U.S. Department of Labor
Office of Inspector General—Office of Audit

REPORT TO THE EMPLOYMENT AND TRAINING ADMINISTRATION

COVID-19: STATES STRUGGLED TO IMPLEMENT CARES ACT UNEMPLOYMENT INSURANCE PROGRAMS

DATE ISSUED: MAY 28, 2021
REPORT NUMBER: 19-21-004-03-315

U.S. Department of Labor
Office of Inspector General
Audit

BRIEFLY…

COVID-19: STATES STRUGGLED TO IMPLEMENT CARES ACT UNEMPLOYMENT INSURANCE PROGRAMS

May 28, 2021

WHY OIG CONDUCTED THE AUDIT

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act with the intent of providing expanded Unemployment Insurance (UI) benefits to workers who were unable to work as a direct result of the COVID-19 pandemic. The expanded UI benefits required the Employment and Training Administration (ETA) to implement major changes to the existing UI system.

This audit focused on the Department of Labor's (DOL) and states' implementation of the three key new UI programs that posed the greatest risk for fraud, waste, and abuse: Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). As of January 2, 2021, federal funding to states for these three UI programs was $392 billion.

WHAT OIG DID

We conducted this performance audit to answer the following question:

> How did DOL and states implement the key UI programs of the CARES Act?

To answer this question, we reviewed the states' initial and continued eligibility determinations, improper payment detection strategies, and compliance with ETA oversight requirements.

READ THE FULL REPORT

https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf

WHAT OIG FOUND

DOL and states struggled to implement the three key CARES Act UI programs. Specifically, DOL's guidance and oversight did not ensure states implemented the programs and paid benefits promptly; performed required and recommended improper payment detection and recovery activities; and reported accurate and complete program activities. This occurred primarily because states' information technology systems were not modernized, staffing resources were insufficient to manage the increased number of new claims, and according to state officials, guidance from ETA was untimely and unclear. We based this on the following:

States had difficulty ensuring programs were implemented and claimants were paid promptly. From passage of the CARES Act to the first payment of a claim it took on average: 50 days for the PEUC program, 38 days for the PUA program, and 25 days for the FPUC program. 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 – pay 87 percent of claimants within 14 or 21 days.

Moreover, many states did not perform required and recommended improper payment detection and recovery activities: 40 percent of states did not perform required cross-matches and 38 percent did not perform required recovery activities.

Furthermore, 42 percent of states did not report CARES Act UI program overpayments to ETA as required. States that did report overpayments, understated the total amount reported by an estimated 89 percent.

As a result, unemployed individuals experienced financial hardships due to delays in receiving benefits. As of January 2, 2021, we estimated at least $39.2 billion in improper payments, including fraud, were at risk of not being detected and recovered, and could have been put to better use.

WHAT OIG RECOMMENDED

We made four recommendations to ETA to improve management oversight of the UI program. ETA agreed with our recommendations and indicated the agency has already taken action to implement some of the recommendations.

TABLE OF CONTENTS

INSPECTOR GENERAL'S REPORT

Suzan G. LeVine
Principal Deputy Assistant Secretary
for Employment and Training
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

This report presents the results of the Office of Inspector General's (OIG) audit of the Employment and Training Administration's (ETA) oversight and administration of states' initial implementation of the Coronavirus Aid, Relief, and Economic Security (CARES) Act's Unemployment Insurance (UI) programs.

On March 27, 2020, Congress passed the CARES Act with the intent of providing expanded UI benefits to workers who were unable to work as a direct result of the COVID-19 pandemic, including the creation of the Pandemic Unemployment Assistance (PUA) program for individuals not traditionally eligible for such benefits. The expanded UI benefits required the ETA to implement major changes to the existing UI system.

This audit focused on the Department of Labor's (DOL) and states' implementation of the three new key UI programs that posed the greatest risk for fraud, waste, and abuse: PUA, Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). As of January 2, 2021, federal funding to states for these three UI programs was $392 billion.

We conducted this performance audit to answer the following question:

> How did DOL and states implement the key UI programs of the CARES Act?

To answer this question, of the 59 states[1] designated as such by the CARES Act, we selected 12 high-risk states for in-depth analysis. See Exhibit 1 for a list of the selected states. The other 47 states not selected were asked to complete survey questionnaires. We assessed the states' efforts to implement the new UI programs, determine initial and continued eligibility, detect improper payments, and comply with ETA oversight requirements from March 27, 2020, to July 31, 2020. Specifically, we examined states' agreements, program funding, UI payment data, fraud prevention and detection plans, and implementation challenges. We also examined and assessed ETA's guidance, plans for information technology (IT) assistance, and oversight.

Background

Each state administers a separate UI program under its laws, but within guidelines established under federal law. DOL's ETA is responsible for providing direction and oversight for the UI system nationwide. The CARES Act created major changes to existing UI coverage, including establishing three new key programs.

- The PUA program extended UI benefits to individuals who were not traditionally eligible for UI benefits until December 31, 2020. This includes self-employed workers, independent contractors, those with limited work history, and others.

- The PEUC program provided up to an additional 13 weeks of unemployment compensation to individuals who had exhausted their regular unemployment benefits until December 31, 2020.

- The FPUC program provided a supplemental payment of $600 per week to individuals receiving traditional and non-traditional UI benefits until July 31, 2020.

The COVID-19 pandemic was historic in its impact on the UI system. This report reflects states' experiences and situations during the audit period and focuses specifically on the challenges states faced in implementing the CARES Act. ETA officials reported that states faced the combined challenges of (1) managing and processing an unprecedented increase in claims volume at an unprecedented pace, (2) making the statutory changes to existing UI programs, and (3) implementing the three new key CARES Act UI programs. In addition, states had to develop new systems in order to implement the new programs that resulted in backlogs in processing claims for weeks and, in some cases, months.

[1] According to the CARES Act, the term "state" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, America Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

Furthermore, states reported being particularly challenged with the implementation of the PUA program that served claimants not traditionally eligible for regular UI benefits, with new eligibility requirements.

Prior to the pandemic, the UI programs saw historically low unemployment claims. Initial claims for federal and state programs rose to 10 times pre-pandemic levels within two to three weeks, far higher than state systems were designed to handle.

As of July 31, 2020, states had drawn down a total of $284 billion to pay UI benefits for the three new programs. As of January 2, 2021, that amount had grown to approximately $392 billion, which was 98 percent of the total funding drawn down and reported for all CARES Act programs as shown in Table 1.

Table 1: Programs with Highest To Lowest Cares Act Funding Drawn Down Through January 2, 2021

CARES Act Program	Funds Drawn Down
FPUC	$283,233,688,549
PUA	$79,718,347,568
PEUC	$28,604,401,618
Sub-total	$391,556,437,735
Temporary Full Funding of First Week of Regular Compensation	$4,909,844,281
Emergency Relief for Government Entities and Non-profits	$3,163,456,218
Short-Term Compensation	$1,003,072,374
Total	$400,632,810,608

Source: ETA reported data.

RESULTS

DOL and states struggled to implement the three key CARES Act UI programs. 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, guidance from ETA was untimely and unclear. We based this on the following:

- States had difficulty ensuring programs were implemented and claimants were paid promptly. From passage of the CARES Act to the first payment of a claim it took on average:

  - 50 days for the PEUC program,
  - 38 days for the PUA program, and
  - 25 days for the FPUC program.

- 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 – pay 87 percent of claimants within 14 or 21 days.

- Many states did not perform required and recommended improper payment detection and recovery activities: 40 percent of states did not perform required cross-matches and 38 percent did not perform required recovery activities.

- Forty-two percent of states did not report CARES Act UI program overpayments to ETA as required. States that did report overpayments, understated the total amount reported by an estimated 89 percent.

As a result, unemployed individuals experienced financial hardships due to delays in receiving benefits. As of January 2, 2021, based on a conservative improper payment[2] rate of 10 percent, we estimated, at least $39.2 billion in UI improper payments – including fraud – was at risk of not being detected and recovered, and could have been put to better use. Estimates for the CARES Act and its related extensions[3] range up to $872.5 billion[4]; therefore by program end, $87.3 billion in UI benefits could be paid improperly.

