

**FEMA Did Not Implement
Controls to Prevent More
than \$3.7 Billion in
Improper Payments from
the Lost Wages Assistance
Program**





OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 16, 2022

MEMORANDUM FOR: The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency

FROM: Joseph V. Cuffari, Ph.D.
Inspector General

SUBJECT: *FEMA Did Not Implement Controls to Prevent More than \$3.7 Billion in Improper Payments from the Lost Wages Assistance Program*

JOSEPH V
CUFFARI

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Attached for your action is our final report, *FEMA Did Not Implement Controls to Prevent More than \$3.7 Billion in Improper Payments from the Lost Wages Assistance Program*. We incorporated the formal comments your office provided.

The report contains seven recommendations aimed at improving the Federal Emergency Management Agency's (FEMA) Lost Wages Assistance program. Your office concurred with three recommendations. Based on the information provided in your responses to the draft report, we consider six recommendations to be open and unresolved, and one recommendation, open and resolved. As prescribed by the Department of Homeland Security Directive 077-01, *Follow-Up and Resolutions for the Office of Inspector General Report Recommendations*, within 90 days of the date of this memorandum, please provide our office with a written response that includes your (1) agreement or disagreement, (2) corrective action plan, and (3) target completion date for each recommendation. Also, please include responsible parties and any other supporting documentation necessary to inform us about the current status of each recommendation. Until your response is received and evaluated, six recommendations will be considered open and unresolved and one will be open and resolved. Please send your response or closure request to OIGAuditsFollowup@oig.dhs.gov.

Consistent with our responsibility under the *Inspector General Act of 1978, as amended* we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the final report on our website for public dissemination.

Please call me with any questions, or your staff may contact Bruce Miller, Deputy Inspector General for Audits, at (202) 981-6000.



DHS OIG HIGHLIGHTS

FEMA Did Not Implement Controls to Prevent More than \$3.7 Billion in Improper Payments from the Lost Wages Assistance Program

September 16, 2022

Why We Did This Audit

On August 8, 2020, the President directed FEMA to implement a \$44 billion LWA program to ease the economic burden for people who lost work because of coronavirus disease 2019 (COVID-19). Fifty-four SWAs offered LWA to their residents during the 6 weeks the program was active.

We conducted this audit to determine to what extent FEMA ensured that states and territories distributed LWA to eligible recipients.

What We Recommend

We made seven recommendations for improving FEMA's management of its Federal assistance programs and for recovering LWA improper payments.

For Further Information:

Contact our Office of Public Affairs at (202) 981-6000, or email us at DHS-OIG.OfficePublicAffairs@oig.dhs.gov

What We Found

The Federal Emergency Management Agency (FEMA) did not implement controls that may have prevented the 21 state workforce agencies (SWA) in our review from distributing more than \$3.7 billion in improper payments through its Lost Wages Assistance (LWA) program. These 21 SWAs distributed more than 80 percent of the \$36.5 billion of LWA — approximately \$30 billion in total — and later detected \$3.3 billion in potentially fraudulent payments. In addition, we identified \$21.6 million in overpayments and \$403 million in payments made without obtaining claimants' required self-certifications of eligibility for LWA.

This occurred because FEMA launched the LWA program in 11 days, in response to the unprecedented pandemic, without developing and implementing clear guidance for the program or verifying and monitoring the SWAs' controls to ensure they prevented and mitigated improper payments. Instead, FEMA integrated LWA into SWAs' unemployment insurance (UI) program. Many SWAs did not have sufficient controls to prevent fraudulent activities or overpayments, and they relied on self-certifications. Despite repeated warnings from the Department of Labor and our office that self-certifications are not reliably accurate and may lead to improper payments, FEMA did not require controls to mitigate the unreliability of self-certifications to determine claimants' eligibility.

By relying on the states' UI programs (which are susceptible to fraud) to determine claimants' eligibility and distribute LWA, FEMA lost an opportunity to safeguard \$36.5 billion in disbursed LWA, directly affecting its ability to respond to future emergencies and disasters. As a result, we question the more than \$3.7 billion in improper payments distributed by the 21 SWAs that we reviewed.

FEMA Response

FEMA concurred with three of the seven recommendations. Appendix B contains FEMA's complete management response.



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Abbreviations

CARES Act	<i>Coronavirus Aid, Relief, and Economic Security Act</i>
C.F.R.	Code of Federal Regulations
COVID-19	coronavirus disease 2019
DOL	U.S. Department of Labor
FEMA	Federal Emergency Management Agency
LWA	Lost Wages Assistance
NASWA	National Association of State Workforce Agencies
SWA	state workforce agency
U.S.C.	United States Code
UI	unemployment insurance



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Background

On March 27, 2020, Congress enacted the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act),¹ which provided unemployment insurance (UI) benefits to individuals who lost work due to the coronavirus disease 2019 (COVID-19) pandemic. On August 8, 2020, the President issued a memorandum directing the Federal Emergency Management Agency (FEMA) to provide up to \$44 billion in lost wages assistance (LWA) from the U.S. Department of Homeland Security Disaster Relief Fund to individuals unemployed or partially unemployed because of the pandemic.² This program was authorized under the Other Needs Assistance category of FEMA's Individuals and Households Program.³

Obtaining Lost Wages Assistance

FEMA did not make LWA payments directly to claimants. Instead, FEMA provided funding to the state workforce agencies (SWA) of the participating state and territories, which delivered the LWA in conjunction with the SWAs' existing UI systems, as required by the Presidential Memorandum.

Oversight and direction of the national UI program falls under the purview of the U.S. Department of Labor (DOL).⁴ The DOL Office of Inspector General conducts independent oversight of the UI program through audits to strengthen the integrity and efficiency of the program and criminal investigations to detect and deter large-scale fraud.

For a state or territory to participate in the LWA program, its SWA applied to FEMA for a grant. As part of the application, the SWA completed a state administrative plan, based on a FEMA template, and submitted the plan to FEMA for approval. The administrative plan described the policies and procedures the SWA would use to deliver assistance to eligible individuals. Additionally, each SWA was required to collect claimants' self-certifications that they were unemployed due to the COVID-19 pandemic. FEMA approved LWA grant applications totaling more than \$37.3 billion in grant obligations for

¹ Pub. L. No. 116-136.

² *Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019*, Aug. 8, 2020.

³ According to Title 42, United States Code (U.S.C.) § 5174(a)(1), after a disaster, the Individuals and Households Program provides financial assistance to cover necessary expenses and serious needs not paid by insurance or other sources.

⁴ Congress created the Federal-State UI program in 1935, allowing each state to establish its own laws in accordance with broad Federal requirements.



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49 states, 4 territories, and the District of Columbia.⁵ As of April 2022, \$36.5 billion was expended by the SWAs.

The program paid for a maximum of 6 weeks, from the week ending August 1, 2020, through September 5, 2020, and paid eligible claimants \$300 or \$400 in weekly benefits.⁶ Over the 6-week program period, claimants received weekly LWA to supplement their UI benefits. Claimants did not need to apply separately for the LWA program to receive the supplemental benefits. Instead, they only needed to receive at least \$100 per week from one of nine existing UI programs⁷ and to self-certify that they were unemployed or partially unemployed due to disruptions caused by the pandemic. Eligible claimants could receive as much as \$1,800 in LWA.

