

Volume 88

April 1 – September 30, 2022

Semiannual Report to Congress

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



A Message from the Inspector General

It is my honor and distinct privilege to submit this *Semiannual Report to Congress* summarizing the activities of the U.S. Department of Labor (DOL), Office of Inspector General (OIG), for the 6-month period ending September 30, 2022.

The semiannual report reflects our team's exceptional work. The OIG's workforce—comprising auditors, analysts, investigators, attorneys, and other professionals—is dedicated to promoting the economy, efficiency, effectiveness, and integrity of DOL's programs. The OIG remains committed to conducting independent and objective oversight work to improve DOL programs relied upon by millions of Americans.

Despite significant resource constraints and challenges during the COVID-19 pandemic, OIG staff has continued to produce extensive, high-quality oversight work during this reporting period. For example, on September 22, 2022, we announced that our investigations had reached the milestone of more than 1,000 individuals charged with crimes involving unemployment insurance (UI) fraud since the beginning of the pandemic in March 2020. We also issued an Alert Memorandum that identified \$45.6 billion in potentially fraudulent UI payments in four specific high-risk areas, such as to federal prisoners and deceased persons.

In total, during this reporting period, the OIG issued 10 audit and other reports with 18 recommendations for corrective action and identified \$29.6 billion in funds that could be put to better use. Among our many significant findings, we reported the following:

- We identified a cumulative total of \$45.6 billion in potentially fraudulent UI payments to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) used to file UI claims with suspicious email accounts, and (4) of federal prisoners;
- We estimated that \$30.4 billion of the \$71.7 billion in Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation benefits were paid improperly in 4 states tested, with an estimated \$9.9 billion of that paid to likely fraudsters;
- We reported that states have either not submitted required Coronavirus Aid, Relief, and Economic Security Act UI program reports to the Employment and Training Administration (ETA) or reported zero activity, impacting ETA and Congressional decision-making that could mitigate future overpayments and fraud risk; and
- We determined the Office of Workers' Compensation Programs' (OWCP) Workers' Compensation Medical Bill Process System data were of undetermined reliability due to a lack of internal controls and audit limitations. In FY 2021 alone, OWCP paid approximately \$1.9 billion in medical benefits for 3 OWCP programs.



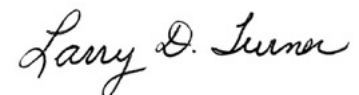
The OIG's investigative work also yielded impressive results, with a total of 166 investigative cases closed and reports issued, 310 indictments, 216 convictions, and more than \$55 million in monetary accomplishments. Highlights of this work include:

- Two Michigan residents were sentenced to more than a combined 10 years in prison and ordered to pay almost \$700,000 in restitution for their roles in a \$3.8 million pandemic-related UI fraud scheme;
- A Maryland man was sentenced to more than 7 years in prison and ordered to pay approximately \$1.8 million in restitution for his role in orchestrating a \$1.5 million pandemic-related UI and aggravated identity theft schemes;
- A Nigerian national was sentenced to 96 months in prison and ordered to pay more than \$486,000 in restitution to his victims for his role in pandemic-related UI and elder fraud schemes;
- A former California chiropractor was sentenced to nearly 70 months in prison and ordered to pay approximately \$1.3 million in restitution to her victims for defrauding health insurance companies out of more than \$2 million.

These are just a few examples of the exceptional work done by our dedicated staff. I want to express my gratitude to them for their significant achievements during this reporting period.

We are continuing to work on many important audits. For more details, see our Audit Workplan for FY 2023, located in an appendix to this report.

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



Larry D. Turner
Inspector General

OIG Mission

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

Core Values

Excellence

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

Integrity

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

Independence

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

Service

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

Transparency

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

Strategic Goals

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

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

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

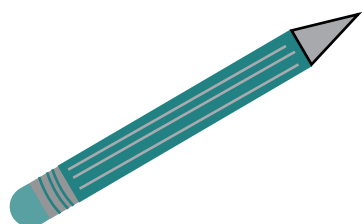
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Audit Statistics

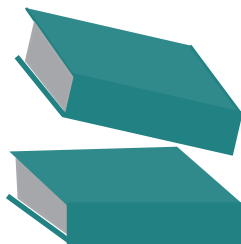
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Audits and Other
Reports Issued



18

Recommendations for
Corrective Action



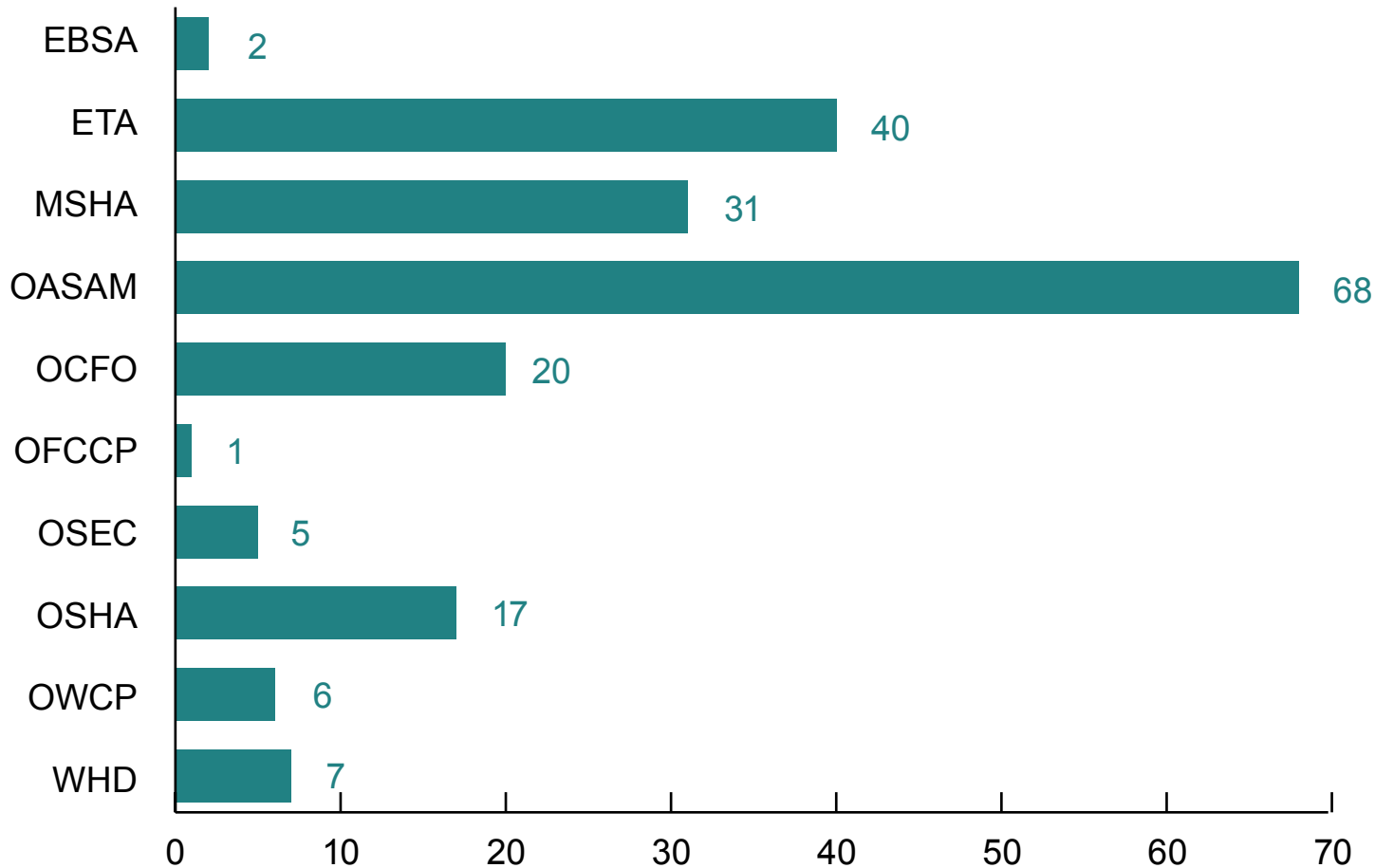
\$29.6 Billion

in Funds Put to
Better Use



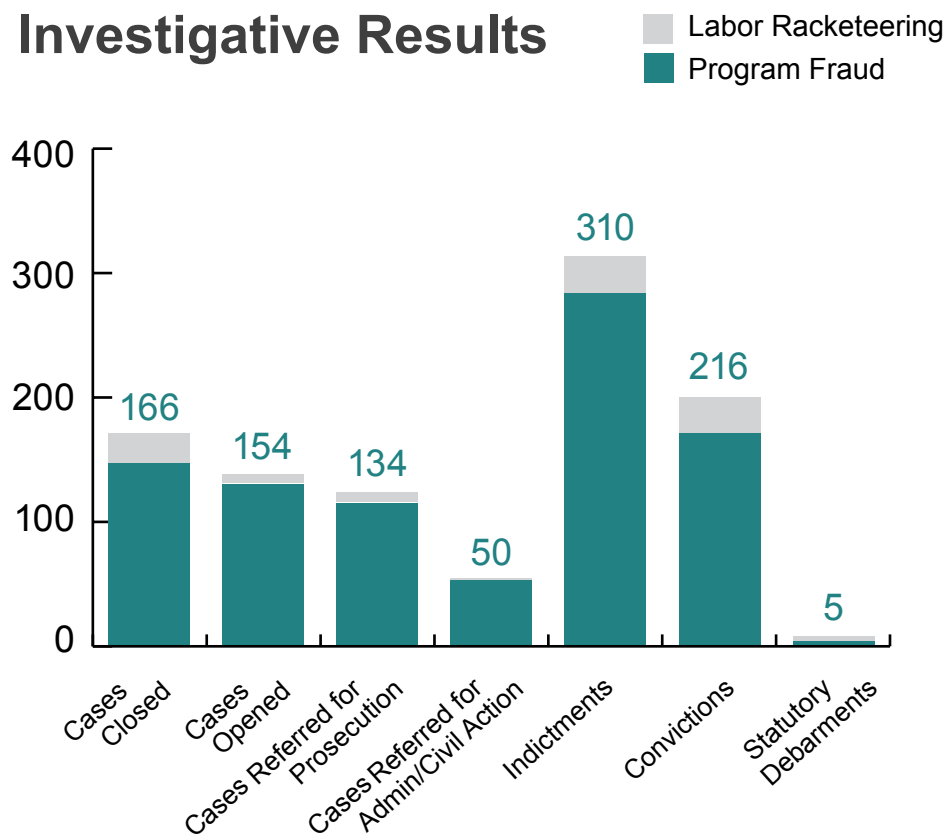
OIG Unimplemented Recommendations

OIG recommendations not fully implemented as of September 30, 2022



Investigative Statistics

Investigative Results

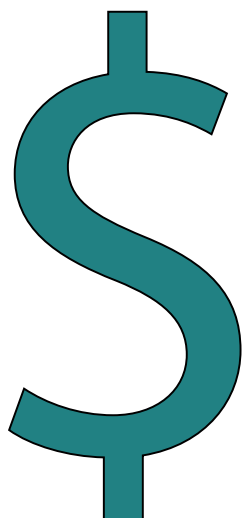


154 / 166



154 investigative cases opened and 166 cases closed

Monetary Accomplishments



These include

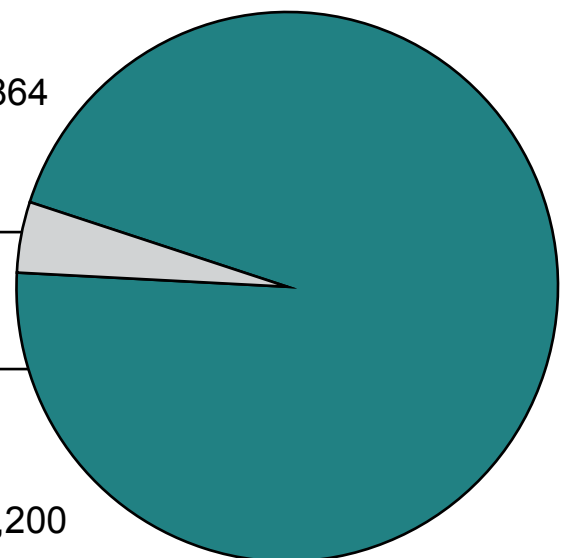
- Recoveries
- Cost-Efficiencies
- Restitutions
- Fines/Penalties
- Forfeitures
- Civil Monetary Actions

\$55,071,064

Total

\$2,341,864

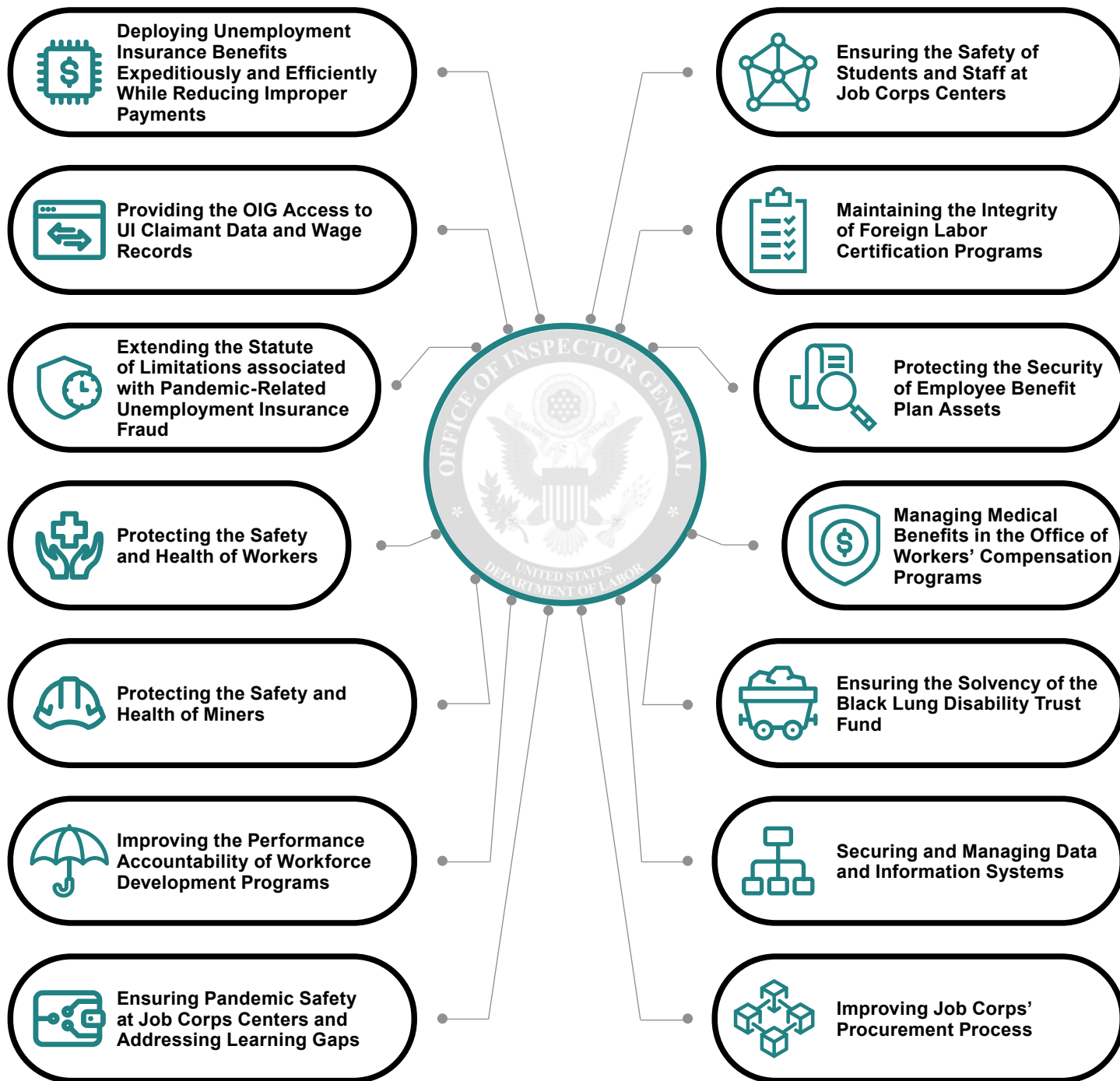
\$52,729,200



Labor Racketeering
Program Fraud

Significant Concerns

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



Deploying Unemployment Insurance Benefits Expeditiously and Efficiently While Reducing Improper Payments

The Office of Inspector General (OIG) has repeatedly reported significant concerns with the Department of Labor (DOL or Department) and states'¹ ability to deploy unemployment insurance (UI) program benefits expeditiously and efficiently while ensuring integrity and adequate oversight. We remain particularly concerned about deployment of UI benefits in response to emergencies including natural disasters and economic downturns. Most recently, the OIG reiterated these concerns regarding the economic downturn created by the COVID-19 pandemic and the unprecedented levels of federal funding allocated to the UI program, estimated at approximately \$872.5 billion.

Following the start of the pandemic in the United States in early 2020, unemployment compensation claims rose exponentially to historically unprecedented levels. Prior to the pandemic, the numbers of UI claims were low. On March 14, 2020, the Department reported 282,000 initial claims.

¹ When referring to unemployment insurance, this Semiannual Report to Congress uses “state” or “State Workforce Agency” 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, Puerto Rico, and the District of Columbia, that administrative body is a State Workforce Agency. There are 53 State Workforce Agencies, including the 50 states, the U.S. Virgin Islands, Puerto Rico, and the District of Columbia. The CARES Act also provided certain UI benefits to American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Marshall Islands, and the Republic of Palau, provided the territory signs an agreement with the Department.

Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle.² Within 5 months, through August 15, 2020, the Department reported 57.4 million initial claims, which was the largest increase since the Department began tracking UI data in 1967.

Deploying Unemployment Insurance Benefits Expeditiously and Efficiently

Rapid deployment of Coronavirus, Aid, Relief, and Economic Security (CARES) Act funding was critical to helping workers in need. As part of the CARES Act, Congress created three key new programs: Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC) (see Figure 1).

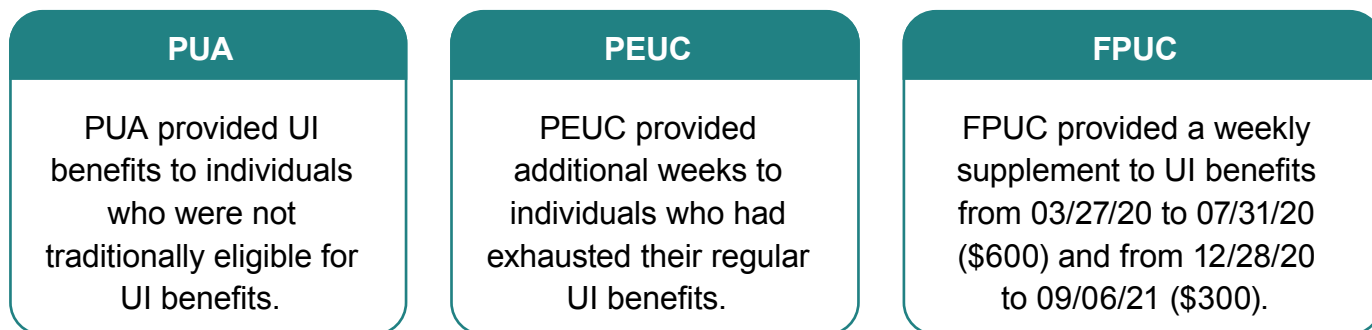
As the OIG’s prior audit work has shown, quickly implementing new programs in the midst of extraordinary increases in initial claims can result in shortcomings in the effective and efficient implementation of stimulus programs. For example, the OIG had audited the Disaster Unemployment Assistance (DUA) program and found the Department had not established adequate controls to ensure benefits were paid timely.³ Furthermore, states had difficulty ensuring CARES Act programs

² 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>

³ ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation, Report No. 04-20-002-03-315 (September 29, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/04-20-002-03-315.pdf>

Significant Concerns

Figure 1: Three Key Pandemic-Related UI Programs



Source: CARES Act and related extensions

were implemented promptly. For the PUA, PEUC, and FPUC programs, we identified that, on average, it took states between 25 and 50 days for the first payment to be disbursed after passage of the CARES Act.⁴

Further in-depth OIG work found continuing programmatic weaknesses led to workers unemployed through no fault of their own suffering lengthy delays in receiving benefits. We found that—from April 1, 2020, to March 31, 2021—only 5 of the 53 State Workforce Agencies (SWA) were able to timely pay benefits, including the FPUC supplement, to regular UI claimants.⁵ As a result, during the year following the passage of the CARES Act, more than six million Americans waited a month or more for pandemic-related UI benefits. Furthermore, states are still challenged in paying claimants timely. For the month of August 2022, only 8 percent of states were paying regular UI claimants timely versus 75 percent before the pandemic started.

⁴ 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>

⁵ 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>

Reducing Improper Payments Including Fraud

For over 20 years, the OIG has reported on the Department's limited ability to measure, report, and reduce improper payments in the UI program, which has experienced some of the highest improper payment rates across the federal government.⁶ The reported improper payment estimate for the regular UI program has been above 10 percent for 15 of the last 19 years. Our recommendations have specifically included the need for the Department to estimate improper payments within federally funded temporary emergency programs.

In August 2020, we recommended⁷ the Employment and Training Administration (ETA) estimate the

⁶ 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). Office of Management and Budget, "Transmittal of 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>

⁷ 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>

Significant Concerns

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 for 2021, which ETA applied to two of three key pandemic UI programs, FPUC and PEUC. ETA stated it will report on the third program, PUA, in 2022.

Applying the 18.71 percent to the estimated \$872.5 billion in pandemic-related UI funding,⁸ at least \$163 billion in pandemic UI benefits could have been paid improperly, with a significant portion attributable to fraud. Based on our audit and investigative work, the improper payment rate for pandemic-related UI payments is likely higher. For example, our in-depth analysis of 4 states⁹ found that, in the 6 months after CARES Act passage, an estimated \$30.4 billion of the \$71.7 billion in PUA and FPUC benefits were paid improperly (42.4 percent). We estimated \$9.9 billion of that was paid to likely fraudsters (13.8 percent).

As the OIG has reported, the unprecedented infusion of federal funds into the UI program gave individuals and organized criminal groups a high-value target to exploit. That, combined with easily attainable stolen personally identifiable information

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.

*

A improper payment can be unintentional or intentional.

*

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

(PII) and continuing UI program weaknesses identified by the OIG over the last several years, allowed criminals to defraud the system. Because many states were not prepared to process the extraordinary volume of new UI claims and struggled to implement the new programs, some internal controls that had been traditionally used or recommended for processing UI claims were not initially implemented.

In one audit, we found that, from March 28, 2020, to September 30, 2020, in 4 states, likely fraudulent claims were paid 60.5 percent of the time. For example, we identified 1 claimant who filed a claim from a 3-bedroom house that shared the same physical address as 90 other claims and used the same email address as 145 other claims.¹⁰

⁸ ETA's reported improper payment rate estimate of 18.71 percent does not include the PUA program. However, it is the most current improper payment rate from ETA. Furthermore, PUA had control weaknesses that may have facilitated comparable or greater improper payments. Therefore, applying ETA's rate to all of the estimated \$872.5 billion in CARES Act UI funding including PUA would equate to at least \$163 billion in improper payments.

⁹ 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>

¹⁰ 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>

Significant Concerns

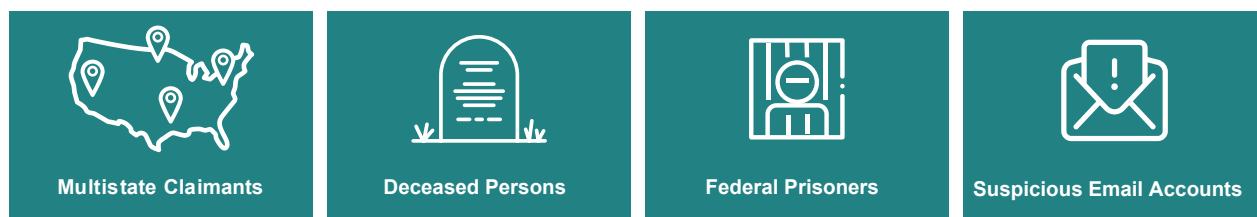
In total, the likely fraudster(s) received \$1,569,762 in unemployment benefits. In addition, our investigative work has shown that one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card.

PUA's expanded coverage, for a population of claimants who were traditionally ineligible to receive UI benefits,¹¹ presented significant challenges to states. The reliance solely on claimant self-certifications without evidence of eligibility and wages during PUA's first 9 months rendered the program extremely susceptible to improper payments including fraudulent payments. Notably, in the first 6 months after the CARES Act passed, we found 4 states paid \$1 out of \$5 in PUA benefits to likely fraudsters.¹² Congress addressed the self-certification issue under the Continued Assistance for Unemployed Workers Act of 2020, requiring individuals receiving PUA to substantiate their employment. However, a significant amount of UI benefit money had already been paid to likely fraudsters.

