to Congress, the OIG recommended that Congress extend the statute of limitations for fraud involving pandemic-related UI programs, which will begin to expire in early 2025. However, even if this statute of limitations is extended, the degree to which we can continue our level of oversight work depends on the availability of resources. We will continue to efficiently use our available resources for pandemic-related audit and investigative efforts; however, at current funding levels, resource limitations have resulted and will continue to result in a substantial reduction of effort in pandemic-related oversight.

¹¹¹ U.S. Department of Labor, FY 2024 Congressional Budget Justification, Employment and Training Administration, State Unemployment Insurance and Employment Service Operations, available at: <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V1-07.pdf>

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Highlighted High-Priority Recommendations for Congress

1. Extend the statute of limitations for fraud involving pandemic-related UI programs;
2. Ensure DOL and the OIG have ongoing, timely, and complete access to UI claimant data and wage records;
3. Grant the OIG statutory authority to participate in asset forfeiture funds to combat UI fraud and other crime; and
4. Ensure effective payment integrity controls to reduce improper payments in all UI programs including temporary ones, such as through broader requirements for mandatory cross-matching.

DOL's Progress

The Department has emphasized the progress it has made in addressing challenges with the UI program. According to DOL, one of the challenges associated with the pandemic-related UI programs was that the programs did not include an adequate preparation period. ETA officials stated a swift rollout of a new government benefit program, including policy formulation, product development, and operational procedures, typically requires a timeframe of 30 to 48 months. Unfortunately, the challenges associated with the pandemic-related UI programs had to be resolved in real-time, while states grappled with an extraordinary tenfold increase in claims volume. The Department's statements reinforce the OIG's position that the Department must be prepared before disasters occur.

According to DOL, since the passage of the CARES Act, ETA and states have instituted efforts to focus on program integrity when

implementing the pandemic-related UI programs. These efforts include measures like secure sign-in services, in-person identity verification, and a new identity fraud reporting website being introduced to mitigate fraud. Specifically, in July 2023, DOL announced opportunities to strengthen ID verification, subject to the availability of funds. Additionally, ETA made available up to \$765 million in fraud prevention grants and expert Tiger Teams provided states with assessments and improvement recommendations for UI processes. ETA also facilitated the secure availability of incarceration data to cross-reference UI claims against prisoner information.

Further, ETA reported it continued to provide oversight and technical assistance through the State Quality Service Plans, the Integrity Action Plan, the UI Integrity Center, and through information provided by the OIG. ETA also stated it worked with the Office of the Chief Financial Officer to develop a UI fraud risk profile in line with GAO's Fraud Risk Framework. In addition, in its FY 2024 Congressional Budget Justification, the Department proposed provisions designed to provide new and expanded tools and controls for states to help ensure workers are properly paid and to prevent improper payments, including fraud in the UI system.

The Department issued a policy granting the OIG access to UI data for benefit weeks covered by CARES Act programs and related extensions. ETA also announced its intent to amend its regulations to facilitate the OIG's ongoing access by February 2025, and, in July 2023, requested public comment on potential revisions that would require states

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to disclose unemployment compensation data to the OIG for oversight, including audits. ETA has also required sharing of state UI data as a condition of fraud prevention grants to provide such access through 2025 and recently issued guidance supporting additional grants that would provide access for potentially the next 2 to 5 years. According to ETA, 52 of 53 SWAs received grants. The Inspector General is authorized to have timely access without constraints to this data under the Inspector General Act of 1978, as amended, and needs access to all UI program data.

On August 31, 2021, the Department established the Office of Unemployment Insurance Modernization to work with state agencies and federal partners to modernize and reform the UI system. According to the Department, the Office of Unemployment Insurance Modernization will provide oversight and management of the \$1 billion¹¹² allotted to UI initiatives by the American Rescue Plan Act of 2021 (ARPA) to prevent and detect fraud, promote equitable access, ensure timely benefits payments, and reduce backlogs. To achieve this, the Office of Unemployment Insurance Modernization has allocated targeted grants to states and territories, offered improved guidance, directed assistance, and tested technology-driven solutions.

The Department also noted it has announced and provided grant opportunities to states, including funds for pilot states to engage

community-based organizations to help workers learn about UI benefits and related services. These opportunities also support state agencies in delivering timely and accurate benefits to workers. The Department has launched the UI IT Modernization Project - Claimant Experience Pilot, partnering with states for product development, with outcomes published online. Moreover, over \$200 million in IT modernization grants have been awarded to 19 states, aiming to foster the adoption of modular and evidence-driven strategies.

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-progress¹¹³ Phase 3 audit work includes:

- effectiveness of the Short-Time Compensation program;*
- effectiveness of the Mixed Earner Unemployment Compensation program;*
- adequacy of state staffing resources;*
- ETA and state efforts to detect and recover overpayments;*
- PRAC Case Study Project on federal pandemic response funds in select geographic areas;*
- ETA and states' efforts to address:

¹¹² The American Rescue Plan Act of 2021 initially allotted \$2 billion to UI initiatives; however, \$1 billion was rescinded by the Fiscal Responsibility Act of 2023.

¹¹³ Audits in progress are marked with an asterisk (*).

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- multistate claimants;*
- claimants using deceased persons' Social Security numbers;*
- claimants using prisoners' Social Security numbers;* and
- claimants with suspicious email accounts;*
- impact of waivers on UI overpayments, fraud investigations, and recoveries;*
- joint review with U.S. Small Business Administration OIG;*
- mandatory audit of DOL's FY 2023 compliance with PIIA;¹¹⁴
- DOL and states' oversight of UI claimants return to work;
- ARPA Equity Grants; and
- Office of UI Modernization's efforts to improve SWAs' UI IT systems.

For more information about the OIG's work, please visit our online Pandemic Response Portal.¹¹⁵

COVID-19: ETA Needs a Plan to Reconcile and Return to the U.S. Treasury Nearly \$5 Billion Unused by States for a Temporary Unemployment Insurance Program

Under the CARES Act, \$12.5 billion was made available to the 53 SWAs through the TFFF program. The program paid the cost of the first week of an eligible claimant's UI benefits for states with no waiting week. We contracted with an independent certified public accounting firm,

Rocha & Company, PC (Rocha), to conduct an audit addressing our concerns about risks associated with the expansion of UI benefits and the disbursement of federal funds to claimants in need during the pandemic. Rocha found ETA and states did not always meet the requirements or statutory intent of the TFFF program and that ETA needs a plan to reconcile and return to Treasury nearly \$5 billion unused by states.

Rocha assessed ETA's oversight, performed in-depth testing of 6 states, and surveyed an additional 47 SWAs. They found individual claimants waited to receive urgently needed UI benefits and states received TFFF funding when the states were not eligible. Also, states' TFFF accounts have unused fund balances that have not been reconciled, closed out for deobligation, and returned to Treasury. These issues occurred because ETA did not have sufficient controls in place to ensure states accessing funds were in fact eligible for reimbursements or that unused TFFF funds were returned to the federal government.

Specifically, four states were allowed to access TFFF funding as reimbursements despite not meeting program requirements. For example, two states with waiting weeks required by their existing laws did not waive those weeks. However, the states were reimbursed for UI benefits paid after making claimants wait for their first week of UI compensation—contrary to the intent of the program. In addition, another two states used first week UI compensation amounts paid outside the scope of the program period as the basis to be reimbursed.

¹¹⁴ A large portion of this annual audit focuses on UI.

¹¹⁵ Our Pandemic Response Portal is available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

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As a result, these states were reimbursed \$105.1 million of federal funding they were not eligible to receive. Further, of the \$12.5 billion in funding made available to the 53 SWAs through the TFFF program, nearly \$5 billion remained unused as of July 31, 2023—more than 22 months after the program ended—with no formal plan to reconcile states' accounts and deobligate remaining funds for return to Treasury.

We made eight recommendations to ETA to improve oversight of TFFF and similar future emergency relief programs. We recommended ETA establish deadlines, write procedures, and develop controls to ensure states meet program requirements. We also recommended ETA: (1) establish written procedures and deadlines for the timely return of funding for TFFF and future similar programs and (2) consult with OMB and Treasury officials to execute the proper return of unused funds that remain within states' accounts.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf>, Report No. 19-23-015-03-315 (September 28, 2023)

COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments, including Fraud

One of several new programs created under the CARES Act, PUA provided UI benefits to workers who were not traditionally eligible, such as independent contractors, gigworkers, and sole proprietors (non-traditional claimants). It quickly became the second

largest pandemic-related UI program. Based on audits of previous emergency UI program implementation, we were concerned with ETA's ability to effectively and efficiently deploy PUA funding, which totaled over \$130 billion. We contracted with the independent certified public accounting firm of Key & Associates, P.C. (Key & Associates) to conduct an audit to determine if non-traditional claimants received PUA benefits as intended under the CARES Act and subsequent legislation.

Key & Associates found non-traditional claimants received necessary PUA benefits as intended under the CARES Act and subsequent legislation. However, the program was weakened by billions in overpayments, including fraud. Traditionally, UI claimants' income would be verified through employment records; however, the CARES Act permitted non-traditional claimants to self-certify their eligibility for PUA. Starting in April 2020, less than a month after CARES Act passage, the OIG highlighted the risk associated with permitting claimants to self-certify their eligibility. Subsequent to the OIG's related work, Congress modified PUA to require documentation in late December 2020. However, 81 percent of all approved PUA claims were filed prior to the end of 2020. Key & Associates found that allowing claimants to self-certify their eligibility—coupled with states' difficulties with implementing new UI programs and the substantial increase in claims volume—led to significant overpayments, including fraud.

From April 1, 2020, to March 31, 2023, the 53 SWAs reported nearly \$35 billion in established PUA overpayments. These overpayments included \$20 billion in PUA benefits and approximately \$15 billion in

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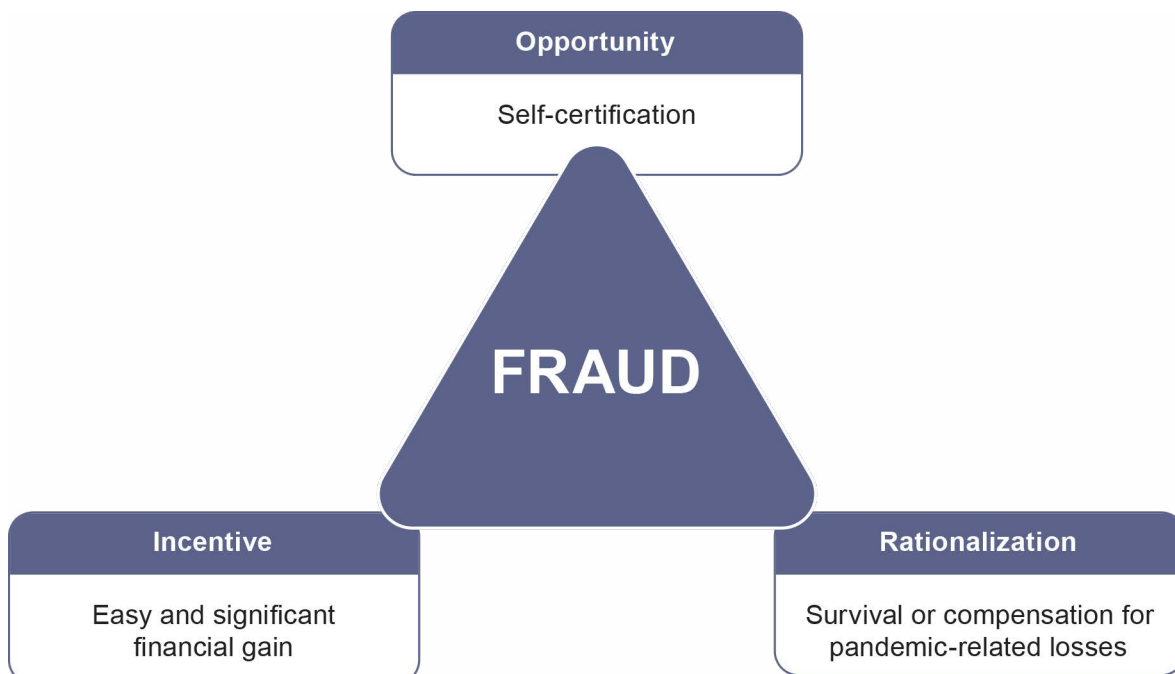
FPUC benefits, which was the supplement that was attached to each UI claim paid. In total, states reported that over 15 percent of all PUA benefits paid were overpayments. Further, in collaboration with the OIG, Key & Associates found that 10.8 percent of PUA claims exhibited potentially fraudulent activity, including instances of benefits paid to individuals with Social Security numbers used to file UI claims in multiple states or of deceased persons. While these indicators—previously reported by the OIG—do not measure the full extent of PUA fraud, they indicate the vulnerability of the program.

According to state officials, states faced challenges in mitigating fraud within PUA despite implementing various countermeasures, such as identity verification service contractors and multi-factor authentication. They further reported that the program’s vulnerability to fraudulent activity persisted, mainly due to a

lack of comprehensive safeguards and the substantial volume of claims, which meant that staff usually responsible for promoting and maintaining the integrity of the UI program had to assist with processing claims. Additionally, state officials reported that the level of identity theft affected state efforts to detect other types of overpayments. Further, Social Security Administration database verification did not prevent this fraud because certain fraudsters used stolen information to file claims.

The elevated levels of fraud that the PUA program experienced can likely be partially explained by the fraud triangle. The fraud triangle suggests that, when all three components—opportunity, incentive, and rationalization—are present, individuals are more likely to engage in fraudulent activities. A review of the PUA program indicates exposure to all three components (see Figure 5).

Figure 5: Fraud Triangle for the PUA Program



Source: Key & Associates analysis of the PUA program

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Further, statements from ETA and SWAs, along with the OIG's Office of Investigations case activity, suggest that fraud in the UI program has continued after the expiration of pandemic-related programs. The OIG's Office of Investigations continues to see the same fraud typologies being committed by sophisticated cyber-enabled bad actors and criminal enterprises that it combatted during the pandemic. The threat level, while lower than at the peak of the pandemic, remains significant. Therefore, the regular UI program continues to be at risk, underscoring the urgent need for improved security measures and fraud prevention strategies.

The OIG's Office of Investigations continues to see the same fraud typologies being committed by sophisticated cyber-enabled bad actors and criminal enterprises that it combatted during the pandemic.

Key & Associates made three recommendations to ETA to improve oversight of the UI program, including by documenting lessons learned for use in providing legislative technical assistance and operational guidance to Congress and the states on any future emergency programs. The recommendations also included issuing guidance to states about and working with congressional stakeholders regarding the urgency of the expiring statute of limitations for crimes related to pandemic UI fraud.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf>, Report No. 19-23-014-03-315 (September 27, 2023).

COVID-19: ETA Can Improve Its Oversight to Ensure Integrity over CARES Act UI Programs

In support of UI program integrity during the pandemic, ETA encouraged states to use tools from NASWA. One of those tools was the IDH, a centralized platform that brings SWAs together to compare and analyze UI claim data for enhanced detection and prevention of UI fraud and other improper payments. Given the risks associated with the amount of CARES Act funding and previous issues with program expansions, we conducted an audit focused on ETA's oversight of UI program integrity in three key CARES Act programs.

Overall, we found ETA needs to improve its oversight of NASWA's IDH. During this reporting period, we issued a memorandum to ETA on three specific matters for their attention. We anticipate that other ongoing and future work will address the remaining areas of focus. The three matters were: (1) ETA did not ensure an initial assessment of NASWA's IDH was performed in compliance with federal requirements, (2) ETA did not provide documentation it had evaluated NASWA's security assessment reports, and (3) the IDH was less effective at identifying potentially improper multistate claims when compared to the OIG's data. For the third matter, NASWA's IDH identified 39.7 percent of the potentially improper multistate claims when compared to those we identified for the same states using NASWA's multistate methodology.

Based on our analysis, the limited effectiveness of NASWA's IDH in identifying potentially improper payments, including fraud, is further compounded by the fact that the IDH lacks

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consistent, regular participation of enrolled states. ETA maintained it did not have the authority to require states to participate in the IDH, nor did ETA have an alternate means of meeting the same program integrity objectives when a state opted out of participation. As such, state UI programs dependent on NASWA's IDH as a tool for reducing improper payments are vulnerable to under-detecting potentially improper payments, including fraud.

We made three recommendations to ETA to improve oversight and functionality of the IDH: implementing a process to ensure required and timely reviews of IDH, completing an evaluation on IDH effectiveness, and working with NASWA to determine the best threshold for flagging multistate claims.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-011-03-315.pdf>, Report No. 19-23-011-03-315 (September 22, 2023).

Alert Memorandum: ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program

The rapid expansion and substantial increase in UI benefits during the COVID-19 pandemic significantly increased the risk for fraud, waste, and abuse in UI programs. The OIG has identified nearly \$1.3 billion in potentially fraudulent UI payments made during the pandemic in two high-risk age categories, to individuals with Social Security numbers: (1) of children under the age of 14 and (2) of elderly persons 100 years of age or older. We previously identified more than \$45.6 billion in potentially fraudulent UI pandemic benefits paid in 4 other high-risk areas.¹¹⁶ Our latest analysis brings the cumulative total amount of potentially fraudulent payments to more than \$46.9 billion in the 6 high-risk areas (see Figure 6).

Figure 6: Six High-Risk Areas for Potential UI Fraud Identified by the OIG



Source: OIG data analysis of state UI claims data

¹¹⁶ Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion, Report No. 19-22-005-03-315, (September 21, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf>

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We are concerned that ETA currently does not have direct access to state UI claims data. ETA also does not have the capability to analyze said data, which would allow it to better identify fraud and other improper payments, as well as other trends or emerging issues, such as timeliness or equity.

To assist states in their efforts to improve integrity in the UI program, DOL encourages states to use tools available from the UI Integrity Center,¹¹⁷ including the IDH. However, states are not required to participate in the IDH and those that do participate do so to varying degrees—which has limited the IDH’s effectiveness. However, even if these limitations were resolved, it would not relieve ETA from its program oversight responsibilities.

Ready access to UI claims data from all states and territories would enable ETA to ensure proper administration and provide sufficient oversight of the UI program. The results of our analysis in this and previous alert memoranda show how effective and beneficial data analytics can be in providing program oversight and identifying trends to assist in combatting fraud.

Ultimately, a data access and analytics capability would allow ETA management to make better informed decisions about the UI program and help mitigate the risk of improper payments, including fraud. Such a capability would also prepare ETA for future emergency UI programs where hundreds of billions in federal dollars could be at risk.

We made three recommendations to ETA to: obtain direct access to UI claims from all states, create an integrity program with a data analytics capability, and establish effective controls to mitigate fraud and other improper payments to ineligible claimants in high-risk age categories.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-012-03-315.pdf>, Report No. 19-23-012-03-315 (September 25, 2023).

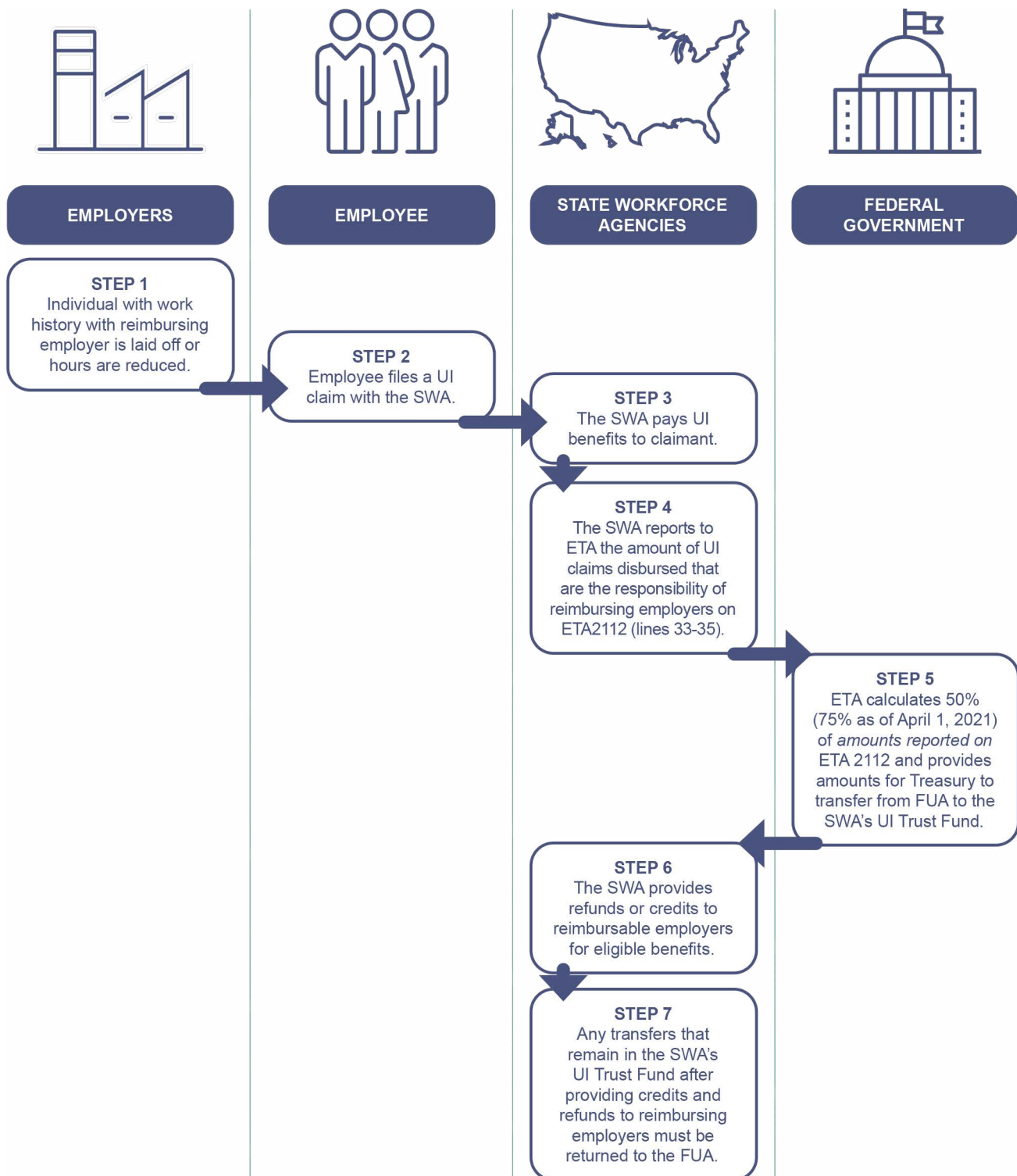
COVID-19: Unemployment Relief for Governmental Entities and Nonprofit Organizations Should Have Been Better Managed

Under the CARES Act and subsequent legislation, \$6.3 billion was funded to the 53 SWAs through the EURGENO program (Figure 7). The program was created to mitigate the economic effects of the COVID-19 pandemic for governmental entities and nonprofit organizations that reimburse states for eligible UI benefits paid (reimbursing employers) between March 13, 2020, and September 6, 2021. Based on OIG audits of previous emergency UI program implementation and funding, we contracted with Rocha to conduct an audit addressing our concerns with ETA’s ability to effectively and efficiently deploy UI funding under the EURGENO program. We found ETA and states did not effectively execute EURGENO or ensure full compliance with related provisions of the CARES Act and subsequent legislation. Consequently, reimbursing employers faced

¹¹⁷ The UI Integrity Center is a joint federal-state initiative funded by DOL and operated by NASWA. NASWA is the national organization representing all of the state workforce agencies and whose mission is to enhance the state workforce agencies’ abilities to accomplish their goals, statutory roles, and responsibilities.