Fraudulent Unemployment Insurance Claims and Identity Theft

Since the enactment of the CARES Act, states have experienced a surge in fraudulent unemployment claims involving cyber scams and identity theft. Many of these claims are filed by organized crime rings using stolen identities accessed or purchased from past data breaches, most of which involved larger criminal efforts unrelated to unemployment. Criminals use these stolen identities to fraudulently collect benefits across multiple states.

According to the DOL, most victims of UI program identity theft are unaware that claims have been filed or that benefits have been collected using their identities. Many people only find out they are the victim of UI program identity theft when they receive documentation in the mail, such as UI benefit payments or state-issued 1099-G tax forms that are incorrect or reflect benefits not received.⁸

We conducted this audit to determine to what extent FEMA ensured that states and territories distributed supplemental LWA to eligible recipients.

⁵ South Dakota was the only state that did not apply for or participate in the LWA program. The U.S. territories that participated were the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands.

⁶ The Commonwealth of the Northern Mariana Islands, Guam, Kentucky, and Montana elected to provide \$400 in weekly LWA benefits. All other participating States and territories elected to provide \$300.

⁷ Eligible UI programs included standard Unemployment Compensation (UC), UC for Federal Employees, UC for Ex-Service Members, Pandemic Emergency Unemployment Compensation, Pandemic Unemployment Assistance, Extended Benefits, Short-Time Compensation, Trade Readjustment Allowance, and Payments under the Self-Employment Assistance.

⁸ U.S. Department of Labor, *US Department of Labor Launches Website for Victims of Unemployment Fraud* (Press Release), March 22, 2021.



Results of Audit

FEMA did not implement controls that may have prevented the 21 SWAs in our review from distributing more than \$3.7 billion in improper payments through its LWA program. These 21 SWAs distributed more than 80 percent of the \$36.5 billion of LWA — approximately \$30 billion in total — and later detected \$3.3 billion in potentially fraudulent payments. In addition, we identified \$21.6 million in overpayments and \$403 million in payments made without obtaining claimants' required self-certifications of eligibility for LWA.

This occurred because FEMA launched the LWA program in 11 days, in response to the unprecedented pandemic, without developing and implementing clear guidance for the program or verifying and monitoring the SWAs' controls to ensure they prevented and mitigated improper payments. Instead, FEMA integrated LWA into SWAs' UI program. Many SWAs did not have sufficient controls to prevent fraudulent activities or overpayments, and they relied on self-certifications. Despite repeated warnings from the Department of Labor and our office that self-certifications are not reliably accurate and may lead to improper payments, FEMA did not require controls to mitigate the unreliability of self-certifications to determine claimants' eligibility.

By relying on the states' UI programs (which are susceptible to fraud) to determine claimants' eligibility and distribute LWA, FEMA lost an opportunity to safeguard \$36.5 billion in disbursed LWA, directly affecting its ability to respond to future emergencies and disasters. As a result, we question the more than \$3.7 billion in improper payments distributed by the 21 SWAs that we reviewed

FEMA Did Not Implement Controls to Prevent More than \$3.7 Billion in Improper Payments

FEMA did not prevent the 21 SWAs we reviewed from distributing more than \$3.7 billion in improper payments for the LWA program. According to Office of Management and Budget (OMB) Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Appendix C (June 26, 2018),⁹ "An improper payment is a payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements."¹⁰ In addition, Appendix C states, "Improper payments fall into three categories: intentional fraud and abuse, unintentional payment errors, and instances where the

⁹ We relied on the version of Appendix C that was in effect at all relevant times during our review period.

¹⁰ OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Appendix C, June 26, 2018, p. 8.



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documentation for a payment is so insufficient that the reviewer is unable to discern whether a payment is proper.”¹¹

See Table 1 for a breakdown of improper payments by the number of SWAs affected, amounts paid, and number of recipients who received the benefit. See Appendix C for a breakdown of improper payments by SWA.

Table 1. Total Improper Payment Amounts and Recipients

Improper Payment Type	No. of SWAs	No. of Recipients	Total Payment
Potential Fraud	20	2,290,844	\$3,320,233,495
Overpayments	14	14,801	21,576,048
Missing Self-Certifications	11	294,762	403,134,421
Total Improper Payments			\$3,744,943,964

Source: Department of Homeland Security Office of Inspector General analysis of SWA UI and LWA data

Potential Fraud: Of the \$3.7 billion in improper payments for LWA, FEMA did not implement controls to prevent the 21 SWAs from disbursing more than \$3.3 billion in payments that the SWAs later flagged as potentially fraudulent. According to the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (Stafford Act), FEMA must institute adequate policies and internal controls to prevent waste, fraud, and abuse before approving applications for Other Needs Assistance programs.¹²

\$3.3 Billion

in potentially fraudulent
LWA payments

In addition, FEMA did not ensure SWAs promptly reported allegations of fraud to the DHS OIG Office of Investigations as required by the Code of Federal

Regulations, which states that DHS grant recipients must promptly report allegations of fraud, waste, and abuse to DHS OIG and, if requested, investigate such allegations independently or in conjunction with DHS OIG.¹³

¹¹ *Id.* at 5.

¹² 42 U.S.C. § 5174(f)(3)(D).

¹³ 44 Code of Federal Regulations (C.F.R.) § 206.120(d)(3)(ix) and (x).



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Due to the immediate and serious threat of fraud, we issued a management alert¹⁴ with recommendations to correct this issue.

Overpayments: Fourteen of the 21 SWAs made overpayments totaling \$21.6 million to 14,801 claimants. The memorandum authorizing LWA provides up to \$300 per week in LWA to eligible claimants beginning the week ending August 1, 2020, and ending no later than the week ending December 6, 2020. Additionally, FEMA approved 6 weeks of full LWA funding from the week ending August 1, 2020, through September 5, 2020 — a maximum Federal contribution of \$1,800 per claimant.¹⁵ We determined that states paid these claimants more than the maximum allowable amount, with the highest payment total equaling \$30,600.

Missing Self-Certifications: Eleven of the 21 SWAs distributed \$403 million in improper payments to 294,762 claimants for whom the SWAs could not produce the required self-certifications for eligibility. According to the Presidential Memorandum, claimants must self-certify that they were unemployed or partially unemployed due to disruptions caused by the COVID-19 pandemic.

FEMA's Quick Launch of LWA Led to \$3.7 Billion in Improper Payments

FEMA launched the LWA program without developing and implementing clear guidance for the program or verifying and monitoring the SWAs' controls to ensure they prevented and mitigated improper payments. As shown in Figure 1, FEMA obligated the first LWA grant funds within 11 days of being made aware of the President's intention to further assist individuals unemployed as a result of COVID-19.

¹⁴ Management Alert: *Reporting Suspected Fraud of Lost Wages Assistance*, OIG-22-28, Feb. 28, 2022.