The OIG is currently reviewing an unprecedented volume of UI investigative matters. Prior to the pandemic, the OIG opened approximately 120 UI investigative matters annually. Since the pandemic started, the OIG has opened over 190,000 investigative matters involving the UI program. That is an increase of more than 1,000 times in the volume of UI work we are facing. UI investigations now account for approximately 96 percent of the OIG investigative case inventory, compared to approximately 11 percent prior to the pandemic.

The OIG has identified¹³ \$45.6 billion of potentially fraudulent UI benefits paid from March 2020 through April 2022 in four specific high-risk areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file UI claims with suspicious email accounts (see Figure 2).

Figure 2: Four High-Risk Areas for Potential UI Fraud



Source: OIG analysis¹⁴

¹¹ 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.

¹² 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>

¹³ 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>

¹⁴ 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>

Significant Concerns

We shared our methodology and underlying data¹⁵ regarding the potential fraud in these high-risk areas with the Department for further dissemination to the SWAs, and we recommended they establish effective controls to mitigate fraud and other improper payments to ineligible claimants.

After the CARES Act passed, ETA worked quickly to obtain signed state agreements and ensure pandemic-related UI funds were available. Despite this and other efforts, ETA's guidance and oversight was not timely enough to prevent historic improper payments of UI benefits including fraud.

For example, in July 2020, ETA notified California 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. California responded that the problem would be addressed by the end of August 2020. However, by the end of August, California had paid approximately \$25.4 billion in PUA benefits, including FPUC.¹⁶

¹⁵ Data provided to DOL for further dissemination to the SWAs included data related to more than 3 million suspicious claimants associated with over \$16 billion that the OIG identified in our alert memorandum dated June 16, 2021. The over \$16 billion did not include about \$915 million in potential fraud that was identified under more than one area. As soon as is practical, the OIG will share further data related to additional suspicious claimants identified in a subsequent alert memorandum with DOL so that it can disseminate this information to the SWAs. The methodology has not changed.

¹⁶ 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>

In April 2022, ETA stated that a “swift rollout of a new government benefit program...would be 30 to 48 months.” We agree 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 are 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, including steps to ensure eligibility procedures and Benefit Payment Control operations continue to function.

Providing the OIG Access to UI Claimant Data and Wage Records

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

Prior to August 2021, DOL required SWAs to disclose UI data only for specific fraud investigations. DOL asserted it lacked the authority to require SWAs to provide UI data to the OIG for audits. As a result, the OIG was forced to take the unprecedented step of using Inspector General (IG) subpoenas to obtain this critical data. DOL's interpretation of its regulations hindered the OIG's ongoing, timely, and complete access to state UI claims data to assist in detecting and deterring large-scale fraud.

Significant Concerns

Specifically, 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 and investigative purposes, except those involving specific instances of suspected fraud. This interpretation and subsequent guidance to SWAs contradict the Inspector General Act of 1978, as amended (IG Act), which authorizes mandatory OIG access to DOL grantee information, including SWAs' UI data.

In our June 2021 alert memorandum,¹⁷ we recommended ETA amend 20 C.F.R. § 603.5 and § 603.6(a) through the rulemaking process to reinforce that SWAs' UI information must be provided to the OIG for all IG engagements authorized under the IG Act, including audits, evaluations, and investigations. To date, ETA has implemented only a temporary solution. On August 3, 2021, ETA issued Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1, requiring SWAs to disclose UI data to the OIG for audits and investigations during the period January 27, 2020, to September 6, 2021. ETA also awarded fraud prevention grants to states conditioned on requiring OIG access to their UI data for investigative and audit purposes through December 31, 2023. However, ETA's actions are not sufficient to resolve the OIG's recommendation or concerns.

In response to our recommendation, ETA has taken limited actions to support the OIG having access to UI data. For example, it published guidance that

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>

reminded states of the OIG's authority under the IG Act and strongly encouraged states to comply with OIG requests. ETA also informed us it is considering comprehensive updates to 20 C.F.R. Part 603. We met with ETA numerous times and requested a written plan with projected timelines. ETA provided a plan to the OIG in July 2022. The projected timeline creates a 14-month gap between when the grants requiring OIG access end on December 31, 2023, and the publication of updated regulations anticipated to be effective in February 2025.

The OIG would not have complete and timely access, as authorized under the IG Act, to SWAs' UI data during the 14-month timeframe. ETA stated it is exploring options for interim solutions to address the gap. However, the OIG does not have specific information regarding the Department's plans to update the regulations or implement other temporary solutions to close the gap, which may prevent us from identifying additional potentially fraudulent UI benefit payments. DOL needs to take expedited actions to adapt its regulations. In the interim, ETA needs to issue updated guidance to notify SWAs of the OIG's authority to access information for both audits and investigations without interruption.

The OIG must have complete and timely access to SWAs' UI claimant and wage records to conduct appropriate audit and investigative oversight of UI funds. As outlined in our September 2022 alert memorandum,¹⁸ disclosure limitations regarding UI potential fraud data contradict the IG Act. The delays since 2020 in providing the OIG timely access to UI data have led to interruptions in

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>

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identifying potentially fraudulent payments much earlier in the pandemic.

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 appear to be part of large-scale fraud schemes or receiving benefits improperly due to systemic program weaknesses. Further, 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 analyze UI data to assess the effectiveness of UI reemployment programs' outcomes.

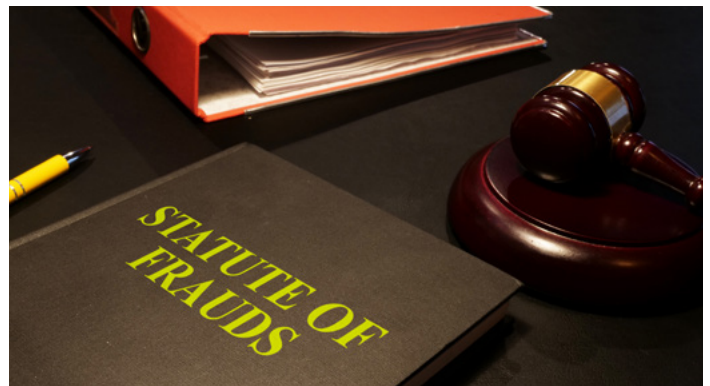
Congress should consider legislative action to authorize DOL and the OIG to have unfettered access to UI claimant data and wage records for our oversight responsibilities. Unfettered access to SWA UI claimant data and wage records systems would further enable the OIG to quickly identify large-scale fraud and expand its current efforts to share emerging fraud trends with ETA and states to strengthen the UI program and deter fraud.

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 assists DOL

¹⁹ 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>

management to timely correct problems. To underscore this point, based on the data obtained by the OIG, our auditors, investigators, and data scientists in our Office of Audit and Office of Investigations worked collaboratively to identify \$45.6 billion in potential UI fraud¹⁹ paid in the four specific high-risk areas, such as to multistate claimants and deceased persons.

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



As the primary federal law enforcement agency responsible for providing oversight of the UI program, the OIG has vigorously pursued COVID-19 pandemic-related UI fraud. In fact, IG Larry D. Turner recently announced that OIG investigations have resulted in more than 1,000 individuals being charged with crimes involving UI fraud since March 2020.²⁰ Even with these efforts, the current statute

²⁰ "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>. For more details about OIG investigations, please visit: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

Significant Concerns

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 expire in 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 volume of open fraud matters is unprecedented for the OIG. Prior to the pandemic, the OIG opened approximately 100 UI fraud investigative matters each year. Between March 1, 2020, and August 1, 2022, the OIG opened more than 190,000 investigative matters involving UI fraud. That represents over a 1,000 times increase of UI fraud matters the OIG has managed. We continue to receive, on average, 200 to 300 new pandemic-related 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 currently dedicating the majority of our investigative resources to addressing pandemic-related UI fraud matters.

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 a recent pandemic-related UI fraud investigation into the theft of over \$4 million in UI benefits from

a SWA, conspirators orchestrated a scheme to file UI claims using stolen identities, which were often associated with elderly citizens.²¹ The conspirators then opened bank accounts using the stolen identities for the sole purpose of having fraudulent UI proceeds deposited into them. 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 in Nigeria. This complex fraud investigation spanned both domestic and foreign jurisdictions. The defendants have been convicted of conspiracy to commit wire fraud.

Criminal investigations, such as the one previously referenced, conducted to bring these bad actors to justice require significant resources and time. Additional resources from Congress have allowed the OIG to hire more criminal investigators and significantly expand the number of staff reviewing UI fraud matters. We have also leveraged additional federal resources by partnering with 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.

²¹ 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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While these investigative resources have 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 are now leveraging the UI data we have been able to collect to identify those matters that pose the greatest risk to the UI program; however, to most effectively and efficiently investigate these matters, we need additional time and data. The OIG anticipates identifying and investigating pandemic-related UI fraud until the statute of limitations expires, which, absent congressional action, will generally be no later than September 2025.

In August 2022, an extension of the statute of limitations was implemented for crimes involving the U.S. Small Business Administration's (SBA) Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) program.²² 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 effectively and efficiently pursue and hold accountable those who defrauded the UI program and victimized the American people during the pandemic.

Protecting the Safety and Health of Workers

The Occupational Safety and Health Administration (OSHA) is responsible for the safety and health of approximately 130 million workers employed at more than 8 million worksites, and OSHA must ensure employers are providing the level of protection

required under relevant laws and policies. The OIG remains concerned about OSHA's ability to target its compliance activities to areas where it can have the greatest impact.

OSHA carries out its compliance responsibilities through a combination of self-initiated inspections and those resulting from complaints and referrals. In Fiscal Year (FY) 2021, OSHA conducted 24,333 inspections, including 13,749 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. The number of OSHA inspectors has steadily decreased from a high of 860 in 2014 to 750 in 2021. As a result of resource limitations, the program only reaches a fraction of the worksites.

Additionally, employers who underreport injuries create further challenges for OSHA in determining the most hazardous worksites. OSHA has lacked complete information on COVID-19 infection rates at worksites because it does not require employers to report all COVID-19 cases among workers. OSHA only requires employers to report a work-related fatality, inpatient hospitalization, amputation, or loss of an eye. This limitation impacts OSHA's ability to focus its inspection and compliance efforts to ensure that industries and worksites where workers are exposed to safety and health violations are sufficiently covered.

While OSHA has issued several guidance documents to enhance safety provisions during the pandemic, guidance does not carry the weight of OSHA rules or standards. Although OSHA withdrew the Vaccination and Testing ETS as an enforceable standard, agency officials stated they are prioritizing

²² The White House, "Bills Signed: H.R. 7334 and H.R. 7352," (August 5, 2022), available at: <https://www.whitehouse.gov/briefing-room/legislation/2022/08/05/bills-signed-h-r-7334-and-h-r-7352/>

resources to focus on finalizing a permanent COVID-19 health care standard.

Protecting the Safety and Health of Miners

The Mine Safety and Health Administration's (MSHA) ability to complete mine inspections while safeguarding the health of miners and the agency's staff during the COVID-19 pandemic is a concern for the OIG. Some MSHA inspectors self-identified as being at high risk during the pandemic, which meant they were no longer required to perform mine inspections. The reduction in the number of inspectors able to conduct inspections, coupled with the logistical challenges of the pandemic, is a concern for the OIG.



We are also concerned with the high incidence of powered haulage accidents in mines, which accounted for almost half of all mine fatalities in 2021 and have been continuing a trend in which powered haulage accidents account for a disproportionate share of overall fatalities over

the last several years. According to MSHA, it is focusing on powered haulage safety by issuing guidance on preventing accidents and meeting with mine personnel to emphasize best safety practices and training. On September 9, 2021, MSHA released a proposed rule requiring mines to have written safety programs for mobile and powered haulage equipment. The OIG will continue to monitor MSHA's efforts to decrease powered haulage accidents.

MSHA also needs to develop strategies to address lung disease in coal mining states, particularly by updating regulations regarding silica content in respirable dust.²³ Respirable crystalline silica can cause deadly and incurable chronic conditions, such as black lung disease. MSHA's allowable limit for silica has remained unchanged for more than 50 years, even as the acceptable limit for silica exposure for workers other than miners has been significantly decreased by OSHA regulations.

In June 2022, MSHA announced a Silica Enforcement Initiative to better protect miners from health hazards related to repeated overexposures to respirable crystalline silica. For coal miners who have already developed pneumoconiosis,²⁴ MSHA has implemented an outreach campaign to increase their awareness of their Part 90 right to exercise the option to work in a less dusty area of the mine and suffer no loss in pay. However, the OIG continues to

²³ MSHA Needs to Improve Efforts to Protect Coal Miners from Respirable Crystalline Silica, Report No. 05-21-001-06-001 (November 12, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2021/05-21-001-06-001.pdf>

²⁴ Pneumoconioses are a group of lung diseases, such as black lung and silicosis, caused by the lungs' reaction to inhaling certain dusts. The main cause of the pneumoconioses is workplace exposure.

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monitor MSHA's progress toward adopting a rule for a lower silica exposure limit.

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 advancing participants' skills and placing them in suitable employment. The COVID-19 pandemic continues to highlight the importance of the Department's workforce development programs assisting job seekers and employers in finding and filling available jobs and assisting workers in developing the right skills to fill new job openings. The Department's ability to obtain accurate and reliable data to measure, assess, and make decisions regarding the performance of grant recipients, contractors, and states in meeting the programs' goals is critical.

The Department needs to ensure its investments in credential attainment align with local employers' needs and are having the desired impact on participants' ability to obtain or advance in a job. In a 2018 audit²⁵ that followed up on the employment status of a sample of Job Corps students 5 years after they left the program, we found that Job Corps faced challenges in demonstrating the extent to which its training programs helped those participants obtain meaningful jobs appropriate to their training.

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

²⁵ Job Corps Could Not Demonstrate Beneficial Job Training Outcomes, Report No. 04-18-001-03-370 (March 30, 2018), available at: <https://www.oig.dol.gov/public/reports/oa/2018/04-18-001-03-370.pdf>

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

As expressed in a March 2022 advisory report,²⁶ the OIG continues to be concerned about three areas in particular where our body of work has identified weaknesses: awarding grants, reviewing grant recipients' use of funds, and measuring grant recipient performance. While ETA has taken 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.

Ensuring Pandemic Safety at Job Corps Centers and Addressing Learning Gaps

The OIG is concerned about the ability of Job Corps to mitigate the risk and spread of COVID-19 across its centers. Like many other educational institutions, keeping up with evolving safety and health guidance, new COVID-19 variants, and varying vaccine rates across the country will make it a challenge for Job Corps to maintain low COVID-19 case rates at its centers. Job Corps centers are

²⁶ Advisory Report: ETA's Management of Workforce Development Grants: Key Concerns, Report No. 09-22-001-03-001 (March 31, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/09-22-001-03-001.pdf>

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mostly residential, with students and some staff living on campus. While Job Corps had transitioned to distance learning programs during the height of the COVID-19 pandemic, it has now resumed in-person instruction. The OIG is also concerned with the potential learning gaps, such as those caused by delays to in-person instruction, that occurred because of the temporary suspension of Job Corps instructional programs and how Job Corps intends to remediate any gaps.

Ensuring the Safety of Students and Staff at Job Corps Centers

In addition to the safety challenges posed by the COVID-19 pandemic, averting on-campus violence and other potentially criminal behavior remains a challenge for Job Corps centers. OIG audits from 2015²⁷ and 2017²⁸ found that some Job Corps centers failed to report and 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 2017²⁹ and our ongoing

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, which included the installation of security cameras, perimeter fencing, and better lighting at centers.



However, student misconduct concerns continue, and a March 2021 OIG audit report³⁰ showed the current process does not provide Job Corps centers the appropriate tools and resources to properly evaluate applicants for substance abuse and mental health issues as they enter the program and does not ensure centers have the necessary resources to mitigate them. While ETA told us that it increased nursing and mental health consultants' hours at every center to help address these concerns, it determined pre-enrollment behavioral assessments, of the type the OIG identified, are not feasible legally or programmatically and pre-enrollment academic readiness screening of prospective students does not align with the

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

²⁸ Review of Job Corps Center Safety and Security, Report No. 26-17-001-03-370 (March 31, 2017), available at: <https://www.oig.dol.gov/public/reports/oa/2017/26-17-001-03-370.pdf>

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

³⁰ Job Corps Should Improve Its Pre-Admission Evaluation Process, Report No. 05-21-001-03-370 (March 25, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/05-21-001-03-370.pdf>

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program's eligibility criteria, nondiscrimination obligations, and overall purpose to serve a diverse collection of youth. The OIG continues to monitor various safety initiatives and actions taken by Job Corps to keep students and staff safe.

Maintaining the Integrity of Foreign Labor Certification Programs

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

In 2003, the OIG issued a white paper³¹ outlining vulnerabilities that then existed in four FLC programs, permanent employment certification program (PERM), H-1B, H-2A, and H-2B, and, in 2020, we issued a similar report.³² We found the post-2003 rules revamped the PERM, H-2A, and H-2B visa programs, and addressed some of the vulnerabilities cited in audits and investigations by

the OIG and the GAO. Those same rules created challenges regarding DOL's responsibilities. Additionally, DOL continues to have limited authority over the H-1B and PERM programs, which challenges the goal of protecting the welfare of the nation's workforce.

The statute limits DOL's ability to deny H-1B applications 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. DOL has recently established a process to begin utilizing the Secretary-initiated H-1B investigations. The PERM program itself is persistently vulnerable to employers not complying with its qualifying criteria. Therefore, both the PERM and H-1B programs remain prone to fraud.

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

Finally, DOL has established a risk-based process to determine which H-2A and H-2B applications to audit. The new selection process identifies appropriate risk factors based on adjudication experience and available H-2A and H-2B application processing data. DOL has implemented the process and started the audits. Because the process is still early in its implementation, it is difficult for ETA to determine whether the applications audited were

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>

³² 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>

those most likely to result in violations eligible for employer debarment.

Protecting the Security of Employee Benefit Plan Assets

The OIG remains concerned about the Employee Benefits Security Administration's (EBSA) ability to protect the integrity of pension, health, and other benefit plans of about 152 million workers, retirees, and their families under the Employee Retirement Income Security Act (ERISA) of 1974. In particular, the OIG is concerned about the statutory limitations on EBSA's oversight authority and inadequate resources to conduct compliance and enforcement. A decades-long challenge to EBSA's compliance program, ERISA provisions allow billions of dollars in pension assets to escape full audit scrutiny. In 2013, we reported³³ that as much as \$3 trillion in pension assets, including an estimated \$800 billion in hard-to-value alternative investments, held in otherwise regulated entities such as banks, received limited-scope audits that provided weak assurance to participants regarding the financial health of their plans.

EBSA needs to focus its limited available resources on investigations that are most likely to result in the prevention, detection, and correction of ERISA violations, particularly given the number of benefit

plans EBSA oversees relative to the number of investigators it employs. Finally, EBSA lacks the authority under the Federal Employees' Retirement System Act (FERSA) to effectively oversee more than \$726 billion in federal employee Thrift Savings Plan (TSP) assets.³⁴ FERSA requires EBSA to conduct regular compliance audits to determine whether the Federal Retirement Thrift Investment Board (the Board), an independent agency, is fulfilling its fiduciary duties and properly safeguarding TSP participants' assets.

However, EBSA has no legal authority to compel the Board to implement its recommendations, which includes enforcing its recommendations to improve the TSP's cybersecurity posture. As a significant portion of the TSP's infrastructure was recently transferred to an outside third-party vendor, we are concerned about the threat cybersecurity breaches pose to the TSP. More generally, identifying and mitigating cyber threats requires a high degree of technical expertise. Cyber threats potentially place trillions of dollars in other ERISA-covered retirement plan assets at risk.

Managing Medical Benefits in the Office of Workers' Compensation Programs

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

³³ EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments, Report No. 09-13-001-12-121 (September 30, 2013), available at: <https://www.oig.dol.gov/public/reports/oa/2013/09-13-001-12-121.pdf>

³⁴ The total value of TSP assets fluctuates over time and is affected by market volatility. For example, the asset value was \$827 billion as of December 31, 2021, according to TSP financial statements, as compared to \$726 billion as of August 31, 2022, according to EBSA.

Significant Concerns



In the Energy Workers program, with an aging claimant population and an increased demand for home health care services, there is a potential for providers to exploit these benefits through unethical practices. Since 2010, home and residential health care costs paid by the Energy Workers program have grown from almost \$100 million to approximately \$801 million, amounting to approximately 73 percent of all medical benefits paid by the program in FY 2021. 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.

In the FECA program, we are currently conducting an audit to determine if OWCP effectively managed pharmaceutical spending from FY 2015 to FY 2020. Past audits have identified internal control weaknesses related to OWCP's management of pharmaceuticals. For example, OWCP allowed increases in billing statements for compounded drugs to go undetected and failed to identify the overuse of opioids. After implementing new policies, OWCP significantly decreased total

compounded drug spending from almost \$256 million in FY 2016 to less than \$176,000 in FY 2020 and reduced opioid spending from over \$86 million in FY 2016 to approximately \$29 million in FY 2020, according to data the agency provided. However, given the high risk of fraud related to prescription payments, OWCP needs to proactively analyze and monitor FECA program costs to promptly detect and address emerging issues before they manifest into material concerns.

Consistent with prior audit recommendations by the OIG, OWCP imposed restrictions on opioid prescriptions in September 2019. In addition, in March 2021, OWCP contracted with a pharmacy benefit manager that will be responsible for pharmaceutical transactions, including implementation of FECA eligibility determinations and pricing for prescription drugs. OWCP needs to provide adequate oversight over the pharmacy benefit manager to ensure the most cost-effective and safe pharmaceutical benefits.

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 it has essentially borrowed with interest from the U.S. Department of the Treasury's (Treasury) general fund almost every

Significant Concerns



year since 1979. According to DOL's FY 2021 Agency Financial Report, the Trust Fund had to borrow approximately \$2.3 billion to cover its expenditures, which included debt and interest payments. As of September 30, 2021, the Trust Fund was carrying close to a \$6.1 billion deficit balance, which is projected to grow to nearly \$13 billion (in constant dollars) by September 30, 2046.

The excise tax that funds the Trust Fund is levied on domestic sales of coal mined in the United States. On January 1, 2022, the temporary increased tax rates of \$1.10 per ton of underground-mined coal and \$0.55 per ton of surface-mined coal sold were reduced to the rates originally set when the Trust Fund was established in 1978 at \$0.50 per ton of underground-mined coal and \$0.25 per ton of surface-mined coal. On August 16, 2022, the Inflation Reduction Act of 2022 made permanent the temporary increased excise tax rates on underground and surface-mined coal. However, we remain concerned the permanent tax increases are still not sufficient to ensure solvency of the Trust Fund.

Securing and Managing Data and Information Systems

We remain concerned about the Department's ability to safeguard and manage its data and information systems. The Department's agencies rely on its information technology (IT) systems to obtain and create vast amounts of information and data in carrying out their missions, and included in these data are the PII and personal health information of the public, including federal employees. 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 (OASAM). While we have seen some improvements in the Department's IT management, 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.

Significant Concerns

Securing the Department's information systems remains a concern as we continue to identify recurring deficiencies in the Department's efforts to manage and implement security controls throughout its information security program. 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.

Recurring deficiencies were identified in four of the five information security functional areas (as defined by the National Institute of Standards and Technology Cybersecurity Framework) and occurred in the performance of security control assessments, account management controls, configuration management, and maintenance of system security plans. These deficiencies continue to hinder the Department in identifying security weaknesses; protecting its systems and data; and detecting, responding to, and recovering from incidents. Furthermore, we are still concerned that the remaining systems and agencies not a part of the IT shared services are not receiving the governance and oversight required to sufficiently secure all of DOL's information and systems.

While Supply Chain Risk Management (SCRM) has been an ongoing concern, recent cyberattacks, such as the 2020 Solar Winds attack, which took advantage of the supply chain process, have increased awareness and related concerns throughout the industry and the federal government. During our annual information security testing and follow-up on prior year recommendations, we determined that DOL has not adequately defined SCRM policies, procedures, and strategies.

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

As employees return to the office, the Department is changing its work and IT landscape to significantly expand remote and telework operations for its employees. This expansion continues to raise our concern with DOL's ability to secure the changing and expanding endpoint security requirements. In the past few years, more DOL employees are teleworking and more computers are connected remotely or connected as a service to primary office locations. DOL needs to ensure the endpoint security between all connection points is sufficiently controlled and managed.

The Department's ability to adequately implement new security technologies and requirements are also of concern. As federal laws, regulations, and guidance require new and tougher security practices and standards, our recent reviews identified DOL has not timely implemented current security requirements.

Significant Concerns

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

Improving Job Corps' Procurement Process

Job Corps spends over \$1.7 billion annually to operate 121 centers and is currently transitioning center operations from cost reimbursement to fixed-price contracts. The Department believes that this transition will lower government financial risk, reduce the administrative burden, generate more pre-award efficiencies, and encourage more competition for contracts. Increased competition among contractors should lead to better contractor performance and improved services, including those for centers' safety and security.