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Figure 7: EURGENO Funding and Refund/Credit Process



Source: Rocha graphical representation of EURGENO, including state, ETA, and Treasury procedures as well as flow of funding

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delays in receiving pandemic relief and states received millions in federal funding that should be returned to the federal government.

Rocha assessed ETA's oversight, performed in-depth testing for 6 states¹¹⁸ (the States of: Hawaii, Illinois, Mississippi, Oklahoma, Vermont, and West Virginia) and surveyed 47 other SWAs. Guidance from OMB advised states to prioritize expediency; however, Rocha found the 6 states did not consistently provide refunds or credits to reimbursing employers in less than 30 days, with 1 state taking over a year. Also, three of six states issued bills to reimbursing employers that did not reflect EURGENO credits, resulting in reimbursing employers overpaying states. These issues were attributed to state challenges in implementing new UI programs, legacy IT systems, insufficient monitoring by ETA, and untimely notifications to eligible employers about available EURGENO pandemic relief funds.

To improve oversight of the UI program, we recommended that ETA obtain evidence from the states that ensures all EURGENO refunds and credits to which reimbursing employers are entitled have been provided.

Further, Rocha found the six states received funding associated with ineligible benefit weeks, including weeks covered by another CARES Act provision. This resulted from ETA not providing sufficient guidance or monitoring reviews to ensure compliance with program requirements. Additionally, the states were provided funds based on claims later identified as fraudulent.

As a result, states received millions in funding that needs to be returned to the federal government. ETA needs to perform a reconciliation to determine the exact amount of ineligible funds; however, Rocha identified approximately \$29 million in questioned costs in the 6 states alone.

To improve oversight of the UI program, we recommended that ETA obtain evidence from the states that ensures all EURGENO refunds and credits to which reimbursing employers are entitled have been provided. We also recommended that ETA work with states to reconcile remaining balances that factor in both actual EURGENO relief and excess EURGENO relief provided due to the impact of other UI or CARES Act provisions or fraud. Lastly, we recommended ETA determine the proper disposition of excess funds and take necessary actions, including recovery of questioned costs.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-010-03-315.pdf>, Report No. 19-23-010-03-315 (September 21, 2023).

COVID-19: Audit of State Workforce Agencies' Information Technology Systems Capability in Processing Unemployment Insurance Claims

State preparedness, specifically the issues of staffing and system capabilities, is a core concern for the OIG. Based on our concern, we contracted with GenTech Associates (GenTech) to conduct a performance audit

¹¹⁸ The six states were selected based on an OIG risk analysis.

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to determine to what extent the capability of SWAs' UI IT systems impacted their ability to timely and accurately process UI claims from March 27, 2020, through April 6, 2021, including pandemic-related claims. GenTech identified no material findings that the OIG had not previously reported to ETA. Additionally, DOL has begun significant efforts in the UI IT modernization¹¹⁹ area. However, GenTech did identify one issue for ETA management's attention: specifically, ETA could improve its oversight of SWA progress in modernizing UI IT systems.

GenTech identified that, historically, ETA did not evaluate the capability of SWAs' UI IT systems to successfully administer UI benefits. Further, ETA did not have sufficient information to know which SWAs' UI IT systems posed the greatest risk of failing. This lack of sufficient information happened because ETA did not require SWAs to develop UI IT modernization plans with the following three elements to represent a future-ready approach: baseline architecture,¹²⁰ target architecture,¹²¹ and a transition plan to reach the target architecture. For example, only 1 of 10 SWAs reviewed had developed or implemented UI IT modernization plans that improved the timeliness or accuracy of UI benefits processing. The surveyed SWAs reported similar results: only 14 of 38 reported implementation of an IT modernization plan with a future-ready approach.

ETA relies on several stakeholders to assist SWAs with UI IT system modernization initiatives and has partnered with NASWA's UI Information Technology Service Center for this purpose. Personnel from NASWA's UI Information Technology Service Center stated to GenTech that the service center provides recommendations to SWAs but has no authority to enforce the recommendations.

In providing this memorandum to ETA, the OIG considered this audit closed. No recommendations were issued, and no official management response was required of ETA. The memorandum, however, does not preclude the OIG from conducting a follow-up audit of this subject at a later date. We plan to perform follow-on work in the area of UI IT modernization to determine the impact of DOL's efforts on improving the efficient deployment of UI benefits, including readiness for future emergencies.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-008-03-315.pdf>, Report No. 19-23-008-03-135 (September 19, 2023).

ETA Did Not Provide Adequate Oversight of Emergency Administrative Grants

On March 18, 2020, Congress provided \$1 billion in emergency administrative grants

119 IT modernization refers to an organization's efforts to upgrade legacy IT systems and to ensure that existing IT systems do not become legacy systems. Legacy IT systems are those that are past their lifecycle end date for either technical or business reasons.

120 Baseline architecture refers to an organization's existing IT systems and infrastructure.

121 Target architecture refers to an organization's description of future IT systems and infrastructure that would replace the organization's baseline architecture.

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through Division D of the Families First Coronavirus Response Act, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA). The act provided states with temporary flexibility to modify their unemployment compensation laws and additional administrative funding to respond to the economic downturn caused by the COVID-19 pandemic. We conducted an audit to determine if DOL, through ETA, provided adequate oversight of emergency administrative grants authorized under EUISAA. We found ETA did not provide adequate oversight of the emergency administrative grants.

Specifically, ETA did not verify if states were qualified for the grants before transferring all grant funds to the states' accounts. According to ETA, verification did not occur because the states urgently needed to address the increase in UI claims caused by the pandemic. Consequently, ETA relied on states' self-attestations of compliance with EUISAA requirements to qualify them for the grants. ETA did not require states to submit documentation supporting compliance with the requirements until after the states received their total share of the \$1 billion in emergency administrative grant funds. As a result, for the 14 states we reviewed, we identified more than \$136 million as questioned costs.

We also found ETA could not provide reasonable assurance states used the emergency

administrative grants to administer UI programs. These funds were monitored through single audits that did not disclose how states used the funds. For example, in a review of the single audit reports for five states, we found only one of the five states had a single audit report disclosing the amount of emergency administrative grant funds spent and that report did not disclose how states spent the funds. Single audit reports for the remaining four states made no mention of the emergency administrative grants, despite the states withdrawing their emergency administrative grant funds.

The circumstances surrounding the provisions of emergency administrative grants created a high risk of misuse. Consequently, \$1 billion in taxpayer dollars were vulnerable to misuse. We made three recommendations to ETA to improve the future administration of emergency grants.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-006-03-315.pdf>, Report No. 19-23-006-03-315 (July 27, 2023).

Tracking the Department of Labor's Unemployment Insurance Response to Local Communities During the Pandemic

The PRAC¹²² led a two-phased review to identify the federal pandemic funds distributed to local

¹²² The PRAC was created by the CARES Act to support and coordinate independent oversight of more than \$5 trillion in pandemic relief programs and spending. For more information, visit: <https://www.PandemicOversight.gov/>.

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communities¹²³ across the United States as of September 30, 2021, and to determine if the spending of the funds aligned with program goals. In support of this review, the OIG conducted an evaluation of DOL's UI response to the COVID-19 pandemic. We specifically evaluated DOL programs that expanded UI benefits for workers who were impacted by the pandemic. Our evaluation included any benefits that claimants received from these programs, as reported by the states. These programs were selected based on federal spending research and program funding amounts.

All six communities implemented at least four pandemic UI programs that sought to assist

workers impacted by the pandemic, including workers not usually eligible for benefits: PUA, PEUC, FPUC, and TFFF. One community also received funding from the Mixed Earner Unemployment Compensation program.

Under an agreement with DOL, SWAs made the pandemic-related UI payments to claimants and DOL made funding available to cover the cost of the payments, ongoing administrative needs, and reasonable implementation costs. For the period of March 27, 2020, through September 6, 2021, the OIG identified more than 33,400 UI beneficiaries across the 6 communities; collectively, they received over \$516 million (see Table 3).¹²⁴

Table 3: Total Pandemic-Related UI Benefits in the Six Communities, March 27, 2020, through September 6, 2021

Program	Total Benefits Paid	Total Claimants	Average Benefit Per Claimant
FPUC	\$323,248,650	33,329	\$9,699
PUA	\$118,434,214	7,893	\$15,005
PEUC	\$74,352,092	10,192	\$7,295
MEUC*	\$13,900	4	\$3,475
Total	\$516,048,856	33,433¹²⁵	\$15,435

*Mixed Earner Unemployment Compensation

Source: OIG Data Analysis of SWA Claims Data

¹²³ The PRAC selected six locations for review across three types of geographic areas (two small-to-medium sized cities, two rural counties, and two Tribal areas). The following six locations were selected: Springfield, Massachusetts; Coeur d'Alene, Idaho; Marion County, Georgia; Sheridan County, Nebraska; White Earth Reservation in Minnesota; and Jicarilla Apache Reservation in New Mexico.

¹²⁴ The data provided by the states was insufficient to calculate the amount of TFFF benefits paid to individuals.

¹²⁵ Individual claimants could receive benefits from multiple pandemic-related UI programs.

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This work applies to our efforts performed during the first phase of the PRAC review, which focused on identifying the UI program funding provided to local communities to help them respond to the pandemic. For additional information on federal pandemic funds provided to the six communities from DOL and nine other participating federal agencies, see the PRAC's report, "Tracking Pandemic Relief Funds that Went to Local Communities Reveals Persistent Data Gaps and Data Reliability Issues," issued on July 6, 2023.¹²⁶

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-007-03-315.pdf>, Report No. 19-23-007-03-315 (July 10, 2023).

Former Federal Employee Sentenced to 18 Years in Prison for Leading \$3.5 Million Pandemic Unemployment Insurance Fraud Scheme

On August 23, 2023, Heather Ann Huffman, a former registered nurse employed with the U.S. Department of Veterans Affairs, was sentenced in the Commonwealth of Virginia to 18 years in prison for her role in a conspiracy to defraud at least five SWAs of more than \$3.5 million in pandemic-related UI benefits. She was also ordered to pay more than \$2 million in restitution to multiple SWAs jointly with her co-conspirators.

From April 2020 through at least March 2021, Huffman led and organized several others,

including family members and close friends, in a conspiracy that specifically targeted UI benefits expanded to offset the economic impacts of the COVID-19 pandemic. To obtain these benefits, she and others filed false and misleading UI applications in the names of identity theft victims, co-conspirators, and inmates of state and federal prisons.

To further their conspiracy, Huffman and others identified addresses in each of the targeted states in which they falsely claimed the applicants lived and worked. She also opened a post office box in the Commonwealth of Virginia in the name of a fictitious nonprofit organization, to which she directed the targeted SWAs to mail the prepaid debit cards. Huffman, who was then employed as a registered nurse at a U.S. Department of Veterans Affairs Medical Center in Richmond, Virginia, used her work computer to research available UI benefits, file and access fraudulent UI claims, and falsify documents.

In total, Huffman and her conspirators submitted more than 220 fraudulent UI claims in the names of more than 120 individuals to at least five different SWAs through which they sought to receive more than \$3.5 million and actually obtained more than \$2 million.

Huffman's sentencing was originally scheduled for November 2022, but she failed to appear that day without notice or explanation. Prior to her disappearance, she took measures to flee prosecution, conceal her whereabouts, and

¹²⁶ PRAC, Tracking Pandemic Relief Funds that Went to Local Communities Reveals Persistent Data Gaps and Data Reliability Issues, Report No. PRAC-2023-04 (July 6, 2023), available at: <https://www.pandemicoversight.gov/media/file/pracktracking-pandemic-relief-fundsimpact-phase-i0pdf>

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obtain the PII of another individual. Huffman assumed the individual's identity and procured counterfeit government identification and credit cards in the name of her false alias. An extensive joint investigation with the U.S. Department of Veterans Affairs OIG and the United States Marshals Service uncovered evidence that the defendant was living and working under a false identity as a registered nurse in the State of Kansas. Representatives from the United States Marshals Service Fugitive Task Force arrested Huffman on March 4, 2023, in Lenexa, Kansas.

This is a joint investigation with U.S. Department of Veterans Affairs OIG. *United States v. Huffman et al.* (E.D. Virginia)

Convicted Murderer Who Ran \$1.5 Million COVID-19 Jobless Benefits Fraud from Behind Bars Sentenced to 7 Years in Federal Prison

On July 10, 2023, Natalie Le Demola, who is currently serving a life sentence in state prison for murder, was sentenced to 84 months in federal prison, to be served consecutively, and ordered to pay more than \$933,000 in restitution for leading a pandemic-related benefits scheme from behind bars, involving more than \$1.5 million in UI benefits.

From June 2020 until April 2021, Demola and her co-conspirators acquired the PII of individuals ineligible for UI benefits as they were either employed, retired, or incarcerated. They used the PII to file fraudulent online applications

for UI benefits with the State of California's Employment Development Department. Demola also obtained the PII of identity theft victims and filed fraudulent UI applications in their names. Once the fraudulent applications were approved by the Employment Development Department, members of the conspiracy received Employment Development Department-funded debit cards that allowed them to withdraw money from ATMs across Southern California.

This is a joint investigation with the El Camino Real Financial Crimes Task Force, a multi-agency task force led by Homeland Security Investigations that includes federal and state investigators who are focused on financial crimes in Southern California. *United States v. Natalie Le Demola et al.* (C.D. California)

Two Members of Robles Park¹²⁷ Criminal Enterprise Sentenced for Roles in Racketeering Conspiracy that included Pandemic-Related Unemployment Insurance Fraud

On June 6, 2023, Keaujay Hornsby, also known as "Plug," was sentenced to 201 months in prison in connection with his May 2022 guilty plea to numerous charges, including racketeering conspiracy in furtherance of a criminal enterprise known as Robles Park, assault with a dangerous weapon in aid of racketeering, and aggravated identity theft. On the same date, Kareem Spann, also known as "Reem," was sentenced to 130 months in prison in connection with his February 2023 guilty plea

¹²⁷ 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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to numerous charges, including racketeering conspiracy in furtherance of Robles Park, assault with a dangerous weapon in aid of racketeering, and conspiracy to commit fraud.

In addition to committing violent and drug crimes, Hornsby and Spann obtained the PII of others to submit fraudulent applications for UI benefits. More than \$420,000 in UI benefits were paid to Robles Park members in the form of debit cards issued in the names of identity theft victims who did not provide their PII, or permission to use their PII, to Robles Park members.

This was a joint investigation with the Federal Bureau of Investigation (FBI) and the Tampa Police Department. *United States v. Keaujay Hornsby* (M.D. Florida), *United States v. Kareem Spann* (M.D. Florida)

International Firearms Dealer Involved in \$1.9 Million COVID-19 Fraud Scheme Sentenced to More Than 7 Years in Prison

On April 19, 2023, Daniel Ira Johnson, also known as “Shotta” also known as “Lajon Black,” was sentenced to 90 months in prison for shipping firearms to the United Kingdom and committing wire fraud and aggravated identity theft in connection with receiving fraudulently obtained COVID-19 pandemic UI relief payments. Johnson was also ordered to pay restitution totaling more than \$580,000.

In December 2019 and January 2020, Johnson shipped firearms to a co-conspirator in Rugby, England, concealing them in a safe, wrapping them to avoid detection, and declaring them to be “car parts” on customs paperwork.

Additionally, in March 2020, following the pandemic-related expansion of UI benefits, Johnson and co-conspirators used the PII of victims without their knowledge to apply for and receive UI benefits. The benefits were loaded onto prepaid debit cards delivered to addresses to which Johnson and others had access. Johnson and his co-conspirators then obtained the debit cards and withdrew the fraudulently obtained funds and used the funds to purchase United States Postal Service money orders. Johnson and his co-conspirators are linked to at least \$1.9 million in attempted fraudulent UI claims submitted to 19 different SWAs.

The benefits were loaded onto prepaid debit cards delivered to addresses to which Johnson and others had access. Johnson and his co-conspirators then obtained the debit cards and withdrew the fraudulently obtained funds and used the funds to purchase United States Postal Service money orders.

This was a joint investigation with the U.S. Postal Inspection Service; U.S. Department of Commerce Bureau of Industry and Security; Homeland Security Investigations; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; and the National Crime Agency of the United Kingdom. *United States v. Johnson* (M.D. Florida)

Virginia Man Sentenced to 7 Years in Prison for Role in Pandemic-Related Unemployment Insurance Fraud, Mail Theft, and Bank Fraud Schemes

On June 14, 2023, Eric Wilhoit II was sentenced to 84 months in prison for conspiring to fraudulently obtain pandemic UI benefits and for his role

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in a mail theft and bank fraud scheme. Wilhoit was also ordered to pay more than \$1.7 million in restitution to the Virginia Employment Commission (the SWA for the Commonwealth of Virginia) jointly with his co-conspirators.

From May 2020 through January 2022, Wilhoit conspired with family members and others to fraudulently obtain more than \$1.7 million in pandemic-related UI benefits by applying in the names of identity theft victims and others who were ineligible to receive UI benefits. Wilhoit instructed his co-conspirators on how to make the fraudulent UI claims. The group then used virtual private networks and false or anonymized email addresses in an attempt to hide the fraud. Each member of the conspiracy recruited others to use their physical addresses to receive prepaid debit cards that contained UI benefits. Wilhoit and his co-conspirators then made significant cash withdrawals from the prepaid debit cards and purchased luxury goods and at least one firearm with the UI benefits. Specifically, Wilhoit and one co-conspirator purchased a diamond ring, a Chanel purse, Christian Louboutin shoes, and many other items.

Additionally, Wilhoit was involved in a separate mail and bank fraud scheme led by two co-conspirators. One co-conspirator stole checks from United States Postal Service collection boxes and provided the checks or personal information from the checks to the other co-conspirator, who then used the information to create counterfeit checks or in furtherance of other fraudulent activity. Wilhoit recruited individuals to provide their bank accounts for depositing the fraudulent checks.

This is a joint investigation with the FBI. *United States v. Wilhoit et al.* (E.D. Virginia)

Maryland Men Sentenced to Over 9 Years in Prison for Conspiracy to Obtain More than \$1 Million in COVID-19 Unemployment Insurance Benefits and Other Pandemic Relief Loans

On June 26, 2023, Jerry Phillips was sentenced to 84 months in prison for his role in a federal wire fraud conspiracy, aggravated identity theft, and illegal possession of a machine gun related to a scheme to fraudulently obtain more than \$1 million in pandemic-related benefits, including UI benefits and loans related to the PPP and EIDL program. Phillips was also ordered to pay restitution totaling more than \$1.2 million. Additionally, his brother, Jaleel Phillips, who previously pled guilty to his role in the wire fraud



During the execution of a UI fraud search warrant, OIG agents recovered a ballistic vest, UI debit cards, and deadly weapons, including three ghost guns, which are privately made, non serialized firearms purchased in individual parts and then assembled that are untraceable.

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conspiracy, was sentenced on June 22, 2023, to 30 months in federal prison and ordered to pay restitution.

From March 2020 to February 2022, the Phillips brothers conspired with at least one other person to fraudulently obtain COVID-19-related benefits through falsified PPP loan applications, EIDL applications, and UI claims. Phillips and his coconspirators created aliases, used the PII of identity theft victims, and used defunct corporate entities or new business entities with no actual business operations to fraudulently apply for UI benefits and various PPP and EIDL loans. Among other purchases, Jerry Phillips used more than \$65,000 of the fraudulently obtained funds to purchase a 2020 Chevrolet Camaro.



Various cards and fraudulent identity documents seized from a safe during the execution of a residential search warrant. The cards and IDs were in the names of false identities created for the purpose of filing for COVID-19 benefits.

A search of Phillips' residence recovered more than 25 fake driver's licenses from multiple states and multiple identification documents from different jurisdictions with the same alias. Law enforcement also recovered four "ghost guns," which Jerry Phillips purchased online using an alias. A ghost gun is a privately made, non-serialized firearm purchased in individual

parts and then assembled that is untraceable. Phillips illegally modified one of the ghost guns into a machine gun capable of firing multiple rounds with one pull of the trigger.

This is a joint investigation with the Internal Revenue Service—Criminal Investigation, Federal Deposit Insurance Corporation OIG, and the U.S. Small Business Administration OIG. *United States v. Jerry Phillips* (D. Maryland)

Georgia Man Sentenced for Laundering Proceeds Derived from the Submission of Fraudulent Unemployment Claims in Multiple States

On June 14, 2023, Oluwagbemiga Otufale was sentenced to 84 months in prison after pleading guilty for his role in a money laundering conspiracy. Otufale was also ordered to pay almost \$500,000 in restitution to various SWAs. Otufale laundered money obtained from the submission of fraudulent UI claims filed in multiple states by other individuals using the stolen PII of more than 50 identity theft victims. He also laundered proceeds from a business email compromise scheme targeting two businesses in the State of Georgia.

Otufale created multiple aliases and sham business entities to open financial accounts into which he deposited fraudulent proceeds and from which he withdrew cash. In total, he laundered approximately \$2.6 million in fraud proceeds through at least 6 bank accounts.

This was a joint investigation with the FBI, U.S. Postal Inspection Service, and Homeland Security Investigations. *United States v. Oluwagbemiga Otufale* (N.D. Georgia)

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California Man Sentenced to Prison for \$1.6 Million Unemployment Scam

On August 18, 2023, Idowu Hashim Shittu, was sentenced to 30 months in prison for fraudulently obtaining more than \$1.6 million in pandemic-related UI benefits from numerous SWAs.

In July 2020, law enforcement officers executed a search warrant at Shittu's residence and discovered more than \$500,000 in cash. Officers also found more than 400 reloadable bank cards issued in the names of others, which were loaded with more than \$1.6 million in UI benefits from various SWAs.

The investigation revealed that Shittu obtained these reloadable debit cards between at least April through July 2020 and used them for his personal use. Shittu did not know the victims to whom the UI benefits were issued, nor did he obtain their consent before using the cards. Shittu made cash withdrawals and paid for service on his luxury automobile.

This was a joint investigation with the FBI.
United States v. Idowu Hashim Shittu
(N.D. California)

Former Massachusetts Pizzeria Owner Sentenced to 2 Years in Prison for COVID-19 Fraud

On August 30, 2023, Dana McIntyre was sentenced to 24 months in prison and ordered to pay more than \$675,000 in restitution to the Commonwealth of Massachusetts' Department of Unemployment Assistance and an approved PPP lender. He was also ordered to forfeit: a

parcel of land in the State of Vermont; at least eight alpacas; almost \$110,000 seized from a bank account; and a classic 1950 Hudson automobile. McIntyre was sentenced pursuant to his April 2023 guilty plea to four counts of wire fraud and three counts of money laundering.