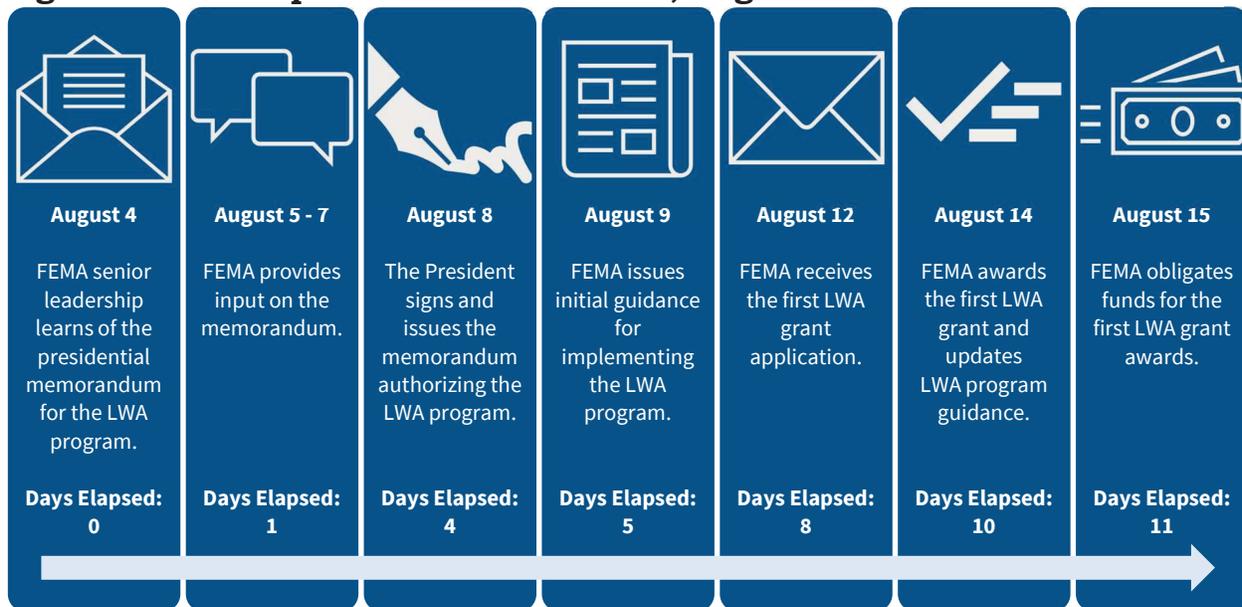
¹⁵ Six weeks of benefits were approved for all SWAs except for the Commonwealth of the Northern Mariana Islands, which requested 3 weeks of benefits; Florida requested 4 weeks; and Idaho requested 5 weeks of benefits for the LWA program.



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Figure 1: LWA Implementation Timeline, August 2020



Source: DHS OIG analysis of FEMA milestones

According to FEMA officials, their goal was to expedite LWA benefits by fitting LWA program requirements into the SWAs' existing UI processes. Consequently, FEMA relied on the SWAs' existing UI processes to determine claimants' eligibility and issue payments even though UI programs, prior to LWA, had an 11 percent improper payment rate — one of the highest rates of all Government programs.¹⁶ Due to the high probability of improper payments, DOL has warned repeatedly that state UI controls, including self-certifications of eligibility, might not be effective at preventing improper payments.

Self-Certifications Are Unreliable for Verifying Eligibility

Before FEMA implemented the LWA program, DOL OIG reported that the Pandemic Unemployment Assistance program¹⁷ was susceptible to fraud, concluding that solely relying on self-certifications leads to increased improper

¹⁶ Advisory Report: *CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions*, DOL OIG Report No. 19-20-001-03-315, April 21, 2020, p. 10.

¹⁷ The Pandemic Unemployment Assistance program was created as part of the CARES Act in March 2020 to assist individuals who would not normally be eligible for UI benefits (i.e., self-employed people, independent contractors, and freelancers). To receive Pandemic Unemployment Assistance program benefits, claimants merely needed to self-certify they were unemployed or unable to work because of the pandemic and that they did not qualify for regular UI benefits under Federal law.



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payments.¹⁸ As DOL OIG explained in its report, Pandemic Unemployment Assistance claimants generally only needed to “check a box” to receive benefits.

DOL OIG also issued an advisory report¹⁹ raising concerns over the implementation of the CARES Act’s UI provisions. DOL OIG’s concerns covered areas such as initial eligibility determinations, benefit amounts, improper payment detection and recovery, and program monitoring. The findings represent years of oversight work related to DOL’s UI oversight program, including the use of prior stimulus funds and DOL’s response to past natural disasters. DOL OIG’s findings are directly related to the LWA program because claimants need to be eligible for state UI programs to qualify for LWA.

The use of self-certifications cannot be written off as a one-time pandemic-era solution that will not be relevant in future crises. We have issued two recent reports warning FEMA that relying on self-certifications without requiring documentation and verification may lead to susceptibility to fraudulent or improper payments.²⁰ Further, after FEMA administered the LWA program, the Small Business Administration’s OIG reported that reliance on self-certifications for a similar pandemic program, the Economic Injury Disaster Loan program, resulted in entities receiving millions in potentially ineligible benefits.²¹ Finally, the Pandemic Response Accountability Committee reported in February 2022 that ambiguous Federal guidance about administering UI payments to claimants who self-certify unemployment has hampered the SWAs’ ability to prevent UI fraud.²²

FEMA Did Not Assess Fraud Risk before Implementing the LWA Program

Although UI program risk is well documented, FEMA did not conduct the necessary internal reviews or studies on fraudulent activity in UI programs before launching its LWA program. If it had, FEMA would have been better positioned to identify potential areas of concern in UI programs and reduce fraud in the LWA program.

A FEMA official informed us that after obtaining the Presidential Memorandum,

¹⁸ Alert Memorandum: *The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud*, DOL OIG Report No. 19-20-002-03-315, May 26, 2020.

¹⁹ Advisory Report: *CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions*, DOL OIG Report No. 19-20-001-03-315, April 21, 2020.

²⁰ *FEMA Has Made More than \$3 Billion in Improper and Potentially Fraudulent Payments for Home Repair Assistance since 2003*, OIG-20-23, Apr. 6, 2020; and *FEMA Has Paid Billions in Improper Payments for SBA Dependent Other Needs Assistance since 2003*, OIG-20-60, Aug. 12, 2020.

²¹ *Inspection of Small Business Administration’s Initial Disaster Assistance Response to the Coronavirus Pandemic*, SBA No. 21-02, Oct. 28, 2020.

²² *Best Practices and Lessons Learned from the Administration of Pandemic-Related Unemployment Benefits Programs*, PRAC, Feb. 16, 2022.



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FEMA had internal discussions about fraud risk assessments. However, a full risk assessment did not occur before the program launched and was not completed until at least a full year after the LWA program was initiated. A FEMA official stated that FEMA took a few “shortcuts” while planning the program, but said the shortcuts were deemed manageable.

Two days before implementing LWA, FEMA sent an internal communication identifying potential LWA risks, but the communication did not mention fraud. Instead, it focused on the impact of LWA on FEMA’s mission, funding availability for other disasters, and the time it would take to implement the program. Officials from 18 of the 21 SWAs we interviewed confirmed that FEMA did not discuss fraud risk with them before implementing the LWA program. Consequently, we identified potentially fraudulent claims in 20 of the 21 SWAs reviewed, and none of those SWAs reported the fraud to FEMA.

FEMA Did Not Develop and Implement Clear Program Guidance

According to FEMA officials, FEMA’s goal was to expedite LWA benefits by fitting the program requirements into existing UI processes. A FEMA official told us FEMA instructed the SWAs to follow their existing procedures because FEMA did not want to create an “additional burden” for them. However, officials from 10 of the 21 SWAs we interviewed stated that FEMA did not provide formal guidance on implementing the LWA program. Additionally, 7 of 21 SWAs did not believe FEMA provided enough guidance for verifying LWA claimants’ eligibility.