We are concerned about the transition to fixed-price contracting because prior OIG work in this area found Job Corps procurement processes did not ensure the best value for taxpayers, including whether certain services were provided.³⁵

To address these concerns, the Department indicated it has taken significant steps to define contract requirements, increase competition, and improve contract oversight.



³⁵ Job Corps National Contracting Needs Improvement to Ensure Best Value, Report No. 26-13-004-03-370 (September 27, 2013), available at: <https://www.oig.dol.gov/public/reports/oa/2013/26-13-004-03-370.pdf>



Worker and Retiree Benefit Programs

Unemployment Insurance Programs

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

OIG OVERSIGHT OF THE UI PROGRAM

BACKGROUND

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

OVERVIEW OF THE UI PROGRAM

The UI program is a joint federal-state program that is the first economic line of defense against the collective impact of unemployment and acts as a safety-net for individuals who lose their jobs through no fault of their own. The UI program is required to make timely benefit payments to provide needed assistance to unemployed workers. It is equally important that the program have sufficient controls in place to quickly determine that benefits are or were paid to the right person in the correct amount. Each SWA:³⁶

- 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.

UI benefits are generally funded by state employer taxes with administrative costs funded by the federal government. The UI program requires states to make weekly benefit payments in a timely manner while ensuring claimants meet eligibility requirements. Extensions and expansions of coverage and benefits,

³⁶ 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, Puerto Rico, and the District of Columbia, that administrative body is a SWA. There are 53 SWAs, including the 50 states, the U.S. Virgin Islands, Puerto Rico, and the District of Columbia. The CARES Act also provided certain UI benefits to American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Marshall Islands, and the Republic of Palau, provided the territory signs an agreement with the Department.

Worker and Retiree Benefit Programs

such as those provided by the CARES Act and subsequent legislation, are normally funded by the federal government.

ETA is the federal agency responsible for providing UI 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 federal criminal investigations are time- and resource-intensive and one of the last lines of defense in safeguarding the UI program from fraud.

OIG SIGNIFICANT CONCERNS

The OIG has repeatedly reported significant concerns with DOL and states' ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight. We have been and remain particularly concerned about deployment of UI benefits in response to emergencies including natural disasters and economic downturns. Most recently, the OIG reiterated these concerns regarding the economic downturn created by the pandemic and the unprecedented levels of federal funding allocated to the UI program, currently estimated at approximately \$872.5 billion.

Deploying Benefits Expeditiously and Efficiently

Rapid deployment of CARES Act funding was critical in helping workers in need. The OIG unequivocally acknowledges that 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 increased risk that came with the expanded funding was 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 report³⁷ 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 Act³⁸ 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 UI law modernization criteria; once accessed, the funds could be spent for several purposes including to modernize IT systems. Of the funds spent from the \$7 billion, states did not always take advantage of the opportunity to modernize their IT systems.

To implement the new UI programs authorized by the CARES Act in March 2020, states needed sufficient staffing and system resources to manage the extraordinary increases in the number of claims and payments. Our pandemic audit work has confirmed the Department and states continued to

³⁷ 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>

³⁸ Recovery Act: More Than \$1.3 Billion in Unemployment Insurance Modernization Incentive Payments Are Unlikely to Be Claimed by States, Report No. 18-10-012-03-315 (September 30, 2010), available at: <https://www.oig.dol.gov/public/reports/oa/2010/18-10-012-03-315.pdf>

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face challenges in these areas as they endeavored to implement the new temporary UI programs authorized by the CARES Act.

Less than a month after the CARES Act passed, we published an advisory report³⁹ outlining areas of concern that ETA and the states should consider as they implemented the UI provisions included in the CARES Act. Our identification of these areas represents years of work relating to DOL's UI program, including the response to past disasters. One of these areas was state preparedness, a long-standing concern underlying many issues noted in prior OIG reports, specifically the issues of staffing and system capabilities.

We also advised ETA to establish methods to detect and recover improper payments, including fraudulent payments. We reported on the program that posed the greatest risk, the PUA program. PUA's expanded coverage, for a population of claimants who were traditionally ineligible to receive UI benefits,⁴⁰ presented significant challenges to states as they designed and implemented processes to determine initial and continued program eligibility. Further, we found the risk of improper payments including fraud was even higher under PUA because claimants could self-certify their eligibility for UI.

Our subsequent reports identified continued programmatic weaknesses that led to workers



unemployed through no fault of their own suffering lengthy delays in receiving benefits. For example, the OIG had audited the DUA program and found the Department had not established adequate controls to ensure benefits were paid timely.⁴¹ Furthermore, states had difficulty ensuring CARES Act programs were implemented promptly. For the PUA, PUEC, and FPUC programs, we identified that it took, on average, 38 days for the first payment to be made after the CARES Act passed. Also, we identified delays in the first payments for two other pandemic UI programs: it took 25 days for the FPUC program and 50 days for the PEUC program.⁴²

³⁹ 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>

⁴⁰ The new PUA program extended unemployment benefits to self-employed, independent contractors, those with limited work history, and other individuals not traditionally eligible for unemployment benefits who were unable to work as a direct result of COVID-19.

⁴¹ ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation, Report No. 04-20-002-03-315 (September 29, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/04-20-002-03-315.pdf>

⁴² Also, the 12 states we selected for in-depth analysis were generally unable to demonstrate they met the payment promptness standard ETA established for regular UI payments, which is to pay 87 percent of claimants within 14 or 21 days.

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We also found that—from April 1, 2020, to March 31, 2021—only 5 of the 53 SWAs were able to timely pay benefits, including the FPUC supplement, to regular UI claimants. As a result, during the year following the passage of the CARES Act, more than six million Americans waited a month or more for CARES Act UI benefits. Furthermore, states are still challenged in paying claimants timely. For the month of August 2022, only 8 percent of states were paying regular UI claimants timely versus 75 percent before the pandemic started.

History of Improper Payments, Including Fraud

For more than 20 years, the OIG has reported on the Department's challenges to measure, report, and reduce improper payments in the UI program, which has experienced some of the highest improper payment rates across the federal government. The reported improper payment estimate for the regular UI program has been above 10 percent for 15 of the last 19 years.

The UI program requires states to make weekly benefit payments in a timely manner 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 state approved the benefit payment or as a result of the requirement that

⁴³ The Middle Class Tax Relief and Job Creation Act of 2012 requires that individuals receiving UI benefits must be able to work, available to work, and actively seeking work as a condition of eligibility for regular compensation for any week. Accordingly, states generally require that unemployed workers demonstrate they were actively seeking work. Work search overpayments occur when states pay UI claimants who do not demonstrate that they were actively seeking work.

claimants be provided with due process prior to stopping payment of benefits. The leading causes of improper payments have historically been:

- **Claimants Do Not Meet Work Search Requirements**⁴³ – Claimants who fail to demonstrate they meet state requirements for work search;
- **Benefit Year Earnings** – Claimants who continue to claim benefits after they return to work, or who misreport earnings during a week in which benefits are claimed;
- **Employers Do Not Timely Report Employees' Separation** – Employers or their third-party administrators who fail to provide timely and adequate information about why individuals separated from their employment; and
- **Fraud** – Claims based on fraudulent schemes, such as those perpetrated during the pandemic.⁴⁴

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 claims. Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle.⁴⁵ Within 5

⁴⁴ 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.

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>

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months, through August 15, 2020, the Department reported 57.4 million initial claims, the largest increase since the Department began tracking UI data in 1967.

The CARES Act provided significant funding to the federal-state UI program, which resulted in hundreds of billions of dollars in additional payments. New UI programs under the CARES Act meant more workers qualified.⁴⁶ Further, unemployed workers received a supplement per week in addition to their regular benefit amount and individuals who exhausted their regular unemployment benefits were provided additional weeks of unemployment compensation. Also, 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 OIG provided a member briefing⁴⁷ and a statement for the record⁴⁸ to Congress highlighting challenges DOL and states faced in administering and overseeing the UI program as well as the substantially increased fraud risk. The

⁴⁶ The PUA program provided UI benefits to those not traditionally eligible for UI who were unable to work as a direct result of the public health emergency.

⁴⁷ Member Briefing before the U.S. House of Representatives, Committee on Oversight and Reform, Subcommittee on Government Operations, “Opening Statement of Scott S. Dahl, Inspector General, U.S. Department of Labor” (June 1, 2020), available at: <https://www.oig.dol.gov/public/testimony/20200601.pdf>

⁴⁸ Testimony before the U.S. Senate Committee on Finance, Hearing Title: “Unemployment Insurance during COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic,” Testimony of Scott S. Dahl, Inspector General (June 9, 2020), available at: <https://www.oig.dol.gov/public/testimony/20200609.pdf>

expanded coverage offered under the PUA program posed significant challenges to states as they implemented processes to determine initial and continued program eligibility for participants. The reliance solely on claimant self-certifications without evidence of eligibility and wages during the program’s first 9 months rendered the PUA program extremely susceptible to improper payments, including fraud.

The unprecedented infusion of federal funds into the UI program gave individuals and organized criminal groups a high-value target to exploit. That, combined with easily attainable stolen PII and continuing UI program weaknesses identified by the OIG over the last several years, allowed criminals to defraud the system. Because many states were not prepared to process the extraordinary volume of new UI claims and struggled to implement the new UI programs, some internal controls that had been traditionally used or recommended for the processing of UI claims were not initially implemented.

This created a high-reward target where an individual could make a fraudulent claim with relatively low risk of being caught. For example, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card. In a different case, 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.⁴⁹ In total, the likely fraudster(s) received \$1,569,762 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 60.5 percent of the time.

⁴⁹ 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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Estimating the overall improper payment rate for the pandemic 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. In August 2020, we recommended that ETA estimate the improper payment rate for pandemic UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate of 18.71 percent for 2021, which ETA applied to two of three key pandemic UI programs, PEUC and FPUC. ETA states it will report the third program, PUA, in 2022.

Applying the 18.71 percent to the estimated \$872.5 billion in pandemic UI funding,⁵⁰ at least \$163 billion in pandemic UI benefits could have been paid improperly, with a significant portion attributable to fraud. Based on our audit and investigative work, the improper payment rate for pandemic UI programs is likely higher.⁵¹

For example, the OIG has identified \$45.6 billion of potentially fraudulent UI benefits paid from March 2020 through April 2022 in four specific high-risk

⁵⁰ ETA's reported improper payment rate estimate of 18.71 percent does not include the PUA program. However, it is the most current improper payment rate from ETA. Furthermore, PUA had control weaknesses that may have facilitated comparable or greater improper payments. Therefore, applying ETA's rate to all of the estimated \$872.5 billion in CARES Act UI funding including PUA would equate to at least \$163 billion in improper payments.

⁵¹ For example, 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>

areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file UI claims with suspicious email accounts.⁵²

OIG PANDEMIC INVESTIGATIVE WORK

The volume of UI investigative matters currently under review is unprecedented. Prior to the pandemic, the OIG opened approximately 100 UI investigative matters annually. Since the pandemic started, the OIG has opened over 190,000 investigative matters concerning UI fraud. That is an increase of more than 1,000 times in the volume of UI work that we are facing. UI investigations now account for approximately 96 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 federal and contract staff to review DOL and states' efforts, and strengthened our data analytics program. In addition, we took several other actions to augment our efforts, including the following:

- initiated the development of a National Unemployment Insurance Fraud Task Force (National UI Fraud Task Force),⁵³ alongside DOJ;

⁵² 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>

⁵³ More information on the National UI Fraud Task Force is available at: <https://www.justice.gov/coronavirus/national-unemployment-insurance-fraud-task-force>.

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- collaborated with DOJ on the strategic assignment of 12 term-appointed assistant United States attorneys assigned solely to prosecute UI fraud;
- established a multi-disciplinary Pandemic Rapid Response Team within the OIG;
- appointed a National UI Fraud Coordinator to manage our national investigative response to UI fraud;
- appointed seven Regional UI Fraud Coordinators to partner with SWAs and federal, state, and local law enforcement on UI fraud matters in their geographic areas of responsibility;
- leveraged resources from the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Pandemic Response Accountability Committee (PRAC);
- collaborated with states' auditors to help develop their audit strategies for the CARES Act UI programs;
- joined the DOJ COVID-19 Fraud Enforcement Task Force;⁵⁴
- implemented an extensive outreach and education program targeted to SWAs, the

Department, financial institutions and their associations, law enforcement agencies, and the public to inform and raise awareness regarding fraud trends, best practices, red flags, and more;⁵⁵ and

- joined DOJ's Pandemic Fraud Strike Force Teams (strike force program) initiative.⁵⁶

When the OIG identifies anti-fraud measures that may help the program detect and stop fraud, we share them with the Department and states as appropriate. For example, in alert memoranda issued in February 2021,⁵⁷ in June 2021,⁵⁸ and in September

⁵⁴ 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>

⁵⁵ The OIG has issued or assisted in issuing alerts and guides including a: 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. More information is available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

⁵⁶ The OIG joined the DOJ and other federal law enforcement partners as participants on the DOJ's new COVID-19 Strike Force teams initiative, announced on September 14, 2022. These Strike Force teams will operate out of U.S. Attorney's Offices in the Southern District of Florida, the District of Maryland, and a joint effort between the Central and Eastern Districts of California. They will use 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>

⁵⁷ Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf>

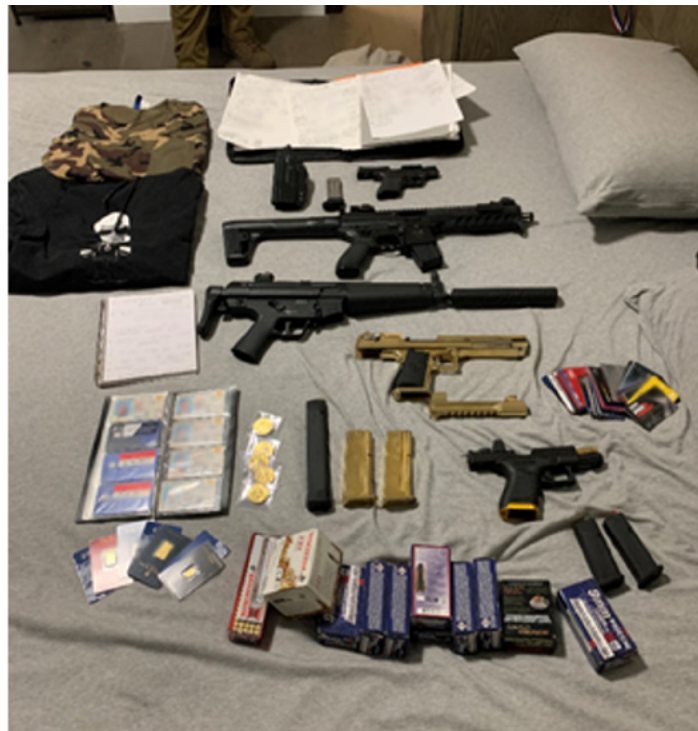
⁵⁸ Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

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2022,⁵⁹ our investigators, auditors, and data scientists collaborated to identify the \$45.6 billion of potentially fraudulent UI benefits paid in the 4 high-risk areas previously noted. We shared our methodology and underlying data⁶⁰ with the Department for further dissemination to the SWAs, and we recommended they establish effective controls to mitigate fraud and other improper payments to ineligible claimants. We plan to examine whether states took effective measures to address the four high-risk areas.

As of September 2022, our UI investigations have resulted in more than: 600 search warrants executed, 1,000 individuals charged with crimes related to UI fraud, and \$865 million in investigative monetary results. We have also referred over 19,000 fraud matters that do not meet federal prosecution guidelines back to the states for further action.

In one recent OIG investigation, 11 members and associates of the Brooklyn-based Woo Gang were charged with a multi-million-dollar pandemic UI fraud scheme.⁶¹ In another recent OIG investigation, a former California Employment Development



During the execution of a UI fraud search warrant, OIG agents recovered multiple firearms, UI debit cards, and notebooks containing PII.

Department (EDD) employee was sentenced to more than 5 years in prison for fraudulently obtaining nearly \$4.3 million in pandemic relief UI funds.⁶²

⁵⁹ 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>

⁶⁰ Data provided to DOL for further dissemination to the SWAs included data related to more than 3 million suspicious claimants associated with over \$16 billion that the OIG identified in our alert memorandum dated June 16, 2021. The over \$16 billion did not include about \$915 million in potential fraud that was identified under more than one area. As soon as is practical, the OIG will share further data related to additional suspicious claimants identified in a subsequent alert memorandum with DOL so that it can disseminate this information to the SWAs. The methodology has not changed.

⁶¹ DOJ, U.S. Attorney's Office, Eastern District of New York, "11 Members and Associates of the Brooklyn-Based Woo Gang Charged with Multi-Million Dollar COVID-19 Unemployment Insurance Fraud," press release, February 17, 2022, available at: https://www.oig.dol.gov/public/Press%20Releases/11_Members_and_Associates_of_the_Brooklyn-Based_Woo_Gang_Charged_with_Multi-Million_Dollar_COVID.pdf

⁶² DOJ, U.S. Attorney's Office, Central District of California, "One-Time EDD Employee Sentenced to More Than 5 Years in Prison for Fraudulently Obtaining Nearly \$4.3 Million in COVID Relief Funds," press release (February 4, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/One-Time_EDD_Employee_Sentenced_to_More_Than_5_Years_in_Prison_for_Fraudulently_Obtaining_Nearly.pdf

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 and regional 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 being 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 Strike Force team initiative.

The OIG has been very engaged on DOJ's COVID-19 Fraud Enforcement Task Force. We have representation on DOJ's COVID-19 Fraud Enforcement Task Force subcommittees involving communication, forfeiture, and data, and we co-chair the task force's criminal enterprise subcommittee. Recently, the OIG also joined the DOJ strike force program.

The OIG has also participated in other initiatives that have fallen outside the framework of the National UI Fraud Task Force, DOJ's COVID-19 Fraud Enforcement Task Force, and strike force program. For example, in 2020 and 2021, the OIG supported

DOJ's annual Money Mule Initiative,⁶³ which aimed to raise awareness about and suppress money mule activity. The OIG conducted extensive internal and external outreach regarding money mules and identified and targeted money mules in coordination with DOJ and other partner agencies.

In addition, the OIG issued alerts to financial institutions about UI fraud both on its own and jointly with its partners, such as the U.S. Secret Service (Secret Service), the Financial Crimes Enforcement Network (FinCEN), and the National UI Fraud Task Force. One such joint OIG/Secret Service alert⁶⁴ 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 FinCEN 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 more than 350 financial institutions in response to our request.

The PRAC has also played a pivotal role in amplifying the ability of OIGs to share information and conduct internal and external outreach to stakeholders that have been impacted by pandemic fraud. For example,

⁶³ Money mules are people who, at someone else's direction, receive and move money obtained from victims of fraud. More information about DOJ's Money Mule Initiative is available at: <https://www.justice.gov/civil/consumer-protection-branch/money-mule-initiative>.

⁶⁴ 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

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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.

The OIG, through its membership in IOC-2, has also been engaged with several allied national police agencies to strategize about pandemic-related fraud and how to best establish practices to share information. The issue of pandemic fraud has not only been an issue for the United States, but it has also negatively impacted our foreign partners' pandemic 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.⁶⁵

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.

⁶⁵ 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>.

OIG PANDEMIC OVERSIGHT WORK

In April 2020, shortly after CARES Act enactment, we published our Pandemic Response Oversight Plan⁶⁶ 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 3).

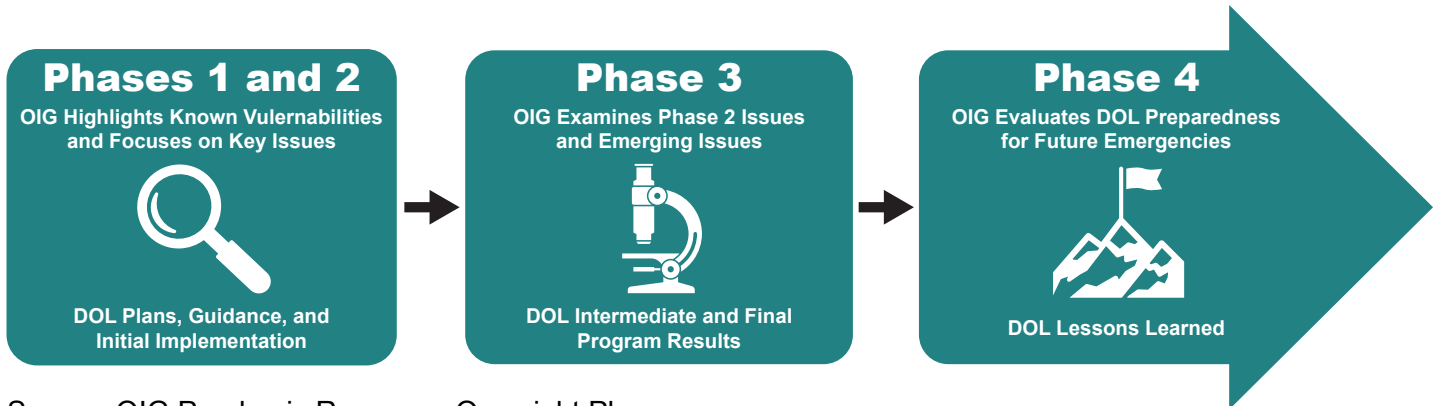
Phases 1 and 2, which are complete, focused on DOL's plans, guidance, and initial implementation of administration and oversight activities. Phase 3 audit work, assessing program results and emerging issues, is ongoing. Our Phase 4 work plans include summarizing our pandemic response oversight work and reporting on lessons learned related to UI, worker safety and health, and employment and training. We have published two plan updates, most recently on March 21, 2022.

At the start of the pandemic, we examined past audits including those related to the Recovery Act and the DUA program,⁶⁷ and we assessed comparable

⁶⁶ Pandemic Response Oversight Plan (updated March 21, 2022), available at: <https://www.oig.dol.gov/public/oaprojects/Updated%20Pandemic%20Response%20Oversight%20Plan%202022%20for%20Publication.pdf>

⁶⁷ 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>.

Figure 3: The OIG's Four-Phased Design for Pandemic Oversight



Source: OIG Pandemic Response Oversight Plan

lessons learned. As a result, in April 2020, we issued the previously noted advisory report⁶⁸ 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 at least 16 years of work relating to DOL's UI program, including the responses to past disasters. The advisory report summarized dozens of OIG recommendations to implement corrective action in these areas.

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

⁶⁸ 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>

⁶⁹ 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>

- In May 2020, we issued an alert memorandum⁶⁹ describing our concerns regarding claimant self-certification in the PUA program. In our view, reliance on such self-certifications rendered the PUA program highly vulnerable to improper payments and fraud. Subsequent to our work, Congress took action to require supporting documentation to improve states' abilities to ensure proper claimant eligibility and to mitigate fraud.
- In August 2020, we reported⁷⁰ 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 reported⁷¹ that DOL and states struggled to implement the three

⁷⁰ 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>

⁷¹ 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>

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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, and 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 issued⁷² the Department a qualified opinion, for the first time in 25 years, on its consolidated financial statements and reported one material weakness related to UI COVID-19 funding. There were two primary causes for this issue: (1) the Department being unable to support \$47.3 billion it estimated for UI claims in appeal or unprocessed as of September 30, 2021, and (2) unreliable reporting of \$4.4 billion in UI benefit overpayments due to certain states' non reporting of UI overpayment activity.
- In July 2022, we reported⁷³ that the Department did not meet the requirements for compliance with the Payment Integrity Information Act (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 three others. DOL did not publish all improper payment estimates as required, 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 as required.

- In August 2022, we issued an alert memorandum⁷⁴ describing our concerns regarding states either not submitting required CARES Act UI program reports to ETA or reporting zero activity. We found the reporting to be deficient for the eight reports we examined. For the PUA program, which was highly susceptible to improper payments including fraud, seven states reported zero overpayments for all months during the entire program period of March 2020 through September 2021. Without accurate state performance information, Congress and ETA are not able to: fully assess state activities, mitigate the risk of overpayments and fraud, identify program weaknesses, or establish lessons learned that may be leveraged to improve states' performance under similar, future temporary programs.

⁷² 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>

⁷³ 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>

⁷⁴ Alert Memorandum: 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>

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- As of September 2022, we have issued three alert memoranda⁷⁵ that identified a total of \$45.6 billion in potentially fraudulent UI benefits paid from March 2020 through April 2022 in the four specific high-risk areas previously mentioned, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file UI claims with suspicious email accounts. We previously recommended in our June 2021 alert memorandum that ETA amend 20 C.F.R. Part 603 and update its guidance to provide the OIG with access to SWA UI data for all IG engagements authorized under the IG Act. In September 2022, we recommended ETA implement immediate measures to ensure ongoing OIG access to UI claims data for audit and investigative purposes and expedite regulatory updates to require ongoing disclosures of UI information to the OIG for audits and investigations of federal programs.
- In September 2022, we reported⁷⁶ 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 on data access 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 (42.4 percent) including \$9.9 billion paid to likely fraudsters (13.8 percent). Notably, in the same 4 states, \$1 in \$5 initially paid in PUA benefits went to likely fraudsters. Further, based on our analysis of ETA's timeliness reports, the time required to implement the new UI programs and the volume of claims resulted in at least 6.2 million American workers nationwide waiting a month or more for pandemic-related UI benefits during the year after the CARES Act passed.