McIntyre is the former owner of Rasta Pasta Pizzeria in Beverly, Massachusetts. In March 2020, he used the names of his adult children to submit two fraudulent applications to the U.S. Small Business Administration for EIDLs for businesses that did not exist. Beginning in April 2020, McIntyre submitted an application and weekly certifications in order to receive PUA benefits. In these filings, McIntyre falsely claimed that he was not working or receiving income because of the pandemic while McIntyre was, in fact, still operating the restaurant and paying himself income from the business. By September 2020, when McIntyre sold the restaurant, he had received more than \$17,000 in PUA and related benefits to which he was not entitled.

In April 2020, McIntyre submitted a fraudulent application for a PPP loan of more than \$660,000 through an U.S. Small Business Administration-approved lender. After receiving a PPP loan of more than \$660,000, he sold the restaurant and used nearly all the funds to purchase a farm in the State of Vermont, alpacas, vehicles, and airtime for his cryptocurrency-themed radio show.

This was a joint investigation with the FBI, the Internal Revenue Service—Criminal Investigation, and the U.S. Department of Housing and Urban Development OIG. *United States v. Dana L. McIntyre* (D. Massachusetts)

Office of Workers' Compensation Programs

The Office of Workers' Compensation Programs (OWCP) administers four major workers' compensation programs: Federal Employees' Compensation Act (FECA), Energy Employees Occupational Illness Compensation (Energy), Black Lung Benefits, and Longshore and Harbor Workers' Compensation.

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 wage replacement, payment for medical care, vocational rehabilitation, and survivor benefits.

Nine Defendants Sentenced to More than 760 Months Combined Imprisonment in a \$126 Million Pharmaceutical Compounding Fraud Scheme

In April 2023, nine defendants—including three compounding pharmacy¹²⁸ owners, a physician, two pharmacists, and three patient recruiters—were sentenced for their roles in a years-long, multistate scheme to defraud OWCP and TRICARE¹²⁹ of nearly \$126 million. The nine defendants were sentenced and ordered to pay joint and several restitution¹³⁰ as follows:

- John Cruise: 240 months in prison and approximately \$32 million;
- Lashonia Johnson: 180 months in prison and more than \$32 million;
- Kenny Ozoude: 120 months in prison and approximately \$19.9 million;

- Dr. James Don Jackson: 60 months in prison and more than \$1.6 million;
- Nirvana Hightower: 60 months in prison and approximately \$19.9 million;
- Keith Hudson: 36 months in prison and approximately \$13.7 million;
- Audra Jones: 30 months in prison and approximately \$18.9 million;
- Sherod Johnson: 18 months in prison and approximately \$939,000; and
- Terrance Aice: 18 months and approximately \$939,000.

Cruise and his co-conspirators submitted false and fraudulent claims to OWCP and TRICARE for prescriptions for compounded and other drugs prescribed for injured federal workers and members of the armed forces. The defendants also paid kickbacks to patient recruiters and physicians to prescribe these drugs.

¹²⁸ Generally, compounding is a practice in which a licensed pharmacist or physician combines ingredients of a drug to create a medication tailored to the needs of an individual patient.

¹²⁹ TRICARE is the health care program for uniformed service members, retirees, and their families around the world.

¹³⁰ Joint and several restitution is when two or more parties are jointly and severally liable for a criminal act, each party is independently liable for the full extent of the injuries stemming from the criminal act.

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In furtherance of the scheme, the defendants chose the particular compounds and other medications not based on the patients' medical needs, but rather based on the reimbursement amount. The drugs were then mailed to patients even though they were often never requested, wanted, or needed by the patients.

This is a joint investigation with the United States Postal Service OIG, U.S. Department of Defense OIG, and the United States Department of Veterans Affairs OIG. *United States v. John Cruise et al.* (S.D. Texas)

Oklahoma Man Pled Guilty to Paying Health Care Kickbacks

On June 27, 2023, Christopher R. Parks pled guilty to one count of conspiracy to offer and pay health care kickbacks in a scheme involving the referral of compounding prescriptions to compounding pharmacies in the State of Oklahoma where he was an owner and operator.

Parks was a joint owner and operator of OK Compounding, LLC, and One Stop RX, LLC.

From November 2012 through June 2019, he paid physicians' remuneration or kickbacks to refer their patients' compounding prescriptions to OK Compounding, LLC and One Stop RX, LLC. Parks was aware that some of the compounding prescriptions were paid by federal health care programs, including the FECA program. Specifically, the FECA program was billed more than \$1.18 million in claims involving compounded medication creams, of which more than \$550,000 was paid out. In furtherance of the scheme, Parks paid the prescribing physicians through bank accounts he controlled and attempted to disguise the kickback payments by entering into agreements with physicians for purported medical studies.

This is a joint investigation with the FBI, U.S. Department of Defense OIG, Internal Revenue Service—Criminal Investigation, United States Postal Service OIG, United States Department of Veterans Affairs OIG, and United States Department of Health and Human Services OIG. *United States v. Christopher R. Parks* (N.D. Oklahoma)





Worker Safety, Health, and Workplace Rights

Occupational Safety and Health Administration

The mission of the Occupational Safety and Health Administration (OSHA) is to ensure safe and healthful working conditions for workers by setting and enforcing workplace safety and health standards and by providing training, outreach, education, and assistance.

COVID-19: OSHA Needs to Do More to Address High Injury Rates of Warehouse Workers

OSHA's mission is to ensure safe and healthful working conditions for workers nationwide. This includes about 1.6 million workers at the nation's nearly 20,000 warehouses. Warehouse workers face hazards that can result in serious injury due to powered industrial trucks, loaded pallets, and the repetitive movements involved. These dangers can be compounded when time-based delivery quotas are used to drive production goals. With high-speed fulfillment of online orders becoming the industry standard, some warehouse workers must work

even faster. Consistently high rates of injury and illness before and during the COVID-19 pandemic indicated that warehouses were and continued to be dangerous places to work. In 2021, the injury and illness rate was 5.5 per 100 employees, about double the 2.7 rate across all industries. Based on these risks, we conducted a performance audit to determine the extent to which OSHA has addressed high injury and illness rates at warehouses (before and during the COVID-19 pandemic).

We found OSHA's actions had not effectively addressed the high injury and illness rates occurring in warehouses. Despite consistently high injury and illness rates, OSHA conducted a

BEFORE AND DURING COVID-19, U.S. BUREAU OF LABOR STATISTICS (BLS) INJURY AND ILLNESS RATES INDICATED WAREHOUSES WERE DANGEROUS PLACES TO WORK.

Significant Exposure for Warehouse Workers:

Per BLS data, the number of reported injuries and illnesses in warehouses essentially doubled from 2016 to 2021 (42,500 to 80,500).

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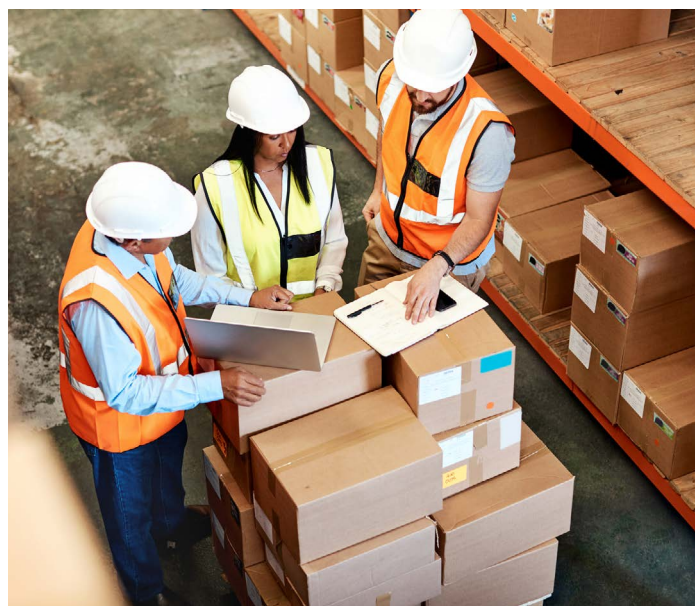
Warehouses Ranked High among Industries for Injury and Illness Rates:

Within BLS industry rankings, warehouses moved from 19th of 94 industries in 2016, to 10th of 92 industries in 2021.

Worker Safety, Health, and Workplace Rights

limited number of warehouse inspections: 3,762. Also, 82 percent of these inspections were unprogrammed, primarily driven by complaints and referrals. In addition, OSHA did not target nor inspect enough warehouses through its Site-Specific Targeting programs, designed to reach establishments with high injury and illness rates. OSHA had limited controls in place to ensure an adequate number of Site-Specific Targeting inspections occurred and did not timely monitor program activity to determine how many proposed inspections actually occurred until after the programs ended. The number of establishments targeted versus establishments inspected indicated the programs resulted in very few inspections of the targeted establishments, meaning workers remain vulnerable to high rates of injury and illness.

Further, OSHA had limited visibility into the numbers and types of injuries and illnesses occurring in warehouses, including those that classified themselves as online retailers. Regarding online retailers, OSHA was unable to determine how many of these establishments were warehouses. Online retailers are not required to submit injury and illness data unless the establishment had 250 or more employees at any time during the prior year. However, the reporting non-compliance rate in this industry for those that were required to report was 46 percent, limiting OSHA's view of injuries and potentially impacting the effectiveness of OSHA's enforcement program.



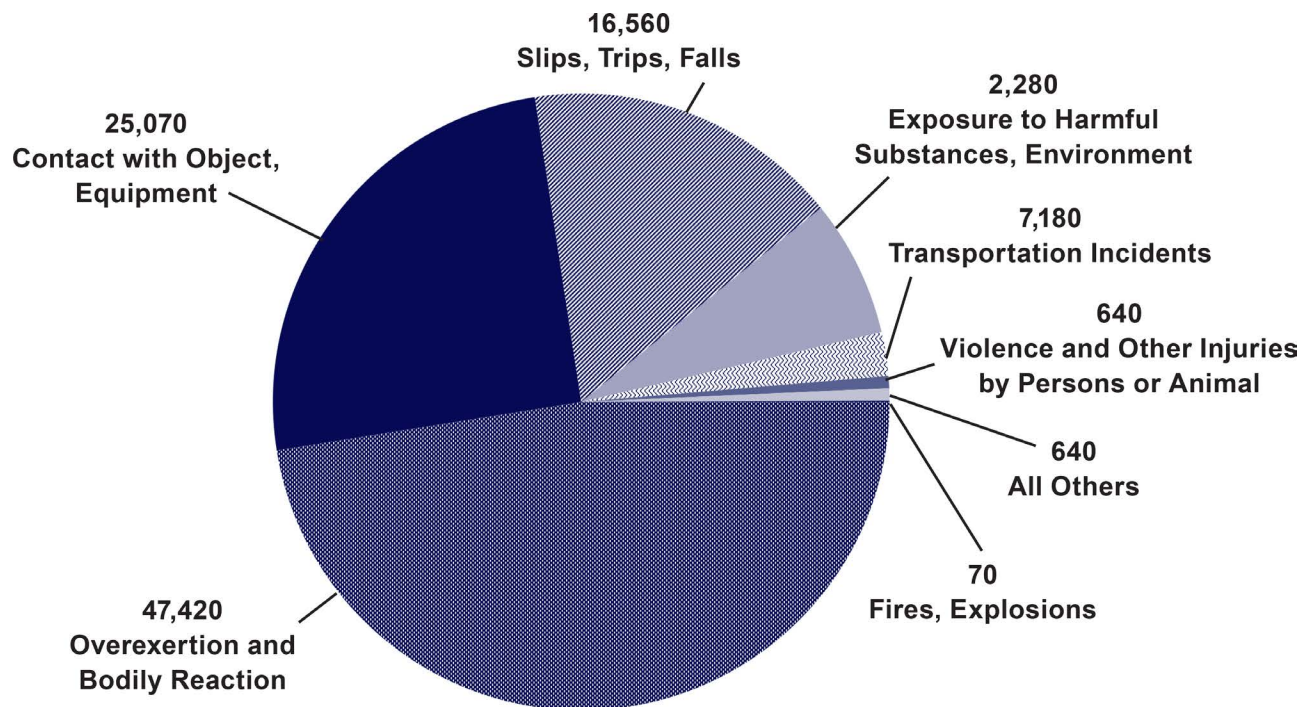
Overall, OSHA collected minimal injury data from employers and did not effectively enforce mandatory employer reporting, leaving workers at risk to hazards that can result in serious injury and illness.

To identify and address injuries and illnesses at warehouses, OSHA utilizes a variety of data sources. These sources all have individual limitations, such as preventing OSHA from knowing at which establishments workers are exposed to workplace hazards. However, collectively, these data show the extent and persistence of certain hazards, such as overexertion and musculoskeletal disorders,¹³¹ which OSHA has not sufficiently addressed. Between 2016 and 2020, BLS reported a total of 99,860 injuries and illnesses involving one or more day(s) away from work in the warehousing and storage industry, of which

¹³¹ OSHA defined overexertion/bodily reaction as injuries resulting from motions such as lifting, bending, reaching, or slipping without falling. A musculoskeletal disorder is a disease that affects the muscles, nerves, blood vessels, ligaments, and tendons, incurred by lifting heavy items, bending, reaching overhead, pushing and pulling heavy loads, working in awkward body postures, and repetitive tasks.

Worker Safety, Health, and Workplace Rights

Figure 8: BLS-reported Warehouse Injuries by Events, 2016-2020



Source: BLS Occupational Injuries and Illnesses and Fatal Injuries Profiles

Note, for an accessible version of this figure, please [see the report's Exhibit 2, Figure 2.](#)

47 percent were attributed to overexertion/ bodily reaction (see Figure 8).

These compelling data demand focused attention and more enforcement activity to better protect workers at warehouses nationwide.

As a result of these issues, warehouse workers were at increased risk. The consistently high injury and illness rates before and during the COVID-19 pandemic indicated that warehouse workers were facing and continued to face hazards that can result in serious injuries and illnesses. We made seven recommendations to OSHA to improve its efforts to ensure warehouse workers' safety and health, including for updated criteria, and specific, measurable inspection goals for the Site-Specific Targeting

program; and an improved enforcement strategy for employer reporting compliance and data use.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-013-10-105.pdf>, Report No. 19-23-013-10-105 (September 27, 2023).

COVID-19: OSHA Needs to Strengthen Its Process for Awarding Future Emergency Supplemental Funds to State Plans

ARPA provided OSHA with no less than \$100 million in additional funding, of which no less than \$5 million was allotted for enforcement activities related to COVID-19 at high-risk workplaces including health

Worker Safety, Health, and Workplace Rights

care, meat and poultry processing facilities, agricultural workplaces, and correctional facilities. A prior audit identified concerns with the decreased level of COVID-19 inspections, leaving U.S. workers' safety at increased risk. Therefore, we contracted with GenTech Associates, Inc. to conduct a performance audit to determine if OSHA appropriately budgeted and expended ARPA funds to carry out COVID-19-related worker protection activities.

Based on a review of 7 of the 10 ARPA program areas,¹³² GenTech found that, in general, OSHA appropriately expended ARPA funds. However, OSHA did not effectively manage the awarding process to maximize coverage across State Plans¹³³ and had insufficient controls in place to expend funds designated for State Plan grants.

GenTech found OSHA neglected to adequately coordinate with the Departmental Budget Center¹³⁴ regarding the time needed to afford State Plans the maximum opportunity to meet the grant matching requirement. Some of the states that declined the supplemental funding expressed concerns about the limited time they were given to respond to the initial notification—particularly because they needed to respond with the amount of funding they could match and obligate. As a result, only 5 of the 28

State Plans received grant funding, which was ultimately \$12.4 million out of the \$16 million initially apportioned for State Plan grants.¹³⁵

In addition, of the \$12.4 million awarded, OSHA awarded \$7.5 million to a grant recipient with known financial and reporting issues without establishing mitigating controls to help ensure the appropriate use and reporting of funds. OSHA did not follow proper grant application procedures to determine if the state's financial system could track, account for, and report on expenditures before awarding ARPA funds. The inability of a grant recipient's financial-management system to provide past expense reconciliations or submit prompt and accurate reports may have hindered OSHA's timely detection and prevention of misused funds.

GenTech made two recommendations to OSHA to: 1) develop a plan for future crises that affords State Plans the maximum opportunity to receive federal assistance and 2) update its monitoring procedures to better respond to grant recipient noncompliance.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-009-10-105.pdf>, Report No. 19-23-009-10-105 (August 30, 2023).

¹³² The seven ARPA program areas were: Standards, Enforcement, Whistleblower Protection, State Plan Grants, Technical Support, Compliance Assistance – Federal, and Susan Harwood Training Grants.

¹³³ The term “State Plans” refers to those states with an OSHA-approved workplace safety and health program. State Plans are monitored by OSHA and must be at least as effective as OSHA in protecting workers and in preventing work-related injuries, illnesses, and deaths.

¹³⁴ The Departmental Budget Center provides DOL with direction, policy advice, technical assistance, and related services concerning budget formulation, justification, and execution.

¹³⁵ OSHA appropriated \$16 million for State Plan grants for FY 2021. This amount was later reduced to \$12.4 million.



Employment and Training Programs

Employment and Training Administration Programs

The Employment and Training Administration administers federal government job training and worker dislocation programs. This includes programs authorized by the Workforce Innovation and Opportunity Act (WIOA) that provide employment assistance, labor market information, and job training for adults, youth, dislocated workers, and other targeted populations. The WIOA aims to strengthen the public workforce system and help get Americans—including youth and those with significant barriers to employment—into high-quality jobs and careers. The WIOA also helps employers hire and retain skilled workers.

COVID-19: The Employment and Training Administration Needs to Improve Oversight of Grants Awarded in New Jersey

From October 2018 through September 2021, ETA awarded 2,093 grants, totaling approximately \$16 billion to grant recipients in all 50 states, the District of Columbia, and U.S. territories. ETA awards grants¹³⁶ to states, local governments, and other entities to provide opportunities to individuals with significant barriers to employment to enter into high-quality jobs and careers, as well as to help employers hire and retain skilled workers. During the timeframe of these grants, the pandemic created many challenges for ETA job training programs across the nation, such as stay-at-home orders, which impacted ETA's ability to provide services. We conducted a performance audit to determine if ETA grant recipients and sub-recipients¹³⁷ utilized grant funds for the

intended purposes during the COVID-19 pandemic. Our work, which is part of a series of audits being conducted across selected states, focused on grant recipients and sub-recipients located in the State of New Jersey.

Our work, which is part of a series of audits being conducted across selected states, focused on grant recipients and sub-recipients located in the State of New Jersey.

Based on a review of four grants totaling more than \$248 million—including three statutory WIOA grants and one discretionary non-WIOA grant—we found that ETA grant recipients and sub-recipients received grant funds to provide career, training, and supportive services (e.g., transportation or childcare). However, ETA did not ensure recipients in the State of New Jersey effectively used these funds.

¹³⁶ The grants are either: (1) statutory grants, which are noncompetitive grants required by law to be given to the state or outlying area based on statistical criteria or (2) discretionary grants awarded based on competitive selection and eligibility.

¹³⁷ Recipients of ETA's grant awards, such as states, can allocate some or all these funds to other entities known as sub-recipients. A sub-recipient is a non-federal entity that receives a sub-award from a passthrough entity to carry out part of a federal program. It does not include an individual who is a beneficiary of the program.

Employment and Training Administration Programs

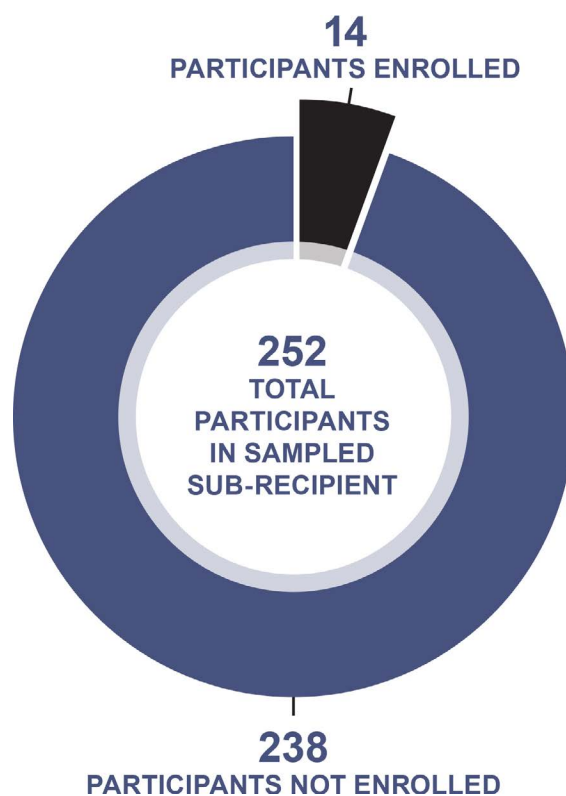
Specifically, ETA did not ensure recipients effectively: (1) used over \$100 million to serve the intended population; (2) enrolled eligible individuals in the grant programs, costing \$96,580 in training services; and (3) complied with federal requirements when paying \$168,460 in services. For example, one grant recipient could not demonstrate 314 of the 1,441 participants we reviewed were eligible for a grant program awarded to develop, expand, and scale apprenticeships nationally in H-1B health care industry occupations. Of these 1,441 participants, 252 were attributed to one of the sampled sub-recipients and identified as being enrolled. We found the grant recipient overstated the number of participants enrolled in the program by 238 individuals—only 14 individuals could be identified as being officially enrolled, with the rest only having completed inquiry forms (see Figure 9).¹³⁸

In addition, two sub-recipients of a WIOA state formula grant did not have a system in place to account for the \$6.9 million in grant funding received, including how it was spent. As a result, there is a risk the \$6.9 million awarded to the sub-recipients may not have been spent according to its intended purposes. We, therefore, questioned the entire amount awarded to these two sub-recipients. For the grants reviewed, we identified more than \$100 million in funds that could have been put to better use and approximately \$7.2 million in questioned costs.

We made seven recommendations to ETA to: resolve questioned costs and unspent funds;

update guidance to better identify and account for risks associated with grant fund use; and improve assistance to and monitoring of grant recipients to ensure they can account for and report on federal awards, as well as understand how to properly award contracts.

Figure 9: Enrollment Status of Grant Sub-Recipient Program Participants



Source: OIG analysis of sample data

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/19-23-016-03-391.pdf>, Report No. 19-23-016-03-391 (September 28, 2023).

¹³⁸ Inquiry form information included having conversations with potential students about the programs and the apprenticeship model. The grant recipient agreed that completing an inquiry form and/or application alone does not deem the student a “participant served.”