Although FEMA implemented the LWA program quickly, it should have prioritized clear guidance for the SWAs. The SWAs have not always successfully prevented and mitigated improper UI payments, which had a direct impact on their ability to determine eligibility for LWA. DOL OIG has reported that SWAs have generally been slow to modernize their UI systems, leading to inaccurate payments.²³ DOL OIG has also noted that SWA systems do not always prevent fraud during initial eligibility determinations or detect fraud later if those determinations fail. In addition, DOL OIG identified that SWAs’ systems may allow activities that are high risk or that are common fraud indicators, such as filing of unemployment claims in multiple states, auto-populating UI applications with claimants’ employment history, allowing claims to be filed through anonymous Internet Protocol addresses, providing benefits through non-state-issued prepaid debit cards, and allowing inconsistent or unstructured communication between state tax and employment departments.

Finally, DOL OIG reported that SWAs do not have sufficient systems, alternative controls, and oversight in place to ensure appropriate payment

²³ Advisory Report: *CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions*, DOL OIG Report No. 19-20-001-03-315, April 21, 2020.



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durations and amounts. For the 21 SWAs we reviewed, we determined the improper payment rate for LWA to be approximately 13 percent, which exceeds the 11 percent improper rate for UI programs.

FEMA Did Not Verify That SWAs' Controls Existed

FEMA did not verify that SWAs had included activities in their administrative plans that would effectively prevent improper payments. Additionally, FEMA did not include a fraud prevention requirement; it only required the SWAs to report and investigate fraud after assistance was disbursed.

Moreover, FEMA did not ensure that the states' UI systems could limit the maximum LWA payment per claimant. The SWAs' administrative plans listed the allowable payment amounts, but FEMA only required states to have procedures to disburse the funds to eligible claimants, not to limit the total payment amount per claimant.

Officials from all 21 SWAs stated that they tested their UI systems to ensure that only eligible claimants received LWA payments and that they received the correct amounts. However, 17 SWAs still paid claimants who were not eligible to receive LWA because they did not have the required self-certification on file or had already received the maximum LWA benefit amount.

Further, one SWA UI system could not capture the self-certifications required. An official from that SWA stated that although it could provide indicators from one of its pandemic-related unemployment systems, the regular UI system does not capture self-certifications. This SWA made \$341 million in LWA payments to claimants with no self-certifications — more than 85 percent of the \$403 million total paid to claimants with no self-certifications.

FEMA Did Not Monitor SWAs' Implementation of Existing Controls

FEMA did not monitor the SWAs to ensure that the SWAs followed the existing controls described in their administrative plans to mitigate the risk of improper payments, especially fraudulent payments. Because of FEMA's lack of oversight, SWAs did not always comply with the fraud reporting requirement or use fraud prevention and investigative tools, such as the National Association of State Workforce Agencies' (NASWA) Integrity Data Hub.²⁴

Of the 54 SWAs' approved administrative plans, 38 did not include the regulatory requirement to promptly report fraud allegations to the DHS OIG Office of Investigations. According to a FEMA official, FEMA had omitted the requirement from the original template on which the SWAs' plans were based. Although FEMA later updated the template to include the requirement, it did

²⁴ DOL gives the SWAs free access to the data hub through a grant.



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not direct the 38 SWAs to update their approved plans. Moreover, FEMA officials said they did not reinforce the reporting requirement or other fraud-prevention actions to the SWAs, nor did FEMA verify the adequacy of the actions the SWAs provided in their plans. Our February 2022 management alert included recommendations to correct these issues.²⁵

In addition, FEMA did not require SWAs to use NASWA's Integrity Data Hub, which allows SWAs to crossmatch UI data to identify and prevent payment of claims filed in more than one state or territory.²⁶ Just 10 of the 54 SWAs' administrative plans included the data hub, and our analysis of NASWA data revealed that just 4 of those 10 SWAs used the data hub between July 25 and September 5, 2020. Only one of those 4 SWAs used the data hub consistently during all 6 weeks LWA was available, and we did not identify any instances of multistate claims from this SWA. Had FEMA required SWAs to use this tool, the number of claims made in multiple states might have been reduced.

When asked whether FEMA had verified that the SWAs took the actions they listed in their plans, a FEMA official responded that FEMA "had not conducted enhanced monitoring" to verify the SWAs' actions. FEMA's only monitoring of LWA was through receipt and review of daily U.S. Treasury reports, weekly reports, and quarterly financial reports.

Conclusion

By relying on states' UI programs to distribute LWA funds, FEMA lost an opportunity to solidify controls over a multi-billion-dollar program that was already susceptible to fraud. FEMA also did not protect the Disaster Relief Fund from improper payments. Recovering these funds may be difficult, directly affecting FEMA's ability to respond to future emergencies and disasters.

As a result, we question the more than \$3.7 billion in improper payments distributed by the 21 SWAs we reviewed. In addition, we reiterate that self-certifications are insufficient documentation of claimants' eligibility for financial assistance.

²⁵ Management Alert: *Reporting Suspected Fraud of Lost Wages Assistance*, OIG-22-28, Feb. 28, 2022.

²⁶ Alert Memorandum: *The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud*, DOL OIG Report No. 19-21-002-03-315, Feb. 22, 2021.



Recommendations

Recommendation 1: We recommend the FEMA Administrator develop and implement a standard risk assessment process before initiating new Federal grant programs. This risk assessment should focus on identifying and evaluating program risks that may affect FEMA's ability to prevent waste, fraud, and abuse in its programs and mitigating those external risks to the extent practical.

Recommendation 2: We recommend the FEMA Administrator, when mandated to rely on eligibility determinations of non-FEMA programs, develop a process to assess the program controls and identify risk to the extent practical.

Recommendation 3: We recommend the FEMA Administrator update the State Administrative Plan template to incorporate a requirement for grantees to include a description of the steps to prevent improper payments.

Recommendation 4: We recommend the FEMA Administrator develop and implement a process to monitor whether grantees implement and use the controls attested in FEMA-approved State Administrative Plans.

Recommendation 5: We recommend the FEMA Administrator work with state workforce agencies to evaluate the Lost Wages Assistance program payments and verify that all recipients who received payment have a self-certification on file, as required; to determine whether the claimant meets eligibility requirements if no self-certification is on file; and, if not, to recover the payment.

Recommendation 6: We recommend the FEMA Administrator conduct an after-action study of the Lost Wages Assistance program and update FEMA's Individuals and Households Program based on the lessons learned from the study.

Recommendation 7: We recommend the FEMA Administrator de-obligate and recover any monies determined to have been obtained fraudulently or other improper payments through Lost Wages Assistance from the state workforce agencies.

Management Comments and OIG Analysis

FEMA provided written comments to our draft report in which senior FEMA leadership disagreed with our conclusion that FEMA did not implement fraud prevention controls and contends our conclusion of \$3.7 billion in improper payments is extrapolated. FEMA considers the LWA policies and procedures it



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developed to be sufficient; FEMA asserts it coordinated with external parties, including NASWA, to identify areas of potential risk; and FEMA's Individual Assistance Division issued a memo alerting the SWAs of their obligation to investigate allegations of fraud, waste, and abuse and report those activities to us. We have reviewed FEMA's comments, as well as technical comments submitted under separate cover, and updated the report as appropriate. Appendix B contains FEMA's complete management response. FEMA concurred with recommendations 1, 2, and 7, but did not concur with recommendations 3, 4, 5, and 6. The following is our analysis of FEMA's comments and response to each recommendation.

