

# U.S. Department of Labor

Office of Inspector General—Office of Audit

## REPORT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER



## THE U.S. DEPARTMENT OF LABOR COMPLIED WITH THE PAYMENT INTEGRITY INFORMATION ACT FOR FY 2020, BUT REPORTED UNEMPLOYMENT INSURANCE INFORMATION DID NOT REPRESENT TOTAL PROGRAM YEAR EXPENSES

KPMG LLP's report included herein was prepared under contract with the U.S. Department of Labor, Office of Inspector General, and by acceptance, it becomes a report of the Office of Inspector General.

A handwritten signature in cursive script, reading "Carolyn R. Hantry".

Assistant Inspector General for Audit  
U.S. Department of Labor

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## INSPECTOR GENERAL'S REPORT

Mr. Kevin Brown  
Acting Chief Financial Officer  
U.S. Department of Labor  
200 Constitution Ave, NW  
Washington, DC 20210

The United States Department of Labor (DOL) Office of Inspector General (OIG) contracted with the independent certified public accounting firm of KPMG LLP (KPMG) to conduct a performance audit related to DOL's compliance with the Payment Integrity Information Act of 2019 (PIIA) for Fiscal Year (FY) 2020, which was the year ended September 30, 2020.

The objective of KPMG's performance audit was to evaluate DOL's compliance with the requirements of PIIA as defined in Title 31 of the United States Code (U.S.C), section 3351.2. This included determining whether DOL:

- (1) Published improper payments information with the annual financial statement of DOL for the most recent fiscal year, and posted on the website of DOL that statement and any accompanying materials required under guidance of the Office of Management and Budget;
- (2) Conducted a program-specific risk assessment for each program or activity that conforms with the requirements of section 3352(a) (if required);
- (3) Published improper payment estimates for all programs and activities identified under section 3352(a) in the accompanying materials to the annual financial statement (if required);
- (4) Published programmatic corrective action plans prepared under section 3352(d) that DOL may have in the accompanying materials to the annual financial statement;
- (5) Published improper payments reduction targets established under section 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; and

- (6) Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 3352(c).

KPMG concluded DOL met all the requirements for compliance with PIIA. However, as KPMG noted in its report, DOL permitted state workforce agencies to suspend their improper payment sampling efforts for the final quarter of the Unemployment Insurance (UI) program year to reduce the burden on program resources responsible for processing UI benefit claims and implementing new COVID-19 pandemic related programs. In response to this change, DOL received direction from the Office of Management and Budget (OMB) to utilize the results from the first three quarters of the program year for its improper payment reporting in FY 2020.

The OMB-approved decision to suspend fourth quarter program year testing permitted approximately \$64.3<sup>1</sup> billion, or 74 percent of the total \$86.9<sup>1</sup> billion program year expenses reported by DOL, to go untested for improper payments.

Moreover, three new programs<sup>2</sup> that provided federally funded unemployment benefits authorized by the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the CARES act) were excluded<sup>3</sup> from the UI program improper payment information as they were not in existence for more than 12 months as of the reporting period. Therefore, improper payment information for these UI programs was not required to be published. These three programs in total comprised approximately \$195.0 billion<sup>4</sup>, or 69 percent of the total \$281.8 billion unemployment expenses reported by DOL for program year 2020. As such, DOL's improper payment information is reflective of only \$22.6<sup>1</sup> billion, or 8 percent of total unemployment expenses reported by DOL for program year 2020.

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<sup>1</sup> Source: ETA data downloads; ETA 5159 reports for the period July 1, 2019 through June 30, 2020; data as of July 12, 2021; <https://oui.doleta.gov/unemploy/DataDownloads.asp>

<sup>2</sup> Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, and Federal Pandemic Unemployment Compensation.

<sup>3</sup> Subsequent to DOL's improper payment reporting, GAO reported in *COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response*, GAO-21-191, November 30, 2020, that COVID-19 relief laws did not require agencies to deem programs receiving relief funds that expended more than a threshold amount as susceptible to significant improper payments and suggested Congress to do so in any future legislation.

<sup>4</sup> Source: ETA data downloads; ETA 2112 reports for the period July 1, 2019 through June 30, 2020; data as of May 24, 2021; <https://oui.doleta.gov/unemploy/DataDownloads.asp>

Although DOL's reported UI improper payment rate of 9.17 percent is compliant with PIIA, it is not representative of the total unemployment expenses for program year 2020. The OIG's initial pandemic audit and investigative work indicate UI program improper payments, including fraudulent payments, is likely higher than 10 percent.