STATES FACED CHALLENGES ENSURING PROGRAMS WERE IMPLEMENTED AND CLAIMANTS WERE PAID TIMELY

Fifty-three of the 59 states signed an agreement with DOL to participate in PUA, PEUC, and FPUC within two days of the CARES Act's passage. The other six states entered into agreements to participate in PUA and FPUC by April 10,

[2] The statutory definition of an improper payment is "any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient ...."
[3] Presidential Memorandum Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (COVID19) - Lost Wages Assistance (LWA), Consolidated Appropriations Act, 2021, specifically Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020, and American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2), specifically Title IX, Subtitle A, Crisis Support for Unemployed Workers.
[4] Estimate is for UI benefits only and does not include funding provided for program administration.

2020. However, standing up the new programs to rapidly deliver COVID-19 relief funds and promptly getting the first UI benefit payment to individuals in need was challenging for states.

STATES WERE CHALLENGED TO IMPLEMENT THE NEW UI PROGRAMS RAPIDLY

Federal guidance issued by the Office of Management and Budget (OMB) on April 10, 2020, required agencies to prioritize expediency, which OMB defined as the rapid issuance of awards to meet crucial needs.[5] However, 52 states[6] reported that from passage of the Act to the first payment of a claim took on average 38 days for the PUA program and 25 days for the FPUC program. Additionally, 49 states[7] reported payment took on average 50 days for the PEUC program, which was not available in all states.

More specifically, the days that states took to implement a CARES Act program ranged from 3 days to 111 days. Table 2 groups the number of states for each respective program from passage of the CARES Act to the first payment of a claim.

Table 2: Days to Implement CARES Act Programs

Day to Implement CARES Act Programs	No. of States for PUA	No. of States for FPUC	No. of States for PEUC
Less Than 30 Days	22	43	10
30 to 59 Days	23	5	24
60 to 89 Days	4	2	11
90 to 111 Days	3	2	4

Source: OIG analysis of information provided by state officials.

Most states took more than 30 days to implement the PUA and PEUC programs or more than a typical billing cycle, which is an unreasonable length of time for UI claimants experiencing financial hardships as they struggled to pay bills and satisfy basic needs, such as food and housing. See Exhibit 2 for details as to CARES Act implementation by states.

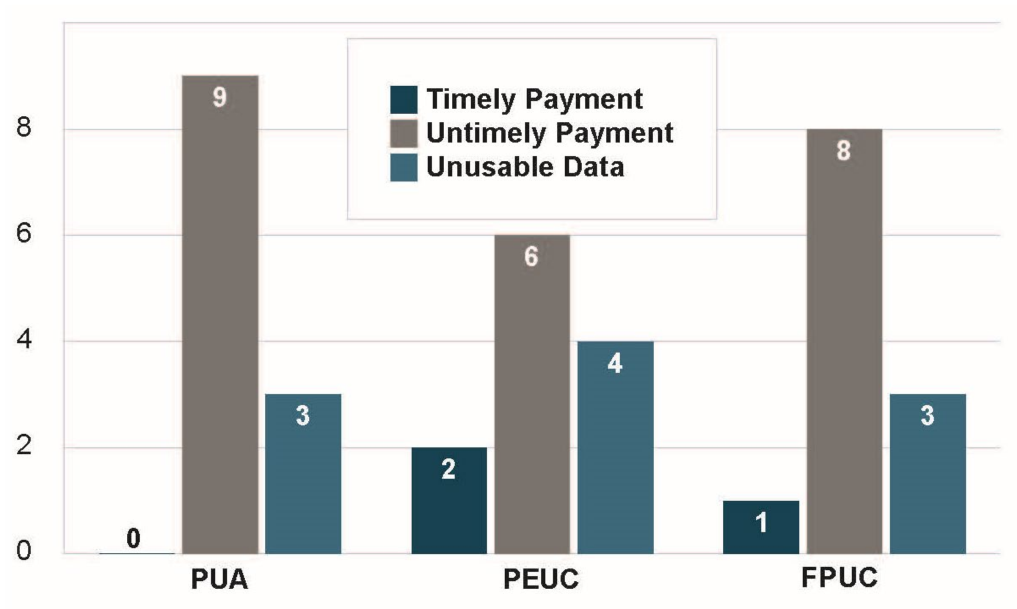
[5] OMB Memorandum 20-21, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (April 10, 2020).
[6] Based on 59 states sampled or surveyed: 52 of 59 (88 percent) responded for PUA and FPUC.
[7] Based on 59 states sampled or surveyed: 49 of 59 (83 percent) responded for PEUC.

STATES WERE CHALLENGED TO PAY CLAIMANTS PROMPTLY

ETA's performance standard[8] for the regular UI program requires states to ensure 87 percent of regular UI claimants receive their initial benefit payments within 14 days in states with a waiting week,[9] and no more than 21 days in states with no waiting week. We used this performance standard as a basis to analyze the timeliness of benefits payments for the CARES Act UI programs. Our 12 sampled states did not have a waiting week.[10]

For the 9.5 million PUA claims approved for payment by our 12 sampled states, 9 states were not able to pay 87 percent of the initial claims within 21 days, while 3 states – Georgia, New Jersey, and Texas[11] – were unable to provide supporting data – for the period of March 27, 2020, through July 31, 2020 (see Chart 1).

Chart 1: Sampled States That Met the 21-Day Payment Standard



Source: OIG analysis of data provided by state officials.

[8] As the CARES Act programs are temporary, ETA did not apply the 14-day or 21-day standard to them. However, since this is the standard DOL uses for the timeliness of regular UI payments, we used it for our analysis to provide context as to the performance of states.
[9] Most states require that an individual, who is otherwise eligible for UI benefits, must first serve a waiting period (generally one week) prior to receiving benefits in a particular benefit year. Therefore, the second week claimed is the first week of payment.
[10] Almost all states have a waiting week, but during the COVID-19 pandemic, states waived the waiting week.
[11] Texas provided data, however, due to the format of the data set, we were unable to readily test the state's timeliness.

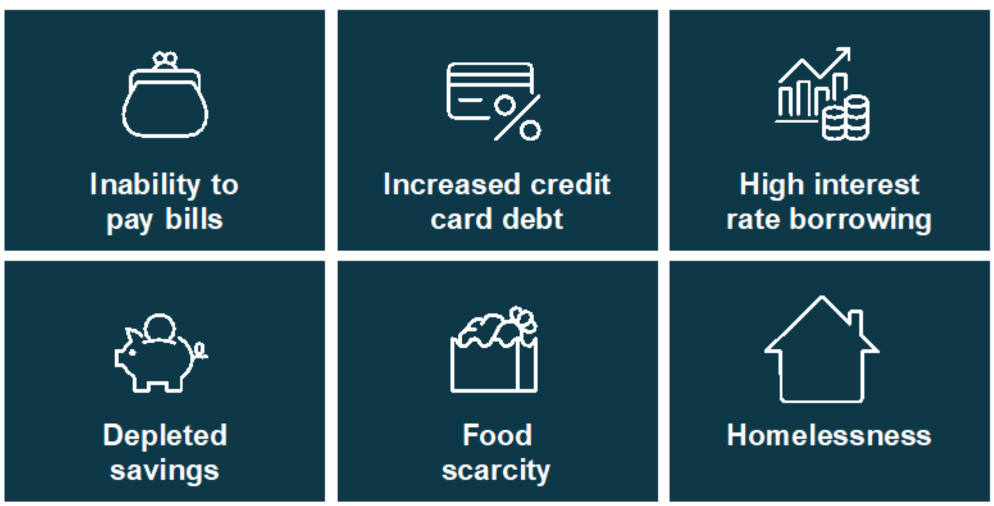
For the PEUC program, only 2 of the 12 sampled states – Illinois and New York – paid 87 percent of their claimants within the 21-day timeframe. Four sampled states – Georgia, New Jersey, Texas, and Washington – were unable to provide data to support the timeliness of payments for PEUC.

Further, for the FPUC program ($600 per payment) that was primarily delivered under the regular UI program (26.8 million claims or $283 billion), only one of our 12 sampled states – Illinois – met the timeliness standard. Three sampled states – Georgia, New Jersey, and Texas[12] – were unable to provide data to support the timeliness of payments for FPUC.