Employment and Training Administration Programs

Florida Woman Convicted of Conspiracy to Commit Theft of Government Funds

On July 7, 2023, Sirce Rodriguez pled guilty for her involvement in a conspiracy to commit theft of government funds by diverting federal funds for her personal benefit and the benefit of her co-conspirators. The funds were diverted from Transition, Inc., a not-for-profit organization that received WIOA funds, which are administered by DOL, and Improved Reentry Project Grant funds, which are administered by the U.S. Department of Education. The WIOA funds were supposed to be used for job training and placement services.

Rodriguez conspired with a former employee of Transition, Inc., and others, to divert WIOA

funds to her personal account and the personal and corporate accounts of coconspirators. To steal the funds, a co-conspirator created fraudulent employee files and wage records showing that individuals were employed at specific companies when they were not. Rodriguez provided the PII of others in order to create the employee files. Rodriguez also referred others to a co-conspirator to receive wages for work they did not perform. The information of these individuals was inputted into a web-based program run by Transition, Inc.'s payroll processor, which then paid wages to the purported employees, with the money often being deposited into bank accounts controlled by Rodriguez and her co-conspirator.

This is a joint investigation with the Miami-Dade County OIG. *United States v. Salado Garcia et al.* (S.D. Florida)



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, CW-1, 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 CW-1, H-1B, H-2A, and H-2B programs are for temporary employment in the United States. The CW-1 program allows employers to hire workers on a temporary basis in the Commonwealth of the Northern Mariana Islands. 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 that the admission of foreign workers into the United States on a PERM, CW-1, 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.

Two Owners and a Manager of Virginia Commercial Laundry Business Sentenced to Prison for Roles in Labor Trafficking and Money Laundering Conspiracy

In August 2023, three defendants, who owned and/or managed a commercial laundry business in Virginia, were sentenced for their respective roles in a labor trafficking and money laundering conspiracy.

Ana Patricia Aragon Landaverde was sentenced to 57 months in prison and forfeiture of more than \$213,000, jointly with co-defendants; Jeffrey Dean Vaughan was sentenced to 51 months in prison and forfeiture of more than \$3.9 million, jointly with codefendants; and George Williams Evans was sentenced to 30 months in prison and forfeiture of more than \$3.9 million, jointly with co-defendants. Restitution to the victims remains pending.

Vaughan and Evans were the owners of Magnolia Cleaning Services, which is located

in Williamsburg, Virginia. Magnolia Cleaning Services, where Landaverde served as a manager, cleaned and delivered linens to various hospitality establishments.

Landaverde, Vaughan, and Evans participated in a conspiracy to defraud and commit offenses against the United States, including human trafficking of individuals from Central America, benefiting from forced labor, money laundering, and harboring undocumented workers. Under their direction, Magnolia Cleaning Services exploited the victims to work long hours in poor working conditions. In some cases, workers were threatened with deportation, physical harm, and harm to their families if they refused to work as directed. Some undocumented workers lived in the laundry facility without access to a kitchen or bathroom with a shower or bathtub. One victim was a child who was made to work night shifts while attending school during the day.

Between the first quarter of 2018 and the first quarter of 2022, the business's wage records reflected approximately 121 employees with

Employment and Training Administration Programs

alleged invalid or mismatched Social Security numbers and wage payments of more than \$1.2 million to these employees.

This is a joint investigation with Homeland Security Investigations, U.S. Postal Inspection Service, and U.S. Social Security Administration OIG. *United States v. Ana Patricia Aragon Landaverde et al.* (E.D. Virginia)

Guatemalan Man Sentenced for the Forced Labor of Two Minors

On April 25, 2023, Santos Ac-Salazar was sentenced to 78 months in prison and ordered to pay more than \$98,000 in restitution for his role in trafficking two minor Guatemalan victims.

From February 2019 through February 2020, Ac-Salazar and his co-defendant Olga Choc Laj conspired to unlawfully enter the United States with two children who were not their own, to more easily enter the country and avoid prolonged detention by U.S. immigration authorities.

Ac-Salazar and Choc Laj obtained fraudulent identity documents for one of the minors, falsely representing that she was an adult and legally permitted to be in the United States. They refused to allow her to leave their control and made her work in various jobs and as a domestic servant to pay debts owed for being smuggled and rent. They also forced the second minor to work as a domestic servant. Ac-Salazar and Choc Laj did not pay the minors for their domestic work and physically assaulted and threatened the children if they did not comply with their demands.

This is a joint investigation with the FBI and Homeland Security Investigations. *United States*

v. Santos Teodoro Ac-Salazar and Olga Choc Laj (N.D. Illinois)

Wisconsin Man Sentenced for False Statements Involving Foreign Workers

On April 17, 2023, Alfredo Aguilar Sr. was sentenced to 18 months in prison and ordered to pay restitution of more than \$1.1 million to foreign workers. He was also ordered to pay a civil monetary penalty of approximately \$210,000 to DOL. Aguilar previously pled guilty to making false statements to federal agencies.

From 2015 to December 2018, Aguilar was co-owner of a State of Wisconsin-based business, Northwoods Forestry, Inc. He recruited workers from Mexico and Central America, specifically H-2B workers, to work in the forestry industry, planting and caring for trees and clearing and developing woodlands. Northwoods Forestry, Inc. agents made representations under oath to DOL and U.S. Citizenship and Immigration Services regarding the type of work the workers would perform and the wages they would receive. However, Aguilar actually placed the H-2B workers with non-forestry employers, including in meat packing, construction, roofing, agriculture, painting, fur processing, and landscaping businesses. Northwoods Forestry, Inc. failed to pay the H-2B workers the appropriate wages and overtime and deducted expenses from the employees' pay, all contrary to sworn statements made to DOL.

This is a joint investigation with the Wage and Hour Division and U.S. Department of State—Diplomatic Security Services. *United States v. Alfredo Aguilar* (W.D. Wisconsin)



Labor Racketeering

Labor Racketeering

Under the Inspector General Act of 1978, as amended, 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.

Massachusetts Man Pled Guilty to Multi-Million-Dollar Payroll Scheme

On September 6, 2023, Frank Loconte pled guilty to one count of mail fraud and one count of failing to pay taxes in connection with a payroll scheme involving the underreporting of overtime hours for his union employees and failing to collect and pay payroll taxes.

Loconte was president of NER Construction Management Corporation, a construction company that employed union workers and collectively bargained with multiple unions. From approximately 2014 through May 2022, he engaged in a scheme to defraud union-affiliated benefit funds and the Internal Revenue Service. Loconte accomplished this by paying certain union workers for overtime hours without reporting these hours to the union-affiliated benefit funds and without making the required payroll tax withholdings and payments. He also caused the corporation to file false and fraudulent

remittance reports with the benefit funds and the unions to under-report the overtime hours worked by these employees, thereby depriving the benefit funds and unions of contributions and dues owed on behalf of their members.

Loconte defrauded union workers of more than \$1 million in benefits and dues related to overtime work covered by collective bargaining agreements and defrauded the Internal Revenue Service of more than \$3 million by not making the required payroll tax withholdings and payments. Instead of paying employment taxes, Loconte used NER Construction Management Corporation business accounts to pay for personal expenses, including vehicles, personal property taxes, household improvements, and golf memberships.

This is a joint investigation with EBSA, the Office of Labor-Management Standards, the Internal Revenue Service-Criminal Investigation, and the FBI. *United States v. Frank Loconte* (D. Massachusetts)



Departmental Management

Departmental Management

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

Service Auditors' Report on the Integrated Federal Employees' Compensation System for the Period October 1, 2022, through June 30, 2023

The OIG contracted with the independent certified public accounting firm KPMG LLP (KPMG) to perform an examination of the Integrated Federal Employees' Compensation System (iFECS) transaction processing for application and general controls and to determine if iFECS application and general controls, as described in the report, were fairly presented, suitably designed, and effectively operating for the period October 1, 2022, through June 30, 2023.

The controls and control objectives included in the description are those that the management of OWCP's Division of Federal Employees' Longshore and Harbor Workers' Compensation and the Office of the Assistant Secretary for Administration and Management believe are likely to be internal controls for financial reporting relevant to user entities of the FECA Special Fund and iFECS throughout the period. KPMG examined the suitability of the design and operating effectiveness of the controls and control objectives. KPMG concluded in

all material respects that the description fairly presented the claims processing system and that the related controls were suitably designed and operating with sufficient effectiveness to provide reasonable, but not absolute, assurance that the control objectives were achieved for the audit period.

This report, No. 22-23-008-04-431 (September 20, 2023), contains sensitive information and will not be released publicly.

DOL's Purchase and Travel Card Risks Assessed as Low and Moderate, Respectively

The Government Charge Card Abuse Prevention Act of 2012 (Charge Card Act) was designed to prevent recurring waste, fraud, and abuse of government-wide charge cards. We contracted with KPMG to assist with the risk assessment of DOL's purchase and travel card programs for the period October 1, 2021, through September 30, 2022, pursuant to the Charge Card Act. To perform the risk assessment, key program objectives were assessed for the purchase and travel card programs. Various methods of review and analytical testing were used to assess the residual risks¹³⁹ as of September 30, 2022,

¹³⁹ Residual risk is the exposure remaining from an inherent risk after action has been taken to manage it, using the same assessment standards as the inherent assessment.

Departmental Management

assign a risk impact and risk likelihood level,¹⁴⁰ and then assign a risk level ranging from very low to very high. For the purchase card program, four objectives had a low risk level and two had a very low risk level.

For the travel card program, two objectives had a moderate risk level, one had a low risk level, and three had a very low risk level (see Figure 10).

Figure 10: Definitions of Risk Impacts and Likelihoods

Risk Level	Risk Impact Definition	Risk Likelihood Definition
Very High	The degradation of an activity or role is severe , impacting the ability to meet one or more strategic goals or objectives, produce key deliverables, or reach required levels of performance to meet the mission.	Risk event is almost certain to occur. Likelihood of occurrence is 90-100 percent.
High	The degradation of an activity or role is major , requiring immediate escalation or management intervention to reach required levels of performance of key functions.	Risk event is highly likely to occur. Likelihood of occurrence is 50-90 percent.
Moderate	The degradation of an activity or role is moderate with material impact on performance of key functions.	Risk event is possible to occur. Likelihood of occurrence is 25-50 percent.
Low	The degradation of an activity or role is minor . It is noticeable and may affect performance of key functions.	Risk event is unlikely to occur. Likelihood of occurrence is 10-25 percent.
Very Low	The degradation in activity or role is negligible and is not expected to significantly affect performance of key functions.	Risk event occurrence is remote. Likelihood of occurrence is 0-10 percent.

Source: DOL OIG Framework for Enterprise Risk Management, Version 3.0, May 31, 2022

¹⁴⁰ Risk impact is the likely magnitude that the risks would have on the key objective. Risk likelihood is the level of possibility that a risk will occur that affects the key objective.

Departmental Management

Based on the results of the assessment, the overall risk of illegal, improper, or erroneous use of DOL's purchase and travel cards is low and moderate, respectively. The detailed assessments of DOL's purchase and travel card programs were provided to DOL officials.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/22-23-007-50-598.pdf>, Report No. 22-23-007-50-598 (August 30, 2023).

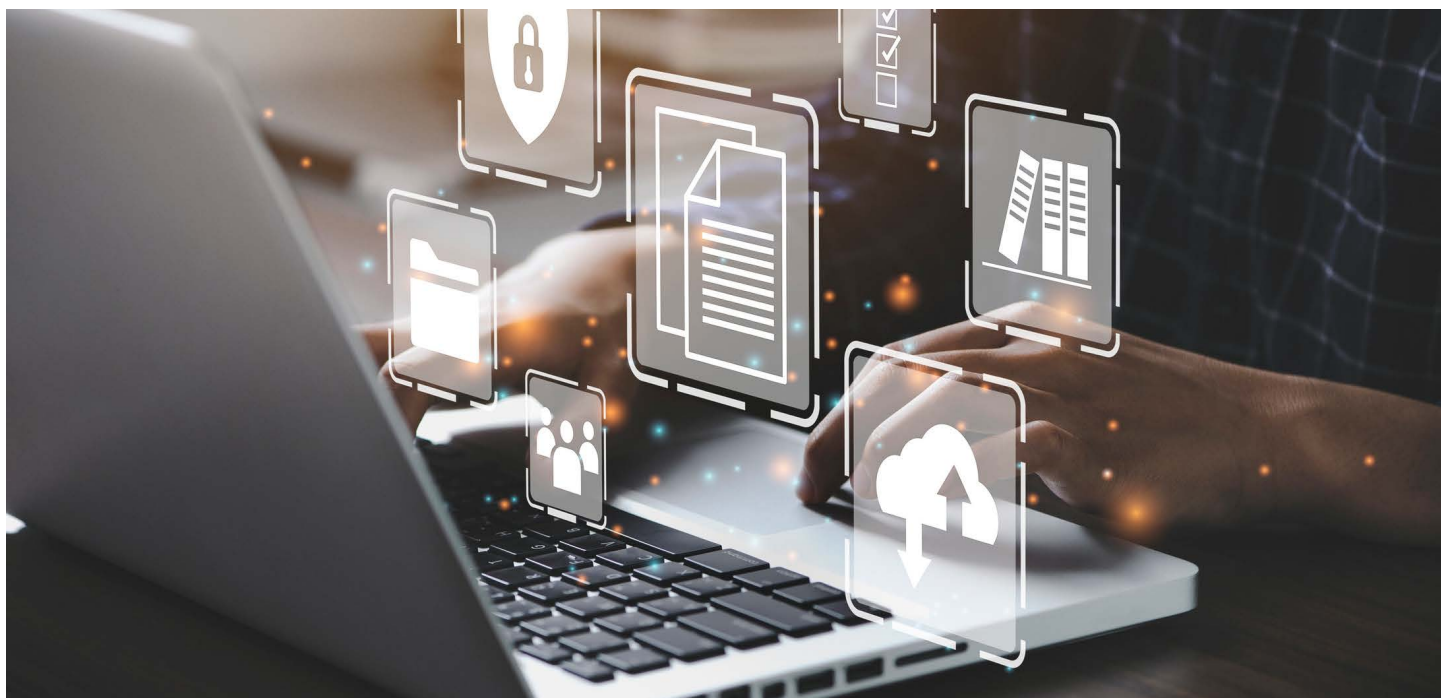
The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2022

The OIG contracted with KPMG to conduct a performance audit related to DOL's

compliance with PIIA, as defined in Title 31 of the United States Code (U.S.C.) § 3351(2), for the fiscal year ended September 30, 2022. PIIA requires federal agencies to identify programs susceptible to significant improper payments, estimate the improper payments for those programs, and report on actions to reduce the improper payments in those programs.

As noted in our prior year report,¹⁴¹ DOL continued to report the State Unemployment Insurance program, which includes the PEUC program and the FPUC payment activity collectively as one program—the UI program—based on OMB's approval.

KPMG's objective to evaluate DOL's compliance with PIIA included determining whether DOL met six PIIA compliance requirements in relation to the UI, PUA, and



¹⁴¹ The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2021, Report No. 22-22-007-13-001 (July 1, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/22-22-007-13-001.pdf>

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Table 4: Criteria for PIIA Requirements Not Met for the UI Program and PUA

Programs	Requirement #	Criteria
PUA	3	Published improper payment estimates for all programs and activities identified under § 3352(a) in the accompanying materials to the annual financial statement (if required)
PUA	4	Published programmatic corrective action plans prepared under § 3352(d) that DOL may have in the accompanying materials to the annual financial statement
UI & PUA	5	Published improper payments reduction targets established under § 3352(d) that DOL may have in the accompanying materials to the financial statement for each program or activity assessed to be at risk, and has demonstrated improvements and developed a plan to meet the reduction targets
UI & PUA	6	Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under § 3352(c)

FECA programs. KPMG concluded DOL met four of the six requirements for compliance with PIIA for the UI program, two of the six requirements for the PUA program, and all six requirements for the FECA program. See Table 4 for the requirements not met for UI and PUA.

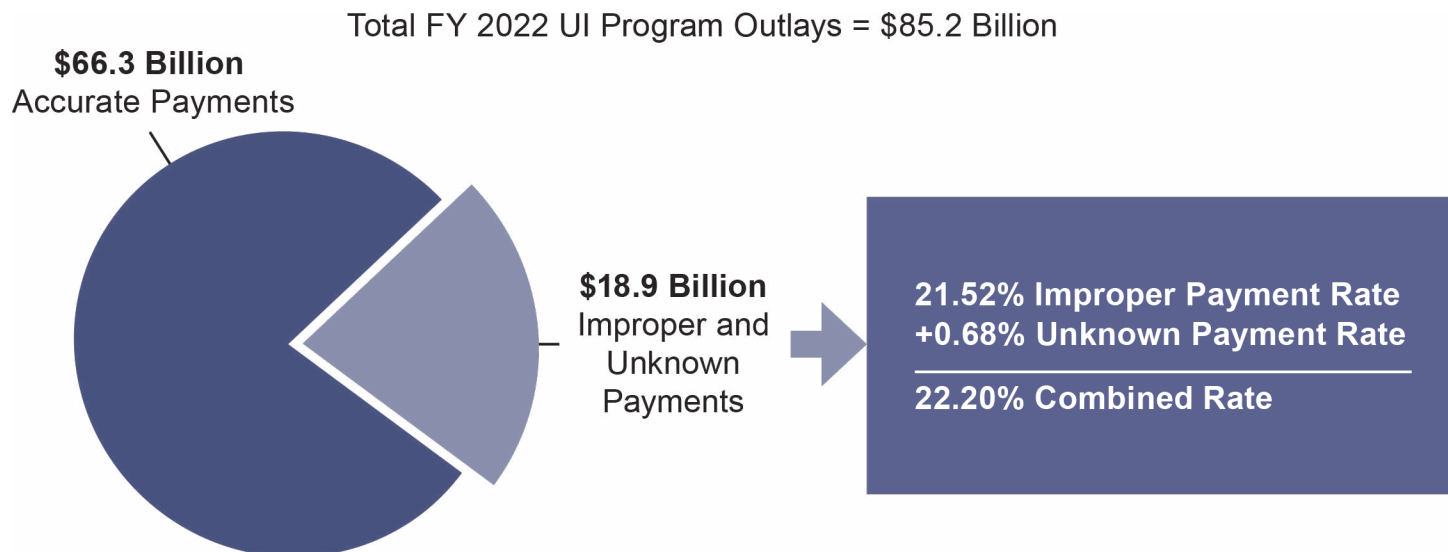
KPMG determined Requirements 5 and 6 were not met for the UI program. For Requirement 5, KPMG noted the UI program did not demonstrate improvement from the improper

payment target rate published in FY 2021 as the combined total improper payment rate increased. Compared to 18.92 percent reported in FY 2021, in FY 2022, DOL reported a 21.52 percent improper payment rate and an unknown¹⁴² payment rate of 0.68 percent equaling a combined total rate of 22.20 percent for the UI program. Based on those rates, more than \$18.9 billion of the \$85.2 billion in total UI program payments for the year were either

¹⁴² An unknown payment is defined as a payment that could be either proper or improper, but the agency is unable to discern whether the payment was proper or improper as a result of insufficient or lack of documentation.

Departmental Management

Figure 11: DOL's Reported UI Payments and Accuracy Rates, FY 2022



Source: DOL FY 2022 information reported on [PaymentAccuracy.gov](https://www.dhs.gov/payment-accuracy)

unknown or improper (see Figure 11). The UI program also did not meet Requirement 6 as the improper payment rate was above the 10 percent threshold.

In addition to not meeting Requirements 5 and 6, the PUA program also did not meet Requirement 3 to publish improper payment and unknown payment estimates for programs susceptible to significant improper payments and unknown payments and did not meet Requirement 4 to publish corrective action plans. Although DOL determined PUA to be susceptible to improper payments in FY 2021, DOL did not include PUA improper payment information in its FY 2022 reporting. In October 2022, OMB stated the initial methodology DOL submitted in June 2022 for estimating the PUA program's improper payment rate and amount required further analysis. OMB requested DOL continue working to develop a sufficient methodology. The PUA program had outlays of \$18.9 billion for the 2022 program year, and \$137.7 billion since its inception in FY 2020.

KPMG made three recommendations to DOL management to: 1) revise the methodology used to calculate the improper payment information for the FPUC program, 2) maintain the current focus on increasing technical assistance and funding to states to demonstrate improvement on the rate, and 3) continue to work with OMB to develop an approved estimation methodology for the PUA program and publish the resulting improper payment information.

We note that DOL management's response disagreed with the inclusion of the PUA program in the analysis of improper payments, as well as the conclusion noted for Requirement 5 of PIIA. As highlighted in KPMG's report, the OMB guidance and data call instructions support the conclusions reached.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/22-23-006-13-001.pdf>, Report No. 22-23-006-13-001 (June 9, 2023).

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.

Quality Control Review of Single Audits

Under OMB Uniform Guidance,¹⁴³ cognizant federal agencies ensure the implementation of single audit requirements. A non-federal entity expending more than \$50 million a year in federal awards has a cognizant agency for audit.¹⁴⁴ DOL is currently cognizant for 12 entities.

The OIG periodically performs QCRs of single audits of entities over which DOL has cognizance. During this reporting period, we conducted three QCRs: (1) Single Audit of the South Carolina Department of Employment and Workforce for the Year Ended June 30, 2021; (2) Single Audit of the Center for Workforce Inclusion, Inc. for the Fiscal Year Ended June 30, 2022; and (3) Single Audit of the Puerto Rico Department of Economic Development and Commerce for the Fiscal Year Ended June 30, 2021.

Quality Control Review for the Single Audit of South Carolina Department of Employment and Workforce for the Year Ended June 30, 2021

We performed a QCR of the independent certified public accounting firm Scott and Company, LLC's (Firm) single audit of the South Carolina Department of Employment and Workforce for the Year Ended June 30, 2021. Our QCR covered the UI program, which equaled \$3.67 billion of the \$3.72 billion in total DOL funds. We determined the Firm's audit report and audit work on the single audit did not meet the requirements of government auditing standards, generally accepted auditing standards, and OMB Uniform Guidance.

Our QCR covered the UI program, which equaled \$3.67 billion of the \$3.72 billion in total DOL funds. We found deficiencies in the Firm's audit report and audit work.

¹⁴³ Uniform Guidance refers to 2 C.F.R. Part 200, OMB's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

¹⁴⁴ According to Uniform Guidance, the designated cognizant agency for audit must be the federal awarding agency that provides the predominant amount of funding directly to a non-federal entity unless OMB designates a specific cognizant agency for audit. Cognizant agencies for audit are the federal agencies designated to carry out the responsibilities described in Uniform Guidance § 200.513(a).

Departmental Management

Specifically, we found deficiencies in the Firm's planning and testing of UI. We also noted that the lack of internal controls in the PUA program needed to be reported. Lastly, the Firm's Schedule of Expenditures of Federal Awards was improperly presented. We made seven recommendations to the Firm to address the identified deficiencies, including revising and reissuing the single audit report.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/24-23-003-50-598.pdf>, Report No. 24-23-003-50-598 (September 26, 2023).