We appreciate the cooperation and courtesies the Office of the Chief Financial Officer, Employment and Training Administration, and Office of Workers' Compensation Programs extended KPMG and the OIG during this audit.



Carolyn R. Hantz  
Assistant Inspector General for Audit

**PERFORMANCE AUDIT REPORT**



KPMG LLP  
Suite 12000  
1801 K Street, NW  
Washington, DC 20006

Secretary and Acting Inspector General  
U.S. Department of Labor

This report presents the results of our work conducted to address the performance audit objective related to the United States Department of Labor's (DOL) compliance with the requirements contained in the Payment Integrity Information Act of 2019 (PIIA). Our work was primarily performed during the period of September 25, 2020, through May 3, 2021, and our scope period was for the fiscal year ended September 30, 2020.

We conducted this performance audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States, and the American Institute of Certified Public Accountants' *Standards for Consulting Services*. *Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The objective of our audit was to evaluate DOL's compliance with the requirements of PIIA as defined in Title 31 of the United States Code (U.S.C), section 3351.2. This included determining whether DOL:

- (1) Published improper payments information with the annual financial statement of DOL for the most recent fiscal year, and posted on the website of DOL that statement and any accompanying materials required under guidance of the Office of Management and Budget (OMB);
- (2) Conducted a program-specific risk assessment for each program or activity that conforms with the requirements of section 3352(a) (if required);
- (3) Published improper payment estimates for all programs and activities identified under section 3352(a) in the accompanying materials to the annual financial statement (if required);
- (4) Published programmatic corrective action plans prepared under section 3352(d) that DOL may have in the accompanying materials to the annual financial statement;
- (5) Published improper payments reduction targets established under section 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; and



- (6) Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 3352(c).

Based on the performance audit procedures conducted and the results obtained, we have met our audit objective. Specifically, we evaluated DOL's compliance with PIIA and determined the following:

Requirements	Criteria Met?		
	Unemployment Insurance	Federal Employees' Compensation Act	National Disaster Workforce Grants
Published improper payments information with the annual financial statement of DOL for the most recent fiscal year, and posted on the website of DOL that statement and any accompanying materials required under guidance of OMB	YES	YES	YES
Conducted a program-specific risk assessment for each program or activity that conforms with the requirements of section 3352(a) (if required)	YES	YES	YES
Published improper payment estimates for all programs and activities identified under section 3352(a) in the accompanying materials to the annual financial statement (if required)	YES	YES	YES
Published programmatic corrective action plans prepared under section 3352(d) that DOL may have in the accompanying materials to the annual financial statement	YES	YES	N/A
Published improper payments reduction targets established under section 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	YES <sup>(1)</sup>	YES	YES <sup>(2)</sup>





Requirements	Criteria Met?		
	Unemployment Insurance	Federal Employees' Compensation Act	National Disaster Workforce Grants
Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 3352(c)	YES <sup>(3)</sup>	YES	YES
<p><i>(1) The demonstrated improvement for the UI program was based on information from the BAM State Data provided by management to support the 9.17 percent IP rate. We did note certain cases in the BAM State Data for which there were no investigations of work search activities; however, the applicable BAM investigators ultimately determined the related payments were proper for other reasons.</i></p> <p><i>(2) The NDWG program was not identified as susceptible to improper payments in prior years; therefore, a reduction target was not applicable for FY 2020. DOL did publish a FY 2021 reduction target on <a href="https://paymentaccuracy.gov">https://paymentaccuracy.gov</a> through the annual OMB payment integrity data call.</i></p> <p><i>(3) The UI improper payment rate was based on data for only the first three quarters of the program year.</i></p>			

We did note that DOL permitted state workforce agencies to suspend their improper payment sampling efforts for the final quarter of the Unemployment Insurance (UI) program year (i.e., April 1, 2020 through June 30, 2020) to reduce the burden on program resources responsible for processing the significant increase in UI benefit claims due to the COVID-19 pandemic, and implementing new COVID-19 pandemic related programs. As a result, DOL's estimate for the UI improper payment rate was based on data from only the first three quarters of the program year rather than the entire program year, which was subsequently approved by OMB.

In addition, DOL identified three new programs that provided federally funded unemployment benefits that were authorized by the Coronavirus Aid, Relief, and Economic Security Act of 2020. The three UI programs identified were the Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). No improper payment information was required to be published for these programs, nor were they reported as part of the UI program improper payment information for FY 2020, as they were not in existence for more than 12 months as of the reporting period. These three programs in total comprised approximately \$195.0 billion of the total \$281.8 billion (69 percent) in unemployment expenses reported by DOL for program year 2020.