DELAYS IN PAYMENTS DETRIMENTALLY AFFECTED MILLIONS OF CLAIMAINTS

The delays in implementing CARES Act UI programs and untimely UI benefit payments resulted in millions of Americans waiting weeks to months for their first unemployment checks. Numerous news media outlets reported on the impact these delays had on UI claimants, as shown in Figure 1.

Figure 1: Issues Caused by Delays in Providing Unemployment Benefits



Source: Aggregated information from media reports.

Specific examples include a news report where a claimant lost his home and car by the time he received payment.[13] Another news agency reported that a

[12] Texas provided data, however, due to the format of the data set, we were unable to readily test the state's timeliness.
[13] Henderson, Tim. "Unemployment Payments Weeks Late in Nearly Every State." *Stateline, an initiative of The Pew Charitable Trusts*. The Pew Charitable Trusts, December 2, 2020.

claimant said the delay in UI payments meant his family could only afford to eat the "bare minimum" needed to sustain themselves.[14]

STATES DID NOT PERFORM REQUIRED AND RECOMMENDED IMPROPER PAYMENT DETECTION AND RECOVERY ACTIVITIES

In our CARES Act UI Advisory Report of April 21, 2020,[15] we underscored how states needed to establish controls to detect improper payments if preventative controls failed, as well as processes to ensure they recovered any overpayments detected. The results of the current audit confirmed that the issues we had raised in the Advisory Report were cause for concern. ETA requires states to perform certain Benefit Payment Control (BPC) activities and recommends they perform other activities to detect and recover improper payments for CARES Act UI programs. However, responses from 50 states[16] revealed that states did not perform the required or recommended cross-matches and recovery activities, which could have prevented improper payments, including fraud.

STATES DID NOT PERFORM REQUIRED AND RECOMMEDED BPC CROSS-MATCHES

In May 2020, ETA issued Unemployment Insurance Program Letter (UIPL) 23-20 which provides the required BPC cross-matches. Specifically, the following three activities are required for the PUA and PEUC programs (in the same manner as for the regular UI program).

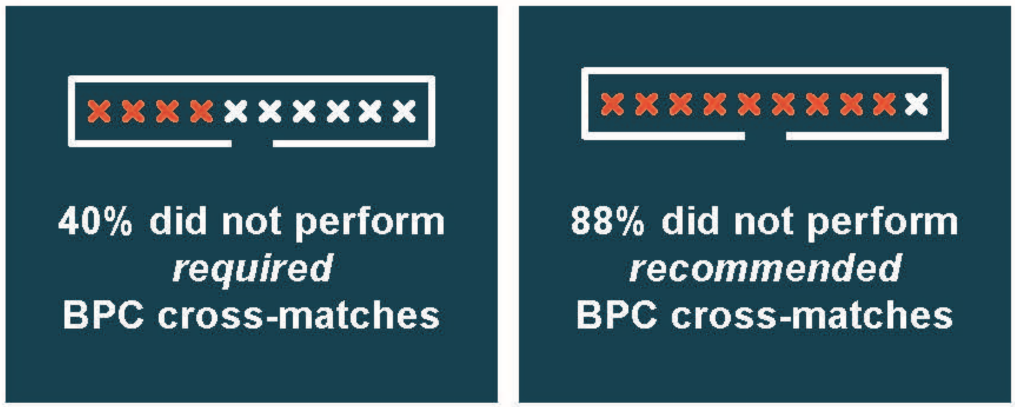
- National Directory of New Hires (NDNH) Cross-match – Cross-matches against employer reported "new hires," including wage information, against UI benefit payment records to identify claimants who have failed to report earnings and, therefore, may have been overpaid UI benefits;
- Quarterly Wage Records Cross-match – Compares state agency benefit payment records with wage records created from quarterly reports submitted by employers to determine if benefits were overpaid due to failure to report earnings; and
- Systematic Alien Verification for Entitlement – Automated and manual procedures by which states obtain information about an individual's

[14] KMOV News, "Frustration Builds For Those Having Trouble Getting Unemployment Benefits In Missouri," April 28, 2020.
[15] DOL OIG, "CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions," (April 21, 2020; Report No. 19-20-001-03-315). https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-20-001-03-315&y=2020.
[16] Based on 53 states sampled or surveyed: 50 of 53 (94 percent) responded. Six states were not included since they responded not having established UI systems or UI programs and thus, cross-matches were either not applicable or not performed.

immigration status that will allow the state to determine his/her eligibility for unemployment compensation.

Based on information provided by all 50 states, we found that 20 of the states (40 percent) did not perform all the required BPC cross-matches. In addition, UIPL 23-20 also provided eight strongly recommended BPC cross-matches. These included the State Directory of New Hires (SDNH), Identity Verification, and Incarceration cross-matches. We found that 44 of the 50 states (88 percent) did not perform all the recommended BPC cross-matches – as depicted in Figure 2.

Figure 2: States' Performance of BPC Activities



Source: OIG analysis of information provided by state officials.

See Exhibit 3 for a full list of required and recommended BPC activities.

STATES DID NOT PERFORM REQUIRED RECOVERY ACTIVITIES

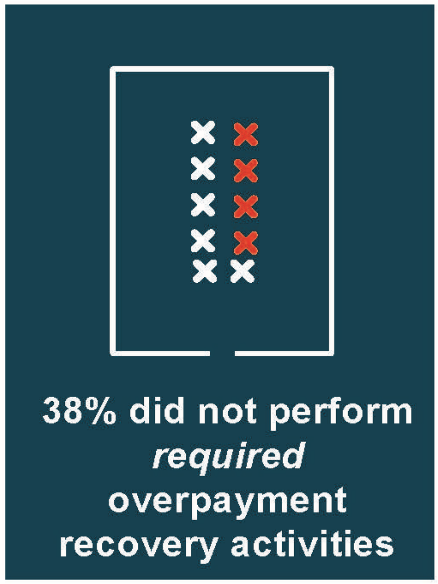
UIPL 23-20 requires states to perform the following overpayment recovery activities.

- Benefit Offsets – Benefits withheld by the state agency to satisfy the requirement for a claimant to repay an overpayment;
- Treasury Offset Program – A Department of the Treasury centralized offset program, by which payments are offset to collect delinquent debts owed to federal agencies and states, including UI debts;
- Cross Program Offset Recovery Agreement – A recovering state offsets benefits payable under a state unemployment compensation program to recover any benefits overpaid under a federal unemployment compensation program and vice versa; and
- Interstate Reciprocal Offset Recovery Arrangement – Provides methods for the recovery of improper payments of state and federal unemployment compensation benefits from individuals filing under the Interstate Benefit

> Payment Plan, the Interstate Arrangement for the Combining of Employment and Wages, or intrastate under any state's law.

We found that 19 of the 50 states (38 percent) did not perform the required recovery activities – as depicted in Figure 3.

Figure 3: States' Performance of Recovery Activities



Source: OIG analysis of information provided by state officials.

Once states have established overpayments, it is essential that recovery activities be completed to mitigate the risk of financial loss as a result of overpaid claims.

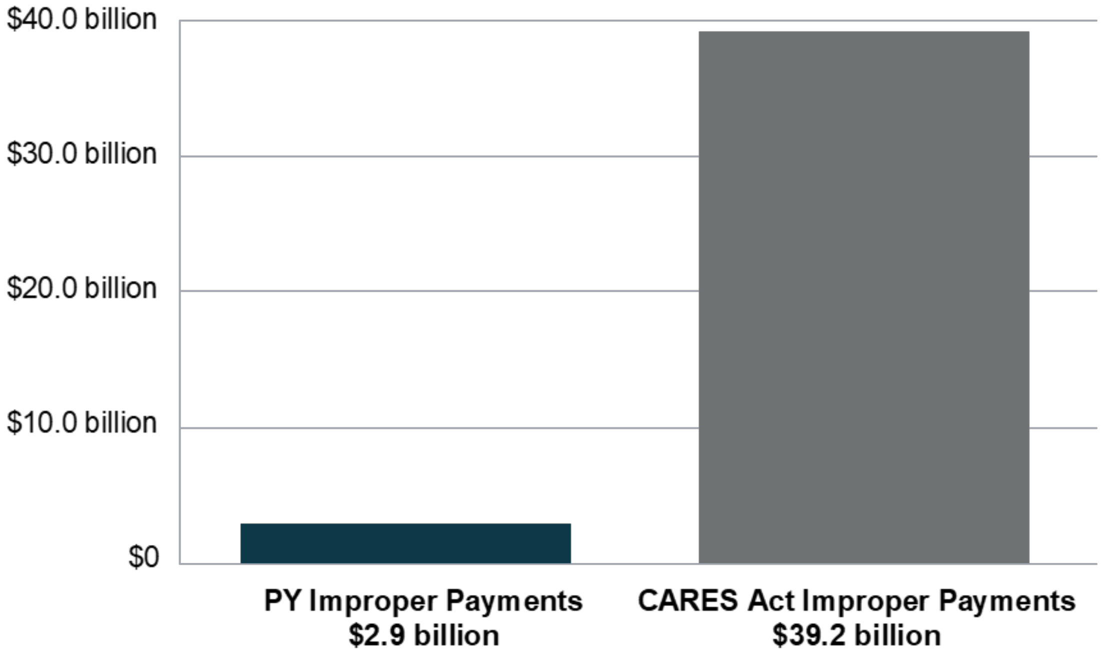
AN ESTIMATED $39 BILLION IN CARES ACT IMPROPER PAYMENTS MAY NOT BE SUBJECT TO IMPROPER PAYMENT DETECTION OR RECOVERY ACTIVITIES