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.

⁷⁵ (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>; and (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>

⁷⁶ 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>

OIG Recommendations to DOL

OIG Access to Claim and Wage Data

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

Staffing and Systems for Prompt Payments during Emergencies

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

Controls for Improper Payments

- Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to potentially ineligible claimants, including multistate claimants, claimants who used Social Security numbers of deceased persons and federal prisoners, and claimants with suspicious email accounts
- Include in the UI improper payment estimate: (1) overpayments related to work search formal/informal warnings, and (2) payments to claimants who provide no or insufficient documentation to support eligibility with respect to work search
- Include CARES Act UI transactions in the BAM or develop an alternative methodology to reliably estimate improper payments for those programs
- Develop policies and procedures to coordinate with SWAs to obtain the necessary [UI program] information needed [for DOL financial statements] to support related balances and assumptions and to perform benchmarking and/or other analyses to validate new assumptions

Guidance and Assistance to States

- Assist states with claims, overpayment, and fraud reporting to create clear and accurate information, and then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery
- Examine the effectiveness of the Benefit Accuracy Measurement (BAM)⁷⁷ program contact

⁷⁷ BAM is a quality control statistical survey used to identify errors and support corrective action in the state UI system. It usually focuses on the three major UI programs: regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-service members. The BAM data are an estimate of the total improper payments in the UI program, in each state and the nation as a whole, based on a statistically valid examination of a sample of paid and denied claims.

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verification process to ensure it reflects the current methods claimants use to seek work

- Inform states that formal and informal warnings are not permissible under federal work search law

Coordination with Congress

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

OIG Recommendations to Congress

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

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

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

In addition, the OIG recommended to Congress that it ensure DOL and the OIG have ongoing, timely

access to UI claimant data and wage records for our respective oversight responsibilities and authorize OIG participation in asset forfeiture funds to combat UI fraud and other crimes. Further, we are recommending that Congress extend the statute of limitations for fraud involving pandemic-related UI programs.

DOL'S PROGRESS

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

The Department has facilitated the OIG's access to UI data but only for benefit weeks covered by CARES Act programs and related extensions. In addition, ETA has required grant recipients to share state UI data with the OIG as a condition of the fraud prevention grants offered under ARPA, which will provide such access through December 31, 2023. However, three states did not receive the grants, and the data provided to the OIG will be incomplete. The OIG needs access to all UI program data to effectively do its job.

On August 31, 2021, the Department announced the establishment of the Office of Unemployment Insurance Modernization (OUIM) to work with state and federal partners to modernize and reform the UI system. Operating within the Office of the Secretary, OUIM works in conjunction with ETA, the Office of

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the Chief Information Officer (OCIO), and OASAM to develop and support implementation of the strategic vision outlined in the UI modernization plans⁷⁸ released on August 11, 2021. According to DOL, OUIIM will provide oversight and management of the \$2 billion allotted to UI initiatives by ARPA to prevent and detect fraud, promote equitable access, ensure timely benefits payments, and reduce backlogs.

Since the enactment of ARPA, the Department has announced grant opportunities to states in UIPLs, including funds for pilot states to engage community-based organizations to help workers learn about UI benefits and related services and to support state agencies in delivering timely benefits to workers (UIPL No. 11-22). The Department has also announced and made progress on implementing further grant opportunities, such as the following:

- As of September 20, 2022, the Department had awarded \$134 million in fraud prevention grants to 50 states to support states with fraud detection and prevention, including identity verification and overpayment recovery activities (UIPL No. 22-21);
- As of September 21, 2022, the Department had awarded over \$150 million in grant funding to 29 states of up to \$260 million for activities that promote equitable access to UI programs (UIPL No. 23-21); and
- As of September 30, 2022, the Department's Tiger Team initiative has worked with 24 states under the up to \$200 million grants opportunity to support states in improving UI systems and processes after a consultative assessment with a team of experts provided by DOL (UIPL No. 02-22).

⁷⁸ For more details, a fact sheet about the UI modernization plans is available online at: https://oui.doleta.gov/unemploy/pdf/FactSheet_UImodernization.pdf.

On December 2, 2021, the Department issued Training and Employment Notice No. 16-21, which provides information on grant awards totaling up to \$600,000 made to states selected as partners to participate in the UI IT Modernization Project-Claimant Experience Pilot.⁷⁹

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-progress⁸⁰ Phase 3 audit work includes:

- ETA's efforts to ensure UI program integrity;*
- DOL's oversight of emergency UI administrative transfers to states;*
- ETA and states' efforts to detect and recover overpayments;*
- adequacy of states' IT resources;*
- adequacy of states' staffing resources;*
- effectiveness of programs for nontraditional claimants;*
- effectiveness of the Temporary Full Federal Funding program;*
- effectiveness of the Short-Time Compensation program;*
- effectiveness of the Mixed Earners Unemployment Compensation (MEUC) program;*

⁷⁹ For more details, TEN No. 16-21 is available online at: https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEN/2021/TEN_16-21.pdf.

⁸⁰ Audits in progress are marked with an asterisk (*).

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- effectiveness of the Emergency Unemployment Relief for Governmental Entities and Non-Profit Organizations program;*
- PRAC Case Study Project on federal pandemic response funds in select geographic areas;*
- concerns over use of third-party identification contractors;*
- DOL and states' oversight of UI claimants return to work;
- ETA and states' efforts to address multistate claimants;
- ETA and states' efforts to address claimants using the Social Security numbers of deceased persons;
- ETA and states' efforts to address claimants using the Social Security numbers of federal prisoners;
- ETA and states' efforts to address claimants with suspicious email accounts;
- ARPA Equity Grants; and
- impact of waivers on UI overpayments, fraud investigations, and recoveries.

For more information about the OIG's work, please visit our Pandemic Response Portal.⁸¹

COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or from Payment Delays

With the CARES Act UI program expansions, ETA and states were required to prioritize prompt payments of UI benefits while also balancing the need for expediency with steps to mitigate improper

payments including fraud. Shortly after the CARES Act passed, we issued an advisory report⁸² that identified concerns about state preparedness. In our May 2021 CARES Act UI audit,⁸³ we found states struggled to pay claimants and to protect funds from improper payments. As part of our continuing pandemic response oversight work, we conducted a performance audit to determine whether ETA and states ensured UI benefits were paid only to eligible individuals promptly.

We found ETA and states did not ensure pandemic-related UI benefits were paid only to eligible individuals promptly. Of the 4 states we tested, we estimated that, from March 28, 2020, through September 30, 2020, \$30.4 billion of the \$71.7 billion in PUA and FPUC benefits was paid improperly (42.4 percent).⁸⁴ For comparison, in the 3 years leading up to the pandemic (April 1, 2017, to March 31, 2020), ETA estimated the 4 states averaged an improper payment rate of 15.6 percent annually, with 2.8 percent attributable to fraud. Nationwide, for the last 18 years, ETA has estimated the UI improper payment rate between 9.17 percent and 13.03 percent (see Figure 4).

We estimated \$9.9 billion of that was paid to likely fraudsters (13.8 percent). For example, 1 claim

⁸² 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>

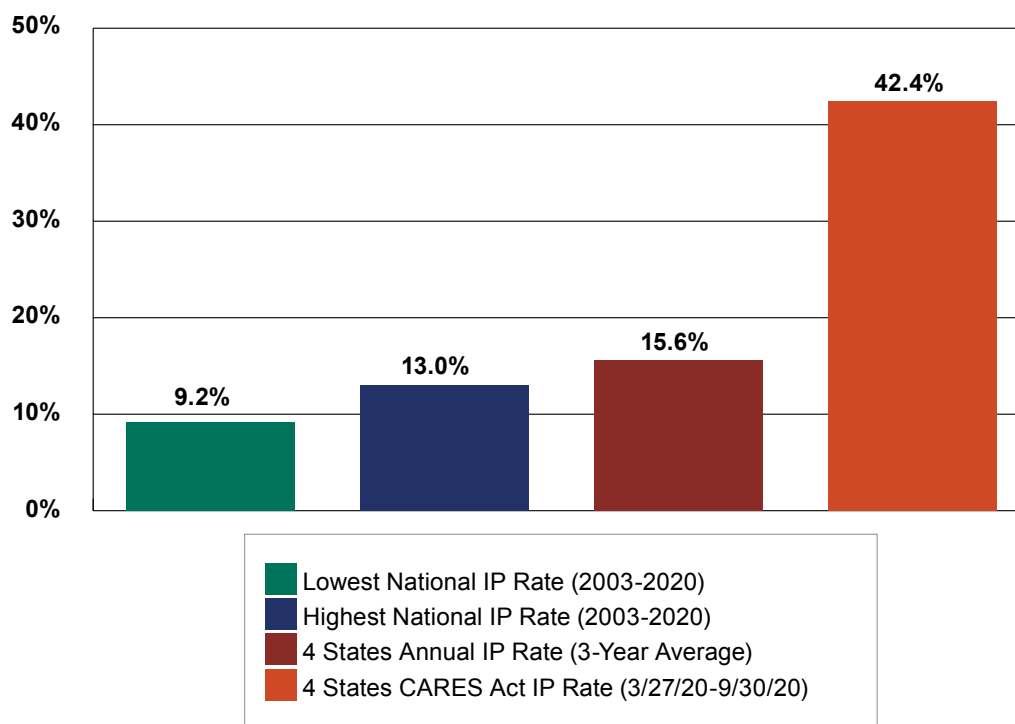
⁸³ COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

⁸⁴ The percentages of improper payments identified in this audit applied only to the four states tested and were not projected to the nation.

⁸¹ Our Pandemic Response Portal is available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

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Figure 4: Comparison of Improper Payment (IP) Rates, Pre-Pandemic Annual Averages and 4 States in First 6 Months of CARES Act



Source: ETA reports and OIG analysis of case files

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. In total, the likely fraudster(s) received \$1,569,762 in unemployment benefits. We found that, from March 28, 2020, to September 30, 2020, the 4 states paid likely fraudulent claims 60.5 percent of the time. Notably, \$1 in \$5 initially paid in PUA benefits went to likely fraudsters.

While the four states were able to initiate pandemic-related UI programs and ETA was able to offer guidance and perform monitoring, improper payments reached historic levels. 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 on data access hindered the OIG's timely and complete access to

UI claims data to assist in detecting and deterring fraud. ETA provided guidance on areas of improper payments as early as May 2020. However, ETA's monitoring reports demonstrated its oversight addressed issues after billions had already been paid. ETA and states must be prepared for disasters before they occur.

Federal guidance required states to prioritize expediency, but we found many Americans faced lengthy delays in receiving UI payments. States continued to be challenged by the increase in claims' volume while implementing the new UI programs. From March 28, 2020, through March 14, 2021, the 4 states were able to pay 86 percent of PUA claimants timely; however, they took more than 30 days to pay 14 percent of all reported PUA claimants. Also, during the year after the CARES Act passed, 48 of 53 SWAs were unable to timely pay regular UI claims, and,

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. Delays in UI payments have real, long-lasting effects on Americans such as the inability to pay bills and food scarcity.

We made five recommendations to ETA to improve oversight to minimize payment delays and improper payments including fraud.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>, Report No. 19-22-006-03-315 (September 30, 2022).

Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion

In February⁸⁵ and June⁸⁶ 2021, the OIG issued alert memoranda to ETA that cumulatively identified more than \$16 billion⁸⁷ in potentially fraudulent UI pandemic benefits paid in four specific high-risk areas, to individuals with Social Security

⁸⁵ 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>

⁸⁶ 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>

numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file UI claims with suspicious email accounts. Despite ETA's concurrence to implement the OIG's prior recommendations from these memoranda, sufficient action has not been taken or implemented that would help mitigate and deter even more potentially fraudulent payments from occurring. In addition, since the 2021 alert memorandum, the OIG has identified an additional \$29.6 billion in potentially fraudulent payments within three of the areas⁸⁸ previously analyzed. We also continue to experience delays in obtaining UI data from SWAs, which impedes our ability to perform our statutory duty to effectively and timely conduct audits and investigations of the UI program.

In analyzing data covering pandemic benefits paid during the period of March 2020 through April 2022, we identified a total of \$45.6 billion paid in potentially fraudulent UI benefits (see Table 1).

Potential fraud is a significant concern that requires ETA's immediate attention and action. Since March 2020, we have worked to gain timely access to SWAs' UI data in an effort to prevent and detect fraud, waste, and abuse in the UI program. The OIG encountered difficulties obtaining data before and after ETA issued guidance directing SWAs to

⁸⁷ The two alert memoranda to ETA identified a cumulative total of nearly \$17 billion, including about \$915 million in potential fraud that was identified under more than one area, resulting in more than \$16 billion paid in potentially fraudulent UI benefits.

⁸⁸ For this current alert memorandum and analysis, the OIG did not have access to data from DOJ's Bureau of Prisons to determine the increase in potentially fraudulent payments. Therefore, the \$45.6 billion only includes the federal prisoner amount reported in our June 2021 alert memorandum.

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Table 1: Potential Fraud in 4 High-Risk Areas through April 2022

| High-Risk Area | Total Potential Fraud Reported through April 2022 |
|---------------------------------|---|
| Multistate Claimants | \$28,967,047,154 |
| Deceased Persons | \$139,483,136 |
| Federal Prisoners ⁸⁹ | \$267,382,013 |
| Suspicious Emails | \$16,265,578,304 |
| Total | \$45,639,490,607 |

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

disclose UI data to the OIG. These issues included SWAs not providing access for each request until subpoenas were issued to each SWA, the OIG receiving data months after the request, the OIG receiving unusable and incomplete data, and some SWAs having difficulty creating a data connection or encrypting data.

Unfettered access to SWAs' UI data would help mitigate the delays we experienced when requesting data and enable the OIG to more efficiently conduct fieldwork and issue reports timely. Unfettered access to UI data would also significantly reduce the time and resources that SWAs expend on recurring data transfers to the OIG.

Although ETA has taken temporary steps to facilitate the OIG's access to state UI data through December 31, 2023, the OIG needs a permanent solution for timely and effective access to SWAs' UI data. In response to an OIG recommendation, ETA has

⁸⁹ The OIG did not have access to federal prisoner data to conduct additional analysis for this memorandum. The amount remains the same as what we reported in the June 2021 alert memorandum. In the June 2021 alert memorandum, the OIG utilized UI data from March 2020 through October 2020.

informed us it is considering comprehensive updates to 20 C.F.R. Part 603; however, the projected timeframe for the updated regulations is February 2025, creating a 14-month gap from the December 31, 2023, expiration of the grants that temporarily expanded OIG access.⁹⁰ During this period, the OIG's access to state UI data will again be impeded, in violation of the IG Act.

The OIG emphasizes the importance of ETA implementing prior and current recommendations from the OIG, aimed at reducing, mitigating, and preventing potentially fraudulent payments to ineligible claimants. Without effective controls and amended federal regulations and guidance, the UI program is exposed to substantial risks, including the cost of improper payments to ineligible claimants. Establishing effective controls over identified high-risk areas will help to prevent similar or even greater amounts of fraud when the next crisis occurs.

⁹⁰ ETA, Unemployment Insurance Program Letter No. 22-21, Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs, (August 11, 2021), available at: https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2021/UIPL_22-21_acc.pdf

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We made three recommendations to ETA including implementing immediate measures to ensure ongoing OIG access to UI claims data and expediting regulatory updates to require ongoing disclosures of UI information to the OIG for audits and investigations of federal programs.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf>, Report No. 19-22-005-03-315 (September 21, 2022).

Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs

Complete and accurate state data for CARES Act UI programs is necessary for the Department to assess CARES Act UI activities and to mitigate the risk of overpayments, including fraud. Since April 2020, ETA has issued 11 UIPLs that specified required state reporting guidelines for pandemic related UI programs. However, the OIG had already identified the issue of states' non reporting or incorrect reporting of overpayments in CARES Act UI programs, which was one of the two issues that ultimately resulted in DOL receiving its first qualified opinion on its consolidated financial statements in 25 years.⁹¹ Because we identified the same concern in two separate reports,⁹² we examined the extent to which states complied with all reporting requirements for UI programs authorized by the CARES Act and

⁹¹ The OIG did not have access to federal prisoner data to conduct additional analysis for this memorandum. The amount remains the same as what we reported in the June 2021 alert memorandum. In the June 2021 alert memorandum, the OIG utilized UI data from March 2020 through October 2020.

subsequent legislation from the inception of the programs in March 2020 through their expiration in September 2021.

We found deficient reporting of the UI programs authorized by the CARES Act and subsequent legislation. Through its guidance, ETA required the 53 SWAs to submit 14 different reports with information about their CARES Act UI activities. Some states did not report UI program information in one or more reporting periods and others reported zero activity.⁹³ For example, 12 to 26 states did not report or reported zero overpayment activity for the FPUC, PEUC, and MEUC programs. Also, 20 states did not submit reports for monthly MEUC data at any time from January 2021 through the program's expiration in September 2021.

Furthermore, in UIPL 17-20, ETA informed states—with respect to PEUC program reporting—that only reports with non-zero data needed to be submitted. We identified multiple instances in which states did not submit PEUC reports or the PEUC information required within applicable reports. These states may or may not have had non-zero data. However, the absence of the required information could not be considered a reporting issue according to UIPL 17-20 and poses a risk that information needed to assess the PEUC program will not be obtained.

⁹² These two reports were: (1) COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>; and (2) 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>.

⁹³ We were unable to determine whether zero was a default for missing data or a state actually reported zero activity (with the exception of two reports).

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Although the due dates for these reports have passed, it is important for ETA to obtain the missing reports and correct information to assess UI program activities and mitigate the risk of overpayments including fraud. Complete and accurate information can be used to identify program weaknesses and establish lessons learned that may be leveraged to improve states' performance under future temporary programs. Furthermore, ETA's unsuccessful efforts to obtain the missing information that was critical to its FY 2021 financial statement audit could have a negative impact on the opinion DOL receives for FY 2022.

We made two recommendations to ETA to: (1) continue to identify states that have not complied with its reporting requirements for CARES Act UI programs and work with them to ensure missing reports and information are submitted before the commencement of DOL's FY 2022 financial statement audit and (2) continue to verify the accuracy of reports that cite no activity and ensure corrections are made where warranted.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/19-22-004-03-315.pdf>, Report No. 19-22-004-03-315 (August 2, 2022).

Michigan Residents Sentenced for Role in \$3.8 Million Unemployment Insurance Fraud Scheme

On April 13, 2022, Johnny Richardson was sentenced to 97 months in prison and Micahia Taylor was sentenced to 30 months in prison for conspiring with State of Michigan contract employee Brandi Hawkins. Hawkins was previously sentenced for her role in the conspiracy. The multi-million dollar UI fraud scheme aimed at defrauding the State of Michigan and the U.S. Government of pandemic-related UI funds. Richardson and Taylor were also ordered to pay almost \$700,000 in restitution.

The investigation revealed that Hawkins was a State of Michigan Unemployment Insurance Agency (Michigan UIA) contract employee hired as a UI examiner. Hawkins's duties included reviewing, processing, and verifying the legitimacy of UI claims. In spring 2020, Hawkins worked with Richardson and Taylor who entered numerous false claims into the Michigan UIA's system, many of which were filed using stolen identities. Once the claims were filed, Richardson and Taylor communicated with Hawkins, who then released payment on the claims in exchange for bribes. Hawkins used her insider access to fraudulently release payment on more than 700 claims, including the false claims filed by Richardson and Taylor. In total, the scheme resulted in the fraudulent disbursement of approximately \$3.8 million of pandemic-related UI federal and state funds.

This is a joint investigation with the FBI, the Internal Revenue Service-Criminal Investigation Division (IRS-CI), Secret Service, United States Postal Inspection Service (USPIS), and the Michigan UIA. *United States v. Johnny Richardson and Micahia Taylor* (E.D. Michigan)

Nigerian National Sentenced in Maryland to 96 Months in Prison for Unemployment Insurance and Elder Fraud Schemes

On July 12, 2022, Oluwaseyi Akinyemi, also known as "Paddy Linkin" and "Joseph Kadin," was sentenced to 96 months in prison for his role in a pandemic-related UI fraud scheme and a separate advance-fee fraud scheme that targeted elderly victims via social media. Akinyemi was also ordered to pay more than \$486,000 in restitution to his victims.

Beginning in 2020, Akinyemi and his co-conspirators filed fraudulent UI claims under the names of living and deceased victims. They used Akinyemi's Maryland residence and the home address of a client for whom

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Akinyemi provided at-home nursing care as the mailing addresses to receive the UI debit cards associated with the fraudulent claims. In total, Akinyemi and his co-conspirators used the identities of 19 individuals to file fraudulent UI claims with multiple states, including Maryland, with an intended loss of \$250,000.

In a separate scheme, from July 2018 to April 2019, Akinyemi and at least one co conspirator engaged in an elder fraud scheme. He and his co-conspirators targeted elderly victims on social media platforms and impersonated the victims' friends in order to convince victims to send money. As part of the scheme to defraud, they presented themselves as agents of real and fictitious government programs that offered supposed financial benefits to qualifying individuals.

This is a joint investigation with Homeland Security Investigations (HSI). *United States v. Oluwaseyi Akinyemi* (D. Maryland)

Maryland Man Sentenced to More Than 7 Years in Prison for Orchestrating \$1.5 Million Unemployment Insurance and Aggravated Identity Theft Schemes

On May 20, 2022, Idowu Raji was sentenced to 94 months in federal prison for conspiracy to commit access device fraud and aggravated identity theft in relation to multiple financial schemes. The court also ordered Raji to pay approximately \$1.8 million in restitution.

In 2020, Raji conspired with other individuals to traffic and use unauthorized access devices to fraudulently obtain more than \$900,000 in UI and other pandemic-related benefits. In furtherance of the UI fraud scheme, he arranged for the delivery of fraudulent UI debit cards to his co-conspirators, provided instructions on the use of the cards, and then obtained a portion of the fraudulent UI benefits.

Raji also fraudulently used mailing addresses in the State of Maryland to receive UI debit cards funded from various states and directed the use of the fraudulently obtained UI debit cards to engage in point-of-sale and ATM transactions. In total, he admitted that he was involved in the filing of fraudulent UI claims that used the stolen identities of more than 50 people and caused more than \$900,000 in losses to the UI program.

In a separate fraud conspiracy, from October 2018 to November 2020, Raji conspired with multiple individuals charged in the District of Maryland in a scheme to defraud several businesses, individuals, and financial institutions of more than \$750,000. Raji's co-conspirators used fake identification documents to open bank accounts. Raji then used the accounts to receive the proceeds from the various fraud schemes. Additionally, in July 2020, Raji received and used funds from the submission of a fraudulent PPP loan.

In April and May 2022, co-defendants Adewumi Abioye and Lukman Salam were sentenced to 27 months and 30 months in federal prison, respectively, for conspiracy to commit wire fraud for their roles in the scheme. Additional co-defendants Hameed Adesokan, Olatunde Vincent, Akolade Ojo, and Damilola Lawal will be sentenced later this year in related cases.

This is a joint investigation with HSI, the Diplomatic Security Service (DSS), and USPIS. *United States v. Idowu Raji* (D. Maryland)

Two Bronx Residents Sentenced for Role in Fraudulent Unemployment Insurance Benefit Scheme

On May 11, 2022, Elvin German was sentenced to 48 months in prison and Vanessa Gomez was

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sentenced to 6 months of home confinement. They were jointly ordered to pay restitution of more than \$1.4 million, and Gomez was ordered to forfeit approximately \$54,000. Both were sentenced pursuant to guilty pleas for conspiring to commit wire fraud and conspiracy to commit theft of government funds. The charges stemmed from stealing the identities of approximately 255 individuals and using those identities to file fraudulent pandemic-related UI claims in the State of New York.

German and Gomez engaged in a scheme to obtain pandemic-related UI benefits by fraudulently filing and verifying applications using the names and Social Security numbers of more than 250 other people. The State of New York's DOL was alerted to the suspicious activity with the applications, which indicated the applications were either submitted and/or verified on a weekly basis from the same internet protocol (IP) address. Further investigation revealed that German owned a dog named Benji, whose name was the answer to the security question for many of the fraudulent applications. As a result of the scheme, the State of New York's DOL authorized the release of more than \$1.4 million in pandemic-related UI benefits.