Quality Control Review for the Single Audit of the Center for Workforce Inclusion, Inc. for the Fiscal Year Ended June 30, 2022

We performed a QCR of the independent certified public accounting firm Gorfine, Schiller & Gardyn's single audit of the Center for Workforce Inclusion, Inc. for the Fiscal Year Ended June 30, 2022. Our QCR covered the Senior Community Service Employment Program, which totaled \$47.8 million of DOL funds. We determined Gorfine, Schiller & Gardyn's audit work on the single audit was acceptable and met the requirements of government auditing standards, generally accepted auditing standards, and OMB

Uniform Guidance. Our report did not contain any recommendations.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/24-23-005-50-598.pdf>, Report No. 24-23-005-50-598 (September 27, 2023).

Quality Control Review for the Single Audit of the Puerto Rico Department of Economic Development and Commerce for the Fiscal Year Ended June 30, 2021

We performed a QCR of the independent certified public accounting firm Galindez, LLC's single audit of the Puerto Rico Department of Economic Development and Commerce for the Fiscal Year Ended June 30, 2021. Our QCR covered the WIOA Cluster, which totaled \$82.4 million of DOL funds. We determined Galindez, LLC's audit work on the single audit was acceptable and met the requirements of government auditing standards, generally accepted auditing standards, and OMB Uniform Guidance. Our report did not contain any recommendations.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2023/24-23-004-50-598.pdf>, Report No. 24-23-004-50-598 (September 19, 2023).



Employee Integrity Investigations

Employee Integrity Investigations

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

- The OIG conducted a criminal investigation into various fraud allegations involving a DOL special agent. As a result of the investigation, the agent pled guilty to: fraudulently collecting \$60,284 in unemployment insurance benefits while employed on full-time active duty with the National Guard; defrauding the U.S. Army of \$24,582 in basic housing allowance; and fraudulently collecting \$50,000 in lost wages from an insurance company during the time they were suspended from DOL. The agent was sentenced to 33 months in federal prison for their fraud schemes and ordered to pay restitution in the amount of \$197,366.
- The OIG conducted an investigation of a senior employee regarding the alleged use of a government-issued travel card for personal financial gain. The OIG found evidence supporting the allegation and the employee was terminated.
- The OIG conducted an investigation to determine if an OIG employee failed to properly secure their agency-approved firearm while off-duty. As a result of the investigation, the OIG substantiated the allegation. The employee was demoted and reassigned to a non-supervisory position. The employee's authority to carry an agency-approved firearm off-duty was also permanently revoked.
- The OIG conducted an investigation as to whether a senior employee allegedly used a foreign email address on official correspondence and passed sensitive contractual information to a DOL contractor. There was no evidence to support the allegations and no further action was warranted.
- The OIG conducted an investigation as to whether a senior employee violated the Anti-Lobbying Act during a meeting with a private organization. There was no evidence to support the allegations and DOL provided the employee retraining in ethics rules.
- The OIG conducted an investigation as to whether a DOL contract employee had solicited the U.S. Secretary of Labor with two separate bank checks in return for a partnership with their firm. Criminal charges were declined as the individual was terminated by the DOL contractor.
- The OIG conducted an investigation as to whether a former DOL attorney violated post-employment rules by working on a matter in their private practice that they previously worked on while employed at the Department. Criminal charges were declined. The former employee was notified of post-employment restrictions and immediately ceased work on the matter.



OIG Whistleblower Activities

OIG Whistleblower Activities

Whistleblower Protection Coordinator

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 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 Program, 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 Whistleblower Protection Coordinator:

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 about the roles of the OIG, the Office of Special Counsel, 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 the OIG, a Supervisory Associate Counsel to the Inspector General has been designated to serve as the Whistleblower Protection Coordinator. Pursuant to this designation, the Whistleblower Protection Coordinator has:
 - provided input into training that is required to be completed by all DOL employees, entitled “Prohibited Personnel Practices, Whistleblower Protection”;
 - provided input into training that is required to be completed by 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” that is included in all DOL employees’ New Employee Orientation and regularly provides this training live to Solicitor’s Office’s Honors Attorneys;
 - 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;

OIG Whistleblower Activities

- provided live training to all OIG employees on “Whistleblower Rights and Protections for OIG Employees;”
- established a dedicated e-mail address—OIGWhistleblower@oig.dol.gov—to receive and respond to whistleblower-related inquiries from DOL employees and employees of DOL contractors and grantees;
- obtained the OIG’s recertification of its 2302(c) program from the Office of Special Counsel (July 2023);
- monitored whistleblower retaliation complaints received by the OIG, as well as whistleblower retaliation investigations conducted by the OIG;
- conducted training for the State Workforce Agencies State Monitor Advocates on Whistleblower Protections for Employees of DOL Grantees and Contractors; and

- participated on the panel of Whistleblower Protection Coordinators for the Council of the Inspectors General on Integrity and Efficiency Whistleblower Education Forum.

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 the Office of Special Counsel 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.

Table 5: Whistleblower Investigations, April 1, 2023–September 30, 2023

Investigation Type	Number
Pending DOL employee complaint investigations	4
Reports related to DOL employee whistleblower retaliation complaints sent to the appropriate agencies within the Department	1
Grantee/contractor employee complaints closed after preliminary inquiry	1
Pending grantee/contractor employee complaint investigations	2
Reports pending with DOL	1
Decision issued by the DOL Assistant Secretary for Administration and Management	1



Legislative Recommendations

Legislative Recommendations

The Inspector General Act of 1978, as amended, requires the Office of Inspector General (OIG) to review existing or proposed legislation and regulations and to make recommendations in the Semiannual Report to Congress 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 U.S. Department of Labor's (DOL or Department) programs.

Inspector General Larry D. Turner, in congressional testimonies and through other means, highlighted four high-priority recommendations for congressional consideration:

1. Extend the statute of limitations for fraud involving pandemic-related unemployment insurance (UI) programs;
2. Ensure DOL and the OIG have ongoing, timely, and complete access to UI claimant data and wage records;
3. Grant the OIG statutory authority to participate in asset forfeiture funds to combat UI fraud and other crime; and
4. Ensure effective payment integrity controls to reduce improper payments in all UI programs including temporary ones, such as through broader requirements for mandatory cross-matching.

Details on these and other legislative recommendations follow.

Extend the Statute of Limitations Associated with Pandemic-Related UI Fraud

Unless Congress acts urgently, the statute of limitations for many of the OIG's pandemic-related UI fraud investigations will begin to expire in early 2025. Because the statutes most often

used to prosecute UI fraud have a 5-year limitation, many groups and individuals that have defrauded the UI program may escape justice. Even with the OIG's tireless efforts, the current statute of limitations associated with UI fraud means federal law enforcement may still fall short in fully investigating and prosecuting the most egregious cases of UI fraud. This is particularly the case given the volume and complexity of UI fraud matters we are tasked to investigate. This issue is further complicated by our limited resources. The U.S. Small Business Administration faced a similar issue regarding the statute of limitations for pandemic-related fraud in the Paycheck Protection Program and Economic Injury Disaster Loan programs. To address those concerns, Congress passed legislation to extend associated statutes of limitations.

Congress could likewise act to extend the statute of limitations for fraud associated with pandemic-related UI programs to help ensure investigators and prosecutors have time to effectively pursue and hold accountable those who defrauded the UI programs during the pandemic. To do so, Congress would likely have to extend the statute of limitations for existing laws when pandemic-related UI programs are defrauded.

Legislative Recommendations

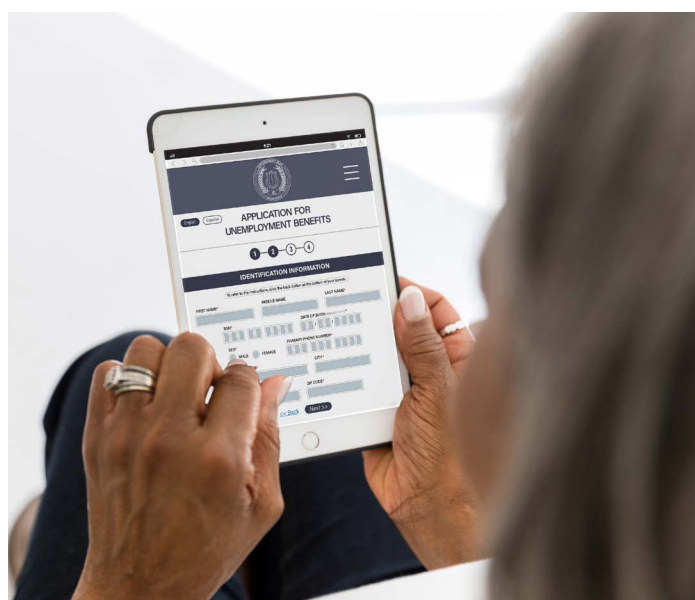
Further, for similar reasons, Congress could consider extending the federal statute of limitations for states to pursue administrative recoveries in cases of proven overpayments, including fraud, and with appropriate due process.

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

In addition to the Inspector General Act of 1978, as amended, Congress should consider legislative action that would specifically authorize DOL and the OIG have ongoing, timely, and complete access to State Workforce Agencies' (SWA) 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 Act and subsequent pandemic-related legislation, it lacks the authority to require SWAs to provide the OIG with access to UI claimant data and wage records except when the OIG is conducting an investigation into a particular instance of suspected UI fraud.

The Inspector General Act of 1978, as amended, authorizes the Inspector General's access to information related to the Department's programs and operations, unless Congress enacts a law that expressly refers to the Inspector General and limits the Inspector General's right of access. The Department has not provided the OIG with a federal statute

that limits the Inspector General's access in this manner. Furthermore, in our June 2021 alert memorandum,¹⁴⁵ we recommended that the Employment and Training Administration (ETA) amend its regulations¹⁴⁶ to reinforce that SWAs' UI information must be provided to the OIG for all Inspector General engagements authorized under the Inspector General Act of 1978, as amended, including audits, evaluations, and investigations.



These barriers to the OIG's ongoing, timely, and complete access to data has severely hampered the OIG's ability to oversee the UI program. To overcome this and effectively oversee UI benefits provided in response to the pandemic, the OIG issued multiple Inspector General subpoenas to all SWAs seeking UI claimant data. OIG data scientists then had to ensure the data was complete, consistent, and in a

145 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>

146 20 C.F.R. § 603.5 and 603.6(a)

Legislative Recommendations

common format to analyze and identify potential fraud and programmatic weaknesses. The repeated use of Inspector General subpoenas to obtain UI data on a recurring basis is time-consuming and inefficient. Ongoing, timely, and complete access for all OIG engagements would alleviate that time and resource burden and align with the Inspector General Act of 1978, as amended.

While the OIG and ETA agree that changing regulations requires notice and comment rulemaking, an immediate and legally sound interim solution is available to ETA. In an alert memorandum issued September 21, 2022,¹⁴⁷ the OIG highlighted DOL's authority to amend its interpretation of its regulations without changing the regulations themselves. Specifically, ETA can issue guidance to inform SWAs that they must timely provide UI data without any constraints to the OIG for audits and investigations consistent with the Inspector General Act of 1978, as amended. The historic levels of improper payments that the OIG has identified, including potential fraud, support the conclusion that the OIG's continued access to state UI data is imperative.

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. Timely access to these records will facilitate the OIG's efforts to identify claimants who are part of large-scale fraud schemes

or are receiving benefits improperly due to systemic program weaknesses.

Further, data analytics is a vital tool in performing our oversight function. 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 those records to assess program outcomes for UI reemployment programs, as well as other training programs, such as YouthBuild and Job Corps, where employment and wage increases are important factors in determining a program's success.

To date, ETA has implemented only temporary solutions. In August 2021, ETA issued guidance requiring SWAs to disclose UI data to the OIG for audits and investigations for the duration of the pandemic programs. ETA has also required sharing of state UI data as a condition of fraud prevention grants. These grants are expected to provide access through 2023. Further, recently issued guidance supporting additional grants under the American Rescue Plan Act of 2021 are expected to provide access for the next 2 to 5 years. According to ETA, 52 of 53 SWAs received grants. ETA stated it was able to require SWAs to provide UI data to the OIG due to temporary authority created by the Coronavirus Aid, Relief, and Economic Security Act and subsequent pandemic-related legislation.

ETA's actions are not sufficient to resolve the OIG's recommendations or concerns.

147 Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf>

Legislative Recommendations

ETA announced its intent to amend its regulations to facilitate the OIG's ongoing access by February 2025, and, in July 2023, requested public comment on potential revisions that would require states to disclose unemployment compensation data to the OIG for oversight, including audits. However, until DOL implements a permanent solution, including revising the regulations ensuring the OIG's complete and timely access to UI program data and information, the Department's interpretation of its regulations may renew impediments to the OIG's access experienced prior to and during the pandemic and necessitate additional subpoenas.

In addition to the Inspector General Act of 1978, as amended, Congress should consider legislative action that would specifically authorize DOL and the OIG to have ongoing, timely, and complete access to UI claimant data and wage records for our oversight responsibilities.

In addition to the Inspector General Act of 1978, as amended, Congress should consider legislative action that would specifically authorize DOL and the OIG to have ongoing, timely, and complete access to UI claimant data and wage records for our oversight responsibilities. Ongoing, timely, and complete 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 states to strengthen

the UI program and deter fraud. Further, this action would assist the Department in its programmatic oversight responsibilities to identify weak controls and improper payments in the UI program.

To underscore this point, based on the data obtained by the OIG, our auditors, investigators, and data scientists collaboratively identified \$46.9 billion dollars in potential fraud paid in 6 specific high-risk areas, such as to children under 14 and deceased persons.¹⁴⁸ Also, for the first four high-risk areas, the OIG has shared its methodology and underlying data with DOL for further dissemination to the SWAs and is working to share data supporting the additional high-risk areas. This information allows the Department and SWAs to analyze concerning claims and to strengthen controls to detect and deter future fraud. The OIG was further able to recommend programmatic changes to put billions in federal funds to better use. Conducting data analytics from such 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.

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

148 Alert Memorandum: ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program, Report No. 19-23-012-03-315 (September 25, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-012-03-315.pdf>

Legislative Recommendations

and other crimes and to recover fraudulently obtained funds.¹⁴⁹ 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 U.S. Department of the Treasury Forfeiture Fund or the U.S. Department of Justice (DOJ) Asset Forfeiture Fund. The lack of authority to participate limits the OIG's ability to effectively recover 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 U.S. Department of the Treasury Forfeiture Fund and the DOJ Asset Forfeiture Fund, thus enabling the OIG to better combat UI fraud and other crimes in the future.

Enact the UI Integrity Legislative Proposals

The OIG encourages Congress to consider and adopt key DOL proposals to aid the Department's efforts to combat improper payments in the UI program. In its Fiscal Year (FY) 2024 Congressional Budget Justification,¹⁵⁰ the Department proposed provisions designed to

provide new and expanded tools and controls for states to help ensure workers are properly paid and to prevent improper payments, including fraud, in the UI system.

The Department stated that the proposals collectively would result in savings of more than \$2 billion over the 10-year budget window. These are similar to DOL proposals included in prior DOL budget requests that would help address UI program integrity and the high improper payment rates in the UI program. These proposals include the following:

- require SWAs to cross-match UI claims against the National Directory of New Hires;
- require SWAs to cross-match UI claims with a system(s) that contains information on individuals who are incarcerated;
- require states to disclose information to the OIG;
- allow SWAs to retain up to 5 percent of recovered fraudulent UI overpayments for program integrity use;
- require SWAs to use [UI] penalty and interest collections solely for UI administration; and
- permit the Department to collect and store states' UI claimant data.

These legislative proposals are consistent with previous OIG reporting to improve the UI program. To maintain UI program integrity, the

149 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." DOJ, Asset Forfeiture Policy Manual (2023), available at: <https://www.justice.gov/criminalafmls/file/839521/download>

150 U.S. Department of Labor, FY 2024 Congressional Budget Justification, Employment and Training Administration, State Unemployment Insurance and Employment Service Operations, available at: <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V1-07.pdf>

Legislative Recommendations

OIG has recommended establishing legislation that requires SWAs to cross-match high-risk areas, such as UI benefits paid to individuals with Social Security numbers filed in multiple states and belonging to deceased persons.

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, unlike H-2A and H-2B investigations, DOL's authority to investigate H-1B employers is limited and typically requires a complaint by an aggrieved party. In the absence of such a complaint, with limited exceptions, DOL may only initiate its own H-1B investigations if the Secretary (or Acting Secretary) personally certifies there is reasonable cause to believe the employer is not in compliance. Even assuming that such personal certification is obtained, the scope of Secretary-certified investigations is limited. These investigations are restricted to willful, pattern- or practice-, or substantial violations of the Labor Condition Application requirements regarding prevailing wage and benefits, working conditions, labor disputes, and notification of applications.

Additionally, such an investigation must be conducted under specific procedures and may only be initiated for reasons other than completeness and obvious inaccuracies by the

employer in complying with H-1B requirements. A notice also must be provided to the employer to allow a rebuttal of the allegations before the investigation begins.



Our concern with the Department's limited ability to ensure the integrity of the certification process is heightened by the results of OIG audits 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 profits by requiring foreign workers to pay fees and recurring payments to secure H-1B visas.

Without statutory authority, the Department generally cannot verify employers' attestations to H-1B certifications unless a complaint is filed or the Department utilizes a Secretary-initiated investigation. As foreign workers are generally reluctant to file complaints for fear of retaliation and losing their jobs, the Department's process is unlikely to result in verification action being taken.

Legislative Recommendations

Amend Pension Protection Laws

Legislative changes to the Employment Retirement Income 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 from rendering an opinion on the plans’ financial statements in accordance with professional auditing standards. These “no opinion” audits offer weak assurance of asset integrity either to plan participants or to the Department.
- **Expand the authority of the Employee Benefits Security Administration to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional audits.** Changes should include providing the Employee Benefits Security Administration 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 sets penalties for embezzlement or theft from employee pension and welfare plans; Section 1027 sets penalties for making false statements in documents required by ERISA; and Section 1954 sets penalties for 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). An increased penalty would serve as a greater deterrent and, consequently, further protect employee pension plans.

Legislative Recommendations

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 and Social Security wage records.** Currently, the Department has no access to the National Directory of New Hires 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 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' FECA reform.
- **Allow the temporary suspension of medical providers pending the outcome of criminal investigations.** While FECA regulations allow the Office of Workers' Compensation Programs to exclude a provider through administrative means, the Office of Workers' Compensation Programs 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 medical 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 the Office of Workers' Compensation Programs' FECA reform.





Appendices

Reporting Requirements Under the Following Acts

The Inspector General Act of 1978, as Amended

REPORTING	REQUIREMENT	PAGE
Section 4(a)(2)	Recommendations on existing and proposed legislation and regulations relating to the programs and operations of DOL	111
Section 5(a)(1)	Description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the establishment and associated reports and recommendations for corrective action made by the Office	All
Section 5(a)(2)	Identification of each recommendation made before the reporting period, for which corrective action has not been completed, including the potential costs savings associated with the recommendation	All
Section 5(a)(3)	Summary of significant investigations closed during the reporting period	74-96
Section 5(a)(4)	Identification of the total number of convictions during the reporting period resulting from investigations	149
Section 5(a)(5)	Information regarding each audit, inspection, or evaluation report issued during the reporting period, including— (A) a listing of each audit, inspection, or evaluation; (B) if applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use, including whether a management decision had been made by the end of the reporting period	126
Section 5(a)(6)	Information regarding any management decision made during the reporting period with respect to any audit, inspection, or evaluation issued during a previous reporting period	131
Section 5(a) (7)	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)(8)	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	151

continued on next page

Appendices

Section 5(a)(9)	Outstanding peer review recommendations	None to report
Section 5(a)(10)	Peer reviews conducted by the OIG and recommendations outstanding or not fully implemented	None to report
Section 5(a)(11)	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; and (D) indictments and criminal informations that resulted from any prior referral to prosecuting authorities	149
Section 5(a)(12)	Metrics used for developing the data for the statistical tables	149
Section 5(a)(13)	Summary of investigations of senior government employees where allegations of misconduct were substantiated, including the facts, circumstances, status, and disposition of the matter	105
Section 5(a)(14)	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	107
Section 5(a)(15) and Section 6(c)(2)	Information related to interference by the establishment, including— (A) a detailed description of any attempt by the establishment to interfere with the independence of the Office, including— (i) with budget constraints designed to limit the capabilities of the Office; and (ii) incidents where the establishment has resisted or objected to oversight activities of the Office or restricted or significantly delayed access to information, including the justification of the establishment for such action; and (B) a summary of each report made to the head of the establishment under section 6(c)(2) during the reporting period	None to report
Section 5(a)(16)	(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	None to report

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

REPORTING	REQUIREMENT	PAGE
Section 989(C)	Peer review reporting	151

Appendices

Funds Recommended for Better Use

Funds Put to a Better Use Agreed to by DOL¹⁵¹

	Number of Reports	Dollar Value (\$ millions)
For which no management decision had been made as of the commencement of the reporting period	1	\$29,600
Issued during the reporting period	3	<u>\$6,300</u>
Subtotal	1	\$35,900
For which a management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management	0	\$0
• Dollar value of recommendations that were not agreed to by management	0	\$0
For which no management decision had been made as of the end of the reporting period	4	\$35,900

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	3	\$39,310
For which management or appeal decisions were made during the reporting period	<u>0</u>	<u>\$0</u>
Subtotal	3	\$39,310
For which management decision was made during the reporting period:		
• Dollar value of recommendations that were actually completed	0	\$0
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed	0	\$0
For which no final action had been taken by the end of the period	3	\$39,310

¹⁵¹ 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 of 1978, as amended, 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 Treasury to be used for other purposes.

Questioned Costs

Resolution Activity: Questioned Costs¹⁵²

	Number of Reports	Questioned Costs (\$ millions)
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	1	\$321
Issued during the reporting period	4	\$278
Subtotal	5	\$599
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs	0	\$0
• Dollar value of costs not disallowed	0	\$0
For which no management decision had been made as of the end of the reporting period	5	\$599
For which no management decision had been made within six months of issuance	0	\$0

Closure Activity: Disallowed Costs¹⁵³

	Number of Reports	Disallowed Costs (\$ millions)
For which final action had not been taken as of the commencement of the reporting period (as adjusted)	0	\$0
For which management or appeal decisions were made during the reporting period	0	\$0
Subtotal	0	\$0
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered	0	\$0
• Dollar value of disallowed costs that were written off	0	\$0
• Dollar value of disallowed costs that entered appeal status	0	\$0
For which no management decision had been made within six months of issuance	0	\$0

¹⁵² As defined by the Inspector General Act of 1978, as amended, 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.

¹⁵³ 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 Treasury.