The UI program had an estimated improper payment rate[17] of over 10 percent since 2008.[18] If the UI program continues to maintain an improper payment rate that exceeds 10 percent, we estimate of the $392 billion drawn down as of

[17] The improper payment rate is an estimate based on results of State Benefit Accuracy Measurement (BAM) survey samples (random audits) of paid and denied claims in three major UI programs: State UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Service Members (UCX).
[18] This excludes 2013 since the rate that year included an offset for recovered overpayments.

January 2, 2021, at least $39.2 billion[19] in CARES Act funds will have been improperly paid and wasted, instead of benefitting those for whom the new UI programs were intended. In comparison, for program year (PY) July 1, 2018, through June 30, 2019,[20] ETA estimated $2.9 billion in improper payments for the regular UI program, for an improper payment rate of 10.6 percent,[21] (see Chart 2).

Chart 2: Growth In Estimated UI Improper Payments



Source: Based on OIG estimate and DOL 2019 Agency Financial Report.

The improper payment rate for PY 2021 will likely be much higher since prior to COVID-19, the rate was 10.6 percent. Since March 27, 2020, states' efforts have been primarily focused on paying claimants and implementing CARES Act programs. Additionally, the estimated improper payment rate for PY 2019 was the lowest[22] since PY 2009.

Furthermore, detection cross-matches were needed to detect and prevent payments to criminals that targeted the higher weekly benefits available under

[19] These costs and improper payments will grow since PUA, FPUC, and PEUC were extended to September 6, 2021, by the American Rescue Plan Act of 2021.
[20] In FY 2020, ETA reported an improper payment rate of 9.17 percent. However, due to the COVID-19 pandemic, states suspended BAM operations beginning in April 2020.
[21] ETA's PY 2019 estimated improper payment rate of 10.61 percent was 10.21 percent in overpayments and 0.4 percent in underpayments. Our audit is primarily concerned with overpayments since they are the majority of improper payments and present the greater risk to the integrity of the UI program.
[22] This excludes 2013 since the rate that year included an offset for recovered overpayments.

CARES Act programs. Across the country, news and law enforcement agencies have reported unprecedented levels of UI fraud. In our CARES Act Alert Memorandum of February 22, 2021,[23] we estimated potential fraud could range into the tens of billions of dollars. Specifically, our collaboration with OIG's Office of Investigations revealed more than $5.4 billion of potentially fraudulent UI benefits in the four areas shown in Figure 4.[24]

Figure 4: Potential Fraudulent Activities

Source: OIG data analysis of state data.

To combat fraudulent payments and protect the integrity of the UI system, ETA and states must continue to work together to complete the required and recommended BPC activities.

STATES REPORTED INACCURATE AND INCOMPLETE OVERPAYMENT, FRAUDULENT PAYMENT, AND CLAIMS DATA

In our CARES Act UI Advisory Report,[25] we stated that ETA must ensure that program monitoring over the use of the stimulus funding be sufficiently designed and executed and benefit outlays be accurately tracked and reported at both the state and federal level. Despite our guidance, ETA did not provide adequate oversight to prevent states from inaccurately reporting overpayments and fraudulent payments. Without this critical oversight and transparency, ETA could not ensure its management of billions of dollars in supplemental program funding achieved the desired outcome and sufficiently met the requirements of the

[23] DOL OIG, "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," (February 22, 2021; Report No. 19-21-002-03-315). https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-21-002-03-315&y=2021.

[24] The $5.4 billion covers the period March 2020 through October 2020. To prevent double counting, over $313 million in UI claims filed using two or more of the methods noted in this report were counted only once.

[25] DOL OIG, "CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions," (April 21, 2020; Report No. 19-20-001-03-315). https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-20-001-03-315&y=2020.

CARES Act. During April 2020, ETA issued three UIPLs[26] that in part required states to report on overpayments, fraudulent payments, and the volume of claims for the PUA, FPUC, and PEUC programs. See Exhibit 4 for the reporting instructions regarding the three programs.

STATES EITHER DID NOT REPORT OR INACCURATELY REPORTED OVERPAYMENTS AND FRAUDULENT PAYMENTS

For regular UI, FPUC, and PEUC, the states' accomplishments in principal detection areas of BPC are reported on the ETA 227 Overpayment Detection and Recovery Activities Report. For the PUA program, overpayments and recoveries are reported on the ETA 902P Pandemic Unemployment Assistance Activities Report. The ETA and state agencies need this information to monitor the integrity of the benefit payment processes in the UI system. Data are provided for the establishment of overpayments, recoveries of overpayments, criminal and civil actions involving overpayments obtained fraudulently, and an aging schedule of outstanding benefit overpayment accounts.

STATES DID NOT REPORT OVERPAYMENTS AND FRAUDULENT PAYMENTS

We found that many states did not report overpayments and fraudulent payments as required.

- For PUA, 50 of 59 states (85 percent) were listed on ETA's website as submitting the required ETA 902P report.[27] However, 16 of the 50 (32 percent) reported no overpayments and 30 of the 50 (60 percent) reported no fraudulent payments.
- For FPUC, 37 of the 53 states (70 percent) were listed on ETA's website as submitting the required ETA 227 report.[28] However, 9 of the 37 (24 percent) reported no overpayments and 14 of the 37 (38 percent) reported no fraudulent payments.
- For PEUC, 40 of the 53 states (75 percent) were listed on ETA's website as submitting the required ETA 227 report. However, 7 of the 40 (18 percent) reported no overpayments and 18 of the 40 (45 percent) reported no fraudulent payments.

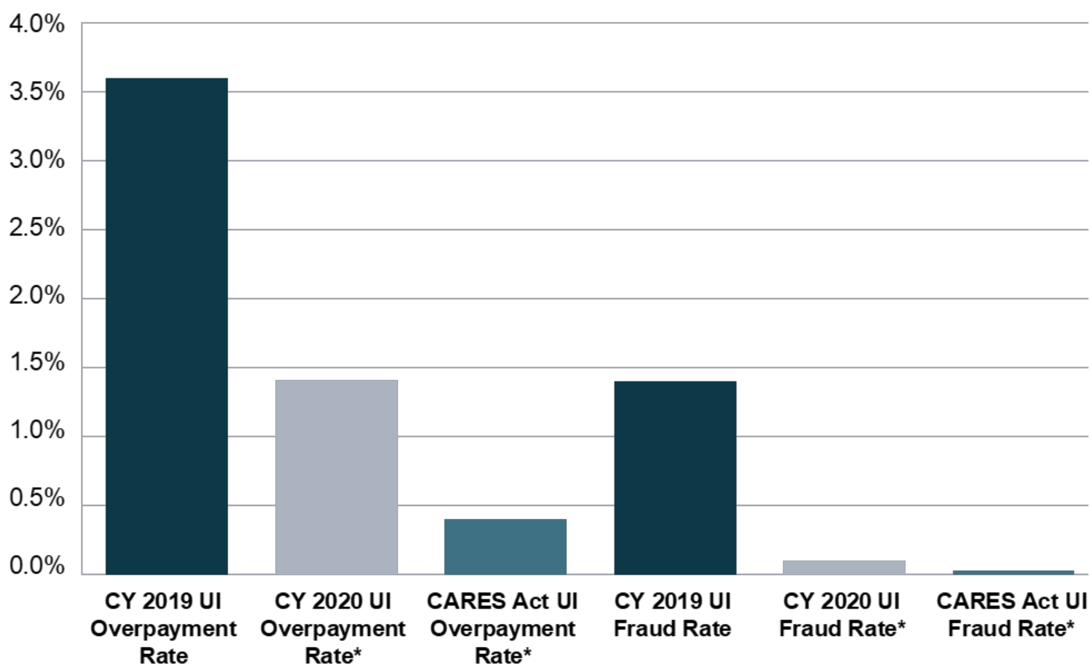
[26] UIPLs 15-20 (FPUC reporting instructions), 16-20 (PUA reporting instructions), and 17-20 (PEUC reporting instructions).
[27] Fifty-nine states were required to report PUA overpayments on the ETA 902P report.
[28] Fifty-three states were required to report overpayment for PEUC and FPUC on the ETA 227 report.