OIG Response to Overall Management Comments

Although we applaud FEMA's efforts to implement the LWA program in 11 days, it came at the expense of implementing thorough fraud prevention controls. As noted, FEMA's senior leadership disagreed with our conclusion. FEMA's response emphasizes its focus on detection controls as a means to mitigate fraud. However, we have presented strong evidence that supports our findings and the value of implementing preventative controls as an inherent part of the program planning process, instead of relying upon detection controls. FEMA's policies did not require SWAs to implement controls to prevent fraud from occurring. Instead, SWAs focused on detecting fraud after the fraudulent activity had already occurred. FEMA's reactive approach to fraud prevention is in direct contradiction to its Stafford Act responsibilities and thus jeopardized approximately \$44 billion in disaster relief funding.

FEMA asserted it coordinated with external parties, including NASWA, to identify areas of potential risk. Unfortunately, those coordination efforts did not lead to implementation of additional preventative controls, and FEMA did not provide any quantifiable evidence that the coordination prevented fraud or identity theft. For example, NASWA's Integrity Data Hub is a free tool available to SWAs aimed at preventing fraudulent payments of UI benefits in multiple states. Despite coordinating with NASWA, FEMA missed an opportunity to incorporate this tool into the LWA program as a fraud prevention layer. Further, FEMA's coordination largely focused on differentiating LWA program payments from the underlying UI payments, which does not constitute a preventative control.

In addition, FEMA's Individual Assistance Division did not issue its memo alerting the SWAs of their obligation to investigate allegations of fraud, waste, and abuse to the DHS OIG until 18 months after the program began, and not until we brought the issue to FEMA's attention.²⁷ Further, even then, FEMA did not interact directly with SWAs, but instead relied on the DOL to

²⁷ Management Alert – *Reporting Suspected Fraud of Lost Wages Assistance* OIG 22-28 (Feb. 28, 2022).



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disseminate the guidance. Although FEMA's actions were an appropriate response to the management alert, the communication would have served more effectively as a preventative control if it had been issued at the start of the program.

Finally, we disagree with FEMA's assertion that our \$3.7 billion improper payments figure is extrapolated. The amount we identified is based on our analysis of raw data and is not an inference of a statistical sample.

FEMA did not implement appropriate controls to prevent fraud before it occurred and did not monitor SWAs to ensure they implemented the controls they attested to as a condition of receiving the LWA grant. As FEMA did not implement preventative controls, it did not protect the Disaster Relief Fund from more than \$3.7 billion in improper payments identified in this report.

FEMA Response to Recommendation 1: Concur. Senior FEMA leadership believes FEMA already has adequate internal controls in place to provide an equivalent level of assurance of mitigating fraud, waste, and abuse as would be provided by a risk assessment. For example, FEMA expressly informed all recipients and subrecipients of grants that they are subject to specific fraud prevention and detection measures. Additionally, FEMA's Recovery and Fraud Investigations and Inspections Division coordinated with internal and external stakeholders to mitigate LWA program risks, such as ensuring the grant award included the responsibility and requirement of states to reimburse FEMA for benefits deemed to be improper. FEMA asked us to consider this recommendation resolved and closed, as implemented.

OIG Analysis: Although FEMA concurred with the recommendation, its actions are not fully responsive. FEMA asserted it already has adequate controls in place, but we found FEMA's risk assessment of the LWA program was ad hoc and did not result in clear preventative and mitigating controls. FEMA also provided no evidence that it has a methodical risk assessment process to ensure new grant programs' processes mitigate fraud. Finally, we do not consider recovery of assistance awards obtained improperly, as already required by 44 C.F.R. 206.120(f)(5), to be a part of a programmatic risk assessment. This recommendation will remain open and unresolved until FEMA provides documentation showing a standard risk assessment process for future grant programs.

FEMA Response to Recommendation 2: Concur. FEMA's Recovery and Fraud Investigations and Inspections Division concluded that assessing the program controls on every state unemployment system was neither practical nor reasonable. Consequently, FEMA's Individual Assistance Division relied on guidance from its partners at DOL to put in place fraud prevention measures in



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a timely manner at the start of the program. FEMA asked us to consider this recommendation resolved and closed.

OIG Analysis: Although FEMA concurred with the recommendation, its actions are not fully responsive. FEMA asserts that assessing the eligibility determinations of every participating state's unemployment system is unrealistic. However, our recommendation's intent is to provide reasonable assurance that FEMA considered and mitigated the risks associated with external programs. For example, we found well-known weaknesses with the Pandemic Unemployment Assistance program's reliance on self-certification statements, which were reported before the LWA program was implemented. This recommendation will remain open and unresolved until FEMA provides documentation showing that it developed and implemented a process to assess the eligibility controls of non-FEMA programs when it is required to rely on them.

FEMA Response to Recommendation 3: Non-Concur. Senior FEMA leadership believes FEMA already administers a monitoring program that oversees the process of grantee routine financial reporting, such as submitting and reviewing the *Federal Financial Report* (SF-425), as well as desk reviews and site visits. FEMA asked us to consider this recommendation resolved and closed.

OIG Analysis: We do not consider FEMA's actions responsive to this recommendation. FEMA asserted it reviews SF-425s as part of its monitoring process. However, FEMA's process for reviewing SF-425s does not address the intent of the recommendation, which is to require grantees to describe their actions for preventing improper payments. This recommendation will remain open and unresolved until FEMA updates the state administrative plan template with a requirement for grantees to include a description of the steps that they plan to take to prevent improper payments.

FEMA Response to Recommendation 4: Non-Concur. Senior FEMA leadership believes FEMA currently has sufficient internal controls to support fraud prevention and detection. For example, all recipients and subrecipients of FEMA grant awards are informed they are subject to fraud prevention measures. In addition, FEMA's Recovery and Grants Program Directorate provides notice to grantees that programmatic monitoring must be performed to ensure effective grants management. FEMA asked us to consider this recommendation resolved and closed, as implemented.

OIG Analysis: We do not consider FEMA's actions to be responsive to this recommendation. FEMA asserted that providing notice to grant recipients of their responsibility to perform programmatic grant monitoring is a sufficient fraud prevention measure. However, this is not a substitute for monitoring



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SWAs to ensure they implemented the controls attested to in their state administrative plans. Further, FEMA's response does not acknowledge its responsibility to monitor grantees' implementation of Other Needs Assistance programs, as required in the Stafford Act. Finally, as shown in the audit report, FEMA did not identify that 60 percent of SWA's did not use NASWA's Integrity Data Hub, despite their attestation to the contrary in their administrative plans. Monitoring grant recipients' controls is a best practice. This recommendation will remain open and unresolved until FEMA provides documentation showing that it developed and implemented a process to monitor grantees to ensure implementation of the controls attested to in state administration plans.

FEMA Response to Recommendation 5: Non-Concur. Senior FEMA leadership stated that each individual SWA is responsible for maintaining proper documentation and determining eligibility requirements. FEMA asked us to consider this recommendation resolved and closed, as implemented.