Appendices

Final Audit Reports Issued

Report Title; Report Number; Date Issued	Number of Recommendations	Questioned Costs (\$)	Funds Put To Better Use (\$)	Management Decision Made by End of Reporting Period
Employment and Training Administration				
Tracking the Department of Labor's Unemployment Insurance Response to Local Communities during the Pandemic; Report No. 19-23-007-03-315; 07/10/23	0	\$0	\$0	No Response Required
ETA Did Not Provide Adequate Oversight of Emergency Administrative Grants; Report No. 19-23-006-03-315; 07/27/23	3	\$136,353,568	\$0	Yes
COVID-19: Audit of State Workforce Agencies' Information Technology Systems Capability in Processing Unemployment Insurance Claims; Report No. 19-23-008-03-315; 09/19/23	0	\$0	\$0	No Response Required
COVID-19: Unemployment Relief for Governmental Entities and Nonprofit Organizations Should Have Been Better Managed; Report No. 19-23-010-03-315; 09/21/23	3	\$29,074,061	\$0	No
COVID-19: ETA Can Improve its Oversight to Ensure Integrity over CARES Act UI Programs; Report No. 19-23-011-03-315; 09/22/23	3	\$0	\$0	No
Alert Memorandum: ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program; Report No. 19-23-012-03-315; 09/25/23	3	\$0	\$1,292,205,723	No
COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments Including Fraud; Report No. 19-23-014-03-315; 09/27/23	3	\$0	\$0	No
COVID-19: ETA Needs a Plan to Reconcile and Return to the U.S. Treasury Nearly \$5 Billion Unused by States for a Temporary Unemployment Insurance Program; Report No. 19-23-015-03-315; 09/28/23	8	\$105,100,000	\$4,948,811,006	No
COVID-19: The Employment and Training Administration Needs to Improve Oversight of Grants Awarded in New Jersey; Report No. 19-23-016-03-391; 09/28/23	7	\$7,165,040	\$100,098,923	No
Total (9 Reports)				

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Occupational Safety and Health Administration				
COVID-19: OSHA Needs to Strengthen Its Process for Awarding Future Emergency Supplemental Funds to State Plans; Report No. 19-23-009-10-105; 08/30/23	2	\$0	\$0	Yes
COVID-19: OSHA Needs to do More to Address High Injury Rates of Warehouse Workers; Report No. 19-23-013-10-105; 09/27/23	7	\$0	\$0	No
Total (2 Reports)				
Office of the Assistant Secretary for Administration and Management				
Memorandum: U.S. Department of Labor's Purchase and Travel Card Risks Assessed as Low and Moderate; Report No. 22-23-007-50-598; 08/30/23	0	\$0	\$0	No Required Response
Total (1 Report)				
Office of the Chief Financial Officer				
The U.S. Department of Labor Did Not Meet the Requirement for Compliance with the Payment Integrity Information Act for Fiscal Year 2022; Report No. 22-23-006-13-001; 6/9/23	3	\$0	\$0	Yes
Total (1 Report)				
Office of Workers' Compensation Programs				
Service Auditors' Report on the Integrated Federal Employees' Compensation System; Service Auditors' Report on Optum Workers' Compensation and Auto No-Fault's Retail Pharmacy Network Services System; and Service Auditors' Report on the U.S. Department of Labor Workers' Compensation Medical Bill Processing System; Report No. 22-23-008-04-431; 09/20/23	0	\$0	\$0	No Response Required
Total (1 Reports)				
Final Audit Total (14 Reports)	42	\$277,692,669	\$6,341,115,652	

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Other Reports

Report Title; Report Number; Date Issued	Number of Recommendations	Management Decision Made by End of Reporting Period
Employment and Training Programs		
Workforce Innovation and Opportunity Act		
Quality Control Review for the Single Audit of the Puerto Rico Department of Economic Development and Commerce for the Fiscal Year Ended June 30, 2021; Report No. 24-23-004-50-598; 09/19/23	0	No Response Necessary
Quality Control Review for the Single Audit of South Carolina Department of Employment Workforce for the Year Ended June 30, 2021; Report No. 24-23-003-50-598; 09/26/23	7	No
Quality Control Review for the Single Audit of the Center for Workforce Inclusion, Inc., for the Fiscal Year Ended June 30, 2022; Report No. 24-23-005-50-598; 09/27/23	0	No Response Necessary
Total (3 Reports)		
Other Reports Total (3 Reports)	7	

Appendices

Unresolved Audit Reports Over 6 Months Old

Agency	Report Title; Report Number; Date Issued	Number of Unimplemented Recommendations	Questioned Costs (\$)
Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency			
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	1	\$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	2	\$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	Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs; Report No. 19-22-004-03-315; 08/02/22	1	\$0
ETA	Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High Risk Areas Increased to \$45.6 Billion; Report No. 19-22-005-03-315; 09/21/22	2	\$0
ETA	COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or from Payment Delays; Report No. 19-22-006-03-315; 09/30/22	2	\$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	2	\$0
Office of Assistant Secretary for Administration and Management	[Federal Information Security Modernization Act of 2014 (FISMA)] Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	\$0

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Office of Federal Contracting 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
Office of the Secretary	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
OWCP	OWCP Did Not Ensure Best Prices and Allowed Inappropriate, Potentially Lethal Prescriptions in the FECA Program; Report No. 03-23-001-04-431; 03/31/23	6	\$321,261,486
Agency Management Decision or Grant/Contracting Officer's Final Determination Not Issued By Close of Period			
Total Nonmonetary Recommendations and Questioned Costs		22	\$321,261,486

Agency	Report Title; Report Number; Date Issued	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			
ETA	Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High Risk Areas Increased to \$45.6 Billion; Report No. 19-22-005-03-315; 09/21/22	1	\$29,581,490,253
Total Funds Recommended for Better Use		1	\$29,581,490,253

Total Audit Exceptions and Questioned Costs	22	\$321,261,486
Total Funds Recommended for Better Use	1	\$29,581,490,253
Total Audit Exceptions and Funds Recommended for Better Use	23	\$29,902,751,739

Appendices

Management Decision Made During this Reporting Period on Audits, Inspections, or Evaluations Issued during a Previous Reporting Period: Final Audit Reports Issued

Report Title; Report Number; Date Issued	Number of Recommendations	Questioned Costs (\$)	Funds Put to Better Use (\$)	Management Decision Made on Previously Issued Audits
Employment and Training Administration				
Alert Memorandum: ETA and States Need to Ensure the Use of Identity Verification Service Contractors Results in Equitable Access to Unemployment Insurance Benefits and Secure Biometric Data; Report No. 19-23-005-03-315; 3/31/23	3	\$0	\$0	Yes
Total (1 Report)				
Office of the Chief Financial Officer				
FY 2022 DOL's Consolidated Financial Statements Report; Report No. 22-23-002-13-001; 12/13/22	3	\$0	\$0	Yes
DOL FY 2022 Management Advisory Comments; Report No. 22-23-005-13-001; 1/30/23	8	\$0	\$0	Yes
Total (2 Reports)				
Office of the Chief Information Officer				
FY 2022 FISMA DOL Information Security Report; Report No. 23-23-001-07-725; 2/10/23	8	\$0	\$0	Yes
Total (1 Report)				

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Occupational Safety and Health Administration				
COVID-19: OSHA's Enforcement Activities Did Not Sufficiently Protect Workers from Pandemic Health Hazards; Report No. 19-23-001-10-105; 10/31/22	5	\$0	\$0	Yes
OSHA Needs to Better Address Complaints and Referrals for Increased Worker Safety; Report No. 02-23-001-10-105; 3/6/23	3	\$0	\$0	Yes
Total (2 Reports)				
Office of Workers' Compensation Programs				
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund September 30, 2022; Report No. 22-23-001-04-431; 11/3/22	0	\$0	\$0	No Response Required ¹⁵⁴
COVID-19: Insights on Telehealth Use and Program Integrity Risks in DOL Workers' Compensation Programs during the Pandemic; Report No. 19-23-002-04-001; 12/13/22	0	\$0	\$0	No Response Required
FY 2021 Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report; Report No. 22-23-003-04-432; 2/22/23	0	\$0	\$0	No Response Required
FY 2021 District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Independent Auditors' Report; Report No. 22-23-004-04-432; 2/22/23	2	\$0	\$0	Yes
OWCP Did Not Ensure Best Prices and Allowed Inappropriate, Potentially Lethal Prescriptions in the FECA Program; Report No. 03-23-001-04-431; 3/31/23	10	\$321,261,486	\$0	Yes
Total (5 Reports)				
Final Audit Total (11 Reports)	42	\$321,261,486	\$0	

¹⁵⁴ The notation of "No Response Required" indicates that no management decision was due from the agency because the report issued had no recommendations.

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Management Decision Made During this Reporting Period on Audits, Inspections, or Evaluations Issued during a Previous Reporting Period: Other Reports Issued

Report Title; Report Number; Date Issued	Number of Recommendations	Management Decision Made by End of Reporting Period
Employment and Training Programs		
Workforce Innovation and Opportunity Act		
Quality Control Review Single Audit of State of New Mexico Workforce Solutions Department for The Year Ended June 30, 2021; Report No. 24-23-001-50-598; 3/7/23	2	No
Quality Control Review Single Audit of Service, Employment, and Redevelopment Jobs for Progress National, Inc. for The Year Ended June 20, 2022; Report No. 24-23-002-50-598; 3/30/23	0	No Response Required
Total (2 Reports)		
Congressional Testimony		
Testimony before the U.S. House of Representatives Committee on Ways and Means		
The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud; Report No. 19-23-003-03-315; 2/8/23	0	No Response Required
Testimony before the U.S. House of Representatives Committee on Oversight and Accountability Subcommittee on Government Operations and the Federal Workforce		
Waste, Fraud, and Abuse Go Viral: Inspectors General on Curing the Disease; Report No. 19-23-004-03-315; 3/9/23	0	No Response Required
Total (2 Reports)		
Other Reports Total (4 Reports)	2	

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.

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

During the OIG's pandemic oversight work, ETA sought coordination with the OIG on pandemic-related UI information disclosure guidance to SWAs. However, the guidance would limit the OIG's access to claims data for investigative purposes only. The OIG highlighted that ETA's guidance would hinder recurring SWA UI data access for audits. Despite this feedback, ETA neither revised its guidance nor introduced new guidance, citing a lack of authority to mandate that SWAs to share UI data with the OIG.

Due to these limitations, the OIG issued an alert memorandum emphasizing that, while ETA's guidance limited UI data sharing with the OIG to specific fraud investigations, the Inspector General Act of 1978, as amended, authorizes broader access to combat fraud, waste, and abuse. Additionally, ETA's pre-pandemic guidance mandates a prior agreement with the OIG before sharing confidential UI information. Therefore, we recommended the Principal Deputy Assistant Secretary of Employment and Training amend 20 C.F.R. § 603.5 and 603.6(a) through the rulemaking process to reinforce that UI information must be provided to the OIG for all Inspector General engagements authorized under the Inspector General Act of 1978, as amended, including audits, evaluations, and investigations.

In July 2023, DOL initiated the process to amend C.F.R. Part 603. ETA called for input on the disclosure of confidential wage records in the context of state unemployment compensation information confidentiality regulations. This move aimed to potentially update the regulations considering advancements in IT and the public workforce system concerning the disclosure of confidential unemployment compensation data. Although not yet conclusive, this development is a significant stride towards addressing a crucial OIG recommendation.

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COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21

On March 27, 2020, Congress passed the CARES Act to provide expanded UI benefits to workers directly affected by the COVID-19 pandemic, necessitating both ETA and states implement major changes to the existing UI systems. In our audit of how DOL and states implemented key CARES Act UI programs, we found states faced challenges in promptly implementing programs and adhering to ETA's payment standards. There were varying delays across programs, and many states did not meet the 14- or 21-day promptness criteria for regular UI payments. Consequently, we recommended that the Principal Deputy Assistant Secretary for Employment and Training establish standards to offer clear and reasonable timeframes for the implementation of temporary programs, ensuring prompt benefit payments to claimants.

By November 2022, ETA confirmed its new practice of providing reasonable timeframes in recent guidelines for states. For instance, three Unemployment Insurance Program Letters included directives about the timeline for implementing changes to pandemic related UI programs. We closed this recommendation based on ETA's actions taken.

COVID-19: Alert Memorandum: ETA and States Need to Ensure the Use of Identity Verification Service Contractors Results in Equitable Access to UI Benefits and Secure Biometric Data; Report No. 19-23-005-03-315; 3/31/2023

Resulting from the economic impact of the COVID-19 pandemic, UI programs have become a target for fraud with significant numbers of imposter claims being filed with stolen or synthetic identities. To combat these imposter claims, 24 out of 53 SWAs (45 percent) hired a total of 10 identity verification service contractors that utilized facial recognition technology.

We issued an alert memorandum detailing concerns that the use of identity verification service contractors may not result in equitable and secure access to UI benefits in the processing of UI claims. Consequently, we recommended that the Principal Deputy Assistant Secretary for Employment and Training offer guidance to SWAs on providing fair alternatives to facial recognition, mandate bias testing and reporting for such technology, and ensure contracts with verification providers prioritize data security and regular purging.

In April 2023, ETA promptly issued guidance to states via Unemployment Insurance Program Letter No. 22-21, Change 2, highlighting SWA obligations under 29 C.F.R. § 38.51. The guidance emphasized testing facial recognition systems for biases and collaborating with providers to address these issues. By June 2023, in follow-up guidance, Unemployment Insurance Program Letter 09-23, ETA mandated states disclose bias testing results and continually update measures to rectify identified biases. We closed this recommendation based on ETA's actions taken.

Appendices

MSHA Needs to Improve Efforts to Protect Coal Miners from Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/2020

More than three times as many coal miners were identified as having black lung disease from 2010-2014 when compared to the late 1990s (1995-1999). The evidence indicates respirable crystalline silica (silica)—a carcinogen and contributing cause of black lung disease—may be responsible for this increase. The Federal Mine Safety and Health Act of 1977 requires MSHA to set standards based on the best available evidence to protect miners from exposure to toxic materials or harmful agents. However, over the past four decades, various stakeholders have raised concerns about miners' exposures to silica.

Our audit found MSHA had not sufficiently protected coal miners from exposure to silica. MSHA's silica exposure limit was out of date, MSHA could not cite and fine mine operators for excess silica exposures alone, and MSHA's sampling for silica may be too infrequent to be sufficiently protective.

On July 13, 2023, MSHA issued a proposed rule in the Federal Register, Volume 88, Number 133, titled "Lowering Miners' Exposure to Respirable Crystalline Silica and Improving Respiratory Protection (RIN 1219-AB36)." In the proposed rule, MSHA proposed a permissible exposure limit of 50 micrograms per cubic meter of air during a full shift, calculated as an 8-hour time-weighted average for coal, metal and nonmetal miners, and an action level of 25 milligrams per cubic meter of air for silica exposure. The proposed rule also states:

[t]he adoption of a separate standard would hold operators accountable, at risk of a citation and monetary penalty, when overexposures of the respirable crystalline silica permissible exposure limit occur and enhance its sampling program to increase the frequency of operator sampling.

This proposed rule would add to Title 30 C.F.R. Part 60 to allow MSHA to issue a citation and monetary penalty when violations of its silica exposure limit occur. Although not yet finalized, this proposed rule is a significant stride towards addressing crucial OIG recommendations.

Appendices

Region IX Whistleblower Protection Program Complaints Were Not Complete or Timely; Report No. 02-21-001-10-105; 11/23/2020

On July 6, 2018, then-Secretary of Labor Alexander Acosta received a referral from the U.S. Office of Special Counsel that described allegations against the OSHA Whistleblower Protection Program. The program investigates complaints of employer retaliation when employees report violations of law by their employers. The whistleblower in the U.S. Office of Special Counsel's referral was an investigator for OSHA from 2010 to 2015. The whistleblower alleged OSHA's Region IX had breakdowns processing the complaints it received, which, in turn, resulted in widespread failure to protect complainants.

Our audit found OSHA's current database was not an effective tool to ensure the essential elements of the investigation were completed by investigators. Moreover, the database did not flag periods of inactivity on an investigation to prompt the investigator to proceed with the next element and maintain contact with the complainant and respondent. In response to our audit, OSHA:

- Completed and launched the Whistleblower OSHA Information System database module, which highlights periods of inactivity during an ongoing investigation to investigators and supervisors. It monitors and tracks periods of inactivity via three methods:
 1. open cases with the number of days open for each case are displayed in a dashboard on the OSHA Information System landing page for the investigator and supervisor;
 2. a Pending Investigation and Intake report is available for users to generate, which will provide a list of open cases with various indicators including number of days pending and last diary event date and notes; and
 3. through the Complaint Search function in which the search results provide a list of cases with indication of the last updated date and time for each case.
- Implemented an investigative checklist for regional management to ensure essential elements were completed before closing an investigation.

We closed this recommendation based on the proven solution OSHA implemented to improve case management.

Unimplemented Recommendations

During this reporting period, there were no instances of audits or evaluations provided to the Department for comment that were not responded to within 60 days. Management decisions were received in response to all audits and evaluations issued before the commencement of this reporting period.

From October 1, 2011, through March 31, 2023, the OIG made 1,761 audit recommendations, of which 160 have not been fully implemented. These 160 recommendations include 109 recommendations resulting from audits issued since the end of FY 2020, and, in many cases, the corrective action plans are in place.

RECOMMENDATIONS MADE PRIOR TO APRIL 1, 2023, NOT YET IMPLEMENTED

Fiscal Year	Total Number of Recommendations Made	Unimplemented Recommendations	
		Total Number	Monetary Impact (\$)
2011	319	6	\$0
2012	213	0	\$0
2013	195	0	\$0
2014	128	1	\$0
2015	163	2	\$0
2016	100	1	\$0
2017	112	8	\$0
2018	98	1	\$0
2019	84	19	\$0
2020	105	13	\$0
2021	133	47	\$39,311,226,638
2022	67	26	\$29,581,490,253
2023 ¹⁵⁵	44	36	\$321,261,486
Total	1,761	160	\$69,213,978,377

¹⁵⁵ FY 2023 shows data for the first half of the fiscal year (October 1, 2022, to March 31, 2023).

Appendices

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)
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; ¹⁵⁶ Issue guidance directing states to provide access to state UI claimant data 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 multistate 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 memorandum.
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.
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 C.F.R. 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.
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 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 IDH data.

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¹⁵⁶ These programs are: PUA, PEUC, FPUC, TFFF, EURGENO, and Temporary Financing of Short-Time Compensation.

Appendices

Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs; Report No. 19-22-004-03-315; 08/02/22	Continue to identify states that have not complied with ETA's reporting requirements for CARES Act UI programs and work with them to ensure missing reports and information are submitted before commencement of the Department's FY 2022 financial statement audit; Verify the accuracy of reports that cite no activity and ensure corrections are made where warranted.
Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion; Report No. 19-22-005-03-315; 9/21/22	Implement immediate measures to ensure SWAs are required to provide ongoing access to the OIG by amending its current guidance to require disclosures to the OIG for audits and investigations as necessary, mandatory, and without time limitation for the proper oversight of the UI program; Expedite OIG-related amendments to 20 C.F.R. § 603.6(a) to make ongoing disclosures of UI information to DOL OIG mandatory by expressly adding the U.S. Department of Labor, Office of Inspector General (including its agents and contractors) to the list of required disclosures that are necessary for the proper oversight of the UI program without distinction as to purpose (e.g., audits versus investigations); Expedite OIG-related amendments to 20 C.F.R. § 603.5(i) to expressly make disclosures of UI information to federal officials for oversight, audits, and investigations of federal programs mandatory.
COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or from Payment Delays; Report No. 19-22-006-03-315; 09/30/22	Use data collected from monitoring and BAM reports to identify the areas of highest improper payments including fraud and create a plan to prevent similar issues in future temporary UI benefit programs; Require states to have written policies and procedures, which apply lessons learned during the COVID-19 pandemic, to continue eligibility testing and Benefit Payment Control procedures during emergencies or other times of increased claims volume. These policies and procedures should include strategies to pay claimants timely; Work with NASWA to update the IDH Participant Agreement to require state to submit the results of their UI fraud investigations; Work with NASWA to ensure the IDH cross matches are effective at preventing the types of fraud that were detected during the pandemic and regularly update using the results of state fraud investigations; Work with the OIG and states to recover the greatest practicable amount of the \$7,092,604 paid to claimants connected to likely fraudulent claims.
Alert Memorandum: ETA Needs to Incorporate Data Analytics Capability to Improve Oversight of the Unemployment Insurance Program; Report No. 19-23-012-03-315; 09/25/23	Obtain direct access to unemployment insurance claims data from all State Workforce Agencies; Create an integrity program that incorporates a data analytics capability and regularly monitors state unemployment insurance claims data to detect and prevent improper payments, including fraudulent payments, and to identify trends and emerging issues that could negatively impact the unemployment insurance program.
COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments Including Fraud; Report No. 19-23-014-03-315; 09/27/23	Work with Congressional stakeholders to inform them of the urgency of the statute of limitations concerning pandemic-related UI fraud.

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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.
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 penalty 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).
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; 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.
COVID-19: To Protect Mission Critical Workers, OSHA Could Leverage Inspection Collaboration Opportunities with External Federal Agencies; Report No. 19-22-003-10-105; 03/31/22	Develop an OSHA outreach plan to be activated during a large-scale safety and health crises such as the COVID-19 pandemic that (a) identifies external federal agencies with enforcement or oversight personnel who are active on worksites and (b) defines how OSHA will collaborate with those agencies. OSHA should consider incorporating into the plan: a process to identify and document highly visible safety and health hazards for large-scale safety and health crises; a plan for how OSHA will conduct related outreach and training on those hazards and how to refer them to OSHA; and a tracking system for agency referrals and outcomes of those referrals, using that information to periodically inform the outreach plan on areas and types of guidance and training the agencies' oversight and enforcement personnel need; Explore mechanisms to enhance collaboration, such as memorandums of understanding or other written agreements using GAO's seven key features for collaboration, and incorporate a process to utilize those mechanisms into the outreach plan.
COVID-19: OSHA'S Enforcement Activities Did Not Sufficiently Protect Workers from Pandemic Health Hazards; Report No. 19-23-001-10-105; 10/31/22	As part of OSHA's rulemaking on infectious diseases, require employers to notify all employees of all known positive cases of infectious diseases at the worksite; Develop and implement a tracking tool to ensure OSHA receives and reviews all items CSHOs request during inspections to ensure alleged hazards have been mitigated.
OSHA Needs to Better Address Complaints and Referrals for Increased Worker Safety; Report No. 02-23-001-10-105; 03/06/23	Modify the Field Operations Manual to include a policy for mandatory interviews of complainants and witnesses or document the rationale for lack thereof and provide training to Compliance Safety and Health Officers on the updated requirements.
COVID-19: OSHA Needs to do More to Address High Injury Rates of Warehouse Workers; Report No. 19-23-013-10-105; 09/27/23	Develop specific, measurable inspection goals for the Site-Specific Targeting program, including a baseline for the number of inspections in each Site-Specific Targeting category, and periodically monitor progress toward those goals; Develop a more effective enforcement strategy to improve employer Form 300A compliance; Assess Form 300A data categories and gather more specific supporting information about injuries to better identify the count and type of injuries reported, such as musculoskeletal disorders; Develop specific measurable inspection goals for the warehousing National Emphasis Program, including a baseline for the number of inspections to complete and periodically monitor progress toward those goals. Ensure the goals contain metrics that demonstrate the outcomes of the program.