This performance audit did not constitute an audit of financial statements or an attestation level report as defined under *Government Auditing Standards* or AICPA professional standards. KPMG cautions that projecting the results of our evaluation to future periods is subject to the risks that controls may become inadequate because of changes in conditions or because compliance with controls may deteriorate. This report is intended solely for the use of the DOL Secretary and Inspector General, Comptroller General of the United States, OMB, and relevant congressional committees; and is not intended to be and should not be relied upon by anyone other than these specified parties.

KPMG LLP

August 6, 2021

## BACKGROUND

The Payment Integrity Information Act (PIIA) of 2019 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. The Act repealed several previous improper payment statutes, including the Improper Payments Information Act of 2002, as amended by the Improper Payments Elimination and Recovery Act of 2010; and the Improper Payment Elimination and Recovery Improvement Act of 2012. The Office of Management and Budget (OMB) is required to prescribe guidance on implementation of the requirements under PIIA. OMB Circular No. A-123 Appendix C, *Requirements for Payment Integrity Improvement*, dated June 26, 2018, was the applicable OMB guidance in effect for FY 2020.

The United States Department of Labor (DOL) has an established agency-wide risk assessment process to assess its programs for susceptibility to significant improper payments. Each year, DOL assesses one third of all its programs to ensure each program is assessed at least once every three years. DOL's policies define significant improper payments as gross annual payments exceeding: (1) both 1.5 percent and \$10 million of all program payments; or (2) \$100 million regardless of percentage of program payments, which complies with the relevant OMB guidance. Based on its risk assessment process, DOL identified two programs that were susceptible to significant improper payments in FY 2020. The two programs identified were the Unemployment Insurance (UI) Program and the Federal Employees' Compensation Act (FECA) Program. Additionally, DOL was required to report improper payment information for one additional program due to a statutory requirement in the program's enabling legislation.

We did note that several new programs that provided federally funded unemployment benefits were identified by DOL in FY 2020 as a result of specific provisions within the Coronavirus Aid, Relief, and Economic Security Act of 2020 (the CARES Act), which was enacted in March 2020. The CARES Act was enacted in response to the economic fallout due to the COVID-19 pandemic. The most significant new programs included the Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). These three programs in total comprised approximately \$195.0 billion of the total \$281.8 billion (69 percent) in unemployment expenses reported by DOL for program year 2020.

DOL identified and reported these programs in its FY 2020 annual program inventory as required by OMB guidance. However, DOL did not conduct a risk assessment for the programs as the OMB guidance only required one to be completed after the program was in existence for at least 12 months.

Consequently, no improper payment information was required to be published for these programs, nor were they reported as part of the UI program improper payment information for FY 2020.

The three programs for which improper payment information was reported in FY 2020 are described further below.

### *UI Program*

The UI program provides partial wage replacement for eligible unemployed workers who become unemployed through no fault of their own and meet certain other eligibility requirements. The state workforce agencies (SWA) for each U.S. state, the District of Columbia, and certain U.S. territories administer their own UI program under guidelines established by federal statute. The UI program year runs from July 1 through June 30. For the 2020 program year, the UI program reported total outlays of \$86.9 billion and estimated improper payments of \$8.0 billion.

The improper payments estimate was developed from the UI program's Benefit Accuracy Measurement (BAM) program. The BAM program is a payment integrity assessment survey in which SWAs perform quarterly audits on a sample of benefit payments for every program year. Each SWA is expected to review a sample of 360-480 claims every year, resulting in approximately 24,000 audited claims for the annual survey. The SWAs report their survey results in the BAM database, and this data is then analyzed to determine the national improper payment rate and related causes for the program year. The results of the analysis are then applied to total outlays and reported as required.

Beginning in March 2020, the UI program experienced a significant increase in claims activity because of increasing unemployment resulting from the COVID-19 pandemic. Initial UI claims (seasonally adjusted) averaged approximately 217,000 per week during the 15 months prior to the pandemic; however, initial UI claims increased to an average of 2.9 million per week from mid-March 2020 through June 30, 2020. To process the high volume of claims, certain SWAs redirected BAM personnel from sample testing to claims processing. SWA resource constraints were also further compounded by COVID-19 remote work requirements. SWAs began to notify DOL of these resource constraints in March 2020, and in response, DOL permitted SWAs to suspend sampling in the BAM program for the fourth quarter of the program year (i.e., April 1, 2020 through June 30, 2020). As a result, the sampled claims analyzed for program year 2020 improper payment reporting consisted only of claims for the 9-month period ended March 31, 2020. The sample sizes ranged from 58 to 569 claims for states, resulting in approximately 17,200 claims for the program year 2020 analysis.