OIG Analysis: We do not consider FEMA's actions to be responsive to this recommendation. Contrary to how FEMA responded to this recommendation in its written management response, during a meeting to discuss our findings, a FEMA official stated that FEMA plans to conduct an internal review to identify improper payments. FEMA plans to satisfy this requirement during the grant closeout process to satisfy improper payment reporting as required by the *Payment Integrity Information Act*. Specifically, FEMA plans to review a statistical sample of LWA payments to determine whether the payments meet the LWA program requirements laid out in the Presidential Memorandum. Part of this testing, according to FEMA, would be verifying whether self-certifications are on file. Additionally, FEMA concurred with recommendation 7, which indicates that FEMA knows it has some responsibility for improper payments. This recommendation will remain open and unresolved until FEMA provides documentation showing that it has verified recipients who received payment have a self-certification on file.

FEMA Response to Recommendation 6: Non-Concur. Senior FEMA leadership does not believe that conducting an after-action study would be a prudent use of its limited resources because (1) the LWA program was a one-time form of assistance during an unprecedented national pandemic, (2) FEMA does not anticipate being directed to implement this form of assistance again, and (3) all LWA awards are currently in closeout. FEMA asked us to consider this recommendation resolved and closed.

OIG Analysis: We do not consider FEMA's actions fully responsive to this recommendation. FEMA's position on the value of an after-action study is inconsistent with internal and external priorities. Specifically, FEMA's 2023



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congressional budget justification²⁸ requests funding for COVID-19 pandemic after-action studies. Additionally, in an August 1, 2022, letter²⁹ to DHS, Congress explicitly inquired how DHS, as the White House National Monkeypox Coordinator, is applying lessons learned from the COVID-19 pandemic to the response to the monkeypox outbreak. Finally, this recommendation aligns with the *2022–2026 FEMA Strategic Plan* for quickly adapting to atypical Stafford Act disaster categories. This recommendation will remain open and unresolved until FEMA provides after-action study results on the LWA program.

FEMA Response to Recommendation 7: Concur. Senior FEMA leadership stated that ongoing investigations prevent the Recovery Division from working with the SWAs to help them recover funds from individuals. In addition, FEMA’s Individual Assistance Division requires SWAs to identify overpayments as part of the LWA closeout process and repay identified improper payments not otherwise waived. Moreover, FEMA cannot act until appeal rights associated with ongoing investigations are concluded and final amounts owed are determined. Currently, the final amounts owed back to FEMA are unknown. FEMA asked us to consider this recommendation resolved and closed.

OIG Analysis: FEMA’s actions are responsive to this recommendation. The recommendation will remain open and resolved until FEMA has formally closed out all LWA grants and quantified the improper payment amounts it plans to recover and provides documentation showing that all planned corrective actions are completed.

²⁸ FEMA *Budget Overview, Fiscal Year 2023, Congressional Justification*, page 81.

²⁹ U.S. House of Representatives, Committee on Homeland Security, Letter to Department of Homeland Security, Aug. 1, 2022.



Appendix A

Objective, Scope, and Methodology

DHS OIG was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*.

We conducted this audit to determine to what extent FEMA ensured that states and territories distributed LWA to eligible recipients. To answer this objective, we reviewed the Presidential Memorandum on *Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019* and Federal laws and regulations related to Other Needs Assistance and applicable underlying UI programs. We reviewed FEMA's internal control processes, fraud risk processes, policies, procedures, and guidance related to the LWA program. Additionally, we reviewed congressional testimony and prior audit reports related to our audit objective, including reports from DHS OIG, the Government Accountability Office, DOL OIG, the Small Business Administration OIG, and the Pandemic Response Accountability Committee. We relied on the work of DOL OIG and the Small Business Administration OIG. We obtained these agencies' peer reviews to ensure that any work cited was reliable for our audit objective.

In planning and performing our audit, we identified the internal control components and underlying internal control principles that were significant to the audit objective. Specifically, we reviewed FEMA's organizational structure, policies and procedures, and monitoring controls. We identified internal control deficiencies that could adversely affect FEMA's ability to ensure only eligible recipients received FEMA's disaster relief funds for supplemental LWA. However, because we limited our review to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of our audit.

We conducted eight interviews with personnel from FEMA's Individual Assistance Division, Office of the Chief Financial Officer, Office of Chief Counsel, and Grant Programs Directorate to understand their roles and responsibilities over the LWA program. Additionally, we interviewed officials from 21 SWAs to understand the guidance FEMA provided during the program's implementation and the policies and procedures in place to ensure LWA was provided to only eligible recipients. Due to COVID-19 travel restrictions, we held virtual meetings and interviews to answer our audit objective and substantiate claims made throughout the audit.

We judgmentally selected 21 of the 54 SWAs that participated in LWA for our testing to identify improper payments. We based our judgmental selection on the amount of funding each state received from FEMA under the LWA program. We selected 18 of the 19 SWAs that received the most funding in the program,



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as well as 3 of the 5 SWAs that received the least funding (to ensure coverage of the small SWAs). We believe the coverage was adequate for our judgmental selection because the 21 SWAs accounted for 81 percent of the total dollar obligations in the LWA program and covered both larger and smaller LWA funding recipients.

We coordinated with each of the 21 SWAs to obtain the most recent LWA payment data, and we tested 100 percent of the LWA payments in the data to identify improper payments made to ineligible recipients. Our tests were to identify LWA funds paid under potentially fraudulent claims, paid more than the maximum allowable LWA amount per recipient, and paid to applicants who did not self-certify they were unemployed due to COVID-19.

Each data set provided by the SWAs contained a fraud indicator, which the SWA used to flag any potentially fraudulent payments. We considered a claim potentially fraudulent if an SWA flagged the claim for fraud within its unemployment system. We analyzed the data to pull all claims the SWA flagged as potentially fraudulent, and we calculated the total amount of LWA paid under these claims and the number of recipients associated with the potentially fraudulent claims for each SWA.

Additionally, each data set provided by the SWAs contained a self-certification identifier. We considered a claim to lack self-certification if the SWA could not provide a self-certification or if claimants did not state they were unemployed or partially unemployed due to COVID-19. We removed from this data set any payments flagged as potentially fraudulent to avoid double counting funds when we identified improper payments. We then analyzed the data file to identify all LWA funds paid by SWAs to recipients who did not self-certify they were unemployed due to COVID-19. We calculated the total amount of LWA paid under these claims and the number of recipients associated with the claims for each SWA.

We also analyzed each data set to identify whether the SWA paid more than the maximum allowable amount in LWA funds to any recipient. We considered a claim to be an overpayment if the state paid an LWA claimant more than \$300 for every week eligibility was claimed. We first removed from this data set any payments flagged as potentially fraudulent and any payments missing a self-certification to avoid double counting the funds when we identified improper payments. We then added the total LWA funds received by each Social Security Number. We calculated the overpayment by subtracting the maximum allowable LWA amount for each recipient from the total amount paid to each recipient.

Finally, we analyzed the approved administrative plans for each SWA that participated in the LWA program. We reviewed each approved administrative



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plan to determine whether the SWAs provided sufficient information about the necessary procedures for interacting with eligible individuals.

In addition, we performed data reliability testing on the LWA datasets provided by SWAs. Specifically, we matched the SWA datasets against LWA expenditure data from FEMA's Integrated Financial Management System, the official accounting and financial system used for internal and external financial reporting, to determine the completeness of the SWAs' datasets. We also interviewed officials with all 21 SWAs to learn about the system controls they had in place to ensure data reliability. After our assessments, we concluded the data was sufficiently reliable to support the findings, recommendations, and conclusions in the report.