This is a joint investigation with the Secret Service and the New York City Police Department. *United States v. Elvin German and Vanessa Gomez* (S.D. New York)

Two Members of “Robles Park” Criminal Enterprise Sentenced for Their Roles in an Unemployment Insurance Fraud Scheme

On June 21, 2022, and on June 1, 2022, two members of the Robles Park criminal enterprise, who previously entered guilty pleas, were sentenced. 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. Tywon Spann, also known as “Weez,” was sentenced to 81 months in prison after pleading guilty to racketeering conspiracy in furtherance of a criminal enterprise, conspiracy to commit fraud, aggravated identity theft, use of one or more unauthorized access devices, and possession of 15 or more unauthorized access devices. Eriaius Bentley was sentenced to 12 months and 1 day in prison following a previous guilty plea to conspiracy to commit fraud and aggravated identity theft.

Spann, Bentley, and others conspired to conduct and participate in the criminal enterprise through a pattern of racketeering activity that included narcotics trafficking, wire fraud, and identity theft. In pleading guilty, Spann and Bentley admitted to unlawfully obtaining the PII of others in order to submit false applications for UI benefits. More than \$420,000 in UI benefits were paid to Robles Park members in the form of bank debit cards issued in the names of victims who did not give permission to use their PII.

This is a joint investigation with the FBI and the Tampa Police Department. *United States v. Tywon Spann* (M.D. Florida), *United States v. Eriaius Bentley* (M.D. Florida)

Former Washington State Employee Sentenced for Stealing Unemployment Assistance Benefits in Exchange for Kickbacks

On September 16, 2022, Reyes De La Cruz, a former employee of State of Washington's Employment Security Department (ESD), was sentenced to 60 months in prison for his role in a scheme to exploit the State of Washington ESD's and to fraudulently

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distribute more than \$300,000 in pandemic-related UI benefits. De La Cruz previously pled guilty to charges of wire fraud, bribery by an agent of an organization receiving federal funds, and aggravated identity theft.

Between July 2020 and March 2021, De La Cruz used his access to the State of Washington's ESD UI claims database to defraud the benefits system in multiple ways. In at least 10 instances, he accepted bribes in exchange for fraudulently facilitating UI benefits payments for his friends, family, or acquaintances by making false entries into the claims database. In many cases, the individual did not qualify for UI benefits, but De La Cruz manipulated the claims database so the claimants received lump-sum retroactive payments that sometimes amounted to tens of thousands of dollars. The claimants then paid him a portion of the lump sum ranging from \$500 to \$6,500. In total, De La Cruz received approximately \$20,000 in kickback payments.

This is a joint investigation with the FBI. *U.S. v. De La Cruz* (W.D. of Washington)

Former Massachusetts Department of Unemployment Assistance Employee Sentenced to 42 Months in Prison for COVID-19 Fraud Scheme

On April 27, 2022, Tiffany Pacheco, a former Commonwealth of Massachusetts Department of Unemployment Assistance (Massachusetts DUA) employee, was sentenced to 42 months incarceration and ordered to pay over \$199,000 in restitution to Massachusetts DUA.

In April 2020, Pacheco was hired by Massachusetts DUA, shortly after her release from federal prison following an unrelated conviction for aggravated

identity theft. While employed by Massachusetts DUA, she abused her position and her access to the PUA claims system to submit fraudulent PUA claims using stolen PII. Additionally, Pacheco submitted claims on behalf of herself and her husband, who was incarcerated in Texas at that time and was ineligible to receive PUA funds. She also induced a friend to continue her PUA fraud scheme after she was charged and arrested.

This is a joint investigation with the HSI, USPIS, and the Massachusetts DUA. *United States v. Pacheco et al.* (D. Massachusetts)

Georgia Resident Pled Guilty to Defrauding the Illinois Department of Employment Security of More Than \$4 Million

On June 8, 2022, Olushola Afolabi pled guilty to conspiracy to commit wire fraud for his role in a scheme to defraud the Illinois Department of Employment Security of more than \$4 million in state and federal UI benefits.

From September 2020 through July 2021, Afolabi and co-conspirators orchestrated a scheme to file fraudulent UI claims using stolen identities, which were often associated with elderly Illinois residents. The co-conspirators opened Green Dot bank accounts using the stolen identities for the sole purpose of having fraudulent UI proceeds deposited into them. Afolabi and his co-conspirators then used the Green Dot debit cards to withdraw cash and purchase money orders made out to themselves and to an online vehicle auction company. Afolabi and his co-conspirators then laundered the UI funds by using the money orders to purchase salvaged automobiles in the

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United States that they then shipped to Nigeria. Afolabi also facilitated the transfer of conspiracy proceeds to overseas bank accounts in Nigeria.

This is a joint investigation with the Secret Service.
United States v. Olushola Afolabi, et al. (N.D. Alabama)

Maryland Man Pled Guilty for Role in \$2.7 Million Unemployment Insurance Fraud Scheme Involving More Than 600 Victims

On July 13, 2022, Sylvester Atekwane pled guilty to conspiracy to commit wire fraud for his role in a \$2.7 million pandemic-related UI fraud scheme that involved more than 600 victims. As part of his guilty plea, he will be required to pay \$250,000 in restitution.

From February 2020 to February 2021, Atekwane and others collected the names, dates of birth, and Social Security numbers of victims in order to impersonate those victims and submit fraudulent UI benefit claims using their identities. In at least one instance, Atekwane used his position as a caregiver to unlawfully access victims' PII to fraudulently obtain UI benefits.

As part of the scheme, Atekwane notified co-conspirators once UI debit cards were received at his address or at nearby apartments. He and others then collected the UI prepaid debit cards, activated them, and withdrew cash from ATMs using the debit cards. Throughout the scheme, at least \$150,000 in fraudulently obtained UI benefits from 61 victims were sent directly to Atekwane's address or to nearby apartments.

This is a joint investigation with the USPIS, HSI, and Treasury-OIG. *United States v. Sylvester Atekwane* (D. Maryland)

Federal Inmate Pled Guilty to Role in Stealing More Than \$2.2 Million in Unemployment Insurance Benefits

On May 10, 2022, Cortney Shields, a Bureau of Prisons inmate, pled guilty to one count of conspiracy to commit wire fraud, in connection with a scheme to defraud multiple SWAs and the SBA out of more than \$2.2 million in pandemic-related UI funds.

From approximately May 2020 through July 2021, Shields conspired with multiple individuals to submit more than 240 fraudulent UI benefit claims to more than 20 SWAs. He fraudulently obtained more than \$2.2 million in UI benefits, primarily from the states of Michigan and California. Shields also successfully obtained a fraudulent PPP loan of more than \$20,000. He participated in the scheme within the confines of the Federal Correctional Complex in Allenwood, Pennsylvania, where he was serving a sentence on an unrelated fraud case. Members of the conspiracy transferred portions of the fraud proceeds to Shields via wire transfer into his Bureau of Prisons commissary account.

This is a joint investigation with the FBI, the United States Postal Service (USPS) OIG and USPIS.
United States v. D-1 Cortney Shaquan Shields (E.D. Michigan).

Former Federal Employee Pled Guilty to \$2 Million Unemployment Insurance Fraud Scheme

On July 26, 2022, Heather Huffman, who is a former registered nurse with the U.S. Department of Veterans Affairs (VA), and several co-conspirators, pled guilty to participating in a conspiracy to defraud multiple SWAs of pandemic-related UI benefits. Heather Huffman, Sheldon Huffman, Anthowan

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Daniels, and Dorothea Rosado pled guilty to conspiracy to commit mail fraud and wire fraud. Additionally, the Huffmans and Rosado pled guilty to aggravated identity theft. Daniels pled guilty to being a felon in possession of a firearm because a firearm was discovered in a car operated by him during the execution of a search warrant in this case.



During the execution of a UI fraud search warrant, OIG agents recovered many debit cards issued in the names of identity theft victims loaded with fraudulently-obtained UI benefits.

From April 2020 through at least March 2021, Heather Huffman worked with Sheldon Huffman, Daniels, and Rosado to defraud the Virginia Employment Commission, the State of Washington's ESD, and the State of California's EDD by submitting false and misleading UI applications in the names of identity theft victims including inmates of various correctional facilities. Once the fraudulent UI applications were approved, the co conspirators would file weekly false certifications of unemployment status, resulting in the receipt of additional UI benefits from the SWAs. The co-conspirators then received and shared the prepaid debit cards containing the fraudulently received UI benefits.

During the course of the conspiracy, Huffman used VA assets to further the scheme by using her work computer to submit the false UI applications to SWAs. In total, Huffman and co-conspirators fraudulently obtained more than \$2 million in UI benefits.

This is a joint investigation with the VA-OIG. *United States v. Huffman, et al.* (E.D. Virginia)

YouTube Rapper Pled Guilty to Unemployment Insurance Fraud

On July 6, 2022, YouTube rapper Fontrell Antonio Baines, also known as "Nuke Bizzle," pled guilty to mail fraud charges related to his role in a pandemic-related UI fraud scheme. Baines also pled guilty to unlawful possession of a firearm and ammunition by a convicted felon.

From July to September 2020, Baines assisted in executing a scheme to submit, or cause to be submitted, fraudulent UI benefit applications in the names of others, including identity theft victims. Baines utilized addresses he had access to in Beverly Hills and Los Angeles to take possession of and use the fraudulently obtained State of California EDD UI debit cards. This scheme caused more than 90 fraudulent PUA claims to be filed with the State of California's EDD. Baines's scheme resulted in attempted losses that exceeded \$1 million and actual losses of more than \$700,000.

Baines also bragged about his ability to defraud the State of California's EDD in a music video posted on YouTube and in postings on his Instagram account. He even used the fraudulently obtained UI debit cards in a music video called "EDD" and boasted about the scheme.

This is a joint investigation with the USPIS. *United States v. Baines* (C.D. California)

Office of Workers' Compensation Programs

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

FECA is the largest of the programs and provides workers' compensation coverage to millions of federal, postal, and other employees for work-related injuries and illnesses. Benefits include wage replacement, payment for medical care, vocational rehabilitation, and survivor benefits.

Alert Memorandum: The Office of Workers' Compensation Programs' Workers' Compensation Medical Bill Process System Data Were of Undetermined Reliability

In FY 2021, OWCP paid approximately \$1.9 billion in medical benefits to three OWCP programs: Energy Employees Occupational Illness Compensation, Coal Mine Workers' Compensation, and FECA. Reliable and accurate medical bill processing information is crucial for OWCP and its claimants when making medical decisions, providing claims services, tracking injury claims, and working to return claimants back to work. As such, we conducted an audit to determine the extent to which OWCP's processes and controls resulted in the sufficient management of the collection, processing, and reporting of accurate medical bill processing data.

OWCP processes and controls for the Workers' Compensation Medical Bill Process system were found insufficient to provide assurance that the collection, processing, and reporting of the data were reliable for our testing. Using GAO's guidance, we made the determination that OWCP's medical bill processing data were of undetermined reliability.⁹⁴ Specifically, we found OWCP lacked internal controls as defined

in GAO's Standards for Internal Control in the Federal Government⁹⁵ in three areas: (1) medical bill processing service oversight, (2) FECA's biweekly data set processing, and (3) the program integrity unit. OWCP's oversight processes and controls were not sufficient to ensure the reliability of its medical bill processing data.

OWCP did not perform its own independent verification and validation testing during the migration, implementation, and operation phases of the medical bill processing service, instead relying on the contractor's quality assurance testing and reporting activities. Many of OWCP's specific oversight controls remained undocumented or were insufficiently documented. Evidence of OWCP's lack of internal controls is recorded in the communications

⁹⁴ GAO, Assessing Data Reliability, GAO-20-283G (December 2019), available at: <https://www.gao.gov/assets/gao-20-283g.pdf>

⁹⁵ GAO's Standards for Internal Control in the Federal Government states "Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. Internal control serves as the first line of defense in safeguarding assets. In short, internal control helps managers achieve desired results through effective stewardship of public resources." GAO 14-704G (September 2014), OV1.03, available at: <https://www.gao.gov/products/gao-14-704g>

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of issues exchanged with the contractor shortly after the medical bill processing system went live on April 27, 2020. In these communications, OWCP identified evidence of insufficient testing and significant issues with documentation and reporting errors. These communications also further demonstrated that documentation of internal controls remained incomplete or unimplemented.

We also identified OWCP lacked controls over a key data set: FECA's biweekly data file.⁹⁶ OWCP did not provide any procedural documentation required to correctly process system data, and we noted the mapping of data fields and business rules were undocumented and undeterminable in relation to system functions. As a result, we determined the process lacked controls to ensure the reliability of the data set. In addition, OWCP did not have program integrity unit policies and procedures in place to identify potential fraud.

Inaccurate data resulting from insufficient OWCP processes and controls may result in untimely or the denial of medical treatment, impacting claimants and their dependents. Additionally, insufficient management and oversight along with unreliable data could increase risks of overpayments, over-treatment, billing code errors, or fraud. OWCP and other federal agencies should be aware of the undetermined reliability of OWCP's medical bill processing data.

We made one recommendation to the Director of the Office of Workers' Compensation Programs: to implement internal controls that ensure the quality of OWCP's medical bill processing data when it is collected, processed, and shared with OWCP's

⁹⁶ These biweekly data sets contain medical bill payment and claimant information that is provided to federal agencies and their OIGs for use in managing FECA claims, monitoring costs, and conducting reviews for fraud.

other systems, program management and staff, and other stakeholders.⁹⁷

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/23-22-002-04-001.pdf>, Report No. 23-22-002-04-001 (September 26, 2022).

Doctor and Office Manager Convicted of Health Care Kickback Conspiracy

On September 21, 2022, Dr. Steven J. Valentino, an orthopedic surgeon operating out of the greater Philadelphia area, and his office manager, Michele Miller, were convicted by a federal jury of conspiracy to pay and receive health care kickbacks in exchange for the referral of prescription medications, including medications prescribed under OWCP.

Evidence presented at trial demonstrated that Valentino and Miller participated in an incentivized prescribing scheme involving injured federal workers and Medicare beneficiaries. Valentino and Miller received kickbacks for referring, ordering, and arranging for medications—including expensive compound medications—to be filled by a Houston pharmacy. Between May 2013 and July 2017, the pharmacy billed OWCP and Medicare approximately \$2.5 million and was paid approximately \$1.1 million for prescriptions referred, ordered, and arranged by Valentino and Miller in exchange for illegal health care kickbacks.

This is a joint investigation with USPS-OIG and the U.S. Department of Health and Human Services-OIG. *United States v. Valentino, et al.* (E.D. Pennsylvania)

⁹⁷ GAO's Standards for Internal Control in the Federal Government states, "documentation is a necessary part of an effective internal control system." Thus, implementation includes documentation. GAO 14-704G (September 2014), OV4.08, available at: <https://www.gao.gov/products/gao-14-704g>

Employee Benefit Plans

The Employee Benefits Security Administration (EBSA) is responsible for ensuring the security of retirement, health, and other workplace-related benefits of America's workers and their families. EBSA works to educate and assist the nearly 152 million workers, retirees, and family members who are covered by nearly 747,000 private retirement plans, 2.5 million health plans, and 673,000 other welfare benefit plans that, together, hold estimated assets of \$12.0 trillion, as well as plan sponsors and members of the employee benefits community.

Former Chiropractor Sentenced to Nearly 6 Years in Federal Prison

On April 12, 2022, former chiropractor Susan Poon was sentenced to 70 months in federal prison for stealing from health insurers by fraudulently submitting more than \$2 million in billings for chiropractic services and medical diagnoses that were not rendered. In addition, she submitted billings for office visits that never occurred and falsely prescribed medical devices as part of the scheme. Poon was ordered to pay approximately \$1.3 million in restitution to her victims.

From January 2015 to April 2018, Poon schemed to defraud health insurance companies, including the Teamsters Western Region and Local 177 Health Care Plan, by submitting false reimbursement claims for services that were never performed. Poon also submitted fraudulent prescriptions containing medical diagnoses of individuals who she had never met, including toddlers and children.

Poon claimed to have met with and treated patients who were dependents of plan participants. These dependents included the spouses and children of Costco Wholesale Corporation (Costco) and United Parcel Service (UPS) employees. She unlawfully took and used the dependent's PII in her reimbursement requests and prescriptions. Poon obtained the PII by attending health fairs at various UPS warehouses and Costco locations and soliciting such information from employees.

This was a joint investigation with Amtrak-OIG, the California Department of Insurance, EBSA, the FBI, and Office of Personnel Management-OIG. *United States v. Poon* (C.D. California)

Union Attorney Sentenced for Obstructing a DOL Investigation

On July 8, 2022, Charles Johnston, who is a former attorney for the Plumbers and Pipefitters Labor Union Plans, was sentenced to 12 months of probation and a \$50,000 fine. In November 2021, he was convicted following a 4-day trial of obstructing a DOL investigation regarding the administration of the Plumbers and Pipefitters Local 520 Pension Plan.

In September 2014, DOL served a subpoena for records on the union's pension plan in connection with an investigation it was conducting into the pension plan's financial activities. Johnston informed the DOL investigator that, as the attorney for the pension plan, he would produce the records. Johnston concealed and withheld emails and documents related to an internal audit of the union's pension plan from DOL. The audit findings, which Johnston received through a series of meetings and email communications, reported miscalculations of both pension and health and welfare benefits. When DOL asked whether he had produced all the requested documents, Johnston lied and stated he had done so.

This was a joint investigation with EBSA and the FBI. *United States v. Charles Johnston* (M.D. Pennsylvania)



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.

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

On September 21, 2022, Paul Idrovo was sentenced to 36 months of federal probation and ordered to pay restitution in the amount of \$19,600. Idrovo was sentenced after pleading guilty to conspiracy to defraud the United States and to commit extortion through his brother's position as an OSHA compliance safety and health officer (CSHO). Paul Idrovo was previously charged in September 2020 along with his brother—Alvaro Idrovo, former CSHO—with conspiring to commit an offense against the United States based on the extortion of a New Jersey contractor.

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

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

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



Employment and Training Programs

Employment and Training Administration Programs

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

Maryland Man Sentenced for Computer Fraud and His Role in Identity Theft Ring that Targeted State Governments

On August 11, 2022, Guy Cuomo, who is also known as “John Monaco,” was sentenced to 45 months in prison for computer fraud, misuse of a Social Security number, aggravated identity theft, and related conspiracy charges for his role in a scheme to sell information unlawfully obtained from the State of New York’s DOL and other SWAs. In September 2022, co-defendants Sarah Bromfield, Rebecca Fogle, and Shamair Brison were sentenced to time served and terms of supervised release for their roles in this case.

The evidence at Cuomo’s trial demonstrated that Cuomo worked for and managed companies owned by Jason “J.R.” Trowbridge in Frederick, Maryland, including Paymerica Corporation. Paymerica researched where purported debtors worked and sold their employer information, which was known as place-of-employment (POE) information, to debt collectors and companies selling this information to debt collectors. In the debt-collecting industry, the process is known as “skiptracing.”

To obtain the POE, Cuomo and other members of the conspiracy pretended to be the debtors, created thousands of false online UI applications in the debtors’ names and with the debtors’ PII, including Social Security numbers, and completed the applications to the point where each debtor’s last known place of employment appeared. After confirming the debtors worked for the relevant employers, Paymerica sold the POE for approximately \$90 per debtor. In approximately 3 years, Paymerica made nearly \$1 million selling the stolen POE.

The fraud scheme involved attempts to obtain the POE for as many as 200,000 people from all 50 states, and Paymerica sold the POE of at least 12,000 individuals. Trowbridge was previously sentenced to 39 months in prison and fined \$30,000 for his role in the fraud scheme.

This is a joint investigation with the State of New York’s DOL, Office of Special Investigations.
United States v. Guy Cuomo, aka John Monaco
(N.D. New York)

Foreign Labor Certification Programs

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

Guatemalan National Pleads Guilty to Forced Labor of Two Minors

On August 23, 2022, Olga Choc Laj pled guilty to two counts of forced labor for her involvement in the labor trafficking of two minors.

From February 2019 through February 2020, Choc Laj, along with a co-conspirator, devised a scheme to unlawfully enter the United States with minors to facilitate entry into the United States. Choc Laj and the co-conspirator, who are both Guatemalan citizens, coordinated with smugglers and third parties to locate two minors in Guatemala and used those children to facilitate their entry into the United States.

Additionally, Choc Laj and the co-conspirator obtained fraudulent identity documents for one of the minors, falsely representing the minor as an adult. The minor was made to work at businesses and as a domestic servant from 2019 to February 2020; the other minor worked as a domestic servant from 2019 to February 2020. Choc Laj and the co conspirator did not pay the minors for their domestic work or permit them to attend school or leave the residence.

They made the children work extended hours with the threat of physical harm if they did not comply.

This is a joint investigation with FBI and HSI. *United States v. Santos Teodoro Ac Salazar and Olga Choc Laj* (N.D. Illinois)

Florida Individuals Convicted of Racketeering Conspiracy Involving the Forced Labor of Mexican Agricultural H-2A Workers

On April 6, 2022, and July 26, 2022, Christina Gamez and Efrain Cabrera Rodas, respectively, pled guilty to a federal racketeering conspiracy, which victimized Mexican agricultural workers admitted to the United States under the H-2A temporary visa program.

Gamez and Rodas worked for Los Villatoros Harvesting (LVH), a labor contracting company employing Mexican H-2A workers harvesting fruits and vegetables in the states of Florida, Kentucky, Indiana, Georgia, and North Carolina. Gamez worked as a bookkeeper, manager, and supervisor while Cabrera Rodas worked as a recruiter,

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manager, and supervisor. The investigation revealed that Gamez and Rodas conspired with LVH's owners to commit racketeering offenses, including subjecting H-2A workers to forced labor, harboring, visa fraud, and fraud in foreign labor contracting.

Gamez and Rodas admitted they and their co-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 LVH employees; and subjecting workers to debt manipulation. Gamez also admitted that, while working for LVH, she knowingly prepared and sent falsified records to federal investigators to conceal aspects of the criminal enterprise.

This is a joint investigation with the Palm Beach County Human Trafficking Task Force (including the FBI, HSI, and the Palm Beach County Sheriff's Office), and DSS. *United States v. Moreno, et al.* (M.D. Florida)



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.

United Auto Workers Local 412 Financial Secretary-Treasurer Sentenced to 57 Months in Prison for Embezzlement and Money Laundering

On July 26, 2022, Timothy Edmunds, a former United Auto Workers (UAW) Local 412 Financial Secretary-Treasurer, was sentenced to 57 months in prison and ordered to pay approximately \$2 million in restitution and approximately \$1 million in fines based on his convictions for embezzling union funds and laundering the proceeds.

Edmunds admitted he embezzled approximately \$2 million from UAW Local 412 and laundered it through a secondary bank account he personally controlled. He used the embezzlement proceeds to gamble and to purchase luxury clothing, firearms, cocaine, and high-end automobiles. In an effort to conceal his embezzlement, Edmunds provided fake bank statements to international UAW auditors and caused false labor management reports to be filed with DOL.

This is a joint investigation with the FBI, DOL's Office of Labor Management Standards, and the IRS-CI. *United States v. Timothy Edmunds* (E.D. Michigan)

Former Illinois State Senator Sentenced for Fraudulently Receiving Salary and Benefits from Labor Union

On June 21, 2022, Thomas E. Cullerton, a former Illinois State Senator, was sentenced to 12 months in prison and ordered to pay more than \$245,000 in restitution for fraudulently receiving salary and benefits from Teamsters Joint Council 25.

In early 2013, Cullerton was hired as a purported union organizer and remained on the payroll until February 2016. For approximately 3 years, while serving as a state senator, he was compensated by the Teamsters Joint Council 25 with a salary, monthly allowances for his car and cellular phone, annual bonuses, and union-sponsored pension and health benefits. Cullerton admitted he performed little or no work during those 3 years. He fraudulently obtained approximately \$169,000 in salary and bonuses, approximately \$57,000 in health and pension contributions, and approximately \$21,000 in reimbursed medical claims from Teamsters Joint Council 25 and its members.

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



Departmental Management

Departmental Management

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

The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2021

The OIG contracted with the independent certified public accounting firm KPMG LLP (KPMG) to conduct a performance audit related to DOL's compliance with the Payment Integrity Information Act of 2019 (PIIA), as defined in Title 31 of the United States Code (U.S.C.), section 3351.2, for the FY ended September 30, 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. KPMG's objective to evaluate DOL's compliance with PIIA included determining whether DOL met

six PIIA compliance requirements in relation to the FECA and UI programs.

For Requirement 3, DOL reported FPUC, PEUC, and regular UI collectively as one program for FY 2021. DOL also utilized the improper payment rate derived from the UI program to calculate the improper payments for the combined FPUC and PEUC outlays of the UI program.

KPMG concluded DOL met all six requirements for FECA and three of six requirements for UI. See Table 2 for the requirements not met for UI.