DOL management subsequently met with OMB in October 2020 to obtain guidance on how to estimate the improper rate for the program year given that DOL only had data for the first three quarters. Based on that discussion and other correspondence between OMB and DOL, OMB approved DOL to utilize the available data from the first three quarters to calculate its improper payment rate for the full program year. We noted that the PIIA states that “the head of the relevant executive agency shall – (A) produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the Office of Management and Budget.” We did note that approximately \$64.3 billion, or 74 percent of the total program year expenses reported, occurred during the fourth quarter of the program year.

### *FECA Program*

The FECA program provides workers compensation coverage (i.e., wage-loss compensation and payment for medical treatment) to federal and postal workers for employment-related injuries and occupational diseases. DOL’s Division of Federal Employees’ Compensation manages the FECA program. For the 2020 program year, the FECA program reported total outlays of \$3.0 billion and estimated improper payments of \$69.2 million.

The improper payment estimate was developed from a random sample of approximately 500 medical and 500 compensation payments from the FECA program. The payments were assessed against the program’s criteria, and the supporting documentation maintained in the electronic case management system. Results from the sample were then extrapolated over the entire population to determine the improper payment rate.

### *National Disaster Workforce Grants (NDWG)*

The NDWG are discretionary grants to states to respond to large, unexpected layoff events caused by national disasters. States typically pass the funding to sub-recipients who then hire dislocated or long-term unemployed workers to perform disaster cleanup activities. The Bipartisan Budget Act of 2018 (P.L. 115-123) that provides for this funding states that all programs and activities expending more than \$10 million in any one fiscal year of funds appropriated for disaster relief shall be deemed susceptible to significant improper payments for purposes of improper payment reporting. In FY 2020, DOL reported approximately \$15.4 million in outlays for the NDWG, and no improper payments.

To meet the statutory requirement to report improper payment information for this program, DOL utilized a census approach for NDWG. The census measurement plan analyzed all Single Audit findings that are associated with the recipients and sub-recipients receiving NDWG. An estimated improper payment rate was then

extrapolated from the questioned costs in the identified findings. No questioned costs were identified in the FY 2020 analysis.

## **OBJECTIVES, SCOPE AND METHODOLOGY**

The objective of our audit was to evaluate DOL's compliance with the requirements of PIIA as defined in Chapter 33 of Title 31, United States Code (U.S.C), section 3351.2. This included determining whether DOL:

- (1) Published improper payments information with the annual financial statement of DOL for the most recent fiscal year, and posted on the website of DOL that statement and any accompanying materials required under guidance of OMB;
- (2) Conducted a program-specific risk assessment for each program or activity that conforms with the requirements of section 3352(a) (if required);
- (3) Published improper payment estimates for all programs and activities identified under section 3352(a) in the accompanying materials to the annual financial statement (if required);
- (4) Published programmatic corrective action plans prepared under section 3352(d) that DOL may have in the accompanying materials to the annual financial statement;
- (5) Published improper payments reduction targets established under section 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; and
- (6) Reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 3352(c).

## **SCOPE AND METHODOLOGY**

The scope of our performance audit was DOL's FY 2020 improper payment and reporting data as presented in the Other Information section of the FY 2020

Agency Financial Report (AFR); as well as the accompanying materials required under guidance of the OMB reported on [paymentaccuracy.gov](https://paymentaccuracy.gov).<sup>5</sup>

During our planning and testing phase, we conducted interviews, collected and inspected auditee-provided documentation and evidence, and participated in process and control walkthroughs with the programs identified as susceptible. A summary of the procedures we performed is as follows:

- Obtained an understanding of DOL's improper payments reporting process and associated controls through inquiries with management;
- Reviewed DOL's policies and procedures over the PIIA reporting process;
- Reviewed management's agency-wide risk assessment for all agency disbursements/programs;
- Reviewed applicable legislation and regulations, increases in funding levels, or changes to the program-specific risk assessment process for each program or activity;
- Reviewed the statistically-determined improper payments estimates for each program deemed susceptible to improper payments and the underlying sampling methodologies;
- Reviewed a sample of SWA-submitted BAM claims data, and FECA benefit payments;
- Reviewed DOL's corrective action plans as reported on <https://paymentaccuracy.gov> through the annual OMB payment integrity data call; and
- Obtained any OMB Waivers/Exemptions for improper payments reporting, if applicable.