We conducted this performance audit between June 2021 and July 2022 pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.



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Appendix B
FEMA Comments on the Draft Report

U.S. Department of Homeland Security
Washington, DC 20472



August 24, 2022

MEMORANDUM FOR: Joseph V. Cuffari, Ph.D.
Inspector General

FROM: Paul Judson 
Acting Associate Administrator
Office of Policy and Program Analysis

SUBJECT: Management Response to Draft Report: “FEMA Did Not Prevent More than \$3.7 Billion in Improper Payments from the Lost Wages Assistance Program” (Project No. 21-040-AUD-FEMA)

Thank you for the opportunity to comment on this draft report. The Federal Emergency Management Agency (FEMA) appreciates the work of the Office of Inspector General (OIG) in planning and conducting its review and issuing this report.

Senior FEMA leadership is pleased to note OIG’s recognition that FEMA implemented the Lost Wages Assistance (LWA) program within 11 days after being directed via Presidential Memorandum¹ on August 8, 2020, to provide relief additional to the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136, enacted on March 27, 2020). FEMA is also proud that the first LWA award was made just six days after (on August 14, 2020) issuance of the Presidential Memorandum.

Nevertheless, senior FEMA leadership *disagrees* with the OIG’s extrapolated conclusion that FEMA allowed state workforce agencies (SWAs) to distribute more than \$3.7 billion in improper payments, nor did FEMA develop and implement guidance and program controls to prevent and mitigate improper payments and fraud. To the contrary, for example, FEMA developed and released the “Lost Wages Supplemental Payment Assistance Guidelines,” dated April 22, 2022,² which included “Frequently Asked Questions About Receiving Supplemental Payments for Lost Wages” (FAQ) written in coordination with the Department of Labor (DOL) to enable states to effectively implement LWA and manage their grants. Specifically, the FAQ notes that states,

¹ <https://trumpwhitehouse.archives.gov/presidential-actions/memorandum-authorizing-needs-assistance-program-major-disaster-declarations-related-coronavirus-disease-2019/>

² <https://www.fema.gov/disaster/coronavirus/governments/supplemental-payments-lost-wages-guidelines>



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territories, and the District of Columbia workforce agencies have an obligation to expeditiously investigate and report any evidence of fraud, waste or abuse to the DHS OIG; and the FAQ address roles and responsibilities for recovering overpayments and returning improper payments to FEMA.

In keeping with FEMA's commitment to fiscal responsibility, FEMA was also proactive in mitigating risks associated with potential fraud related to LWA. For example, in early August 2020, FEMA Recovery's Individual Assistance (IA) Division, Office of Chief Counsel, and Office of the Chief Security Officer's Fraud Investigations and Inspections Division (FIID) engaged with the DHS OIG's Major Fraud and Corruptions Unit (MFCU), the DOL OIG, and the National Association of State Workforce Agencies (NASWA) to discuss the LWA program, possible information or data sharing, risks the program presented, and potential ways to mitigate those risks. This coordination included, among other things, the sharing of FEMA's Automated Clearing House header with DHS OIG, DOL OIG, and NASWA providing information enabling those agencies to identify FEMA payments, perform data analytics, collect funds disbursed due to fraudulent activity, and potentially prevent the disbursement of funds to ineligible recipients.

On February 9, 2022, FEMA's IA Division also provided an alert via email to DOL for distribution to remind all state, territory, and District of Columbia workforce agencies participating in the LWA program of their obligation to expeditiously investigate and report to the DHS OIG any evidence or allegations of fraud, waste, and abuse in their LWA programs, or by claimants. The alert stated that SWAs must also investigate allegations of fraud, waste, and abuse independently or in conjunction with DHS OIG, if requested by DHS OIG. On February 14, 2022, the DOL issued the alert to FEMA's LWA recipients (i.e., SWAs) in all states, territories, and the District of Columbia.

In addition to these fraud mitigation actions designed specifically for LWA, FEMA requires SWAs as part of the grant closeout process to: (1) identify overpayments; (2) describe their procedures used to waive overpayments as allowed under certain circumstances pursuant to Section 262 of the "Continued Assistance for Unemployed Workers Act of 2020;" and (3) repay FEMA for all identified overpayments not waived under Section 262, whether they recover the funds or not from claimants.

FEMA remains committed to helping people before, during, and after disasters. Leadership believes the LWA program represents a powerful example of FEMA's ability to provide critical aid to survivors during a national emergency. FEMA's successful implementation of this program within days of authorization ensured tens of millions of people adversely affected by the COVID-19 pandemic were able to receive much-needed financial assistance.



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The draft report contained seven recommendations, including three with which FEMA concurs (Recommendations 1, 2, and 7), and four with which FEMA non-concurs (Recommendations 3, 4, 5 and 6). Enclosed find our detailed response to each recommendation. FEMA previously submitted technical comments addressing several accuracy, contextual and other issues under a separate cover for OIG's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions.

Enclosure



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Enclosure: Management Response to Recommendations Contained in 21-040-AUD-FEMA

OIG recommended the FEMA Administrator:

Recommendation 1: Develop and implement a standard risk assessment process before initiating new Federal grant programs. This risk assessment should focus on identifying and evaluating program risks that may affect FEMA's ability to prevent waste, fraud, and abuse in its programs and mitigating those external risks to the extent practical.

Response: Concur. Senior FEMA leadership believes it has already internal controls to support fraud prevention and detection measures that provide an equivalent level of assurance for identifying and mitigating waste, fraud, and abuse as would be provided by a risk assessment. For example, all recipients and subrecipients of FEMA grant programs are expressly informed they are subject to specific fraud prevention/detection measures through the application of federal standards within each program.

In addition, FEMA Recovery and FIID took further actions regarding internal controls when implementing the LWA program. Since early August 2020, for example, FEMA FIID coordinated with internal and external stakeholders to mitigate risks associated with potential fraud within the LWA. The grant pre-award coordination meetings with the DOL OIG and FIID determined the inherent risks associated with administering the LWA program, and FEMA Recovery and FIID accordingly implemented risk mitigation techniques, such as ensuring the grant award included the responsibility and requirement of states to reimburse FEMA for benefits deemed to be improper. Based on the numerous discussions between FEMA and the SWAs during the application phase, FEMA believes communication of this requirement as a condition of award raised awareness by the states to control and detect fraud at the beginning of their process in developing and administering LWA.

We request the OIG consider this recommendation resolved and closed, as implemented.

Recommendation 2: When mandated to rely on eligibility determinations of non-FEMA programs, FEMA develop a process to assess the program controls and identify risk to the extent practical.

Response: Concur. Pursuant to the “Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019,” dated August 8, 2020, states, territories, and the District of Columbia administered delivery of the LWA program in conjunction with existing unemployment insurance systems. Accordingly, as previously mentioned in this management response letter, FEMA key stakeholders (including the Recovery Directorate’s IA Division, Office of

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Chief Counsel, and Office of the Chief Security Officer's FIID) engaged with the DHS OIG's MFCU; DOL OIG; and the NASWA to discuss the LWA program. These discussions included potential ways to mitigate those risks prior to implementing LWA, as well as discussion of concerns over fraud and identify ways to minimize risk. Overall, FEMA FIID concluded that performing an assessment of the program controls on each of the state unemployment systems was neither practicable nor reasonable for FEMA nor each state unemployment agency to complete. Consequently, FEMA IA relied on guidance from its partners at DOL to put in place fraud prevention measures in a timely manner at the onset of the program.