However, DOL's reporting did not take into account that a portion of FPUC outlays were associated with PUA claims rather than regular UI claims. The impact of including the portion of FPUC activity related to PUA claims could not be determined because the PUA improper payment rate was not

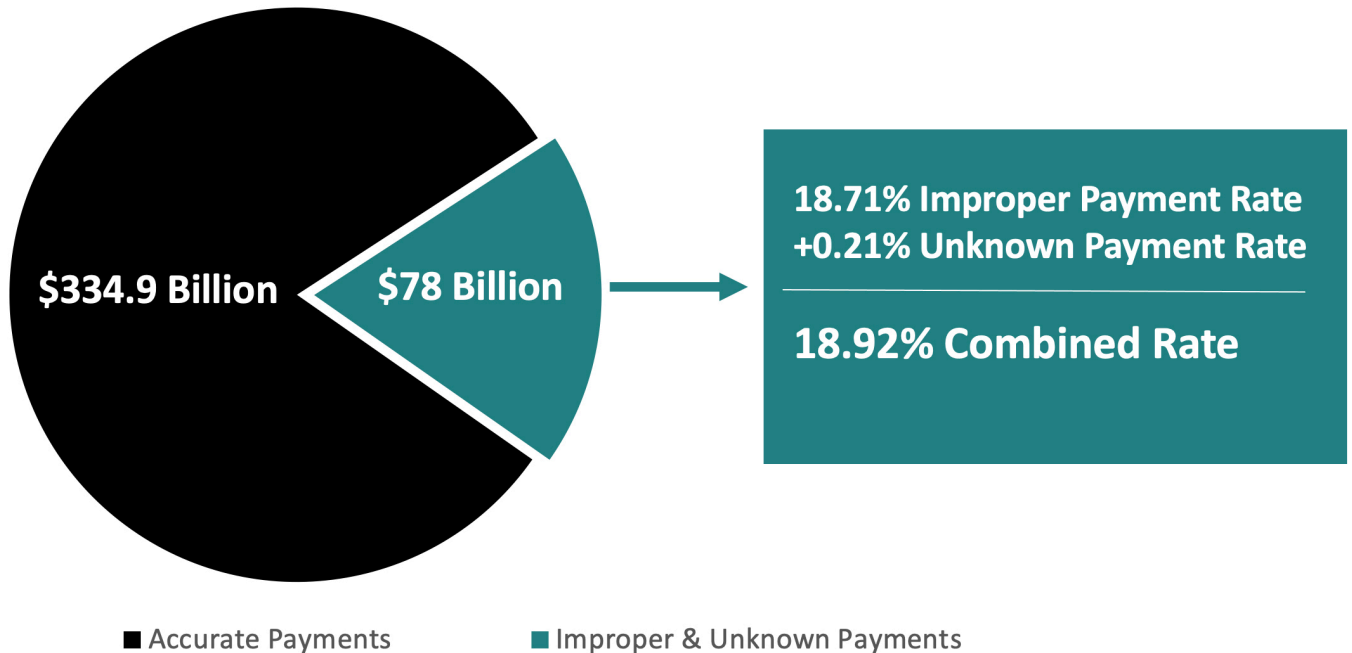
Table 2: Criteria for PIIA Requirements Not Met for the Unemployment Insurance Program

| Requirement # | Criteria |
|---------------|--|
| 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) |
| 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 |
| 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) |

Source: Requirements of PIIA as defined in Title 31 of U.S.C., section 3351.2

Figure 5: DOL's Reported UI Payments and Accuracy Rates, FY 2021

Total FY 2021 UI Program Outlays = \$413 Billion



Source: DOL FY 2021 information reported on PaymentAccuracy.gov

required to be reported for FY 2021. DOL indicated it had discussed this approach with the Office of Management and Budget (OMB) and obtained approval. However, these discussions did not include sufficient specific information about the approach. KPMG found DOL needed improvements in the development of improper payment rate estimates.

KPMG also 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 2020 as the overall improper payment rate increased. Compared to 9.17 percent reported in FY 2020, DOL reported an 18.71 percent improper payment rate and an unknown payment⁹⁸ rate of 0.21 percent⁹⁹ in FY 2021 for the UI program. Based on those rates, more than \$78 billion of the \$413 billion in total UI program payments for the year

were either unknown or improper (see Figure 5). For Requirement 6, DOL's combined rate did not fall below the 10 percent threshold for the UI program improper payment rate. KPMG found DOL needed continued improvements to meet the required PIIA threshold.

⁹⁸ OMB explains that, for purposes of PIIA implementation, all program outlays will fall in one of three possible payment type categories: proper, improper, or unknown. Unknown payments are those that result from instances where an agency is unable to determine whether the payment falls into the proper or improper category. OMB, "Transmittal of 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>

⁹⁹ An unknown payment rate was not required to be reported for FY 2020.

KPMG made two recommendations to ETA to: revise the methodology used to calculate the improper payment information for the FPUC program and maintain the current focus on increasing technical assistance and funding to states to demonstrate improvement on the rate.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-007-13-001.pdf>. Report No. 22-22-007-13-001 (July 1, 2022).

Service Auditors' Report on the Integrated Federal Employees' Compensation System for the Period October 1, 2021, through June 30, 2022

The OIG contracted with 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, 2021, through June 30, 2022.

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 OASAM 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 assurance that the control objectives were achieved for the audit period.

This report, No. 22-22-009-04-431 (September 30, 2022), contains sensitive information and will not be released publicly.

Risk Assessment of DOL's Purchase and Travel Card Programs

The Government Charge Card Abuse Prevention Act of 2012 (Charge Card Act) was designed to prevent recurring waste, fraud, and abuse of charge cards government wide. We contracted with KPMG to assist with the risk assessment of DOL's purchase and travel card programs for the period July 1, 2020, through September 30, 2021, 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 risks¹⁰⁰ as of September 30, 2021, assign a risk impact and risk likelihood level,¹⁰¹ and then assign a risk level ranging from very low to very high (see Figure 6). Based on the results of the assessment, the risk of illegal, improper, or erroneous use of DOL's purchase and travel cards is very low to moderate.

For the purchase card program, two objectives had a moderate risk level, one had a low risk level, and three had a very low risk level. For the travel card program, three objectives had a moderate risk level, two had a low risk level, and one had a very low risk level.

¹⁰⁰ 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.

¹⁰¹ Risk impact is the likely magnitude that the risks would have on the key objective, and risk likelihood is the level of possibility that a risk will occur that effects the key objective.

Figure 6: 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 goal or objective, 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

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/22-22-008-50-598.pdf>, Report No. 22-22-008-50-598 (August 31, 2022).

DOL Made Progress in Implementing Geospatial Data Act Requirements, But More Needs to Be Done

The Geospatial Data Act of 2018 (GDA) was signed into law on October 5, 2018, 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. Geospatial data is information tied to a location on Earth, such as maps, satellite imagery, and census and housing

data. The federal government collects geospatial data to help in decision making and to support many functions, including national security, law enforcement, health care, environmental protection, and natural resources conservation.

The GDA established the Federal Geographic Data Committee (FGDC) as the lead federal entity for developing, implementing, and reviewing the policies, practices, and standards related to geospatial data. Federal agencies have 5 years from the date the FGDC establishes each data standard to complete implementation of GDA requirements. Additionally, the GDA mandates that, once every 2 years, the IG must perform an audit of agency compliance with the requirements. We performed



our audit to determine to what extent the agency had fulfilled the GDA requirements to date and followed up on our previous audit report¹⁰² recommendations.

We found DOL made progress in addressing the 13 specific requirements of the GDA. DOL initiated action on and met 3 requirements: the coordination, declassified data, and appointment of contact requirements. DOL also made progress on implementing the remaining 10, but more remains to be done in order to meet all 13 GDA requirements.

DOL must continue to make progress in implementing the GDA requirements and establishing effective controls over identifying geospatial data within agency systems. The Department's progress to date has been hindered by several factors. This includes: inconsistent data collection processes, lack of identified funding for licensing of data quality standards, lack of agency coordination and reporting, and lack of guidance and regulations from the FGDC and OMB. For example, MSHA and OSHA systems contained geospatial data that was not identified

within DOL's collection process. Our audit identified drone data that should have been identified as geospatial data being maintained and shared.

We also found DOL reporting of data characteristics to Data.gov was not effectively managed or overseen by the Chief Data Officer due to lack of standardization. Furthermore, DOL had no plans for long-term funding or allocations for geospatial projects or to purchase data quality standards. Finally, DOL's progress is impacted by the FGDC and OMB not yet issuing required guidance and regulations pertinent to the GDA.

In regard to the recommendations we made in our prior report, DOL performed corrective actions to close both recommendations. In the current report, we made three recommendations to the Chief Data Officer to implement processes regarding agency geospatial data, update policies and procedures, and develop a plan to sufficiently fund the implementation and oversight of data quality standards throughout DOL and for its contracts.

For more information, go to <https://www.oig.dol.gov/public/reports/oa/2022/23-22-003-01-001.pdf>, Report No. 23-22-003-01-001 (September 30, 2022).

¹⁰² DOL Needs to Do More to Implement the Geospatial Data Act of 2018, Report No. 23-20-004-01-001 (September 30, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/23-20-004-01-001.pdf>

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 Uniform Guidance,¹⁰³ cognizant federal agencies must oversee the implementation of single audit requirements. DOL is currently cognizant for six entities, and the OIG periodically performs quality control reviews (QCR) of the entities' single audits. During this reporting period, we conducted two QCRs: one on the Single Audit of the American Association of Retired Persons (AARP) Foundation for the Year Ended December 31, 2021, and the other on the Single Audit of the State of Hawaii for the FY Ended June 30, 2020.

Quality Control Review for the Single Audit of AARP Foundation for the Year Ended December 31, 2021

We determined Grant Thornton LLP's audit work on the Single Audit of the AARP Foundation for the year ended December 31, 2021, generally met the requirements of generally accepted government auditing standards (GAGAS), generally accepted auditing standards (GAAS), and OMB Uniform Guidance. However, Grant Thornton LLP incorrectly calculated and reported the Type A/B threshold and needs to improve the editing of summary documentation. Grant Thornton LLP incorrectly

¹⁰³ Uniform Guidance refers to 2 C.F.R. Part 200, OMB's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

identified AARP Foundation as a high-risk auditee in the summary documentation, when, in fact, the organization has met all the criteria to be considered a low-risk auditee. We recommended Grant Thornton LLP correctly calculate and report the Type A/B threshold and edit summary documentation to ensure it supports the results of the audit work performed and the conclusions reached on low-risk auditee status.



Quality Control Review for the Single Audit of the State of Hawaii for the Fiscal Year Ended June 30, 2020

We determined that Accuity LLP's audit work on the Single Audit of the State of Hawaii for the FY ended June 30, 2020, was acceptable and met the requirements of applicable standards, including GAGAS, GAAS, and OMB Uniform Guidance.



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 (WPC) Program, which is housed in the OIG’s Office of Legal Services.

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

Inspector General has been designated to serve as the WPC. Pursuant to this designation, the WPC has:

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

OIG Whistleblower Activities

Whistleblower Retaliation Investigations

The OIG can initiate its own investigations into allegations of improper or illegal retaliation brought by DOL employees or, on a discretionary

basis, refer such allegations to the OSC for review and investigation.

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

Whistleblower Retaliation Investigations April 1, 2022–September 30, 2022

| | |
|---|---|
| Pending DOL employee complaint investigations | 1 |
| Reports related to DOL employee whistleblower retaliation complaints sent to the appropriate agencies within the Department | 2 |
| Pending grantee/contractor employee complaint investigations | 5 |
| Reports pending with DOL | 1 |
| Decision issued by the DOL OASAM | 2 |





Legislative Recommendations

Legislative Recommendations

The Inspector General Act of 1978, as amended, requires the 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 Department's programs.

Allow DOL and the OIG Access to Unemployment Insurance Claimant Data and Wage Records

Congress should consider legislative action to ensure DOL and the OIG have unfettered access to State Workforce Agencies' (SWA) unemployment insurance (UI) claimant data and wage records for our respective oversight responsibilities. The Department has stated that, outside of the temporary authority provided by the CARES Act, it lacks the authority to require SWAs to provide the OIG with access to UI claimant data and wage records unless the OIG is conducting an investigation into a particular instance of suspected UI fraud.

Contrary to the Department's view on the matter, the Inspector General Act of 1978, as amended (IG Act), authorizes the OIG's access to information related to the Department's programs, unless Congress enacts a law that expressly refers to the OIG and limits the OIG's right of access. Furthermore, in a June 2021 alert memorandum,¹⁰⁴ the OIG recommended that the Employment and Training Administration (ETA)

amend its regulations through rulemaking to reinforce that UI information must be provided to the OIG for all IG engagements.

In response to our recommendation, ETA implemented a temporary solution. In August 2021, ETA issued Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1, requiring SWAs to disclose UI data to the OIG for audits and investigations during the pandemic period. ETA also awarded fraud prevention grants to states conditioned on requiring OIG access to their UI data for investigative and audit purposes through December 31, 2023.

The OIG met with ETA numerous times and requested a written plan with projected timelines. ETA provided a written plan in July 2022. While the plan does consider comprehensive updates to the unemployment compensation confidentiality regulation, the projected timeline results in a 14-month gap between when the grants requiring OIG access ends on December 31, 2023, and the publication of updated regulations projected to be effective in February 2025. The OIG would not have access to SWAs' UI data during the 14 month timeframe. ETA stated it is exploring options for interim solutions to address the gap. However, the OIG does not have specific information regarding the Department's plans to update the regulations or implement other temporary solutions to close the gap, which may prevent us from effectively accomplishing our UI program oversight.

¹⁰⁴ 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>

Legislative Recommendations



This lack of unfettered 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 IG subpoenas to all SWAs, seeking UI claimant data. OIG data scientists then had to ensure the data was complete, consistent, and in a common format to analyze and identify potential fraud and programmatic weaknesses. The repeated use of IG subpoenas to obtain UI data on a recurring basis is time-consuming and inefficient. Unfettered access would alleviate that time and resource burden and align with the IG Act.

Data analytics is a vital tool in performing our oversight function. For example, the OIG's efforts resulted in the identification of \$45.6 billion in potentially fraudulent payments in specific high-risk areas.¹⁰⁵ The OIG was further able to recommend programmatic changes to put billions in federal funds to better use. In addition, the OIG shared portions of its methodology with ETA to allow the Department and SWAs to stop fraud before it occurs.

¹⁰⁵ 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>

Unfettered access to SWAs' UI claimant data and wage records systems would assist in the Department's programmatic oversight responsibilities to identify improper payments and weak controls. This access is also vital to the OIG's oversight responsibility and would enable the OIG to quickly identify and investigate large-scale fraud. It would also allow the OIG to expand its current efforts to share emerging fraud trends with ETA and SWAs to strengthen the UI program and help deter fraud. In addition, 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.

Extend the Statute of Limitations Associated with Pandemic-Related Unemployment Insurance Fraud

Currently, the statute of limitations for many of the OIG's pandemic-related UI fraud investigations will expire in 2025 as the statutes most often used to prosecute UI fraud have a 5-year limitation. The U.S. Small Business Administration faced a similar issue regarding pandemic-related fraud in the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) program. To address those concerns, Congress recently passed legislation to extend associated statutes of limitations.

Legislative Recommendations

Congress should 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. The expansion of the statute of limitations for pandemic-related UI fraud would help ensure many groups and individuals that have targeted the program do not escape justice.

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

Legislative authority in the area of asset forfeiture would increase the OIG's ability to effectively and efficiently investigate UI fraud and other crimes and to recover fraudulently obtained funds.¹⁰⁶

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 (Treasury) or the U.S. Department of Justice (DOJ) forfeiture funds. The lack of authority to participate in these funds limits the OIG's ability to effectively recover proceeds of UI fraud and other crimes

¹⁰⁶ 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 (2021), available at: <https://www.justice.gov/criminalafmls/file/839521/download>

under the OIG's jurisdiction. Statutory authority to seize and forfeit illicit funds would allow the OIG to participate in the Treasury and DOJ forfeiture funds, thus enabling the OIG to better combat UI fraud and other crimes in the future.

Enact the UI Integrity Legislative Proposals

In October 2016, the Department submitted a legislative package to Congress proposing changes that would help address UI program integrity and the high improper payment rates experienced in the UI program. Similar proposals have also been included in the President's budget requests from FY 2018 to FY 2021. The OIG encourages Congress to consider and adopt proposals to aid the Department's efforts to combat improper payments in the UI program. The proposals from the President's FY 2021 budget request include the following:

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

These legislative proposals are consistent with previous OIG findings and recommendations to address UI improper payments. To maintain UI program integrity, the OIG has recommended, as of

Legislative Recommendations

February 2021, establishing legislation that requires SWAs to cross-match high-risk areas, including UI benefits paid to individuals with Social Security numbers: filed in multiple states, belonging to deceased persons or federal prisoners, or used to file UI claims with suspicious email accounts.

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

If DOL is to have a meaningful role in the foreign labor certification process for H-1B specialty occupation visas, it must have the statutory authority to ensure the integrity of that process. This authority should include the ability to verify the accuracy of information provided on labor condition applications, and to initiate its own H-1B investigations more broadly.

Currently, unlike investigations into the H-2A and H-2B programs, 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 violations DOL is permitted to find in Secretary-certified investigations are limited 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 the H-1B requirements. Also, a notice 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 analyses and investigations showing that the program is susceptible to significant fraud and abuse, particularly by employers and attorneys. For example, some staffing companies utilize the H-1B program without having scheduled jobs already lined up. Some employers and attorneys misrepresent their need for workers to DOL, then reassign the extra workers to other companies or require foreign workers to find their own work. There have also been instances when companies illegally generated profit by requiring foreign workers to pay fees and recurring payments to secure H-1B visas.

Without statutory authority to ensure program integrity, the Department generally cannot verify employers' attestations to the H-1B certifications unless a complaint is filed or the Department utilizes a Secretary initiated investigation, for which DOL developed a process in FY 2021. As foreign workers are generally reluctant to file complaints for fear of retaliation and losing their jobs, it is unlikely to result in verification action being taken.

Amend Pension Protection Laws

Legislative changes to the Employment Retirement 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

Legislative Recommendations

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 (EBSA) to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional audits.** Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment as well as the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is essential as benefit plan audits help protect participants and beneficiaries by ensuring the proper valuation of plan assets and computation of benefits.
- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This change would ensure the timely reporting of violations and would more actively involve auditors in safeguarding pension assets as a first line of defense against the abuse of workers' pension plans.

- **Strengthen criminal penalties in U.S.C. Title 18.** Three sections of U.S.C. Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Section 664 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), which would serve as a greater deterrent and, consequently, further protect employee pension plans.

Improve the Integrity of the FECA Program

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

- **Provide statutory access to NDNH and Social Security wage records.** Currently, the Department has no access to the NDNH data and can access Social Security wage information only if the claimant gives it permission. Granting the Department routine access to these databases would aid in detecting fraud committed by individuals receiving FECA wage loss compensation but failing to report income they have earned.
- **Establish a 3-day waiting period at the beginning of the claims process.** FECA

Legislative Recommendations

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' (OWCP) FECA reform.

- **Allow the temporary suspension of questionable medical providers pending the outcome of investigations.** While FECA regulations allow OWCP to exclude a provider through administrative means, OWCP must give notice to the provider and afford the provider an opportunity for a hearing before DOL's Office of Administrative Law Judges. This process and the various procedures involved can be lengthy. Legislative changes are necessary to enable DOL to immediately suspend all 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 OWCP's 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 | 81 |
| Section 5(a)(1) | Description of significant problems, abuses, and deficiencies relating to the administration of programs and operations | All |
| Section 5(a)(2) | Description of recommendations for corrective action with respect to significant problems, abuses, and deficiencies | All |
| Section 5(a)(3) | Significant recommendations from previous semiannual reports on which corrective action has not been completed | 103 |
| Section 5(a)(4) | Matters referred to prosecutive authorities and the prosecutions and convictions that have resulted | 113 |
| Section 5(a)(5) and Section 6(c)(2) | Summary of each report made to the head of DOL under section 6(c)(2) (information or assistance requested and unreasonably refused in the judgment of the Inspector General) | None to report |
| Section 5(a)(6) | List of audit reports, inspection reports, and evaluation reports subdivided according to subject matter | 94 |
| Section 5(a)(7) | Summary of particularly significant reports | All |
| Section 5(a)(8) | Statistical tables showing the total number of audit reports, inspection reports, and evaluation reports and the total dollar value of questioned costs, including unsupported costs, for reports: (A) and (D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; and (C) for which a management decision was made during the reporting period, including the dollar value of disallowed and not disallowed costs | 93 |
| Section 5(a)(9) | Statistical tables on management decisions on recommendations that funds be put to better use: (A) and (D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; and (C) for which a management decision was made during the reporting period, including the dollar value of disallowed and not disallowed costs | 92 |
| Section 5(a)(10) | Summary of each audit report, inspection report, and evaluation report issued before the commencement of the reporting period: (A) for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report; (B) for which no establishment comment was returned within 60 days of providing the report to the establishment; and (C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations. | 94–95 |

continued on next page

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| | | |
|-------------------|---|----------------|
| Section 5(a) (11) | Description and explanation for any significant revised management decision | None to report |
| Section 5(a)(12) | Information on any significant management decisions with which the Inspector General disagrees | None to report |
| Section 5(a) (13) | Information from the Federal Financial Management Improvement Act Section 804(b) — instances in which an agency has not met intermediate target dates in a remediation plan, and the reasons | None to report |
| Section 5(a)(14) | Peer review reporting: (A) results of any peer review conducted by another OIG, or (B) a statement identifying the date of the last peer review conducted | 115 |
| Section 5(a)(15) | Outstanding peer review recommendations | None to report |
| Section 5(a)(16) | Peer reviews conducted by the OIG and recommendations outstanding or not fully implemented | None to report |
| Section 5(a)(17) | Statistical tables on investigative findings showing total number of: (A) reports issued; (B) persons referred to the U.S. Department of Justice for prosecution; (C) persons referred to state and local prosecuting authorities; and (D) indictments and criminal informations that resulted from any prior referral to prosecuting authorities | 113 |
| Section 5(a)(18) | Metrics used for developing the data for the statistical tables | 113 |
| Section 5(a)(19) | Under Section 5(a) (17), Summary of investigations of senior government employees where allegations of misconduct were substantiated, including the facts, circumstances, status, and disposition of the matter | None to report |
| Section 5(a)(20) | Description of whistleblower retaliation cases including information about the official found to have engaged in retaliation and what, if any, consequences that establishment imposed to hold that official accountable | 77 |
| Section 5(a)(21) | Summary of instances of attempted departmental interference with the independence of the office, including with budgets constraints and incidents in which the establishment has: resisted or objected to oversight activities or restricted or significantly delayed access to information | None to report |
| Section 5(a)(22) | (A) Descriptions of inspections, evaluations, audits, and investigations that are closed and were not disclosed to the public; and (B) Descriptions of investigations conducted by the office involving a senior government employee that are closed and were not disclosed to the public | None to report |

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

| REPORTING | REQUIREMENT | PAGE |
|----------------|-----------------------|------|
| Section 989(C) | Peer review reporting | 112 |

Funds Recommended for Better Use

Funds Put to a Better Use Agreed to by DOL¹⁰⁷

| | Number of Reports | Dollar Value (\$ millions) |
|---|-------------------|----------------------------|
| For which no management decision had been made as of the commencement of the reporting period | 0 | \$0 |
| Issued during the reporting period | <u>1</u> | <u>\$29,600</u> |
| Subtotal | 1 | \$29,600 |
| 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 | 1 | \$29,600 |

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 |

¹⁰⁷ 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 IG Act and includes, among other things, reductions in future outlays; deobligation of funds from programs or operations; costs not incurred in the future by implementing recommended improvements related to the operations of the establishment, a contractor, or a grantee; and any other savings specifically identified, including reverting funds to Treasury to be used for other purposes.

Questioned Costs

Resolution Activity: Questioned Costs¹⁰⁸

| | Number of Reports | Questioned Costs (\$ millions) |
|---|-------------------|--------------------------------|
| For which no management decision had been made as of the commencement of the reporting period (as adjusted) | 0 | \$0 |
| Issued during the reporting period | 0 | \$0 |
| Subtotal | 0 | \$0 |
| For which a management decision was made during the reporting period: | | |
| • Dollar value of disallowed costs | 0 | \$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 | 0 | \$0 |
| For which no management decision had been made within six months of issuance | 0 | \$0 |

Closure Activity: Disallowed Costs¹⁰⁹

| | Number of Reports | Disallowed Costs (\$ millions) |
|--|-------------------|--------------------------------|
| For which final action had not been taken as of the commencement of the reporting period (as adjusted) | 1 | \$0.09 |
| For which management or appeal decisions were made during the reporting period | 0 | \$0 |
| Subtotal | 1 | \$0.09 |
| For which final action was taken during the reporting period: | | |
| • Dollar value of disallowed costs | 1 | \$0.09 |
| • Dollar value of costs not disallowed | 0 | \$0 |
| For which no management decision had been made as of the end of the reporting period | 0 | \$0 |
| For which no management decision had been made within six months of issuance | 0 | \$0 |

¹⁰⁸ As defined by the IG Act, questioned costs include alleged violations of law, regulations, contracts, grants, or agreements; costs not supported by adequate documentation; or the expenditure of funds for an intended purpose that was unnecessary or unreasonable.

¹⁰⁹ 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.