Overall, for the period of March 27, 2020 to September 30, 2020,[29] 42 percent of states did not complete the required reporting for overpayments and 60 percent did not for fraudulent payments.

STATES INACCURATELY REPORTED OVERPAYMENTS AND FRAUDULENT PAYMENTS

States reported less than expected and unreliable overpayment amounts. To illustrate, Chart 3 shows overpayments for the new CARES Act UI programs were reportedly 0.4 percent for CY 2020 – 89 percent less than the rate (3.6 percent) reported for regular UI for CY 2019. Fraudulent overpayments for the new CARES Act UI programs were reportedly even less – 0.03 percent – 98 percent less than the 1.4 percent reported for CY 2019. See Exhibit 5 for amounts related to percentages for each CARES Act UI Program.

Chart 3: States Reported a Fraction of Expected Overpayments and Fraud



*Based on ETA reporting through September 30, 2020.
Source: OIG generated and based on ETA Overpayment Reports

Our analysis in Chart 3 also shows that states reported less than expected and unreliable amounts of overpayment and fraudulent payments for the regular UI program. The rate of overpayments reported for the regular UI program (CY 2020) was 1.4 percent, which was 61 percent less than the 3.6 percent

[29] September 30, 2020 exceeds the end of our audit scope of July 31, 2020. However, these reports are completed quarterly. Therefore to provide the clearest possible information, we included the later report date.

reported for CY 2019. Additionally, the rate of fraudulent overpayments reported for the regular UI program (CY 2020) was 0.1 percent – 91 percent less than the 1.4 percent reported for CY 2019.

STATES REPORTED INACCURATE AND INCOMPLETE CLAIMS DATA

As previously noted, states are required to report the volume of claims for the PUA, FPUC, and PEUC programs. However, from March 27, 2020, to August 1, 2020, ETA's website did not include any PUA and PEUC claims for the states of Florida, Georgia, Oklahoma, Virgin Islands, and West Virginia – indicating that these states did not report the required claims data. Moreover, for states that did report, we determined that they reported inaccurate claims data. For example, 4 of our 12 sampled states (33 percent) identified the following issues regarding their reported claims data:

- Did not track initial and continued claims data for the separate CARES Act programs.
- Could not differentiate between initial claims and continued claims.
- Could not support PUA initial claims or PUA continued claims despite claims reported to ETA.
- Could not support PUA initial claims, PUA continued claims, or PEUC continued claims despite claims reported to ETA.

Initial claims measure emerging unemployment and continued claims measure the number of individuals claiming UI benefits. UI claims data is also used to identify unemployment trends – nationwide and for each state. As such, accurate claims data is important for the effective oversight of CARES Act UI programs.

ETA COULD NOT PERFORM NECESSARY OVERSIGHT TO MONITOR OVERPAYMENTS

Without complete and accurate reporting, ETA could not adequately monitor if states were using improper payment detection and recovery tools to identify and recover overpayments and fraudulent payments. Nor could ETA adequately monitor criminal and civil actions involving fraudulent payments, including the age of outstanding overpayments. In addition, ETA may not be able to accurately identify trends, weaknesses, or vulnerabilities in the CARES Act UI programs. Furthermore, ETA and Congress will be challenged to gauge the size, breadth, and related overpayments of CARES Act UI programs. ETA must assist states with their reporting and then prioritize states by the severity of overpayments to mitigate the risk of federal funds being lost to improper payments including fraud.

In our Alert Memorandum of February 22, 2021,[30] we identified that ETA could have put $5.4 billion to better use if effective internal controls were established. ETA concurred with the two recommendations in the Alert Memo and stated the agency will continue to work with states to establish and strengthen anti-fraud measures implemented as soon as possible; and work with Congress to consider a wide range of opportunities for improving program integrity.

If ETA had established sufficient internal controls over states' IT systems, reporting requirements, overpayment detection and recovery, and standards for unexpected events, CARES Act UI funds paid improperly (estimated $39.2 billion as of January 2, 2021) could have been put to better use instead. See Exhibit 6 for a breakdown of funds put to better use.

PRIMARY CAUSES FOR CARES ACT ISSUES:

ANTIQUATED IT SYSTEMS, INSUFFICIENT STAFFING, AND UNCLEAR GUIDANCE FROM ETA HINDERED STATES' ABILITY TO IMPLEMENT CARES ACT UI PROGRAMS MORE EFFECTIVELY

There were three common causes for the audit issues we identified: antiquated IT systems, insufficient staffing, and sometimes unclear and untimely guidance from ETA to address issues related to an unprecedented volume of new UI claims. From March 28, 2020, to August 1, 2020, DOL reported more than 57 million workers filed an initial jobless claim for PUA or regular UI. In addition, 502 million continued claims were submitted for PUA, regular UI, or PEUC.[31] For the FPUC program, which added $600 to other UI program claims and ended July 31, 2020, there were approximately 472 million claims. In contrast, DOL reported 11 million initial claims and 89 million continued claims for regular UI for all of calendar year (CY) 2019.

ANTIQUATED IT SYSTEMS

While states reported many difficulties with initializing and executing CARES Act UI programs, one of the causes echoed among states was the use of antiquated IT systems. In our CARES Act UI Advisory Report of April 21, 2020, we raised

[30] DOL OIG, "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," (February 22, 2021, Report No. 19-21-002-03-315). https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-21-002-03-315&y=2021.

[31] DOL did not track initial claims for PEUC since claimants were not required to file a PEUC application.

concerns that states' legacy IT systems would impede the management and oversight of UI benefits.[32]

IMPLEMENTING NEW UI PROGRAMS AND PAYING CLAIMANTS

States with modernized IT systems implemented CARES Act programs significantly faster than those using antiquated IT systems. The results of our analysis demonstrate a clear correlation between states' IT modernization status and the time needed to implement new PEUC and PUA programs. For example, states that completed IT modernization started the PEUC program 15 days faster and the PUA program 8 days faster (on average) than those still planning IT modernization.[33] Officials in 17 of 50 states (34 percent)[34] said their IT systems were not sufficient to implement provisions of the CARES Act. See Exhibit 2 for state-by-state details on IT modernization status and days it took to make the first payment.

DETECTING AND RECOVERING OVERPAYMENTS

Four of 12 sampled states (33 percent) reported that IT systems did not allow them to complete improper payment detection and recovery. States reported that the Social Security system froze up; Interstate Connection hub slowed down; their IT system did not have the mainframe capacity to perform cross-matches for such a large volume of claims; vendor-purchased systems did not include detection and recovery functionality; and batch processing cross-matches slowed the claimant identification process.

REPORTING CARES ACT UI PROGRAM ACTIVITIES

State officials said they were unable to program the newly required reports in their IT systems or lacked the programming to extract the required data. States also cited that ETA's guidance lacked clarity and timeliness to implement required reporting and they wanted ETA to have developed a programming script for each of the CARES Act UI programs. States also said this programming script could then have been adapted to each state's system to ensure compliance and consistency. Furthermore, states said that staffing and resources were focused more on implementing the programs rather than programming new reports.