In carrying out this methodology, we obtained sufficient, appropriate evidence to provide a reasonable basis for our conclusions related to our audit objective.

## RESULTS AND CONCLUSIONS

Based on our audit procedures performed, we determined that DOL met the PIIA compliance requirements. See below for additional details of our results.

- Requirement 1 – Determine if DOL published improper payments information with the annual financial statement of DOL for the most recent fiscal year, and posted on the website of DOL that statement and any accompanying materials required under guidance of OMB.

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<sup>5</sup> Beginning with FY 2020 reporting, information previously contained in the AFR that was no longer explicitly required by OMB Circular No. A-136, *Financial Reporting Requirements*, to be reported in the AFR was reported on <https://paymentaccuracy.gov> through the annual OMB payment integrity data call.

Yes. DOL published its AFR for FY 2020 on November 16, 2020, and posted the AFR on the agency website at [www.dol.gov](http://www.dol.gov). The AFR included a Payment Integrity section with the applicable required subsections, which included a link to [paymentaccuracy.gov](http://paymentaccuracy.gov) for the accompanying materials required under guidance of the OMB. The information presented in the AFR and accompanying materials agreed to supporting documentation provided by DOL.

- Requirement 2 – Determine if DOL conducted a program-specific risk assessment for each program or activity that conforms with the requirements of section 3352(a).

Yes. DOL conducted a risk assessment based on the requirements in the applicable guidance issued by OMB. DOL continued to identify the UI and FECA programs as susceptible to improper payments. The NDWG program was also deemed susceptible to improper payments by its enabling legislation.

DOL assessed 10 other programs for FY 2020, of which all 10 were identified as not susceptible to significant improper payments. The remaining DOL programs were reviewed in the last two years and were also identified as not susceptible to significant improper payments. Lastly, DOL reported four new programs that did not require a risk assessment.

- Requirement 3 – Determine if DOL published improper payment estimates for all programs and activities identified under section 3352(a) in the accompanying materials to the annual financial statement.

Yes. DOL published improper payment estimates for the UI, FECA, and NDWG programs. The UI program modified its statistical estimation process in FY 2020 based on direction from OMB, and the FECA program utilized a statistical estimation approach that met a 95 percent confidence level, plus or minus 3 percent. The UI program reported an improper payment rate of 9.17 percent, which resulted in an estimated \$8.0 billion in gross improper payments. The FECA program reported an improper payment rate of 2.34 percent, which resulted in an estimated \$69.2 million in gross improper payments. Lastly, the NDWG census approach did not identify any improper payments, reporting an improper payment rate of 0%.

- Requirement 4 – Determine if DOL published programmatic corrective action plans prepared under section 3352(d) that DOL may have in the accompanying materials to the annual financial statement.

Yes. DOL reported corrective actions for each of the reported root causes in the accompanying materials posted to [paymentaccuracy.gov](http://paymentaccuracy.gov). Specifically, DOL reported corrective actions related to the following UI root cause categories: Program Design or Structural Issue, Inability to Authenticate Eligibility,



Administrative or Process Error Made, and Insufficient Documentation to Determine. In addition, DOL reported corrective actions related to the following FECA root cause categories: Inability to Access Data, Data Needed Does Not Exist, Administrative or Process Error Made, Other Party and Fraud Restitution. As the NDWG reported no improper payments, corrective actions were not applicable for that program.

- Requirement 5 – Determine if DOL published improper payments reduction targets established under section 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.

Yes. DOL met the established reduction targets of 9.99 percent and 3.15 percent published in the DOL FY 2019 AFR for the UI and FECA programs, respectively. The NDWG was a newly reported program for FY 2020; as such, no reduction target was established in the prior year. The demonstrated improvement for the UI program was based on information from the BAM State Data provided by management to support the 9.17 percent IP rate. We did note certain cases in the BAM State Data for which there were no investigations of work search activities; however, the applicable BAM investigators ultimately determined the related payments were proper for other reasons. The FY 2021 UI, FECA and NDWG reduction targets published by DOL in the FY 2020 OMB payment integrity data call were 9.00 percent, 3.10 percent, and 1.49 percent, respectively.

- Requirement 6 – Determine if DOL reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 3352(c).