Final Audit Reports Issued

| Report Name | Number of Recommendations | Questioned Costs (\$) | Funds Put To Better Use (\$) |
|---|---------------------------|-----------------------|------------------------------|
| Employment and Training Administration | | | |
| 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 | 2 | \$0 | \$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 | 3 | \$0 | \$29,600,000,000 |
| 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 | \$0 |
| Total (3 Reports) | | | |
| Office of the Assistant Secretary for Policy | | | |
| 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 | \$0 |
| Total (1 Report) | | | |
| Office of the Chief Financial Officer | | | |
| 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; 07/01/22 | 2 | \$0 | \$0 |
| Total (1 Report) | | | |
| Office of Workers' Compensation Programs | | | |
| Alert Memorandum: The Office of Workers' Compensation Programs' Workers' Compensation Medical Bill Process System Data Were of Undetermined Reliability; Report No. 23-22-002-04-001; 09/26/22 | 1 | \$0 | \$0 |
| Service Auditors' Report on the Integrated Federal Employees' Compensation System for the Period October 1, 2021, through June 30, 2022; Report No. 22-22-009-04-431; 09/28/22 | 0 | \$0 | \$0 |
| Total (2 Reports) | | | |
| Final Audit Total (7 Reports) | 16 | \$0 | \$29,600,000,000 |

Other Reports

| Report Name | Number of Recommendations |
|---|---------------------------|
| Employment and Training Programs | |
| Workforce Innovation and Opportunity Act | |
| Quality Control Review for the Single Audit of the State of Hawaii for the Fiscal Year Ended June 30, 2020; Report No. 24-22-003-03-315; 06/08/22 | 0 |
| Quality Control Review for the Single Audit of AARP Foundation for the Year Ended December 30, 2021; Report No. 24-22-004-50-598; 09/30/22 | 2 |
| Total (2 Reports) | |
| Departmental Programs | |
| Office of the Chief Financial Officer | |
| Risk Assessment of DOL's Purchase and Travel Card Programs; Report No. 22-22-008-50-598; 08/31/22 | 0 |
| Total (1 Report) | |
| Other Reports Total (3 Reports) | 2 |

Appendices

Unresolved Audit Reports Over 6 Months Old

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

continued on next page

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| | | | |
|---|--|----------------------------------|--|
| OCIO | FY 2021 FISMA DOL Information Security Report: Information Security Continuous Monitoring Controls Remain Deficient; Report No. 23-22-001-07-725; 01/28/22 | 18 | \$0 |
| OFCCP | OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20 | 1 | \$0 |
| OSEC | DOL's IT Governance Lacked the Framework Necessary to Support the Overall Mission; Report No. 23-21-002-01-001; 09/30/21 | 1 | \$0 |
| OSEC | DOL's IT Governance Lacked the Framework Necessary to Support the Overall Mission; Report No. 23-21-002-01-001; 09/30/21 | 1 | \$0 |
| Agency Management Decision or Grant/Contracting Officer's Final Determination Not Issued By Close of Period | | | |
| Total Nonmonetary Recommendations and Questioned Costs | | 39 | \$0 |
| | | | |
| Agency | Report Name | Number of Recommendations | Funds Recommended for Better Use (\$) |
| Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency | | | |
| Total Funds Recommended for Better Use | | 0 | \$0 |
| | | | |
| Total Audit Exceptions and Funds Recommended for Better Use | | 39 | \$0 |
| Total Funds Recommended for Better Use | | 0 | \$0 |
| Total Audit Exceptions and Funds Recommended for Better Use | | 39 | \$0 |

Corrective Actions Taken by the Department

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

OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 05/14/19

Our audit found OWCP had made progress in addressing recommendations from our interim report; however, OWCP needed to continue to strengthen its management of the use and cost of pharmaceuticals in the FECA program. While the costs of compounded drugs dropped to \$18 million in FY 2018, overall pharmaceutical costs remained at \$262 million, of which 42 percent included opioid prescriptions. OWCP's policy on opioids was too permissive, and OWCP did not ensure prescriptions were necessary and safe from overuse or adverse interaction with other FECA medications.

In response to our audit, OWCP implemented policies to limit access to opioid prescriptions. Previously, OWCP had allowed physicians to prescribe opioids to new users for up to 60 days. However, subsequent to our report, OWCP limited individual opioid prescriptions for new users to a 7 day supply to be more in line with guidelines from the Centers for Disease Control and Prevention. While refills were allowed, OWCP began requiring a letter of medical necessity for opioid prescriptions that exceeded an initial 28 day supply. Additionally, through its pharmacy benefit manager, OWCP implemented policies to ensure prescription drugs were safe and necessary. OWCP implemented drug utilization reviews that, among other things, screen for situations where a certain drug should not be used due to the harm it could cause as well as identify duplicate prescriptions and therapeutic overlap. OWCP also implemented prior authorization requirements for certain classes of drugs and prescriptions that meet certain conditions to ensure they are necessary, such as drugs that exceed a maximum lifetime day supply, a lifetime quantity, or a maximum number of fills.

Interim Report on Audit of Pharmaceutical Management in DOL Benefit Programs: OWCP Needs Better Controls Over Compounded Prescription Drugs; Report No. 03-17-001-04-431; 05/23/17

In FY 2016, OWCP spent over \$3.2 billion in FECA program benefits. The cost of prescription drugs in the FECA program rose from a reported \$183 million in FY 2011 to \$477 million in FY 2016, an increase of 161 percent. Compounded drugs accounted for most of this growth, escalating from approximately \$2 million in FY 2011 to a reported \$263 million in FY 2016. In this interim report, we found OWCP had not effectively managed the use and cost of compounded drugs, and we identified additional steps OWCP needed take to improve its overall management of pharmaceuticals in the FECA program.

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In response, OWCP implemented controls to address the escalating costs of compounded drugs by requiring physicians to provide a letter of medical necessity justifying the need and cost of all compounded drug prescriptions, which reduced compounded spending in the FECA program by over \$215 million in one year. OWCP also contracted with a pharmacy benefit manager, through which OWCP implemented a number of policies to improve its management of pharmaceuticals in the FECA program, including the establishment of a drug formulary and a drug exclusion list. A drug formulary identifies prescription drugs considered effective, safe, and reasonably cost-effective for a specified medical condition. A drug exclusion list is used to deny payments for drugs or drug ingredients that are not considered safe, effective, or cost efficient.

In addition, OWCP implemented a policy to approve only generic drugs (unless a physician specifies a brand-name drug), reduced the reimbursement rate for generic drugs, implemented restrictions on herbal supplements, and established dollar thresholds to limit high or excessive drug charges. OWCP also improved its data analytics capabilities and established procedures to take action against suspected fraudulent providers, such as referring cases to the OIG for investigation and suspending or debaring providers from doing business with the federal government.

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

Our audit found, since the start of the COVID-19 pandemic, OSHA has received a sudden influx of complaints, and there is an increased risk that OSHA is not providing the level of protection workers need at various job sites. We also found most of OSHA's inspections during the pandemic were conducted remotely, which may allow workplace hazards to go unidentified and unabated longer, leaving employees vulnerable. Furthermore, while OSHA has issued several guidance documents to enhance safety during the pandemic, guidance is not enforceable like rules or standards, and OSHA has not issued an Emergency Temporary Standard for infectious diseases.

OSHA did issue two pandemic-related Emergency Temporary Standards as well as a National Emphasis Program (NEP). In response to our audit and to improve its enforcement efforts, OSHA published a NEP directive for COVID-19 on March 12, 2021. OSHA issued an Emergency Temporary Standard on June 21, 2021, to protect health care and health care support service workers from occupational exposure to COVID-19 and updated the NEP on July 7, 2021. OSHA also implemented a code to identify COVID-19 inspections conducted remotely and instructed regions to retroactively apply the code to all related remote inspections after February 1, 2020. In addition, OSHA issued a Vaccination and Testing Emergency Temporary Standard to protect unvaccinated employees of large employers (100 or more employees) from the risk of contracting COVID-19 by strongly encouraging vaccination. However, on January 13, 2022, the U.S. Supreme Court stayed the Vaccination and Testing Emergency Temporary Standard. After evaluating the Court's decision, OSHA withdrew the Vaccination and Testing Emergency Temporary Standard as an enforceable Emergency Temporary Standard.

The U.S. Department of Labor Digital Accountability and Transparency Act Of 2014 Performance Audit; Report No. 22-22-002-13-001; 11/08/21

The Digital Accountability and Transparency Act of 2014 established standards intended to help taxpayers and policymakers understand how federal agencies spend taxpayer dollars and improve agencies' spending oversight and data centric decision making. The audit found DOL did not submit certain data completely, accurately, or timely for publication on USASpending.gov.

In response, the Office of the Chief Financial Officer (OCFO) updated its standard operating procedures to validate each report in accordance with guidelines provided by the Treasury to ensure certain formatting requirements have been met. Additional verification will be performed before the files are submitted for publication.

The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Did Not Represent Total Program Year Expenses; Report No. 22-21-007-13-001; 08/06/21

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 these programs. A performance audit of DOL's compliance with PIIA for FY 2020 concluded DOL met all the requirements for compliance with PIIA. However, DOL permitted SWAs to suspend their improper payment sampling of fourth quarter claims in March 2020. DOL also did not formally request guidance from OMB on changes to the sampling and estimation plan until October 2020, nor was DOL able to provide evidence of these discussions.

In response to the audit, OCFO updated its process of collecting information from DOL agencies such that any known changes to the sampling and estimation plan for applicable programs are certified by the agencies before OMB's June 30 deadline. All agencies must complete a Program Inventory and Questionnaire to determine if any program experienced any significant changes that would trigger a new risk assessment over the program. OCFO compiles all responses into one central tracker and reviews in conjunction with the program officials to determine if changes are appropriate and within guidelines. OCFO then works with all reporting agencies to obtain information in the appropriate format that is required to be reported.

COVID-19: Delays in Providing Disaster Relief Jeopardize \$366 Million Disaster Worker Grant Program; Report No. 19-22-002-03-391; 01/28/22

On March 27, 2020, the CARES Act became law. The CARES Act provided additional funding in the amount of \$345 million for necessary expenses for the dislocated workers assistance national reserve to prevent, prepare for, and respond to the pandemic. From April to August 2020, ETA awarded 57 grants totaling \$366 million.

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The OIG contracted with an independent certified public accounting firm to conduct a performance audit of the \$366 million and found ETA generally administered the Disaster National Dislocated Worker Grants (DWG) program in accordance with applicable federal regulations and guidelines. However, there was a significant delay in the length of time for grant recipients to provide disaster relief employment and training from approximately 1 to 9 months. With 38 percent of the grant periods elapsed, and minimal grant spending, it is unlikely that grant recipients will effectively use the funds and deliver services by the end of the grant period. Moreover, there was a failure to quickly roll out programs and achieve targets for providing training services and returning participants back to employment. In addition, for the 15 sampled grants, 2 grant recipients exceeded the 60-day deadline to provide the full application per Training and Employment Guidance Letter (TEGL) 12-19. ETA's delay in obtaining the full application while allowing grant recipients to draw funding increases the risk of unallowable costs being incurred and performance goals not being met.

In response to the firm's audit, ETA took corrective actions to improve its DWG Program. This response included issuing TEGL No. 16-21, which:

1. emphasizes the importance of quickly beginning services to support post disaster employment and economic recovery in Disaster Recovery DWGs, and noting the role of DWG in disaster relief workforce development;
2. specifies when disaster-relief employment can begin before full application approval; and
3. requires the grant recipient to modify the grant to provide a full and complete application within 60 business days following the award of Disaster Recovery DWG funds requested via an emergency application.

Unimplemented Recommendations

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

From October 1, 2011, through March 31, 2022, the OIG made 1,699 audit recommendations to the Department, of which 197 have not been fully implemented. These 197 recommendations include 148 recommendations resulting from audits issued since the end of FY 2020, and, in many cases, the Department has corrective action plans in place.

RECOMMENDATIONS MADE PRIOR TO APRIL 1, 2022, NOT YET IMPLEMENTED

| Fiscal Year | Total Number of Recommendations Made | Unimplemented Recommendations | |
|---------------------|--------------------------------------|-------------------------------|-------------------------|
| | | Total Number | Monetary Impact (\$) |
| 2011 | 319 | 6 | \$0 |
| 2012 | 213 | 1 | \$0 |
| 2013 | 195 | 0 | \$0 |
| 2014 | 128 | 1 | \$0 |
| 2015 | 163 | 2 | \$0 |
| 2016 | 100 | 1 | \$0 |
| 2017 | 112 | 8 | \$0 |
| 2018 | 98 | 2 | \$0 |
| 2019 | 84 | 28 | \$0 |
| 2020 | 105 | 28 | \$0 |
| 2021 | 133 | 79 | \$39,311,226,638 |
| 2022 ¹¹⁰ | 49 | 41 | \$0 |
| Total | 1,699 | 197 | \$39,311,226,638 |

¹¹⁰ FY 2022 shows data for the first half of the fiscal year (October 1, 2021, to March 31, 2022).

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; ¹¹¹ Issue guidance directing states to provide access to state UI claimant data, in order to prevent and detect fraud |
| Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21 | Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including the areas identified in the memorandum: UI benefits paid to 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 CFR 603.5 and 603.6(a) through the rulemaking process to reinforce that UI information must be provided to DOL OIG for all IG engagements authorized under the IG Act, including audits, evaluations, and investigations |
| 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 Integrity Data Hub (IDH) data |

¹¹¹ These programs are: FPUC, PUA, PEUC, the Temporary Full Federal Funding, the Emergency Unemployment Relief for Government Entities and Nonprofit Organization, and the Temporary Financing of Short-Time Compensation.

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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 |
| COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105; 08/14/20 | 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 | Continue to monitor and evaluate the Region II triage pilot and consider extending the triage process to all regions to expedite screening whistleblower complaints |
| 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 | Compare remote inspections to onsite inspections and document analysis of the frequency and timeliness of inspectors in identifying and ensuring abatement of worksite hazards |
| 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 |
| 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 |

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Appendices

| Employee Benefits | |
|---|---|
| OWCP'S Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12 | Develop effective procedures, including seeking legislative authority to conduct matches with Social Security Administrative (SSA) retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly |
| EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self Insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16 | Reduce or eliminate exemption thresholds for small plans |
| Departmental Management | |
| FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16 | Realign the organizational structure as it relates to the CIO to address organizational independence issues |
| Stronger Controls Needed Over Web Application Security; Report No. 23-20-001-07-725; 11/14/19 | Establish and maintain a comprehensive inventory of web applications, identifying which applications are public-facing and contain sensitive information. Review and update the DOL Plan of Action and Milestones (POA&M) policy to ensure agency corrective actions and timeframes are implemented; Establish and verify the implementation of Department-wide policies and procedures specific to associated risks to web applications, securing web servers, and web application programming ¹¹² |
| FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered by Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19 | Implement improvements in DOL's information security program for the following areas: Risk Management, Configuration Management, Identity and Access Management, Data Protection and Privacy, Information Security Continuous Monitoring, and Contingency Planning |
| DOL Needs to Do More to Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20 | Establish and implement procedures to ensure 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; 12/22/20 ¹¹³ | Provide training to responsible personnel over the third-party continuous monitoring review checklist. Enforce DOL policies and procedures regarding separation of duties so developers do not possess the ability to migrate changes to production; Enforce DOL security baseline policies with DOL's Cloud Service Providers (CSP) and develop a security configuration checklist for the CSP; Develop sufficiently defined quantitative and qualitative metrics that provide meaningful indications of security status and trend analysis at all risk management tiers; Implement a process for approving deviations from established configuration settings |

¹¹² Corrective actions were evaluated, and a resolution memorandum was issued after September 30, 2022. The revised status of these recommendations will be reflected in the next *Semiannual Report to Congress*.

¹¹³ Corrective actions were evaluated, and a resolution memorandum was issued after September 30, 2022. The revised status of these recommendations will be reflected in the next *Semiannual Report to Congress*.

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Appendices

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| 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 CIO position to have a direct reporting relationship to the Deputy Secretary and independent of ASAM; Ensure the CIO 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; Reassess the incorporation of BLS and OCFO as part of IT Shared Services within 2021, and document the reasoning for the decision reached; Establish an MOU or other agreement between the OCIO and all departmental agencies to establish and state the roles and responsibilities of IT between each set of respective agencies; Codify the policies and procedures that define IT governance and key supporting IT elements |
| Independent Auditors' Report on DOL's FY 2021 Consolidated Financial Statements; Report No. 22-22-003-13-001; 11/19/21 | Develop policies and procedures to coordinate with SWAs to obtain the necessary information needed to support related balances and assumptions, and to perform benchmarking and/or other analyses to validate new assumptions; Amend policies and procedures to provide specific steps to be performed during the reviews and the documentation requirements, which should include the specific items reviewed, analyses performed, and conclusions reached; Maintain documentation of the reviews performed to assess the reasonableness of the underlying data, assumptions, and formulas used in the models that is sufficiently detailed to evidence the specific items reviewed, analysis performed, and conclusions reached; Develop policies and procedures to ensure that the accounting treatment for significant transactions are appropriately researched and documented prior to recording the transaction to the general ledger; Enhance management review controls over the amounts that are presented |
| Job Corps Safety | |
| COVID-19: Safety and Remote Learning Challenges Continue for Job Corps; Report No. 19-22-001-03-370; 11/12/21 | Implement continuous monitoring to ensure centers adhere to Job Corps COVID-19 safety protocols (e.g., use of social distancing markers, installation of barriers, and reconfiguration of furniture to accommodate social distancing); Identify learning gaps that occurred during campus closures and procedures Job Corps needs to take to help students fill in those gaps; Increase oversight of remote instructional programs to ensure students receive the training and resources to complete their programs in a timely way |
| Workplace Rights | |
| DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20 | Develop policies and procedures to document its rationale and supporting evidence for key decisions in the development of economic regulatory analysis; Develop policies and procedures to document its rationale and supporting evidence when DOL determines the prescribed regulatory guidance does not apply; Enforce policies and procedures that require employees to maintain records that document government business; Employees should not be discouraged from maintaining such records |

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

| Report Name | Number of Unimplemented Recommendations | Funds Put to Better Use (\$) |
|---|---|------------------------------|
| Employment and Training Administration | | |
| <p>Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21</p> <p>Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including the areas identified in the memorandum: UI benefits paid to multi-state claimants, claimants who used the Social Security numbers of deceased individuals, potentially ineligible federal inmates, and claimants with suspicious email accounts. Effective controls will help prevent similar or greater amounts of fraud and allow those funds to be put to better use.</p> | 1 | \$5,409,966,198 |
| <p>COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21</p> <p>Continue to work with states to develop, operate, and maintain a modular set of technological capabilities to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment</p> | 1 | \$33,745,677,576 |
| <p>ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program; Report No. 05-21-004-03-375; 09/30/21</p> <p>Improve funding opportunity announcements for discretionary grant programs by conducting the following: Evaluate program goals using the SMART concept or a similar approach, and 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</p> | 1 | \$155,582,864 |
| Total | 3 | \$39,311,226,638 |

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, 2022).

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

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|--|---|-----|
| Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19 | 5 | \$0 |
| ETA Had No Reasonable Assurance That \$183 Million in H-1B TST Grant Funds Helped Participants Get H-1B Jobs; Report No. 06-19-001-03-391; 09/27/19 | 1 | \$0 |
| COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20 | 2 | \$0 |
| ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation; Report No. 04-20-002-03-315; 09/29/20 | 1 | \$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 | 3 | \$0 |
| Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General; Report No. 19-21-005-03-315; 06/16/21 | 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 | 2 | \$0 |

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| 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 |
| COVID-19: MSHA Faces Multiple Challenges in Responding to the Pandemic; Report No. 19-20-006-06-001; 07/24/20 | 1 | \$0 |
| MSHA Needs to Improve Efforts to Protect Coal Miners from Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/20 | 3 | \$0 |
| MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated; Report No. 05-21-002-06-001; 03/31/21 | 10 | \$0 |
| 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 |
| FY 2018 FISMA DOL Information Security Report; Report No. 23-19-001-07-725; 03/13/19 ¹¹⁴ | 5 | \$0 |
| Alert Memorandum: Security Vulnerability Relating to DOL Information Security Property; Report No. 50-19-002-07-725; 06/17/19 | 2 | \$0 |
| Stronger Controls Needed Over Web Application Security; Report No. 23-20-001-07-725; 11/14/19 ¹¹⁵ | 3 | \$0 |
| FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered By Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19 | 12 | \$0 |
| FY 2020 FISMA DOL Information Security Report: Progress Needed to Improve Risk Management and Continuous Monitoring Information Security Controls; Report No. 23-21-001-07-725; 12/22/20 | 18 | \$0 |
| FY 2021 FISMA DOL Information Security Report: Information Security Continuous Monitoring Controls Remain Deficient; Report No. 23-22-001-07-725; 01/28/22 | 18 | \$0 |

¹¹⁴ Corrective actions were evaluated, and a resolution memorandum was issued after September 30, 2022. The revised status of these recommendations will be reflected in the next *Semiannual Report to Congress*.

¹¹⁵ Corrective actions were evaluated, and a resolution memorandum was issued after September 30, 2022. The revised status of these recommendations will be reflected in the next *Semiannual Report to Congress*.

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| 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 | 8 | \$0 |
| FY 2021 Independent Auditors' Report on DOL Financial Statements; Report No. 22-22-003-13-001; 11/19/21 | 5 | \$0 |
| Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2021; Report No. 22-22-004-13-001; 12/20/21 | 9 | \$0 |
| Office of Federal Contract Compliance Programs | | |
| DOL Did Not Comply With Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18 | 1 | 0 |
| Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2019; Report No. 22-20-005-13-001; 12/19/19 | 6 | 0 |
| DOL Needs To Do More To Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20 | 2 | 0 |
| Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements, for the Year Ended September 30, 2020; Report No. 22-21-005-13-001; 12/18/20 | 9 | 0 |
| The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Did Not Represent Total Program Year Expenses; Report No. 22-21-007-13-001; 08/06/21 | 1 | 0 |
| Office of Federal Contract Compliance Programs | | |
| OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20 | 1 | \$0 |
| 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 |

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| 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: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105; 08/14/20 | 2 | \$0 |
| Region IX Whistleblower Protection Program Complaints Were Not Complete or Timely; Report No. 02-21-001-10-105; 11/23/20 | 4 | \$0 |
| COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk; Report No. 19-21-003-10-105; 02/25/21 | 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 |
| Office of Workers' Compensation Programs | | |
| OWCP'S Efforts to Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12 | 1 | \$0 |
| Alert Memorandum: Vulnerability in OWCP FECA Bill Pay Processing System; Report No. 50-20-001-04-430; 05/07/20 | 1 | \$0 |
| Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund, September 30, 2020; Report No. 22-21-001-04-431; 10/30/20 | 2 | \$0 |
| Longshore and Harbor Workers' Compensation Act Special Fund Financial Statements and Independent Auditors' Report, September 30, 2020, and 2019; Report No. 22-22-005-04-432; 03/31/22 | 1 | \$0 |
| District of Columbia Workmen's Compensation Act Special Fund Financial Statements and Independent Auditors' Report, September 30, 2020, and 2019; Report No. 22-22-006-04-432; 03/31/22 | 1 | \$0 |
| Wage and Hour Division | | |
| DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20 | 3 | \$0 |
| COVID-19: The Pandemic Highlighted the Need to Strengthen Wage and Hour Division's Enforcement Controls; Report No. 19-21-008-15-001; 09/30/21 | 4 | \$0 |
| Totals | 194 | \$0 |

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): | | 166 |
| Program Fraud Labor Racketeering | 143 23 | |
| Cases Opened: | | 154 |
| Program Fraud Labor Racketeering | 151 3 | |
| Cases Referred for Prosecution (each case is measured as a singular statistic and may include more than one person or business entity): | | 134 |
| Program Fraud Labor Racketeering | 131 3 | |
| Cases Referred for Administrative/Civil Action (each case is measured as a singular statistic and may include more than one person or business entity): | | 50 |
| Program Fraud Labor Racketeering | 48 2 | |
| Persons Referred to the Department of Justice for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution): | | 155 |
| Program Fraud Labor Racketeering | 154 1 | |
| Persons Referred to State and Local Prosecuting Authorities for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution): | | 33 |
| Program Fraud Labor Racketeering | 30 3 | |
| Indictments and Criminal Informations That Resulted from Any Prior Referral to Prosecuting Authorities (includes sealed and unsealed indictments): | | 310 |
| Program Fraud Labor Racketeering | 294 15 | |
| Indictments (includes sealed and unsealed indictments): | | 310 |
| Program Fraud Labor Racketeering | 294 15 | |
| Convictions: | | 216 |
| Program Fraud Labor Racketeering | 202 14 | |
| Statutory Debarments: | | 5 |
| Program Fraud Labor Racketeering | 2 3 | |

Appendices

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|---|-----------------------------|--------------|
| Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions: | | \$55,071,064 |
| Program Fraud Labor Racketeering | \$52,729,200 \$2,341,864 | |

| | |
|---|---------------------|
| 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): | \$23,093,951 |
| 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): | \$3,303,263 |
| Restitutions/Forfeitures (the dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations): | \$26,717,878 |
| Fines/Penalties (the dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations): | 0 |
| Civil Monetary Actions (the dollar amount/value of forfeitures, settlements, damages, judgments, court costs, and other penalties resulting from OIG criminal investigations): | \$1,955,972 |
| Total: | \$55,071,064 |

Peer Review

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. Federal audit functions can receive a rating of “pass,” “pass with deficiencies,” or “fail.”