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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	
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 Did Not Ensure Best Prices and Allowed Inappropriate, Potentially Lethal Prescriptions in the FECA Program; Report No. 03-23-001-04-431; 3/31/23	Implement a process to ensure competitive prices for the FECA program by regularly evaluating alternate pricing methodologies and other sources—including publicly available benchmark price lists, state fee schedules, market research, and comparable payers—and updating its pricing methodology as appropriate; Implement a process to review the effectiveness of policy changes, including: (a) documented assessment of prescription information after any changes in the authorization, approval, and/or adjudication process; and (b) documented solutions for any performance gaps identified during the review, including follow-up testing; Implement an ongoing pharmaceutical monitoring and alert program to identify and closely monitor significant changes in costs, prescribing patterns, utilization, sources, and new and novel prescription drugs; Establish internal controls that identify prescription drugs payment and management issues in near-real-time; Implement a technology solution to perform ongoing prescription-claim-level reviews in near real-time; Develop and deliver ongoing formal training for staff involved in making pharmaceutical decisions.

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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 Chief Information Officer to address organizational independence issues.
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: Configuration Management, and Access Management, Data Protection and Privacy.
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 E2 Solutions (E2) account management practices enforce DOL's security policies; Establish and implement procedures to ensure E2 is managed in compliance with contractual security requirements and DOL computer security policies for contracted information systems.
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	Implement a process for approving deviations from established configuration settings.
DOL's IT Governance Lacked the Framework Necessary to Support the Overall Mission Report; Report No. 23-21-002-01-001; 09/30/21	Reorganize the Chief Information Officer position to have a direct reporting relationship to the Deputy Secretary and independent of ASAM; Ensure the Chief Information Officer is a lead member with voting rights of DOL's executive strategy and management boards and committees including but not limited to the Management Review Board, Enterprise Shared Services Governance Board, COVID-19 Coordination team, and Enterprise Risk Management Council; Establish an MOU or other agreement between the Office of the Chief Information Officer and all departmental agencies to establish and state the roles and responsibilities of IT between each set of respective agencies; Reassess the incorporation of BLS and OCFO as part of IT Shared Services within 2021, and document the reasoning for the decision reached; Codify the policies and procedures that define IT governance and key supporting IT elements.
FY 2022 Independent Auditors' Report on DOL's CFS; Report No. 22-23-002-13-001; 12/13/22	Design and implement controls over their respective estimates to ensure management's review of the estimates are performed at a sufficient level of detail, including the methodology, underlying data, and assumptions used to develop the estimates; Maintain documentation of the reviews performed to assess the reasonableness of the methodology, underlying data, and assumptions used to develop the estimates that is sufficiently detailed to evidence the specific items reviewed, analysis performed, and conclusions reached; Provide additional training to the reviewers of the estimates to reinforce established policies and procedures, as necessary.
FY 2022 FISMA DOL Information Security Report: DOL's Information Security Program Not Remaining Current with Security Requirements; Report No. 23-23-001-07-725; 02/10/23	Update DOL entity-wide and system-level security policies, procedures, and plans to comply with NIST SP 800-53, Rev. 5; Implement proper quality control to ensure change management processes are being performed for all systems and equipment on the DOL network; Implement data loss prevention tools and alerts based on the results of agencies' data exfiltration tests; Verify if systems have been appropriately authorized in accordance with DOL's policy.

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

Report Title; Report Number; Date Issued	Number of Unimplemented Recommendations	Funds Put to Better Use (\$)
Employment and Training Administration		
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	\$5,409,966,198
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 multistate 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.		
COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21	1	\$33,745,677,576
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.		
ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program; Report No. 05-21-004-03-375; 09/30/21	1	\$155,582,864
Improve funding opportunity announcements for discretionary grant programs by conducting the following: Evaluate program goals using the SMART concept or a similar approach, and include 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 require submission of the career pathway to an H-1B occupation as support during apprenticeship program registrations or apprentice registrations		
Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion; Report No. 19-22-005-03-315; 09/21/22	1	\$29,581,490,253
Expedite OIG-related amendments to 20 C.F.R. § 603.6(a) to make ongoing disclosures of UI information to DOL OIG mandatory by expressly adding the U.S. Department of Labor, Office of Inspector General (including its agents and contractors) to the list of required disclosures that are necessary for the proper oversight of the UI program without distinction as to purpose (e.g., audits versus investigations).		
Total	4	\$68,892,716,891

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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 September 30, 2023). For identification of each recommendation made before September 30, 2023, visit our online [Recommendation Dashboard](#).

Report Title; Report Number; Date Issued	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	2	\$0
ETA Violated the Bona Fide Needs Rule and the Antideficiency Act; Report No. 26-17-002-03-370; 09/21/17	1	\$0
Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	2	\$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
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
COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21	2	\$0

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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	3	\$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	4	\$0
COVID-19: Safety and Remote Learning Challenges Continue for Job Corps; Report No. 19-22-001-03-370; 11/12/21	3	\$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	1	\$0
Alert Memorandum: The ETA Needs to Ensure SWAs Report Activities Related to CARES Act UI Programs; Report No. 19-22-004-03-315; 08/02/22	2	\$0
Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion; Report No. 19-22-005-03-315; 09/21/22	2	\$0
COVID-19: ETA and States Did Not Protect Pandemic Related UI Funds from Improper Payments Including Fraud or From Payment Delays; Report No. 19-22-006-03-315; 09/30/22	5	\$0
Quality Control Review: Single Audit of AARP Foundation for the year ended December 31, 2021; Report No. 24-22-004-50-598; 09/30/22 ¹⁵⁷	2	\$0
Quality Control Review of the Single Audit of the State of New Mexico Workforce Solutions Department for the Year Ended June 30, 2021; Report No. 24-23-001-50-598; 03/07/23	2	\$0
Mine Safety and Health Administration		
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	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
MSHA Needs to Improve Efforts to Protect Coal Miners from Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/20	3	\$0
MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated; Report No. 05-21-002-06-001; 03/31/21	9	\$0

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¹⁵⁷ The QCR Single Audit Report recommendations are addressed to the accounting firm; however, ETA funds the grant and are copied during report issuance, hence the addition to the ETA section of the table. The accounting firm will address the recommendations.

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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
Alert Memorandum: Security Vulnerability Relating to DOL Information Security Property; Report No. 50-19-002-07-725; 06/17/19	2	\$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	5	\$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	2	\$0
FY 2021 FISMA DOL Information Security Report: Information Security Continuous Monitoring Controls Remain Deficient; Report No. 23-22-001-07-725; 01/28/22	5	\$0
FY 2022 DOL Made Progress in Implementing Geospatial Data Act Requirements, But More Needs to Be Done; Report No. 23-22-003-01-001; 09/30/22	3	\$0
FY 2022 FISMA DOL Information Security Report: DOL's Information Security Program Not Remaining Current with Security Requirements; Report No. 23-23-001-07-725; 02/10/23	3	\$0
Office of the Chief Financial Officer		
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	2	\$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	3	\$0
FY 2022 Independent Auditors' Report on DOL's Consolidated Financial Statement for the Year Ended September 30, 2021; Report No. 22-23-002-13-001; 12/13/22	3	\$0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements, For the Year Ended September 30, 2022; Report No. 22-23-005-13-001; 01/30/23	8	\$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'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; Report No. 02-18-203-10-105; 09/13/18	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: 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	1	\$0
OSHA's Diminished Enforcement Left More Workers at Risk for Exposure to Silica; Report No. 02-21-003-10-105; 09/29/21	2	\$0
COVID-19: To Protect Mission Critical Workers, OSHA Could Leverage Inspection Collaboration Opportunities with External Federal Agencies; Report No. 19-22-003-10-105; 03/31/22	2	\$0
COVID-19: OSHA's Enforcement Activities Did Not Sufficiently Protect Workers from Pandemic Health Hazards; Report No. 19-23-001-10-105; 10/31/22	5	\$0
OSHA Needs to Better Address Complaints and Referrals for Increased Worker Safety; Report No. 02-23-001-10-105; 03/06/23	3	\$0
Office of Workers' Compensation Programs		
District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Independent Auditors' Report September 30, 2021 and 2020; Report No. 22-23-005-13-001; 02/22/23	2	\$0
OWCP Did Not Ensure Best Prices and Allowed Inappropriate, Potentially Lethal Prescriptions in the FECA Program; Report No. 03-23-001-04-431; 03/31/23	10	\$321,261,486
Wage and Hour Division		
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	156	\$321,261,486

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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):		212
Program Fraud Labor Racketeering	198 14	
Cases Opened:		197
Program Fraud Labor Racketeering	189 8	
Cases Referred for Prosecution (each case is measured as a singular statistic and may include more than one person or business entity):		139
Program Fraud Labor Racketeering	132 7	
Cases Referred for Administrative/Civil Action (each case is measured as a singular statistic and may include more than one person or business entity):		112
Program Fraud Labor Racketeering	109 3	
Persons Referred to the Department of Justice for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution):		171
Program Fraud Labor Racketeering	164 7	
Persons Referred to State and Local Prosecuting Authorities for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution):		18
Program Fraud Labor Racketeering	18 0	
Indictments and Criminal Informations That Resulted from Any Prior Referral to Prosecuting Authorities (includes sealed and unsealed indictments):		247
Program Fraud Labor Racketeering	240 7	
Indictments (includes sealed and unsealed indictments):		247
Program Fraud Labor Racketeering	240 7	
Convictions:		236
Program Fraud Labor Racketeering	221 15	
Statutory Debarments:		3
Program Fraud Labor Racketeering	3 0	

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Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		\$133,484,818
Program Fraud Labor Racketeering	\$127,784,754 \$5,700,064	

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):	\$15,439,387
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):	\$1,162,910
Restitutions/Forfeitures (the dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations):	\$89,674,520
Fines/Penalties (the dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations):	\$210,696
Civil Monetary Actions (the dollar amount/value of forfeitures, settlements, damages, judgments, court costs, and other penalties resulting from OIG criminal investigations):	\$26,997,304
Total	\$133,484,818¹⁵⁸

158 The OIG assisted in the identification and recovery of more than \$74 million in unemployment insurance benefits that were not directly related to an open OIG investigation and were not previously reported or included in the statistics above.

Peer Review Reporting

The following meets the requirement under Section 5(1)(14)(A)–(B) of the Inspector General Act of 1978, 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.

Peer Review of DOL OIG Inspection and Evaluation Function

The Federal Housing Finance Agency OIG conducted an external peer review to assess the extent to which the DOL OIG met seven standards in the Council of the Inspectors General on Integrity and Efficiency’s Quality Standards for Inspection and Evaluation (Blue Book), issued January 2012. The peer review report, issued on April 25, 2023, concluded that the DOL OIG’s policies and procedures and the three reviewed reports were consistent with and complied with the covered Blue Book standards for the period ended September 30, 2022.

Peer Review of DOL OIG Audit Function

The U.S. Department of Health and Human Services OIG conducted a peer review of the system of quality control for DOL OIG’s audit function for the period ending September 2021. The peer review report, which was issued on September 15, 2022, 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 covered audit work performed during the unprecedented COVID-19 pandemic, and DOL OIG received a clean report with a rating of pass with no recommendations.

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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 April 1, 2023, through September 30, 2023, a total of 6,029 complaints were opened in the OIG Hotline's complaint management system. The majority of these complaints involve concerns regarding COVID-19-related unemployment benefits. Since the start of the pandemic, the OIG's Office of Investigations referred 29,622 complaints to the appropriate State Workforce Agency for further review and/or action in response to complaints regarding alleged fraud involving COVID-19-related unemployment benefits. During this reporting period, the OIG Hotline received additional complaints that are awaiting processing.

**The total number of complaints referred during this reporting period exceeds the number of complaints received as the OIG Hotline is continuing to analyze and process a backlog of complaints regarding alleged fraud involving COVID-19-related unemployment benefits.*

Complaints Received (by method reported)	Totals
Telephone	22
E-mail/Internet	5,925
Mail	82
Fax	0
Walk-In	0
Total	6,029

Contacts Received (by source)	Totals
Complaints from Individuals or Non-Governmental Organizations	1,757
Complaints/Inquiries from Congress	5
Referrals from GAO	18
Complaints from Other DOL Agencies	11
Complaints from Other (non-DOL) Government Agencies	4,238
Total	6,029

Disposition of Complaints	Totals
Referred to OIG Components for Further Review and/or Action	108
Referred to DOL Program Management for Further Review and/or Action	164
Referred to Non-DOL Agencies/Organizations	34
No Referral Required/Informational Contact	763
Total*	1,069

Fiscal Year 2024 Audit Workplan

BENEFITS REVIEW BOARD (BRB)

Discretionary Audit

1. **BRB Backlog of Black Lung and Longshore and Harbor Worker Claims – New.** The BRB decides appeals from the Office of Administrative Law Judges (OALJ) under the Black Lung Benefits Act, the Longshore and Harbor Workers' Compensation Act, and the Longshore and Harbor Workers' Compensation Act extensions, including the Defense Base Act (DBA). In FY 2020 and FY 2021, there was a large influx of DBA cases, which the Department predicts will continue in FY 2022 and FY 2023. According to Department officials, this influx of DBA cases is the most important new challenge for the OALJ and BRB. In addition, OALJ expects to increase production with additional budget and full-time employees. In FY 2022, the BRB had a backlog of 648 Black Lung appeal cases with an average processing time of 16.8 months and a backlog of 97 Longshore/DBA appeal cases with an average processing time of 12.5 months. The continued increase of Longshore/DBA appeal cases since FY 2020, along with a continued influx of new Black Lung and Non DBA Longshore appeal cases, could impact BRB appeal case processing times and increase BRB's backlog of appeal cases, delaying claimants from receiving vital benefits. This audit will focus on BRB's efforts to expeditiously adjudicate Black Lung and Longshore (DBA and Non DBA) appeals and reduce the backlog of appeal cases.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION (EBSA)

Discretionary Audits

2. **EBSA's Mental Health Parity Compliance Efforts – New.** In 2008, Congress passed the Mental Health Parity and Addiction Equity Act to ensure that financial requirements and treatment limitations applicable to mental health and substance use disorder benefits under group health plans and health insurance coverage are not more restrictive than those applicable to medical/surgical benefits. In the Consolidated Appropriations Act of 2021, Congress amended the Mental Health Parity and Addiction Equity Act to require group health plan and health insurance issuers to perform and document comparative analyses to ensure compliance with its requirements. Many group health plan and health insurance issuers are not complying with existing requirements, which are enforced by EBSA for approximately 134.2 million workers and their families for all employer-sponsored health insurance. This audit will focus on assessing the extent of EBSA's enforcement of mental health parity laws and regulations.

3. **EBSA's Oversight of Limited-Scope Audits – New.** The Employee Retirement Income Security Act of 1974 generally requires every employee benefit plan with more than 100 participants to obtain an audit of the plan's financial statements each year. However, an exemption in the law allows auditors to perform “limited-scope audits.” Such audits exclude pension plan assets already certified by certain banks or insurance carriers and provide little to no confirmation regarding the actual existence or value of the assets. In 2013 and 2014, we reported¹⁵⁹ that as much as \$3 trillion in pension assets, including assets in hard-to-value alternative investments, received limited-scope audits. In 2019, the American Institute of Certified Public Accountants updated its accounting standards related to these types of audits. The new standards replaced limited-scope audits with audits from Section 103(a)(3)(C) of the act and imposed new performance requirements on plan management and auditors. This audit will follow up on our prior work and update how the changes in accounting standards and any actions taken by EBSA since then have impacted EBSA's oversight of benefit plan assets covered by Employee Retirement Income Security Act of 1974 Section 103(a)(3)(C) audits.

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

Mandatory Audits

Job Corps

4. **Job Corps Firm-Fixed Price Contract Transition – New.** In 2019, Job Corps began to transition its center operations contracts from cost-reimbursement to firm-fixed-price. As of March 2023, Job Corps had transitioned over 60 center operations contracts and expected to complete this transition in 2024. While firm fixed-price contracting allows for greater cost predictability, costs are generally higher because contractors need to mitigate the risks of rising prices and cost overruns. At the same time, firm-fixed-price contracting requires an increased focus on monitoring and oversight to ensure center operators do not cut costs by reducing the quantity or quality of services provided to Job Corps students. This audit will focus on Job Corps' strategy for awarding and monitoring firm fixed-price contracts and the effect of this transition on students and program performance.

¹⁵⁹ 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)

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5. **Job Corps Minor Students – In Progress.** Job Corps’ students are ages 16 to 24 upon entry into the program. The significant age range poses numerous challenges. Given the occurrence of sexual assaults and harassment on center campuses, there is an inherent risk with having adults up to 27 years of age cohabitate with minors as young as 16 years old. Some Job Corps minors may (1) have been encouraged to enroll by their parents or guardians, (2) not be in the program of their own volition, (3) not take the program seriously, and (4) disrupt program instruction, which impacts the learning of other students. Furthermore, minor students may not meet minimum age requirements for certain trades, affecting their ability to obtain employment in certain fields, such as plumbing and electrical trades, possibly leading to lower program outcomes and not meeting the intent of the Job Corps program. This audit will focus on whether Job Corps took appropriate measures to mitigate program disruptions and ensure the safety of and meet the program’s intent for its minor students.

Discretionary Audits

ETA Contract and Grant Programs

6. **COVID-19: Assessment of ETA Job Training Programs Results – New.** In March 2020, the COVID-19 pandemic caused many of ETA’s job training programs to cease operation. This interrupted participants’ job training, potentially preventing them from completing their training and getting a job in the areas in which they were trained. During our pandemic oversight work, we reported numerous issues with ETA’s management of federal grant funds. This assessment of the OIG’s series of COVID-19: ETA Grantee Sub-Recipient audits will summarize the overall effectiveness of ETA job training programs during the pandemic and evaluate ETA’s implementation of lessons learned in preparation for future states of emergency.
7. **ETA Registered Apprenticeship Program – New.** In February 2021, President Biden expanded the Registered Apprenticeship Program to support nearly 1 million apprenticeship opportunities and focus the program on increasing access for underrepresented groups. Congress invested a total of \$520 million into the program in FY 2022 and 2023. However, a prior OIG audit of the American Apprenticeship Initiative Grant Program found systematic weaknesses in the execution of the grants, as well as the planning and awarding processes. This audit will assess the effectiveness of ETA’s administration of the Registered Apprenticeship Program.
8. **COVID-19: ETA Grantee Sub-Recipient – 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, potentially preventing them from completing their training and getting a job in the areas in which they were trained. This series of audits will focus on how effectively ETA ensured workforce development grant funds were used as intended in selected states.

9. **ETA's Administration of Disaster Dislocated Worker Grants – In Progress.** Public Law 116–20 provided ETA with an additional \$50 million for the dislocated workers assistance national reserve for necessary expenses directly related to the consequences of Hurricanes Florence and Michael, Typhoon Mangkhut, Super Typhoon Yutu, wildfires, and earthquakes that occurred in calendar year (CY) 2018, and tornadoes and floods that occurred in CY 2019. Dislocated Worker Grants (DWG) provide resources to states and other eligible applicants to respond to large, unexpected layoff events causing significant job losses. Additionally, disaster DWGs provide funding to create temporary employment opportunities to assist with clean-up and recovery efforts, and employment and training services to eligible grant participants. A prior OIG DWG report found ETA provided minimal oversight of its state grantees and needs to do more to ensure grantees help local areas to restore communities timely; ensure out of work participants receive expeditious disaster relief assistance; maximize the number of participants who obtain employment as intended by the grants; and ensure disaster relief funds are used efficiently and effectively. This audit will focus on the extent ETA properly administered the DWG program to provide assistance in the aftermath of the 2018 and 2019 disasters.

Foreign Labor Certification

10. **Backlog of H-2B Temporary Non-agricultural Program Visa Applications – New.** In 2018, the OIG issued a report that found ETA's lack of key controls over the processing of H-2B visa applications had negatively impacted businesses that depended on H-2B workers. ETA could not demonstrate it's processing of applications provided enough time for the U.S. Department of Homeland Security and the U.S. Department of State to perform their functions and enable employers to hire H 2B workers within the timeframe required. Any delays, particularly for seasonal industries, would have serious adverse effects on business owners and local economies. Further, in 2020, we reported that ETA's processing of H-2B applications continued to be an area of concern, causing backlogs and impacting dependent businesses. This audit will focus on ETA's processing of H 2B applications, specifically the timeliness of processing prevailing wage determinations and whether improvements to the review process have reduced the application backlog.

11. Effectiveness of ETA's Permanent Labor Certification Program (PERM) Application

Processing Time – New. The PERM program allows employers to hire foreign workers when (1) there are not sufficient U.S. workers able, willing, qualified, and available to accept the job opportunity in the area of intended employment; and (2) the employment of foreign workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. When submitting a PERM application, the employer is required to execute recruiting efforts for U.S. workers within 6 months of filing an application. Based on August 2022 data, once the employer submits the application to ETA, the average processing time to receive an approved application from DOL is between 8 and 11 months, depending on ETA's review process. Due to the lengthy average processing time for applications, there is little assurance by the time a foreign worker is approved for permanent resident status that a U.S. worker was still not available and able to perform the same job. This audit will focus on ETA's PERM application review process and effectiveness in ensuring U.S. workers were still not available and able to perform the job.

12. Effectiveness of ETA's Approval of H-2A Temporary Agricultural Program Visa

Applications – In Progress. The H 2A temporary agricultural program allows agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers to the United States to perform agricultural labor or services of a temporary or seasonal nature. To be able to hire H-2A workers, employers must self-attest (1) there are no sufficient able, willing, and qualified U.S. workers available to perform the temporary and seasonal agricultural employment, and (2) the employment of H 2A workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. This audit will focus on the effectiveness of ETA's approval process and comparing the self-attestations to supporting documentation.

Older Worker Program

13. Senior Community Service Employment Program's Effectiveness – New. The Senior Community Service Employment Program is the only federally sponsored employment and training program targeted specifically to low-income, older individuals seeking to enter or reenter the workforce. In FY 2021, ETA proposed eliminating the program because it has struggled to achieve its goal of transitioning half of its participants who complete the program into unsubsidized employment. Further, ETA noted in its FY 2021 Congressional Budget Justification that nearly half of the program participants do not complete the program. If the program continues to underperform, \$405 million in program funding requested for FY 2024 is at risk of not being effectively used to help older Americans achieve economic self-sufficiency. This audit will focus on identifying program weaknesses to assist ETA in improving the effectiveness of the Senior Community Service Employment Program in serving older Americans find unsubsidized employment.