We request the OIG consider this recommendation resolved and closed.

Recommendation 3: Update the State Administrative Plan template to incorporate a requirement for grantees to include a description of the steps to prevent improper payments.

Response: Non-concur. FEMA Grant Programs Directorate (GPD) already administers a robust financial monitoring program that oversees the process of grantee routine financial reporting such as submission and review of the SF-425, (the required financial status spending report), as well as enhanced monitoring activities such as desk reviews and site visits. For instance, GPD publishes the Financial Monitoring Protocol for agency-wide use, which ensures uniformity in how the grantees are monitored for Federal financial compliance in the administering of the grant when reviewing their policy and procedures, as well as ensuring their expenditures agree with their spend plan. Some of the elements of financial monitoring focus on the appropriateness of grantee expenditures aimed to detect and prevent improper payments. In addition, GPD's Notice of Funding Opportunity template advises that recipients and subrecipients who are pass-through entities are responsible for monitoring their subrecipients in a manner consistent with the terms of the federal award at Title 2, Code of Federal Regulations, Part 200, including § 200.332. This includes the pass-through entity's responsibility to monitor the activities of the subrecipient, as necessary, to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

We request the OIG consider this recommendation resolved and closed.

Recommendation 4: Develop and implement a process to monitor whether grantees implement and use the controls attested in FEMA-approved State Administrative Plans.

Response: Non-concur. Senior FEMA leadership believes it currently has sufficient internal controls to support fraud prevention and detection measures. For example, as previously noted, all recipients and subrecipients of FEMA grant awards are informed they are subject to specific fraud prevention/detection measures through the application

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of federal standards within each program. In addition, as previously mentioned, FEMA FIID works with Recovery and GPD, as well as with grantees, to monitor for potential fraud. Further, Recovery and GPD provide notice to grantees that financial and programmatic monitoring must be performed to ensure effective grants management, accountability, and transparency; validate progress against grant and program goals; and safeguard federal funds against fraud, waste, and abuse.

We request the OIG consider this recommendation resolved and closed, as implemented.

Recommendation 5: Work with state workforce agencies to evaluate the Lost Wages Assistance program payments and verify that all recipients who received payment have a self-certification on file, as required; to determine whether the claimant meets eligibility requirements if no self-certification is on file; and, if not, to recover the payment.

Response: Non-concur. Under the LWA grant awards, it is the responsibility of SWAs to maintain proper documentation and to determine eligibility requirements. FEMA IA already requires SWAs to: (1) identify overpayments as part of the grant closeout process; (2) describe their procedures used to waive improper payments as allowed under certain circumstances pursuant to Section 262 of the Continued Assistance for Unemployed Workers Act of 2020; and (3) repay FEMA for all identified improper payments not otherwise waived, to include all payments made due to fraud, whether they recover the funds or not from claimants.

We request the OIG consider this recommendation resolved and closed, as implemented.

Recommendation 6: Conduct an after-action study of the Lost Wages Assistance program and update FEMA's Individuals and Households Program based on the lessons learned from the study.

Response: Non-concur. As the LWA program was structured to be a one-time form of assistance during an unprecedented national pandemic, senior FEMA leadership does not believe conducting an after-action study would be a prudent expenditure of its limited resources as (1) leadership does not anticipate being directed to implement this form of assistance again in the foreseeable future, and (2) all LWA awards are currently in closeout (i.e., the processing of all remaining obligations or deobligations of funds). Further, no other form of assistance within the IA Program is implemented similarly, or provided to beneficiaries similar enough that these other IA programs would be likely to benefit from any lessons learned study of LWA program. As such, FEMA believes that aligning resources to conduct an after-action study is not justified given the minimal potential benefits that may be gained by documenting lessons learned.

We request the OIG consider this recommendation resolved and closed.



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Recommendation 7: De-obligate and recover any monies determined to have been obtained fraudulently or other improper payments through Lost Wages Assistance from the state workforce agencies.

Response: Concur. Due to ongoing investigations, FEMA Recovery cannot currently work with SWAs to assist them in taking any action to recover funds from individuals without potentially compromising these investigations. In addition, as previously noted, IA already requires SWAs to identify overpayments as part of the LWA closeout process and to repay FEMA for all identified improper payments not otherwise waived, whether they recover the funds from claimants or not. SWAs continue to evaluate overpayments and determine what overpayments can be waived.

Moreover, FEMA is not able to act until any appeal rights associated with ongoing investigations are concluded, and any final amounts owed are determined. Once FEMA IA makes a final determination of an amount owed, it validates the debt and transfers it to the FEMA Finance Center (FFC) for collection. The FFC then bills, monitors, collects, and, in conjunction with the Program Office, tracks the debt. Currently, the final amounts that are owed back to FEMA are unknown, and FEMA will follow FEMA Directive 116-1 (Revision 1), "Identification and Collection of Monies Owed from Non-Federal Entities," dated June 27, 2022, and other relevant guidance and procedures for LWA and applicable policies, as appropriate, to collect funds owed while also ensuring that the Agency does not impede ongoing investigations.

We request the OIG consider this recommendation resolved and closed.



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Appendix C
Breakdown of Improper Payments

State/Territory	SWA-IDENTIFIED POTENTIAL FRAUD		OVERPAYMENTS		SELF-CERTIFICATIONS	
	Total Amount	Number of Recipients	Total Amount	Number of Recipients	Total Amount	Number of Recipients
California	\$ 1,032,079,200	701,308	\$ 4,500	6	\$ 5,996,100	6,149
Michigan	820,397,732	529,267	4,039	4	589,492	435
Ohio	332,156,880	198,570	2,913,240	1,768	2,163,690	1,494
New Jersey	245,094,600	140,766	\$0	0	0	0
Arizona	216,345,426	216,534	3,822,834	2,769	341,216,289	248,114
Texas	206,018,520	134,966	1,800	1	0	0
Florida	175,519,860	170,431	1,200	3	0	0
New York	128,784,482	93,957	408,125	547	0	0
Maryland	88,313,700	56,037	2,481,900	1,539	30,714,600	16,750
Illinois	41,421,600	26,746	6,619,500	4,430	0	0
Tennessee	12,822,750	8,570	192,630	183	0	0
Pennsylvania	11,674,200	7,483	4,646,520	3,288	1,391,700	860
Minnesota	2,905,200	1,760	5,400	8	0	0
Massachusetts	2,646,345	1,793	0	0	0	0
Georgia	1,295,100	779	0	0	7,076,100	8,972
North Carolina	1,105,200	833	0	0	10,453,800	9,230
Virginia	903,300	550	0	0	0	0
Washington	714,900	467	0	0	68,700	41
Wyoming	25,500	22	213,300	156	887,700	588
USVI	9,000	5	0	0	0	0
Guam	0	0	261,060	99	2,576,250	2,129
Total	\$3,320,233,495	2,290,844	\$21,576,048	14,801	\$403,134,421	294,762
Total Improper Payments					\$3,744,943,964	

Source: DHS OIG analysis of SWA UI and LWA data



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Appendix D
Report Distribution

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