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.

Appendices

OIG Hotline

The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period April 1, 2022, through September 30, 2022, a total of 9,973 complaints were opened in the OIG Hotline's complaint management system. Of these, 7,320 were complaints received from the National Center on Disaster Fraud. Almost all of these complaints involve concerns regarding COVID 19 related unemployment benefits. During this reporting period, 11,728 referrals were made for further review and/or action in response to complaints opened in the OIG Hotline's complaint management system. Numerous individual complaints involving alleged fraud regarding COVID-19-related unemployment benefits were referred to both the OIG's Office of Investigations and the appropriate State Workforce Agency. During this reporting period, the OIG Hotline received additional complaints that are awaiting processing.

| Complaints Received (by method reported): | Totals |
|---|---------------|
| Telephone | 179 |
| E-mail/Internet | 9,757 |
| Mail | 36 |
| Fax | 0 |
| Walk-In | 1 |
| Total | 9,973 |
| Contacts Received (by source): | Totals |
| Complaints from Individuals or Non-Governmental Organizations | 2,556 |
| Complaints/Inquiries from Congress | 1 |
| Referrals from GAO | 1 |
| Complaints from Other DOL Agencies | 1 |
| Complaints from Other (non-DOL) Government Agencies | 7,414 |
| Total | 9,973 |
| Disposition of Complaints: | Totals |
| Referred to OIG Components for Further Review and/or Action | 40 |
| Referred to DOL Program Management for Further Review and/or Action | 44 |
| Referred to Non-DOL Agencies/Organizations | 11,644 |
| No Referral Required/Informational Contact | 74 |
| Total | 11,802 |

Fiscal Year 2023 Audit Workplan

BUREAU OF LABOR STATISTICS (BLS)

Discretionary Audit

- 1. BLS Survey Response Rate – In Progress.** BLS is the principal federal agency responsible for measuring labor market activity, working conditions, and price changes in the nation's economy. The President, Congress, federal policymakers, public institutions, and private citizens use the economic information developed by BLS to guide and support decision-making. According to a 2013 study by the National Research Council, "[f]or many household surveys in the United States, response rates have been steadily declining for at least the past two decades." BLS's Fiscal Year (FY) 2021 operating plan acknowledges survey response rates have declined over the last few years, and the OIG work to date confirms overall BLS survey response rates have been declining. It is vital for BLS to incorporate new methodologies and technology into its data collection process to ensure expected response rates and reduced respondent burden. A decline in response rates could increase data collection costs and affect data quality, which may result in unreliable economic information developed by BLS. This audit focuses on how efficiently and effectively BLS is able to obtain data necessary to produce the economic information it is required to produce, and if there are other sources to obtain the necessary data.

BENEFITS REVIEW BOARD (BRB)

Discretionary Audit

- 2. BRB Backlog of Black Lung and Longshore and Harbor Worker Claims.** The Benefit Review Board (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 for 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 Audit

3. **EBSA Enforcement.** During FY 2022, EBSA established health care initiatives to focus limited resources on enforcement actions related to the sustainability and fraud of Multiple Employer Welfare Arrangements (MEWA) and emergency services claims, as well as provisions of the American Rescue Plan Act of 2021, or ARPA (e.g., the continuation of coverage benefits through the Consolidated Omnibus Budget Reconciliation Act of 1985). EBSA enforcement initiatives seek to detect and correct violations of the Employee Retirement Income Security Act of 1974, among other federal law violations, and to obtain relief for those violations. This audit will focus on the effectiveness of EBSA's enforcement efforts to detect and correct health-related violations, as well as obtaining relief for those violations.

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA) Mandatory Audits

Job Corps

4. **COVID-19: Job Corps Training Program Performance during the Pandemic.** In March 2020, the COVID-19 pandemic forced Job Corps to quickly shut down its centers and send most of its 29,000 students home. As with most other schools in the United States, Job Corps had not planned for a transition to a distance learning program when in-person instruction abruptly ceased. We previously reported that Job Corps' inability to deliver hands-on training delayed students' progress and completions, noting that no students completed technical skills training from April 2020 to April 2021. This audit will focus on the outcomes for students who received remote learning during the pandemic.
5. **COVID-19: Ensuring Job Corps Funds Were Properly and Efficiently Used during the COVID-19 Pandemic.** In March 2020, during the COVID-19 pandemic, Job Corps shut down 121 centers and sent almost 29,000 students home. From about March 2020 to April 2021, student enrollment plummeted 56 percent, and the number of students who completed trades training also dropped to zero. For FY 2020, Job Corps received approximately \$1.7 billion in funding, the same amount as in prior years. While Job Corps allowed centers to use budget underrun funds to purchase supplies and equipment to deploy remote learning and to ensure student and staff safety when it reopened centers, there is a risk all these funds were not used appropriately or efficiently. This audit will review how Job Corps' funds were spent from March 2020 through December 2021.
6. **Job Corps Minor Students.** Job Corps' participants upon entry into the program are ages 16 to 24. The significant age range poses a number of challenges. Given the occurrence of sexual assaults and harassment that occur 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 ensure the safety of, mitigate program disruptions from, and meet the program's intent for its minor students.

Discretionary Audits

ETA Contract and Grant Programs

7. **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, hence potentially preventing them from completing their training and getting a job in the areas in which they were trained. This audit will focus on how effectively ETA ensured these funds were used as intended.
8. **COVID-19: ETA's Administration of Grant Funds Provided under the CARES Act.** ETA obligated more than \$15 billion in federal grant funds, of which \$345 million was specifically provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Over the past decade, we reported numerous issues with ETA's management of federal grant funds not achieving performance goals and identified upwards of \$489 million in grant funds that were inefficiently used. This audit will focus on how effectively ETA ensured these funds were used as intended.
9. **ETA's Administration of Disaster Dislocated Worker Grants.** 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. Effectiveness of ETA's Permanent Labor Certification Program (PERM) Application Processing Time.** The PERM program is based on the premise that employers will hire foreign workers only when: (1) there are insufficient 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.
- 11. Effectiveness of ETA's Approval of H-2A Applications.** 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. In order to receive the temporary employees, employers 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.

Unemployment Insurance (UI) Program

- 12. COVID-19: Audit of ETA's Oversight of UI Integrity of CARES Act Programs – In Progress.** States are responsible for administering their UI programs while DOL provides oversight and direction for the UI system nationwide. When Congress, through the CARES Act, expanded UI for workers who were suddenly unemployed because of the pandemic, states were already processing a substantial influx in UI claims. States then had to implement three new UI programs, resulting in additional major challenges. Resources stretched, states attempted to pay benefits quickly, and the risk of fraud and increased improper payments rose significantly. As of March 31, 2021, states and territories had drawn down a total of approximately \$495.2 billion to administer the new UI programs—98 percent of the total drawdown funding (\$505.6 billion) for all CARES Act programs. Over the years, ETA has implemented various program integrity and fraud reduction initiatives; however, these initiatives have offered only a partial solution. This audit evaluates ETA's role in managing the integrity of the UI programs under the CARES Act, including working with states and partners to identify and share best practices and data to reduce fraud.

13. COVID-19: DOL's Oversight of Emergency UI Administrative Grants to States – In Progress.

The Families First Coronavirus Response Act provided \$1 billion to DOL to provide emergency administration grants to state UI agencies for the administration of their unemployment compensation programs. Administrative resources were critical to delivering an effective UI program that was relied upon by millions of American taxpayers, especially during the pandemic. Funds provided through these emergency administrative grants could only be used for the administration of the UI program and were not available for the payment of UI benefits. This audit focuses on the Department's monitoring of the emergency administration grants and if these funds were accurately tracked and reported, at both the state and federal level.

14. COVID-19: Audit of States' Information Technology Systems Capability in Processing

Unemployment Insurance Claims – In Progress. From March 28, 2020, to August 1, 2020, unemployed workers submitted more than 57 million initial UI claims and another 502 million continued claims under regular and CARES Act UI programs. Many states and U.S. territories used antiquated information technology (IT) systems—some dating from the 1970s—to process the claims influx and implement the new CARES Act programs. The need for IT modernization had already become apparent during the economic downturn where some states' systems failed completely. In October 2020, the National Association of State Workforce Agencies (NASWA) UI IT Support Center reported only 22 states had modernized their systems. Using outdated IT systems can cause payment delays and can also increase improper payments including fraud. This audit will determine to what extent the capability of states' IT systems impacted their ability to process timely and accurate UI claims.

15. COVID-19: Audit of CARES Act Impact on Non-traditional Claimants – In Progress.

With the passage of the CARES Act in March 2020, the Department's UI program was expanded to provide emergency UI benefits to workers unemployed due to COVID-19. This included non-traditional claimants, such as self-employed workers, independent contractors, and individuals with limited work histories. While total expenditure of UI benefits approached \$500 billion by mid-2021, it is unclear how effective ETA and its state partners have been in delivering this assistance to non-traditional claimants. Our audit will determine if DOL and State Workforce Agencies' efforts ensured non-traditional claimants received UI benefits as intended under the CARES Act and the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act).

16. COVID-19: Audit of DOL and States' Efforts to Detect and Recover Improper Payments – In

Progress. Under the CARES Act, ETA was required to implement large-scale changes to its existing UI system, including establishing six new programs. The new programs were intended to provide expanded UI benefits to workers who were suddenly jobless as a direct result of the COVID-19 pandemic. Given the challenge of rapidly implementing new programs during a crisis situation, ETA and states faced an additional hurdle of using controls, previously identified as weak and deficient in published OIG reports and alert memorandums, to process more than 77 million seasonally adjusted initial jobless claims and 571 million seasonally adjusted continued claims over the course of the pandemic's first year. According

to 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.

- 17. COVID-19: Audit of States' Use of Staffing to Support Implementation of CARES Act UI Programs – In Progress.** From March 2020, the unprecedented high rate of unemployment resulting from the COVID-19 pandemic led to challenges for states in processing UI claims, completing mandatory reporting, and performing required overpayment detection procedures due to insufficient staffing. DOL and states found themselves unprepared for the circumstances surrounding COVID-19 and struggled to implement CARES Act UI programs while unemployed workers faced lengthy delays in receiving UI benefits. The CARES Act provided states with temporary "emergency" flexibility through December 31, 2020, for additional staffing and to otherwise quickly process unemployment claims, and subsequent legislation extended these CARES Act UI provisions. This audit focuses on DOL's efforts to ensure states' staffing supported the implementation of UI programs under the CARES Act and its amendments.
- 18. COVID-19: Audit of the Temporary Full Federal Funding Program – In Progress.** Under the CARES Act, the Temporary Full Federal Funding (TFFF) program paid the cost of the first week of an eligible claimant's UI benefits for states with no waiting week. The program also paid the cost of the first week for those who chose to waive their waiting week requirements. This flexibility allowed eligible claimants to receive their benefits quickly and get the much-needed relief to offset the effects of the COVID-19 pandemic. As of July 2021, ETA had provided states more than \$6.8 billion through the TFFF program. This audit focuses on DOL's efforts to ensure states met program requirements and used the TFFF program as intended by the UI provisions of the CARES Act, the Continued Assistance Act, and ARPA.
- 19. COVID-19: Emergency Unemployment Relief for Government Entities and Nonprofit Organizations – In Progress.** The CARES Act created the Emergency Unemployment Relief for Government Entities and Nonprofit Organizations (EURGENO) program. It provided funds to reimburse governmental entities and certain nonprofits for amounts paid for unemployment between March 13, 2020, and September 6, 2021. This audit will determine to what extent ETA and states effectively executed the EURGENO program and ensured compliance with the UI provisions of the CARES Act and its amendments.
- 20. COVID-19: Short-Time Compensation (STC) Program – In Progress.** Passage of the CARES Act expanded UI program benefits to new and existing programs, including the STC program. The CARES Act included provisions that increased the federal reimbursement to 100 percent of benefits for states that have an STC program in their laws and provided for a 50 percent reimbursement for states that do not have an STC program in their laws but agreed to operate a program on a temporary basis. The STC program acts as a work share program, with employers reducing the number of hours offered to employees and the state making up the difference in the form of benefit payments. The CARES Act provided for an estimated \$2.2 billion for benefit reimbursements and administrative costs. Twenty seven

states have participated in the program and reported benefit reimbursement payments of approximately \$1.1 billion as of July 31, 2021. This audit will determine how states implemented the STC program for the benefit of unemployed individuals and to meet the intent of the program.

- 21. COVID-19: Mixed Earners Unemployment Compensation – In Progress.** The Mixed Earners Unemployment Compensation (MEUC) program is a new temporary federal program under the Continued Assistance Act and ARPA. It provided additional benefits to certain self-employed individuals who are available for work for the week ending January 2, 2021, through the week ending September 4, 2021. This audit will determine how states implemented the MEUC program for the benefit of unemployed individuals and to meet the intent of the program.
- 22. Pandemic Response Accountability Committee (PRAC) – DOL Programs – Case Study Project – In Progress.** The focus of this oversight project will be to identify the federal pandemic response program funds provided to select geographic areas, 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 Pandemic Response Accountability Committee and is being conducted in coordination with nine other OIGs.
- 23. COVID-19: Audit of DOL and States Oversight of UI Claimants Return to Work.** The CARES Act and its related extensions provided additional UI benefits to claimants who lost their employment due to the COVID-19 pandemic. As a result, numerous states ended their participation in the enhanced federal jobless benefits program ahead of its expiration, citing complaints from businesses that claimed they were unable to find workers likely due to financial incentives that caused claimants to refuse suitable employment offers. This audit will focus on DOL's and states' compliance with return to work provisions under the CARES Act.
- 24. COVID-19: ETA and States' Efforts to Address Multistate UI Claimants.** 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 follow up on potentially fraudulent CARES Act UI claims identified and referred by the OIG.
- 25. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Social Security Numbers of Deceased Persons.** 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 follow up on potentially fraudulent CARES Act UI claims filed with SSNs of deceased persons identified and referred by the OIG.

- 26. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Social Security Numbers of Federal Prisoners.** 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 follow up on potentially fraudulent CARES Act UI claims filed with SSNs of federal prisoners identified and referred by the OIG.
- 27. COVID-19: ETA and States' Efforts to Address UI Claimants Filing with Suspicious Email Accounts.** 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 follow up on potentially fraudulent CARES Act UI claims filed with suspicious email accounts identified and referred by the OIG.
- 28. COVID-19: Impact of Waivers on UI Overpayments, Fraud Investigations, and Recoveries.** 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. American Rescue Plan Act Equity Grants.** ARPA provided \$2 billion in funding to DOL to prevent and detect fraud, promote equitable access, ensure timely payment of benefits, and reduce backlogs. This includes \$260 million in grants to improve 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 some states. This audit will focus on DOL's and states' effectiveness in addressing the potential racial and ethnic disparities in the UI program.

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

Discretionary Audits

- 30. COVID-19: Impact of COVID-19 MSHA Mandatory Inspections – In Progress.** MSHA conducts certain mandatory inspections to help ensure miners are working in safe environments. Because of workforce limitations during the COVID-19 pandemic, the number and/or quality of mandatory MSHA inspections may have declined, putting miners at risk. Between January and December 2020, MSHA conducted 19,487 mandatory inspections at 12,684 mines. This audit will determine if COVID-19 impacted MSHA's ability to effectively conduct mandatory inspections.

- 31. Mine Rescue Response Plan.** When disaster strikes, a well-prepared mine rescue effort can mean the difference between life and death for trapped miners. Insufficient personnel, equipment, or training could hamper MSHA's ability to respond quickly and effectively in mine rescue situations. Prior OIG work found MSHA had not provided adequate oversight of mine emergency response plans, which included planning by both mine operators and MSHA. This audit will assess MSHA's preparedness in responding to emergencies requiring mine rescue operations.

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP)

Discretionary Audits

- 32. OFCCP's Enforcement of Equal Employment Opportunity Obligations.** OFCCP is charged with protecting America's workers by enforcing equal employment opportunity and affirmative action obligations of employers that do business with the federal government. 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

- 33. COVID-19: OSHA's Adequacy of Plans and Use of Funds under the American Rescue Plan Act – In Progress.** With increased concern regarding the safety and health of workers during the COVID-19 pandemic, OSHA has received a significant rise in complaints. We previously reported OSHA received 15 percent more complaints from February to October 2020 than during a similar period in 2019. To address the continued impact of COVID-19 on the economy, public health, state and local governments, individuals, and businesses, on March 11, 2021, Congress passed ARPA. ARPA provided relief to OSHA in the amount of no less than \$100 million. This audit focuses on whether OSHA adequately developed plans to use ARPA funds to carry out COVID-19 related worker protection activities, and whether OSHA has controls in place to effectively use ARPA funds to protect workers from COVID-19.
- 34. Use of Complainant Interviews in OSHA Complaint Inspections – In Progress.** OSHA conducts approximately 9,000 complaint inspections annually and issues citations in 24 percent of those inspections. Inspectors are not required to interview complainants at any point during the inspection process, which could result in OSHA having little interaction with complainants and witnesses during complaint inspections. This audit focuses on OSHA's use of complainant and witness testimony during a complaint inspection to ensure the complaint or referral was addressed adequately.

- 35. Rising Injury Rates among Online Retailers' Warehouse Workers – In Progress.** High-speed fulfillment of online orders has become the industry standard, with large online retailers promising free 2-day, next-day, and even same-day deliveries of orders. To accomplish such speedy deliveries, warehouses around the nation have been forced to work ever faster, and some have reported increased pressure to meet production quotas. This may be having a significant impact on the health and safety of warehouse workers. For example, injury rates among warehouse workers have skyrocketed, with one organization reporting that injury rates at a leading online retailer are 80 percent higher and also more severe than at other online retailers' warehouses. The State of California recently passed legislation to help protect warehouse workers by empowering state safety regulators to take additional enforcement actions. This audit will review what, if any, actions OSHA has taken to address the rising injury rates and severity of injuries at online retailers' warehouse facilities.
- 36. COVID-19: OSHA Future Pandemic Planning Adequacy.** ARPA provides the amount of no less than \$100 million for OSHA to conduct worker protection activities concerning COVID-19. The COVID-19 pandemic raised specific concerns about the safety and health of workers. Since the start of the pandemic, OSHA received numerous complaints and requests from Congress and other stakeholders to issue an Emergency Temporary Standard (ETS). OSHA issued numerous pieces of guidance; however, the guidance is not enforceable and cannot operate in lieu of an ETS. OSHA intended to spend a portion of the ARPA funds to provide the necessary staff and technical expertise on the development of an ETS for COVID-19 and a permanent standard on infectious disease standards. This audit will (1) determine if OSHA has plans to issue an ETS covering other high-risk industries, (2) review the effectiveness OSHA's plans for addressing future pandemics, and (3) evaluate other actions OSHA has taken to safeguard workers in high-risk industries during the ongoing pandemic.
- 37. COVID-19: OSHA Effectiveness of the National Emphasis Program (NEP).** Due to the COVID-19 pandemic, OSHA received a surge of complaints while garnering the attention of Congress, labor unions, and the media with requests to act swiftly on behalf of the 130 million workers at more than 8 million worksites nationwide whom OSHA is responsible for protecting. OSHA launched the NEP on March 12, 2021, to focus on companies that put the largest number of workers at serious risk of contracting COVID-19, and on employers that engage in retaliation against employees who complain about unsafe or unhealthful conditions or exercise other rights under the Occupational Safety and Health (OSH) Act. The audit will focus on OSHA's efforts to administer the NEP to ensure employees in high-hazard industries or work tasks are protected from the hazard of contracting COVID-19 and from retaliation.
- 38. COVID-19: OSHA Effectiveness of Whistleblower Complaint Corrective Actions.** OSHA received a 30 percent increase in whistleblower complaints during the early months of the COVID-19 pandemic. OSHA enforces whistleblower provisions found in 25 statutes that protect employees from retaliation for reporting unsafe or unhealthful conditions or otherwise exercising their rights provided under the statutes. Prior to the pandemic, OSHA averaged 9 months to close a whistleblower complaint investigation, already much longer than the 30-, 60-, or 90 day statutory timeframes. Potential for even greater delays exist

with the significant increase of whistleblower complaints received during the pandemic and decrease in the Whistleblower Protection Programs' full-time employment. These delays can leave workers to suffer emotionally and financially. The audit will focus on OSHA's efforts to implement corrective actions that improve the Whistleblower Protection Program to ensure workers are protected from retaliation.

OFFICE OF LABOR MANAGEMENT STANDARDS (OLMS)

Discretionary Audit

- 39. OLMS Compliance Program Targeting Strategy.** OLMS conducts audits of labor unions to detect embezzlements and promote compliance with the Labor Management Reporting and Disclosure Act of 1959. OLMS developed a methodology to focus its audit selection on labor unions whose metrics suggest potential criminal activity (e.g. embezzlement from unions). In FY 2009, OLMS established a performance goal to increase the rate at which audits of unions result in the opening of a criminal investigation (the "fallout" rate). In FY 2021, OLMS fell short of its performance goal in this area, achieving a fallout rate of 15.25 percent despite a target rate of 16.75 percent. This audit will focus on the effectiveness of OLMS's targeting strategy in increasing criminal investigations and reducing criminal activity.

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

Mandatory Audit

- 40. 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 information 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

- 41. IT Modernization – In Progress.** IT modernization is critical to preventing security breaches, excessive costs, missed deadlines, and low-quality IT products and services. DOL recently transitioned to an IT Shared Services model, providing OASAM greater control over IT and IT funding. This audit focuses on the management of IT modernization efforts across the Department, including software integration, legacy systems, and shared services.
- 42. DOL IT Contingency Planning.** 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. 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 falls to the OCIO staff. Prior FISMA work indicated the OCIO has problems with contingency planning, including not ensuring sufficient backup testing of its systems. With incomplete or impartial contingency planning of such a large number of systems under OCIO responsibility across a variety of agencies and geographic areas, the potential for substantial system downtime or non-recovery of data when a contingency arises is elevated. The lack of availability of DOL systems may 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 direct control.

- 43. DOL Wireless Network Environment.** 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.

OFFICE OF THE CHIEF FINANCIAL OFFICER (OCFO) Mandatory Audits

- 44. 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, 2023. 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.
- 45. Review of DOL's Improper Payment Reporting in the Annual Financial Report – Annual.** In FY 2021, the UI program and Federal Employees' Compensation Act (FECA) reported outlays of \$413 billion and \$2.9 billion, respectively, with an estimated improper payment rate of 18.71 percent and 2.7 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

- 46. 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, 2023; 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.
- 47. 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, 2022.
- 48. 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, 2022.
- 49. 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, 2022, through June 30, 2023.

Discretionary Audits

- 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 denied claims followed appropriate guidelines.
- 51. Managing Pharmaceutical Spending in FECA – In Progress.** Recent OIG audit work found OWCP had not done enough to ensure it paid the best price for prescription drugs. Specifically, the audits noted OWCP lacked a pharmacy benefit manager to help contain costs and had not determined if alternative drug pricing methodologies would be more competitive. This ongoing audit focuses on identifying the major factors influencing pharmaceutical spending in the FECA program, including any impact from the COVID-19 pandemic, and determining if OWCP effectively manages pharmaceutical spending in the FECA program.

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

VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS) Discretionary Audits

- 55. COVID-19: VETS Jobs for Veterans State Grants (JVSG) Program.** 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. The 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 VETS JVSG program, as well as the effectiveness of the training program during a health crisis.

- 56. COVID-19: Effectiveness of Homeless Veterans' Reintegration Program (HVRP) Grants.** 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 as a result of 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 homeless veterans' needs, as well as VETS's oversight of the program.

WAGE AND HOUR DIVISION (WHD)

Discretionary Audit

- 57. WHD Enforcement Program.** WHD enforces laws that address more than 147.8 million workers with minimum wage, overtime pay, migrant and seasonal protections, prevailing wages on government-funded contracts, and other wage protections. To complement its enforcement efforts, WHD uses a variety of tools to help employers understand their labor responsibilities, for example, issuance of sub regulatory guidance, compliance videos, outreach events, and the sharing of information on state and federal agency partnerships. This audit will focus on how WHD has met its enforcement requirements and leveraged its resources between compliance assistance and enforcement activities.

MULTI-AGENCY

Mandatory Audits

- 58. 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.
- 59. Single Audit Compliance, Quality Control Reviews of Single Audit Reports – Annual.** We will determine if selected independent auditors complied with the requirements of the Single Audit Act of 1984 and if there is a need for any follow up work.

Office of Inspector General
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