Yes. The UI, FECA, and NDWG programs met the requirement with an estimated improper payment rate of 9.17 percent, 2.34 percent, and 0 percent, respectively. However, as noted in the Background section of this report, the estimated UI improper payment rate was based on data that only included the first three quarters of the program year. Accordingly, we were not able to determine whether this estimated rate was representative of the improper payments that occurred during the fourth quarter of program year 2020. As this methodology was approved by OMB, we did not identify an instance of non-compliance related to this matter.

## **FINDINGS AND RECOMMENDATIONS**

Our 2020 performance audit identified one finding, which is presented below. We discussed the finding with management and received their response, which is included in the appendix of this report.

*Finding No. 20-01: Improvements needed in documentation of changes to improper payments methodology*

As noted in the Background section above, the UI program experienced an unprecedented increase in claims activity in the fourth quarter of the program year because of increasing unemployment resulting from the COVID-19 pandemic. This extraordinary increase in claims activity as well as the transition to remote work requirements caused significant challenges to the SWAs in processing claims during the fourth quarter. In response to these increasing burdens on SWA resources, DOL permitted SWAs to suspend the BAM sampling for the fourth quarter of the program year.

Although DOL began permitting states to suspend the sampling of fourth quarter claims in March 2020, management did not formally request guidance from OMB on changes to the sampling and estimation plan until October of 2020. DOL did inform us that informal discussions were held with OMB prior to October 2020; however, they were unable to provide evidence of these discussions.

The COVID-19 pandemic presented significant challenges to the UI program, which caused DOL to prioritize its resources for certain tasks in order to support the SWAs as they administered a high volume of unemployment claims and related benefits. Furthermore, the estimation process for the UI had not required any significant changes in a number of years and, therefore, DOL did not have procedures in place to formally communicate such changes in a timely manner.

Lack of timely communication of proposed changes to improper payment estimation plans could impact OMB's ability to properly assess the change and to consider potential alternatives to estimating the improper payment for the program year.

OMB Circular No. A-123, *Requirements for Payment Integrity Improvement*, dated June 26, 2018, Part I.D.1, Step 2 states:

Agencies should update their sampling and estimation plans, as needed, to reflect the current design and methods being used and incorporate refinements based on previous results, consultations with others, and/or recommendations from Inspectors General, GAO, or OMB. Any updated plans will need to be submitted to OMB no later than June 30 of the fiscal year for which the estimate is being produced. ... Agencies should err on the side of caution and resubmit their plans if they are in doubt as to whether or not they need to.

## RECOMMENDATION

We recommend that DOL management develop procedures to ensure changes to its improper payment process are communicated to OMB in a timely manner and those communications are properly maintained for subsequent review and inspection.

## PRIOR YEAR RECOMMENDATION

The following recommendation was issued in the *Reporting over the U.S. Department of Labor's FY 2019 Compliance with the Improper Payments and Elimination and Recovery Act* report issued by the OIG on May 15, 2020. We followed up with management on the status of each recommendation.

- Maintain management's current focus on increasing its technical assistance and funding to states to improve the improper payment reduction strategies in order to reduce the improper payments estimate rate below the 10 percent threshold.

Status: DOL has continued to provide SWA with guidance and assistance in addressing improper payments. However, we were unable to determine the impact of the fourth quarter UI activity, which comprised 74 percent of total UI expenses for the program year, on the estimated improper payment rate. As such, the recommendation remains open. We will conduct follow-up procedures in fiscal year 2021 to assess the current status of corrective actions.

## ADDITIONAL IMPROVEMENT OBSERVATION

During our current year testing, we also identified a performance improvement opportunity related to DOL's estimation sampling and estimation methodology for the NDWG program. Specifically, we noted DOL estimated an improper payment rate for the program using a census approach that relied on Single Audit Reports submitted by recipients and subrecipients to the Federal Audit Clearinghouse. We noted that for the program year, the NDWG program had 7 recipients and 54 subrecipients.

Although this approach was approved by OMB, we noted that no Single Audit Reports related to the NDWG program were identified as of October 2020. Furthermore, even if a Single Audit Report that contained the program was submitted, it may not have been selected as a major program and audited. As such, DOL's estimation methodology may not be sufficient to determine an annual amount of improper payments for the NDWG program.

Accordingly, we suggest that DOL enhance its process for selecting the estimation methodology for new programs. Specifically, DOL should evaluate proposed methodologies and ensure the underlying data will be available and sufficient to properly estimate an annual amount of improper payments for the associated program.