[32] DOL OIG, "CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions," (April 21, 2020; Report No. 19-20-001-03-315). https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-20-001-03-315&y=2020.
[33] For FPUC, states that had completed IT modernization started the program no faster (on average) than those that were still planning. However, the first FPUC payment was to supplement a PUA, PEUC, or regular UI program payment.
[34] Arkansas, Idaho, and Vermont are not included among the states.

INSUFFICIENT STAFFING LEVELS

Officials in the 12 sampled states reported they were not able to hire staff quickly enough, find enough qualified staff, or increase their staff sufficiently to process in a timely manner the sudden spike in UI claims. Adding to the challenge was the need to conduct hiring and onboarding remotely, with social distancing being highly advised during the pandemic. Fifty-five states[35] hired additional staff in response to the COVID-19 pandemic. The 12 states, selected for in-depth analysis, reported on average they employed 816 full-time equivalent (FTE) employees for UI programs prior to the CARES Act. As of July 31, 2020, the 12 sampled states reported that an average of 1,539 FTEs and 1,444 contract staff were assigned to UI programs.

UNTIMELY AND UNCLEAR GUIDANCE FROM ETA

States cited ETA's guidance as untimely and unclear to enable states to process the increased volume of new UI claims and make decisions about initial and continued eligibility. State officials in the 12 sampled states said that:

- Newer guidance from ETA reinterpreted matters that states thought had been finalized.
- Clearer, earlier, and more detailed guidance from ETA might have rendered a more efficient implementation process and would have prevented significant overpayments.
- PUA eligibility requirements were evolving as states were building programs from scratch, and needed a good way to handle eligibility ambiguity.
- Insufficient time to get up to speed on new PUA program requirements made it hard to put in sufficient controls ahead of the program launch.
- Implementation of new and concurrent federal programs was complex.

Four of 12 states (33 percent) reported that ETA's guidance was not timely or complete enough to prevent overpayments. The four states reported that ETA did not provide sufficient proactive detection tools; its PUA application process did not contain enough details; it did not respond quickly enough to states' inquiries; and the guidance it did provide was incomplete. States also cited that the PUA program self-certification process did not allow for proper fraud prevention procedures to take place.

[35] Based on a total of 59 states sampled or surveyed, of which 55 (93 percent) responded.

In our CARES Act report issued on August 7, 2020,[36] we commended ETA for the amount of guidance they were able to issue quickly. ETA officials stated, during our audit scope, they published 20 pieces of guidance and conducted 15 webinars. However, ETA did not set forth clear timeframes for implementing the CARES Act UI programs and beginning payment to claimants. The CARES Act UI programs went into effect as soon as the law was passed, and suddenly, states were under pressure to pay claimants. Since there were no implementation dates conveyed, claimants expected payment to be arriving sooner rather than later during a crisis situation.

At the same time, states had to attempt to initiate these programs before their implementation-related questions had been resolved. Setting clear implementation dates and payment timeframes for temporary programs would decrease the burden on ETA to issue guidance in quick succession, and would provide clear messaging for states to communicate to claimants. Furthermore, it would allow ETA and states the critical time needed to set up proper controls to mitigate losses.

The guidance that states receive through ETA's monitoring was also delayed. The CARES Act UI programs operated for six months without formal monitoring by ETA. Instead, ETA officials stated they provided technical assistance to states to support their implementation of CARES Act programs. As part of that technical assistance, ETA performed scans and developed monitoring tools to identify major issues for corrective action. However, despite these scans and monitoring tools, ETA did not ensure that states performed overpayment detection and recovery activities or reported overpayments and fraudulent payments.

INSUFFICIENT IMPLEMENTATION FUNDING

Twelve of the 55 states (22 percent) that we received responses from cited federal funding as insufficient to perform necessary IT updates, implement new programs, or hire a sufficient number of staff to handle the high volume of claims. Despite opportunities for states to receive implementation funding, state officials' reported all implementation costs were not covered or that the additional funding was not adequate to cover the years of underfunding. One state official said that the state received an initial grant of approximately $350,000 to implement the PUA program, but in reality the implementation cost was well over $4 million.

[36] DOL OIG, "COVID-19: More Can Be Done To Mitigate Risk To Unemployment Compensation Under The Cares Act," (August 7, 2020; Report No. 19-20-008-03-315). https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-20-008-03-315&y=2020.

CONCLUSION

We recognize the unprecedented effect the COVID-19 pandemic has had on the UI system. With varying degrees of success, states implemented the new CARES Act UI programs, paid claimants, detected and recovered improper payments (including fraud), and submitted required reports – all under ETA's management oversight and guidance. However, as we identified in this report, states still struggled to pay claimants, protect funds from improper payments, and to submit complete or accurate reporting – due to insufficient IT systems, staffing resources, and guidance from ETA.

To prevent similar problems in the future, ETA must reassess the needs of the UI system nationwide – including IT systems, staffing levels, and the quality of guidance provided to states. We believe that modular[37] technological capabilities would help ETA to address these three common risk areas that we identified. Specifically, modular technological capabilities could alleviate the pressure on ETA to get guidance out to states and mitigate the need for states to add large amounts of staff. These capabilities could also enhance the ability of states to manage and process sudden increases in claims volume during emergencies or high unemployment. Furthermore, they could allow ETA and states to implement new programs quickly and meet the needs of claimants, while simultaneously protecting federal and state funds from fraudulent activities. By being prepared in advance, ETA would then be better positioned to support states in future crisis situations, such as the COVID-19 pandemic.

OIG'S RECOMMENDATIONS

We recommend the following to the Principal Deputy Assistant Secretary for Employment and Training:

1. 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.

2. Continue to work with states to develop, operate, and maintain a modular set of technological capabilities to modernize the delivery of UI benefits

[37] A Modular Open Systems Approach can be defined as a technical and business strategy for designing an affordable and adaptable system.

that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment.

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

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

SUMMARY OF ETA'S RESPONSE

ETA agreed with our recommendations and indicated the agency has already taken action to implement some of the recommendations.

We appreciate the cooperation and courtesies ETA extended us during this audit. OIG personnel who made major contributions to this report are listed in Appendix C.

Carolyn R. Hantz
Assistant Inspector General for Audit

EXHIBIT 1: STATES SELECTED FOR IN-DEPTH ANALYSIS

Name of States
1. California
2. Florida
3. Georgia
4. Illinois
5. Michigan
6. New Jersey
7. New York
8. North Carolina
9. Ohio
10. Pennsylvania
11. Texas
12. Washington

Source: OIG generated based on analysis.

EXHIBIT 2: CARES ACT IMPLEMENTATION BY STATE

IMPLEMENTATION BY STATE					
	Days until First Payment*			UI IT Modernization**	
State	PUA	FPUC	PEUC	Benefits	Tax
Alabama	21	13	27	Completed	Completed
Alaska	45	17	84	Planning	Planning
Arizona	45	17	73	Planning	Planning
Arkansas	-	-	-	Planning	Completed
California	32	16	61	Planning	Completed
Colorado	31	31	34	Development	Development
Connecticut	28	41	61	Development	Development
Delaware	63	10	31	Planning	Planning
District of Columbia	33	24	40	Planning	Development
Florida	33	15	60	Completed	Completed
Georgia	28	15	76	Planning	Development
Hawaii	48	18	53	Planning	Planning
Idaho	-	-	-	Completed	Completed
Illinois	48	10	25	Completed	Completed
Indiana	42	42	21	Completed	Completed
Iowa	19	19	61	Planning	Completed
Kansas	61	27	66	Planning	Planning
Kentucky	6	9	20	Planning	Planning
Louisiana	17	17	49	Completed	Planning
Maine	40	19	94	Completed	Completed
Maryland	43	21	43	Completed	Completed
Massachusetts	27	53	12	Completed	Completed
Michigan	26	13	26	Completed	Completed
Minnesota	28	12	19	Completed	Completed
Mississippi	28	14	34	Completed	Completed
Missouri	26	17	38	Completed	Completed
Montana	31	16	37	Planning	Completed
Nebraska	31	17	55	Development	Development
Nevada	60	18	45	Completed	Completed
New Hampshire	3	21	44	Completed	Planning
New Jersey	-	-	-	Planning	Planning
New Mexico	28	21	28	Completed	Completed