Unemployment Insurance (UI) Program

- 14. American Rescue Plan Act (ARPA) Equity Grants – New.** ARPA, as amended by the Fiscal Responsibility Act of 2023, provided \$1 billion in funding to DOL to prevent and detect fraud, promote equitable access, ensure timely payment of benefits, and reduce backlogs. Of these funds, DOL provided approximately \$219 million in grants to improve UI claimant outreach and customer service processes, implement strategies to reduce backlog, and improve access for workers in communities that may historically experience barriers. These first-of-their-kind grants, referred to as “Equity Grants,” will provide funding for states to improve public awareness and service delivery as DOL seeks to address potential racial and ethnic disparities in the administration and delivery of UI benefits in select states. This audit will focus on DOL’s and states’ effectiveness in addressing the potential racial and ethnic disparities in the UI program.
- 15. Benefit Accuracy Measurement and Overpayment Prevention – New.** ETA’s Benefit Accuracy Measurement (BAM) system was designed to determine the accuracy of UI program paid and denied benefit claims, as well as the root causes of improper payments. However, the system did not consider temporary federally funded pandemic-related UI benefits, currently estimated at \$888 billion. The BAM system has calculated an improper payment rate estimate of up to 21.52 percent within the last 2 years—for regular UI programs alone. Our prior work indicates the rate was likely higher than 21.52 percent. This audit will assess ETA’s use of the BAM system as a tool to measure states’ UI program performance and identify root causes to reduce improper payments in UI programs.
- 16. Audit of DOL and States Oversight of UI Claimants Return to Work – New.** The Coronavirus Aid, Relief, and Economic Security (CARES) Act and its related extensions provided additional UI benefits to claimants who lost their employment due to the COVID-19 pandemic. The Continued Assistance to Unemployed Workers Act created by Section 2117 of the CARES Act included requirements for states participating in CARES Act UI-related provisions to have a process for addressing work refusals, to have a reporting method for employers, and to provide certain notifications to individuals. This audit will focus on DOL’s and states’ compliance with return-to-work provisions under the CARES Act.

- 17. COVID-19: CARES Act Unemployment Insurance Programs Results – New.** At the start of the pandemic, we had significant concerns regarding the UI programs authorized by the CARES Act—based on both previous OIG work regarding ETA and states’ ability to implement the emergency response and on the high-risk nature of the programs. The early pandemic period saw the largest increase in UI claims since the Department began tracking data in 1967, a level far higher than state systems were designed to handle.¹⁶⁰ During the first three of four planned phases of our pandemic response oversight work, we focused on identifying areas for improvement related to the implementation and administration of emergency UI programs and impacts on operations. Over the past 3 years, our reporting has identified continuing program weaknesses in internal controls, reporting, and program monitoring. As of February 8, 2023, we estimated at least \$191 billion in pandemic UI payments could have been paid improperly, with a significant portion attributable to fraud. As we wrap up our pandemic response oversight work, we remain significantly concerned about the expeditious and effective deployment of UI benefits, especially in response to natural disasters and emergencies. Lessons learned are key to adequate preparation, and proactively strengthening the UI program for both ordinary circumstances and in advance of the next emergency will require DOL to focus on prevention. This assessment will present overall program results from our oversight of DOL’s UI pandemic response, impacts on agency operations, and lessons learned to assist DOL in improving its unemployment programs and operations in advance of future emergencies.
- 18. Unemployment Insurance Information Technology Modernization – New.** After the pandemic’s emergence in early 2020, we reported on states’ struggles to implement pandemic-related UI programs and prevent improper payments, including fraud, while processing the drastically increased number of claims. We found that this occurred in part because states’ information technology systems were not modernized. Responding to the COVID-19 pandemic, Congress funded \$2 billion but later reduced this to \$1 billion to modernize the nation’s UI systems. The initiative, led by the Office of Unemployment Insurance Modernization, focuses on three main goals: (1) fraud detection and prevention, (2) timely benefit delivery, and (3) promoting equitable access. To achieve these goals, the Office of Unemployment Insurance Modernization has provided targeted grants to states and territories, offered improved guidance, directed assistance, and piloted tech-driven solutions. This audit will assess how well the Employment and Training Administration and the Office of Unemployment Insurance Modernization have upgraded state information technology systems and prepared states’ UI programs to operate more effectively and efficiently, and to handle similar situations in the future.

¹⁶⁰ 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>

- 19. 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, 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 the 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.
- 20. COVID-19: Audit of States' Use of Staffing to Support Implementation of CARES Act UI Programs – In Progress.** During the COVID-19 pandemic, the unprecedented high rate of unemployment 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 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.
- 21. 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, while the state makes up the difference in the form of benefit payments. ETA provided states with an estimated \$1.3 billion for benefit reimbursements and \$18.7 million administrative costs. Twenty-six states have participated in the program. This audit will determine how states implemented the STC program for the benefit of unemployed individuals and to meet the intent of the program.

- 22. COVID-19: Mixed Earners Unemployment Compensation (MEUC) – In Progress.** The 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.
- 23. Pandemic Response Accountability Committee (PRAC) – DOL Programs – Case Study Project (Part 2) – In Progress.** The focus of this oversight project will be to identify the federal pandemic response program funds provided to select geographic areas, identify the purpose of those funds, and determine if the federal program spending aligned with the intended goals and objectives. This project is under the direction of the PRAC and is being conducted in coordination with nine other OIGs.
- 24. COVID-19: ETA and States' Efforts to Address Multistate UI Claimants – In Progress.** In September 2022, we alerted DOL to over \$45 billion we had identified in potential fraud paid in four high-risk areas. Multistate claimants were the largest high-risk area. Through ETA, the OIG provided states with our underlying methodology, as well as specific claimant information for follow-up action. This audit will examine the extent to which ETA and states have taken action to address potentially fraudulent CARES Act UI claims.
- 25. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Social Security Numbers of Deceased Persons – In Progress.** In September 2022, we alerted DOL to over \$45 billion we had identified in potential fraud paid in four high-risk areas. One high-risk area was UI claimants filing with Social Security numbers (SSN) of deceased persons. Through ETA, the OIG provided states with our underlying methodology, as well as specific claimant information for follow-up action. This audit will examine the extent to which ETA and states have taken action to address potentially fraudulent CARES Act UI claims filed with SSNs of deceased persons.
- 26. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Social Security Numbers of Federal Prisoners – In Progress.** In September 2022, we alerted DOL to over \$45 billion we had identified in potential fraud paid in four high-risk areas. One high-risk area was UI claimants filing with SSNs of federal prisoners. Through ETA, the OIG provided states with our underlying methodology, as well as specific claimant information for follow-up action. This audit will examine the extent to which ETA and states have taken action to address potentially fraudulent CARES Act UI claims filed with SSNs of federal prisoners.

- 27. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Suspicious Email Accounts – In Progress.** In September 2022, we alerted DOL to over \$45 billion we had identified in potential fraud paid in four high-risk areas. One high-risk area was UI claimants filing with suspicious email accounts. Through ETA, the OIG provided states with our underlying methodology as well as specific claimant information for follow-up action. This audit will examine the extent to which ETA and states have taken action to address potentially fraudulent CARES Act UI claims filed with suspicious email accounts.
- 28. COVID-19: Impact of Waivers on UI Overpayments, Fraud Investigations, and Recoveries – In Progress.** On February 7, 2022, DOL issued Unemployment Insurance Program Letter (UIPL) 20-21, Change 1, regarding states' ability to waive the recovery of certain UI overpayments under the CARES Act program. 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.
- 29. DOL-SBA COVID-19 Joint Project: Opportunities to Share Data to Prevent and Mitigate Fraudulent UI and Economic Injury Disaster Loan Payments – In Progress.** The Small Business Administration (SBA) OIG and DOL OIG have reported billions in potential fraudulent UI and Economic Injury Disaster Loan payments during the COVID-19 pandemic. In reviewing how to be better prepared for the next national emergency, the DOL OIG is collaborating with the SBA OIG on a joint review to determine if collaboration, including data sharing between ETA and SBA, could prevent or mitigate the risk of future fraudulent UI and Economic Injury Disaster Loan payments or disbursements.

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

Discretionary Audits

30. **MSHA Grant Programs – New.** MSHA is responsible for administering two types of annual grant programs. The state grant program distributes formula grants to state agency programs in 49 states and the Navajo Nation to support health and safety training and reduce mining accidents, injuries, and illness. The Brookwood-Sago Mine Safety Grants Program, established by the Mine Improvement and New Emergency Response (MINER) Act of 2006, distributes discretionary grants to develop education and training programs to better identify, avoid, and prevent unsafe working conditions in and around mines. The 2023 program announcements for these two programs included funding levels of \$10.5 million (estimated 56 grantees) and \$1 million (up to 20 grantees), respectively. MSHA designs the goals of each grant program based on changing training priorities. Grantees report funding and performance data quarterly to MSHA, which factor into MSHA's grantee monitoring and evaluation of program success. Without sufficient internal controls, reliability of the grantee reported data may be compromised and could result in deteriorated program oversight or performance. This audit will assess whether MSHA properly designed and executed the grant programs and included sufficient internal controls within its grantee reporting system(s) to help ensure programmatic success.
31. **Mine Rescue Response Plan – New.** 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.
32. **COVID-19: Impact on Miner Training – In Progress.** There were 39 mining fatalities in 2021, which is the highest total since 2014. Many fatalities can be prevented by properly training miners and applying industry best practices. There are training requirements for both new and experienced miners. However, the COVID-19 pandemic has impacted the way miner training is provided. During a December 2021 MSHA stakeholder call, a participant expressed concern that entirely virtual training during the pandemic did not meet regulatory requirements. The risk for accidents and fatalities increases when miners are improperly trained. This audit will look at how the COVID-19 pandemic affected miner training.

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP)

Discretionary Audits

- 33. OFCCP's Enforcement of Equal Employment Opportunity Obligations – New.** OFCCP is charged with protecting America's workers by enforcing equal employment opportunity and affirmative action obligations of employers that conduct business with the federal government as contractors. OFCCP focuses on identifying patterns of systemic discrimination in employer personnel practices, including hiring, promotion, and compensation, when it conducts compliance evaluations of contractors. OFCCP also monitors contractors' and subcontractors' compliance with affirmative action obligations. With more than \$1 trillion allocated in the Infrastructure Investment and Jobs Act, OFCCP will play a vital role in ensuring these federal investments create good jobs that provide equal opportunity to all. This audit will focus on the effectiveness of OFCCP's enforcement of anti discrimination and affirmative action obligations through compliance evaluations.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

Discretionary Audits

- 34. COVID-19: Assessment of OSHA Pandemic Program Results – New.** The World Health Organization declared the COVID-19 outbreak a public health emergency of international concern on January 30, 2020, and ended its declaration on May 05, 2023. As of June 9, 2023, the OIG's pandemic response oversight work has resulted in 35 published audit reports with 90 recommendations to reduce programmatic vulnerabilities and \$68.7 billion in funds for better use. Of these 35 audits, 9 were directed at improving the efficiency, economy, and effectiveness of OSHA operations during the pandemic. For example, we found that, despite receiving 15 percent more complaints in 2020 than in 2019, OSHA conducted 50 percent fewer inspections and did not identify federal partners in a position to assist during a large-scale health crises such as the pandemic. Similarly, we found OSHA lacked complete information on employer-reported injuries and illnesses, including COVID-19 infection rates at worksites. We also found OSHA closed inspections without ensuring it received and reviewed all items requested from employers to demonstrate alleged COVID-19 health hazards had been mitigated. Due to the lack of citations, incomplete information on infection rates at worksites, and insufficient evidence of hazard mitigation, there was a heightened risk of workers being exposed to the virus. This assessment will determine the actions OSHA has taken to address these issues and the efforts underway to ensure improved processes during future states of emergency.

OFFICE OF LABOR–MANAGEMENT STANDARDS (OLMS)

Discretionary Audit

35. OLMS Enforcement of Employer and Consultant Reporting Requirements – In Progress.

OLMS promotes transparency throughout the labor community by enforcing multiple reporting obligations. The Labor–Management Reporting and Disclosure Act of 1959 requires employers, labor relations consultants, and other entities to report certain expenses and agreements to the Department of Labor, such as those relating to activities to dissuade or persuade employees from exercising their rights to union representation or collective bargaining. The disclosure of this information is necessary to protect the rights and interests of employees. Even though these reports are legally required, there is evidence suggesting many employers and their consultants are not filing them. In 2021, the National Labor Relations Board found at least 1,125 union-organizing campaigns, and employers hired persuader consultants in approximately 75 percent of those campaigns. However, OLMS received only 166 required reports. As a result, OLMS requested the OIG review its efforts to enforce the Act’s requirements and improve employers’ and consultants’ reporting.

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

Mandatory Audit

36. Federal Information Security Management Act (FISMA) Audit – Annual. In performing its various missions, DOL collects and processes sensitive information through approximately 77 major information systems. FISMA recognizes the significant risks involved with IT 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 Audits

- 37. DOL IT Contingency Planning Audit – In Progress.** IT Contingency Plans are a key component for the recovery and continuity of operations when disasters (natural disasters or malicious actors) strike an agency or its IT systems. The Office of the Chief Information Officer (OCIO) is now the Authorizing Official of DOL's 65 IT systems and is responsible for the continuity of these mission critical systems. As such, the requirements for contingency plan testing of all those systems now fall to the OCIO staff. Prior FISMA work indicated problems with OCIO's contingency planning, including not ensuring sufficient backup testing of its systems. With incomplete or impartial contingency planning of so many systems across a variety of agencies and geographic areas under OCIO's purview, the potential for substantial system downtime or non-recovery of data when a contingency arises is elevated. The lack of availability of DOL systems could impact the Department's ability to fulfill its critical missions and legislative requirements. This audit will focus on what efforts OCIO is undertaking to maintain and test the contingency plans across all DOL systems, with particular focus on the 65 systems under OCIO's direct control.
- 38. DOL Wireless Network Environment – In Progress.** DOL's wireless network has been deployed across all 50 states at approximately 400 locations within all DOL owned and associated buildings for DOL's 20,000 users. Wireless networks are being deployed to replace DOL's current hardwired (cables) infrastructure. Wireless technology inherently contains high risks if not properly configured or maintained, as the information can be received by anyone within the range of the wireless device. Without operating secure wireless networks that include boundary controls between networks and active monitoring, DOL is vulnerable to the breach of its high-value IT assets, which could cripple DOL operations and result in the loss of highly sensitive data. Our audit will focus on whether DOL deployed and operated a secure wireless network infrastructure across all of its agencies and supported and/or funded mission sites. We intend to not only focus on the policy and procedures but also test the effectiveness of DOL's implementation through technical testing.
- 39. IT Modernization – In Progress.** IT modernization is critical to preventing security breaches, excessive costs, missed deadlines, and low-quality IT products and services. DOL transitioned to an IT Shared Services model, providing OASAM greater control over IT and IT funding. This audit focuses on the management of IT modernization efforts across the Department, including software integration, legacy systems, and shared services.

OIG FY 2024 Audit Workplan

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY (OASP)

Mandatory Audit

40. **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 THE CHIEF FINANCIAL OFFICER (OCFO)

Mandatory Audits

41. **DOL Consolidated Financial Statements Audit – Annual.** We will determine if DOL's consolidated financial statements present fairly, in all material respects, the financial position of DOL as of September 30, 2024. 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.
42. **Review of DOL's Improper Payment Reporting in the Annual Financial Report – Annual.** In FY 2022, the UI program and Federal Employees' Compensation Act (FECA) reported outlays of \$85.2 billion and \$2.9 billion, respectively, with an estimated improper payment rate of 21.52 percent and 3.03 percent, respectively. Based on DOL'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.

OFFICE OF WORKERS' COMPENSATION PROGRAMS (OWCP)

Mandatory Audits

- 43. Report Relating to the Federal Employees' Compensation Act Special Benefit Fund – Annual.** 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, 2024; 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.
- 44. 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, 2023.
- 45. 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, 2023.
- 46. FECA Statement on Standards for Attestation Engagements No. 18 – Annual.** 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, 2023, through June 30, 2024.

Discretionary Audits

- 47. OWCP Longshore War Hazards Compensation Act Claims – New.** OWCP provides compensation for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes as part of its responsibilities from the War Hazards Compensation Act, which is an important aspect of the Defense Base Act. Over the past 2 years, Congress has raised concerns about OWCP's (1) timeliness and thoroughness in processing War Hazards Compensation Act claims; (2) possible backlog of unprocessed and/or unpaid claims totaling hundreds of millions of dollars; and (3) processes for securely collecting and safeguarding associated claims data. This audit will examine the effectiveness of OWCP's claims processing efforts in this area over the past 5 years and OWCP processes for securely collecting and safeguarding claims data from insurers, including any Personal Identifiable Information (PII) and Personal Health Information (PHI).

- 48. OWCP Medical Bill Payment Processing Data Integrity Follow-Up – New.** In 2020, OWCP launched a new medical bill payment processing system, the Workers' Compensation Medical Bill Processing (WCMBP) system. In 2021, we initiated an audit to assess the processes and controls over OWCP's medical bill payment data from this system and other OWCP systems that collect, process, and share the data necessary to manage the Workers' Compensation Programs. OWCP was unable to demonstrate the design and effectiveness of its controls over its medical bill payment processes. Based on this, we ended the audit and concluded OWCP's medical bill payment data was of undetermined reliability. Since concluding our testing, OWCP has stated the issues preventing our continued testing have been remedied. As OWCP, its programs, and its stakeholders rely on accurate and complete data from this and other OWCP systems, we decided to follow up on our recommendations and complete our data reliability testing. This audit will assess OWCP's processes and controls to determine the reliability of OWCP's medical bill payment processing data necessary to manage the Workers' Compensation Programs.
- 49. OWCP Pharmacy Benefit Manager (PBM) – New.** In March 2021, OWCP implemented a PBM responsible for pharmaceutical transactions including but not limited to eligibility determinations and pricing for prescription drugs for the FECA program. In FY 2021, FECA provided almost \$3 billion in benefits to more than 183,000 workers and survivors for work-related injuries or illnesses. This audit will focus on how effectively OWCP's PBM reduced opioid-related risks, pharmaceutical costs, and fraud.
- 50. Energy Employees' Claims Denials – In Progress.** From its inception to the end of FY 2020, the Energy Workers program awarded approximately 127,000 claimants' compensation and medical benefits totaling more than \$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 extent to which the program ensured claims followed appropriate guidelines.

VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS)

Discretionary Audits

51. COVID-19: Effectiveness of Homeless Veterans' Reintegration Program (HVRP) Grants

– **New.** HVRP is the only federal grant to focus exclusively on competitive employment for homeless veterans. Of all VETS programs, veterans experiencing homelessness were the most difficult population to serve during the COVID-19 pandemic. Many facilities and partner agencies shut down due to the public health emergency. VETS also experienced challenges pivoting to and providing virtual services to this population during the pandemic. This audit will focus on the effectiveness of HVRP meeting the needs of homeless veterans as well as VETS's oversight of the program.

52. COVID-19: Jobs for Veterans State Grants (JVSG) Program – New. The COVID-19

pandemic presented new challenges for VETS in its mission to prepare America's veterans and transitioning service members for meaningful careers; provide them with employment resources and expertise; protect their employment rights; and promote their employment opportunities. Its JVSG program provides individualized career services to veterans with significant barriers to employment, with the maximum emphasis directed toward serving veterans who are economically or educationally disadvantaged. The program also conducts outreach to employers and business associations and engages in advocacy efforts with hiring executives to increase employment opportunities for veterans and encourage the hiring of disabled veterans. The audit will focus on how the pandemic impacted the JVSG program as well as the effectiveness of this program during a health crisis.

WAGE AND HOUR DIVISION (WHD)

Discretionary Audit

53. Child Labor Law Violations – In Progress. The Fair Labor Standards Act of 1938 is the federal law that sets minimum wage, overtime, recordkeeping, and youth employment standards. The Act includes child labor provisions (i.e., laws) to protect the safety, health, and wellbeing, as well as educational opportunities, of working young people. These provisions are enforced by the Department's Wage and Hour Division (WHD). Violations of child labor laws and proposals to roll back protections are increasing nationwide. For example, in 2022, WHD reported the highest number violations related to minors in hazardous occupations. Concurrently, states appear to be pursuing legislation to reduce child labor protections. Ten states have introduced, considered, or passed legislation rolling back protections for young workers within the past 2 years. This audit will focus on WHD's efforts to curtail child labor law violations and determine the cause for rising child labor law violations.

MULTI-AGENCY

Mandatory Audits

54. 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 established controls over its purchase and travel card programs to prevent and detect illegal, improper, or erroneous purchases and payments.

55. Single Audit Compliance, Quality Control Reviews of Single Audit Reports – Annual. We will determine if selected independent auditors complied with the requirements of the Office of Management and Budget's Uniform Guidance, Government Auditing Standards, Generally Accepted Auditing Standards, and if there is a need for any follow up work.

Acronyms and Abbreviations

ARPA	American Rescue Plan Act of 2021	IOC-2	International Organized Crime Intelligence and Operations Center
BLS	U.S. Bureau of Labor Statistics	IT	information technology
CARES Act	Coronavirus Aid, Relief, and Economic Security Act	Key & Associates	Key & Associates, P.C.
C.F.R.	Code of Federal Regulations	KPMG	KPMG LLP
Charge Card Act	Government Charge Card Abuse Prevention Act of 2012	MSHA	Mine Safety and Health Administration
Department or DOL	U.S. Department of Labor	NASWA	National Association of State Workforce Agencies
DOJ	U.S. Department of Justice	OIG	Office of Inspector General
EBSA	Employee Benefits Security Administration	OMB	Office of Management and Budget
EIDL	Economic Injury Disaster Loan	OSHA	Occupational Safety and Health Administration
Energy	Energy Employees Occupational Illness Compensation Program	OWCP	Office of Workers' Compensation Programs
ERISA	Employment Retirement Income Security Act of 1974	PERM	permanent employment certification program
ETA	Employment and Training Administration	PEUC	Pandemic Emergency Unemployment Compensation
EUISAA	Emergency Unemployment Insurance Stabilization and Access Act of 2020	PII	personally identifiable information
EURGENO	Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations	PIIA	Payment Integrity Information Act of 2019
FBI	Federal Bureau of Investigation	PPP	Paycheck Protection Program
FECA	Federal Employees' Compensation Act	PRAC	Pandemic Response Accountability Committee
FISMA	Federal Information Security Modernization Act	PUA	Pandemic Unemployment Assistance
FLC	Foreign Labor Certification	QCR	Quality Control Review
FPUC	Federal Pandemic Unemployment Compensation	Recovery Act	American Reinvestment and Recovery Act of 2009
FY	Fiscal Year/fiscal year	Rocha	Rocha & Company, PC
GAO	Government Accountability Office	Secret Service	U.S. Secret Service
GenTech	GenTech Associates	Silica	Respirable Crystalline Silica
H-1B	visa program for workers in specialty occupations	SWA	State Workforce Agency
H-2A	visa program for agricultural workers	Treasury	U.S. Department of the Treasury
H-2B	visa program for non-agricultural workers	TFFF	Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week
iFECS	Integrated Federal Employees' Compensation System	Trust Fund	Black Lung Disability Trust Fund
IDH	Integrity Data Hub	UI	Unemployment Insurance
		U.S.C.	United States Code
		WIOA	Workforce Innovation and Opportunity Act

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