**APPENDIX: AGENCY'S RESPONSE TO THE REPORT**

U.S. Department of Labor

Office of the Chief Financial Officer  
Washington, D.C. 20210



July 2, 2021

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

**FROM:** KEVIN L. BROWN   
Acting Chief Financial Officer

**SUBJECT:** Response to the Office of Inspector General's draft report "THE U.S. DEPARTMENT OF LABOR COMPLIED WITH THE PAYMENT INTEGRITY INFORMATION ACT FOR FY 2020, BUT REPORTED UNEMPLOYMENT INSURANCE INFORMATION DID NOT REPRESENT TOTAL PROGRAM YEAR EXPENSES" (Report No. 22-21-007-13-001)

The Department of Labor's (DOL or the Department) Office of the Chief Financial Officer (OCFO) thanks the Office of Inspector General (OIG) for its annual review of the Department's compliance with requirements under the Improper Payments Elimination and Recovery Act (IPERA) of 2010 and Payment Integrity Information Act of 2019 (PIIA), and for the opportunity to respond to its draft Fiscal Year (FY) 2020 report entitled "THE U.S. DEPARTMENT OF LABOR COMPLIED WITH THE PAYMENT INTEGRITY INFORMATION ACT FOR FY 2020, BUT REPORTED UNEMPLOYMENT INSURANCE INFORMATION DID NOT REPRESENT TOTAL PROGRAM YEAR EXPENSES" (Report No. 22-21-007-13-001).

The Department appreciates the OIG's acknowledgement of the steps management has taken to become fully compliant with IPERA and PIIA standards for the first time since these standards were implemented. The Department is committed to good stewardship of public funds and takes seriously its responsibility to prevent, detect, and recover improper payments (IP) in its programs and to report fully and accurately on those efforts. However, we find that the title of this report and related statement that the reported Federal-State Unemployment Insurance (UI) program rate is "*not representative of the total unemployment expenses for program year 2020*" to be inaccurate and potentially confusing to readers. The Sampling and Estimation Methodology (Methodology) used by the Department accounted for all UI outlays for the 2020 program year.

The Pandemic led to an historic increase in Unemployment Insurance (UI) claims which severely squeezed State resources. To ensure limited State resources were focused on providing necessary benefits to unemployed workers during a national emergency, the Department, with the approval of the Office of Management and Budget (OMB), allowed an exception to the requirement that State UI benefit staff conduct payment integrity reviews from April 2020 through June 2020. This burden reduction initiative not only helped ensure the safety of State UI staff by eliminating the need to travel and physically meet at the same location early in the Pandemic, but also ensured staff could devote their full attention to providing unemployed workers the benefits for which they were eligible, and to implementing the new unemployment compensation benefits mandated by Congress. Under PIIA, OMB has the authority to approve changes to Agencies' Methodology Plans. OMB reviewed multiple options for the FY 2020 UI estimation and determined that extrapolating the payment integrity review sampling for the period July 1, 2019, to March 31, 2020 to the full 2020 outlays was the most appropriate means of reporting an IP

estimate within the constraints of the National Emergency. All UI outlays for the 2020 reporting period are included in the Department's payment integrity reporting, only the sampling for April-June 2020 (program year quarter 4) was limited. This limitation was clearly disclosed in DOL's FY 2020 Agency Financial Report (AFR) and associated PaymentAccuracy.gov reporting.

Additionally, the Department notes that the new temporary unemployment compensation benefits authorized by the Coronavirus Aid, Relief, and Economic Security Access (CARES) Act of 2020 were found to be separate from the Federal-State UI Program in FY 2020 and we agree with OIG's determination that IP information was not required to be published for these benefits prior to 12 full months of operations. In FY 2021 the Department, in consultation with OMB, will determine if these temporary benefits which are scheduled to lapse in September 2021 meet PIIA reporting requirements.

We thank and appreciate the OIG for their continued efforts in investigating and prosecuting suspected unemployment compensation fraud schemes. DOL will continue to work with states to implement payment integrity efforts, especially to combat fraud, while ensuring American workers in need receive benefits to which they are entitled.

*Recommendation #1: Maintain management's current focus on increasing its technical assistance and funding to states to improve the improper payment reduction strategies in order to ensure compliance with the improper payments estimate rate threshold.*

The OIG is correct to note that the Federal-State UI program reported an estimated improper payment rate of 9.17 percent – significantly less than the 10 percent compliance threshold for the FY 2020 reporting period.

The UI program is a federal-state partnership and the significant majority of UI payments are made by states, under state law, using state funds. In FY 2021, the Department will continue its efforts to improve implementation of an aggressive and ever evolving Program Integrity Strategic Plan to address the leading root causes of improper payments.