IMPLEMENTATION BY STATE

State	Days until First Payment* PUA	FPUC	PEUC	UI IT Modernization** Benefits	Tax
New York	10	10	17	Development	Development
North Carolina	28	18	56	Completed	Planning
North Dakota	33	19	49	Planning	Planning
Ohio	52	26	38	Development	Development
Oklahoma	31	10	52	Development	Development
Oregon	31	17	49	Planning	Planning
Pennsylvania	42	15	50	Development	Completed
Puerto Rico	24	26	66	Planning	Planning
Rhode Island	17	14	45	Planning	Planning
South Carolina	28	15	61	Completed	Completed
South Dakota	34	12	53	Planning	Completed
Tennessee	26	17	46	Completed	Planning
Texas	18	17	45	Planning	Planning
Utah	29	15	57	Completed	Completed
Vermont	-	-	-	Planning	Planning
Virgin Islands	101	61	101	Planning	Planning
Virginia	38	25	101	Development	Completed
Washington	24	24	24	Completed	Completed
West Virginia	49	10	42	Planning	Planning
Wisconsin	56	33	90	Planning	Completed
Wyoming	38	20	80	Completed	Completed
American Samoa	-	-	-	-	-
Commonwealth of the Northern Mariana Islands	111	111	-	-	-
Federated States of Micronesia	108	108	-	-	-
Guam	-	-	-	-	-
Republic of Palau	89	89	-	-	-
Republic of the Marshall Islands	-	-	-	-	-

Source: OIG generated based on information from analysis and surveys.
*States without numbers did not comply with data request or did not have data to report.
**Information from National Association of State Workforce Agencies (NASWA) UI Information Technology Support Center.

EXHIBIT 3: REQUIRED AND RECOMMENDED BENEFIT PAYMENT CONTROL ACTIVITIES

REQUIRED CROSS-MATCHES

- National Directory of New Hires (NDNH) Cross-match
- Quarterly Wage Records Cross-match
- Systematic Alien Verification for Entitlement (SAVE)

RECOMMENDED CROSS-MATCHES

- State Directory of New Hires (SDNH) Cross-match
- Social Security Administration (SSA) Cross-match
- Interstate Benefits (IB) Cross-match
- State Identification Inquiry (SID) and IB8606 enhancements made to the Interstate Connection (ICON) network cross-match to prevent concurrent claim filing in multiple states
- State Information Data Exchange System (SIDES)
- Identity Verification
- Incarceration Cross-match
- UI Integrity Center's Integrity Data Hub (IDH) tools, including the Suspicious Actor Repository (SAR), Suspicious E-Mail Domains, Multi-State Cross-Match (MSCM), Foreign Internet Protocol (IP) Address Detection, and Fraud Alert application

EXHIBIT 4: REPORTNG INSTRUCTION FOR THE FPUC, PUA, AND PEUC

- On April 4, 2020, ETA issued UIPL 15-20 to State Workforce Agencies to provide states with operating, financial, and reporting instructions for the FPUC program. This UIPL informs states they are to do the following:

  - ETA 227. (OMB No. 1205-0173). States will report FPUC overpayments (established and recovered) in the comments section of the ETA 227 report.

- On April 5, 2020, ETA issued UIPL 16-20 to State Workforce Agencies to provide states with operating, financial, and reporting instructions for the PUA program. This UIPL informs states they are to do the following:

  - ETA 538. Total PUA initial claims processed during the report period and total PUA continued claims reflecting unemployment for the previous week will be reported in the comments section and labeled as “PUA IC” and “PUA CC” followed by the number…

  - ETA 539. Total PUA initial claims processed during the report period and total PUA continued claims reflecting unemployment for the previous week will be reported in the comments section and labeled as “PUA IC” and “PUA CC” followed by the number…

  - ETA 902P report contains monthly data on Pandemic Unemployment Assistance (PUA) activities provided by the CARES Act, enacted on March 27, 2020. Section C. Overpayment Activity.

- On April 10, 2020, ETA issued UIPL 17-20 to State Workforce Agencies to provide states with operating, financial, and reporting instructions for the PEUC program. This UIPL informs states they are to do the following:

  - ETA 227. Report Section A, Overpayments Established - Causes, lines 101 and 103 through 110 for columns 2 through 5 and line 102 for columns 1 through 5. Report all of Section B, Overpayments Established…

  - ETA 5159. Report Section A, Claims Activities, report initial claims information for columns 2 through 5 and column 7 for lines 101 through 103…

EXHIBIT 5: STATE REPORTED BENEFITS, OVERPAYMENTS, FRAUD, OVERPAYMENT RATE, AND FRAUD RATE

Program	Year	Total Benefits	Overpayments	Fraud	Overpayment Rate	Fraud Rate
Regular UI	2019	$25,454,163,963	$909,450,065	$364,351,881	3.6%	1.4%
Regular UI	2020 [38]	123,867,305,700	1,761,061,158	157,523,403	1.4%	0.1%
PUA	2020 [39]	64,752,553,903	786,926,897	71,888,641	1.2%	0.1%
PEUC	2020	16,446,158,119	11,173,216	742,182	0.1%	0.0%
FPUC	2020	279,223,369,004	654,249,548	29,799,572	0.2%	0.0%
Three Key CARES Act Programs	2020	$360,422,081,026	$1,452,349,661	$102,430,395	0.4%	0.0%

Source: OIG analysis of ETA reported data.

[38] For the period: January 1, 2020, through September 30, 2020.
[39] For the period: March 27, 2020, through September 30, 2020.

EXHIBIT 6: FUNDS FOR BETTER USE

Description	Amount	Area of Issue
Total and Net Funds for Better Use:[40]		
Total Funds for Better Use	**$39,155,643,774**	ETA/SWA Controls
Less Duplicative Funds for Better Use[41]	$5,409,966,198	
Net Funds for Better Use	**$33,745,677,576**	

Source: OIG generated based on analysis.

[40] As defined by the Inspector General Act, "funds for better use" means funds that could be used more efficiently or achieve greater program effectiveness if management took certain actions. These actions include reduction in future outlays and deobligation of funds from programs or operations.

[41] Duplicative funds for better use are amounts identified in DOL OIG's, "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," (February 22, 2021, Report No. 19-21-002-03-315). https://www.oig.dol.gov/public/reports/oa/viewpdf.php?r=19-21-002-03-315&y=2021.

APPENDIX A: SCOPE, METHODOLOGY, & CRITERIA

SCOPE

The audit covered DOL's and states' implementation of three key CARES Act UI programs from March 27, 2020, to July 31, 2020. However, we did report the most current funding and overpayment data as December 31, 2020, for informational purposes and to estimate potential improper payments. Specifically, our audit focused on PUA, FPUC, and PEUC. These programs were selected due to their size and risk potential.

METHODOLOGY

This performance audit was conducted remotely and covered 12 states. In addition, survey questionnaires were sent to an additional 47 states not selected for more intense audit work. We completed this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS).

To answer our audit objective, we reviewed the CARES Act, ETA guidance, state agreements, program funding, and IT assistance. We reviewed the states' status of implementation of the CARES Act, preparedness, initial eligibility determinations, continued eligibility determinations, improper payment detection and recovery, and states' compliance with ETA's oversight requirements. Surveyed states and Pacific Islands answered questions as to key implementation dates, unique claimants, total paid, total claims, overpayments, implemented controls, control activities, and applicable cross-matches.

Furthermore, we analyzed summary data available from the states on UI claims and funding. We did not use sampling for this audit.

SELECTION OF 12 STATES

To perform our audit, we judgmentally selected 12 states for more intense analysis. To determine which states would be selected for more intense analysis, we performed a risk assessment using several risk factors.

We determined the potential fraudulent payment and improper payments by obtaining claims data and calculating the percent of claims each state had filed for March 28, 2020, through May 30, 2020. That information was then multiplied by the estimated costs of the CARES Act UI provisions to identify the estimated cost by state. The estimated cost by state was then multiplied by the estimated fraud rate published in the Benefit Accuracy Measurement State Data Summary Improper Payment Information Act Performance Year 2019 Report. The estimated cost by state was also multiplied by the estimated improper payment rate for each state in the yearly improper payment data reported to the OMB for Fiscal Year 2019, as required by the Improper Payments Information Act.