In FY 2020 one of the Department's Agency Priority Goals (APG) was to decrease UI improper payments. Specifically, the APG stated that by September 30, 2021, the UI improper payment rate will be 9.0 percent. In FY2020 the UI Program was well on the path to meeting this target. While the impact of Pandemic on Federal and State UI systems may delay achieving this goal by September 30, 2021, the Department is committed to addressing this complex and challenging issue.

As noted above, the historic increase in UI claims related to the Pandemic and the need to create entirely new processes for delivering unemployment compensation benefits mandated by the CARES Act, placed an unprecedented burden on State UI administrations. Therefore, the Department allowed a process exception for payment integrity review sampling for April-June Quarter 4 of 2020. Full payment integrity review sampling recommenced in Quarter 1 of 2021 and there is no reason to believe this concern will persist into FY 2021 reporting.

Despite the Department's efforts, certain program features serve as structural barriers that hinder states' ability to further reduce IP. Section 303(a)(1) of the Social Security Act requires states to make UI benefit payments "when due". The presumption of continued eligibility after the initial eligibility is determined requires states to provide a claimant notice

and the opportunity to be heard before it can stop payments to the individual.<sup>1</sup> As OIG has pointed out, this creates structural issues which further impact the top three root causes of IP.

There are strong public policy reasons for these program design and structural requirements. They promote the effectiveness of the critical UI safety net by getting benefit payments to eligible unemployed individuals for whom suitable work is not available during periods between jobs. Additionally, by providing temporary partial wage replacement, the program plays a vital role in maintaining purchasing power and in stabilizing local economies during periods of economic downturn.

The Department believes strategic efforts to reduce the IP rate constitute a strong and cost effective approach to improving financial integrity in the Federal-State UI partnership and we look forward to collaborating with the OIG and other stakeholders to do more.

*Recommendation #2: We recommend that DOL management develop procedures to ensure changes to its improper payment process are communicated to OMB in a timely manner and those communications are properly maintained for subsequent review and inspection.*

The Department acknowledges that OMB circular A-123 Appendix C<sup>2</sup> required that changes to Agencies' Sampling and Estimation Methodology Plans be submitted by June 30 of the reporting year. In FY 2020 the emergency process exception for Quarter 4 sampling began informally with OMB prior to this date. However, the nature of the final reporting was not formally approved by OMB until October of 2020. Unfortunately, given the historic nature of the increase in unemployed workers in the spring and early summer of 2020, and the need to ensure that benefits continued to flow to these individuals, the Department was not able to formally meet the deadline in OMB guidance to submit this process exception to the UI Program's Methodology. In discussing this process exception with OMB and in their subsequent formal approval, OMB expressed no concerns regarding this timeline issue. We thank the OIG for recognizing in this Report that this process was compliant with legal requirements.

The Department policy and procedures indicated at the time and continue to require that IP reporting agencies submit changes to Sampling and Estimation plans in advance of the June 30 deadline. In FY 2021, OCFO will request reporting agencies certify in advance of the deadline that, based on current conditions, no changes to their Sampling and Estimation Plan is required. Under PIIA, OMB has the authority to approve Sampling and Estimation Plans and requires no specific timeline to do so.

*Additional Improvement Observation: We suggest that DOL enhance its process for selecting the estimation methodology for new programs. Specifically, DOL should evaluate proposed methodologies and ensure the underlying data will be available and sufficient to properly estimate an annual amount of improper payments for the associated program.*

The Department appreciates OIG's observations and recognizes there is always potential for improvement. OCFO and ETA recognized and reported in both the FY 2019 and 2020 AFR limitations in the Single Audit Act reporting used to estimate an IP rate per the

<sup>1</sup> See *California Dep't of Human Res. Dev. v. Java*, 402 U.S. 121, 130-35 (1971).

<sup>2</sup> M-18-20, June 26, 2018. <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-20.pdf>



Sampling and Estimation Methodology used for the National Disaster Workforce Grant program. DOL notes that this Methodology is materially identical to the estimation process used for previous DOL grants and disaster response programs, and was approved by OMB for four different programs. However, should the Department be required to implement similar payment integrity reporting in the future, we will consult OIG experts during the development of a new Sampling and Estimation Methodology Plan.

If you have any further questions or require additional information on the Department's payment integrity efforts, please contact myself or Chris Polen at (202) 693-6800.

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(202) 693-7020

**Address**

Office of Inspector General  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210