In addition, we obtained and evaluated prior issues for State Workforce Agencies identified in OIG audits, the number of fraud reports, investigations reported by the Office of Investigations – Labor Racketeering and Fraud, and Congressional interest. This information was then weighted and evaluated by the team to determine the states where analysis would be the most impactful. The 12 states selected were California, Florida, Georgia, Illinois, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, and Washington.

STATES SURVEYED

The audit team administered 47 survey questionnaires to states not included in in-depth analysis and received 43 responses.

RELIABILITY ASSESSMENT

We assessed the reliability of computerized data. We summarized the information provided by states and analyzed if the data was determined reliable for our purposes. We found that nine of the 12 states' data was reliable based on IT assessments, information reviews, interviews, inspections, comparisons, observations, walkthroughs, tracing, and policy reviews. We found that three of the 12 states’ data was unreliable; therefore, we did not use that information in our analysis or reporting.

INTERNAL CONTROLS

A performance audit includes an understanding of internal controls considered significant to the audit objective and testing compliance with significant laws, regulations, and other requirements. In planning and performing our audit, we considered whether internal controls significant to the audit objective were properly designed and placed in operation. This included reviewing policies and procedures. We confirmed our understanding of these controls and procedures through interviews and the review and analysis of documentation. We evaluated internal controls used for reasonable assurance. Our consideration of internal controls for administering key CARES Act UI programs would not necessarily disclose all matters that might be reportable conditions.

CRITERIA

- Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020)

- OMB Memorandum 20-21, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (April 10, 2020)
- GAO-14-704G, Standards for Internal Control in the Federal Government (September 2014)
- Unemployment Insurance Program Letter 15-20, CARES Act of 2020 - Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions (April 4, 2020)
- Unemployment Insurance Program Letter 16-20, CARES Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions (April 5, 2020)
- Unemployment Insurance Program Letter 17-20, CARES Act of 2020- Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions (April 10, 2020)
- Unemployment Insurance Program Letter 23-20, Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the CARES Act of 2020 - Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs (May 11, 2020)

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210

May 26, 2021

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

FROM: SUZAN G. LEVINE
Principal Deputy Assistant Secretary

SUBJECT: Response to the Office of Inspector General Draft Audit Report Number 19-21-000-03-315, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*

The U.S. Department of Labor's (Department) Employment and Training Administration (ETA) greatly appreciates the opportunity to respond to the Office of Inspector General's (OIG) draft audit report and its recommendations.

The impact of the COVID-19 crisis hit the Unemployment Insurance (UI) system with unprecedented volume and velocity. This draft audit report speaks to the challenges faced by states in standing up the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provisions from scratch in the face of those sudden increases. It also speaks to the profound and tragic impact of those challenges on many individuals who experienced significant delays in receiving benefits.

While this draft audit report zeroes in on those state challenges, their experiences, and the impact—especially as of the summer of 2020—it is also important to provide a balanced view that puts the situation in context and highlights and enables learning from some of the positive efforts made by both the states and the Department.

Specifically, it is important to acknowledge the states' remarkable accomplishments during the COVID-19 pandemic. Despite the challenging circumstances, states have helped ensure that nearly $700 billion of unemployment benefits have been provided to over 49 million workers during the public health emergency. As noted in the draft audit report, from enactment of the CARES Act to the first payment of an UI claim, for the states to implement these entirely new programs, it took, on average, 50 days for the Pandemic Emergency Unemployment Compensation (PEUC) program, 38 days for the Pandemic Unemployment Assistance (PUA) program, and 25 days for the Federal Pandemic Unemployment Compensation (FPUC) program.

States' ability to provide benefit payments within one to two months for a new, temporary UI program is a very impressive achievement given the extensive, complex requirements and activities that were necessary for implementation. For comparison purposes, a swift rollout of a new government benefit program—including the policy, product and operations—would be 30 – 48 months. States concurrently handled the launch of three new programs, which included the unprecedented PUA program that covered a population previously excluded by the UI program and for which no state UI processes were prepared to accommodate. This was all accomplished while the states were navigating a ten-fold claims volume increase, never before encountered in the program's 85-year history. Further compounding these challenges is the fact that the state UI agencies entered the pandemic after experiencing the lowest administrative funding in 50 years, impacting resources and staffing levels. State administrative funding is determined by claims workload. Prior to the pandemic, the UI programs saw historically low unemployment claims numbers at levels not seen since the early 1970s.

The draft audit report also raises the issue of timeliness of the Department's guidance. The UI programs created by the CARES Act are complex and sufficient time was necessary and essential for the Department to properly analyze and develop appropriate guidance. Despite these challenges, ETA published the initial guidance to states for implementing three key programs (FPUC, PEUC and PUA) within 14 days from the enactment of the CARES Act. This guidance was further enumerated through training and outreach, such as webinars conducted to explain the guidance and respond to questions from states.

For further context, as states began implementing these programs, new issues required revisions to existing program operating instructions, as well as development of additional guidance. The CARES Act did not include a program development period prior to implementation that would have provided the Department and states an opportunity to properly sequence guidance and operations of the key program requirements. We appreciate that this report recognizes a key lesson is to establish realistic expectations for policy makers and the public on timelines necessary to implement new complex benefit programs.

In addition, both the Department and states immediately changed their business operations—to remote telework procedures to mitigate the spread of COVID-19—and continued to administer UI programs while also managing the staff overseeing them who have been and continue to be personally and profoundly impacted by the COVID-19 pandemic. All this considered, both the achievements of states and the Department are even more noteworthy. Nevertheless, the Department recognizes the very real impact that implementation delays had and continue to have on unemployed workers and their families.

ETA also notes that it is an unrealistic expectation to apply the benefit payment timeliness standards applicable to the long-established and operating UI programs to these brand new programs, established in a remote, telework environment in a matter of weeks during the most significant crisis ever experienced by the UI program. Most states had challenges, due to already high claim volume, meeting this standard for the regular UI programs, let alone meeting this performance standard for these new UI programs.

It is also important to recognize the time period for activities and findings discussed in the draft audit report, as well as the fact that states have, since the early months of the COVID-19 pandemic, taken significant actions to implement additional integrity controls and tools and deploy staff to conduct fraud investigation activities. For example, states have significantly increased their usage of the resources to combat UI fraud available through the UI Integrity Center's Integrity Data Hub (IDH). At the onset of the COVID-19 pandemic (i.e., as of March 20, 2020), 21 states were using the Suspicious Actor Repository (SAR) and only three states

2

were using the recently developed Multistate Cross-Match (MSCM). These tools allow states to leverage their investigative abilities by sharing information about suspected UI fraud. As of July 3, 2020, the usage of the SAR increased to 23 states and 13 states were using MSCM. Also, in July 2020, the IDH added an identity verification dataset (IDV) for state use. As of April 26, 2021, usage increased to 43 states using the SAR, 39 states using MSCM, and 29 states using IDV. ETA continues to identify, prioritize, and expand the datasets available through the IDH and actively promotes the use of the UI Integrity resources by states.

Fundamentally, at the same time this report enumerates the system shortfalls in this crisis, it is critical to recognize, learn from and amplify the improvements and innovations that states and the Department of Labor have made over time, especially since the summer of 2020.

Once again, ETA thanks the OIG for the opportunity to provide feedback. We look forward to continuing to collaborate with the OIG to combat imposter fraud and improper payments and to strengthen and improve the UI program.

Response to OIG Recommendations

ETA is committed to continuing and evolving its work with states to implement the OIG's recommendations. Below, please find ETA's responses to the OIG's recommendations in the draft audit report and proposed action steps to address them.

Recommendation 1: 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, capabilities needed to ensure effective and equitable delivery of benefits, and the capabilities to minimize fraudulent activities.

ETA Response: ETA concurs with this recommendation. Section 9032 of the American Rescue Plan Act of 2021 (ARPA) provides funding for fraud detection and prevention and to promote equitable access and ensure timely payment of benefits to eligible workers. One of the allowable uses of the funds includes system-wide infrastructure investment and development. ETA has engaged the U.S. Digital Service at the Office of Management and Budget to work with states to develop a customer experience blueprint that will inform the need for future information technology (IT) improvements for the UI IT systems.

Recommendation 2: Continue to work with states to develop, operate, and maintain a modular set of technological capabilities to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment.

ETA Response: ETA concurs with this recommendation. Using the funding provided under Section 9032 of ARPA, the Department will work collaboratively with states to pilot modular modernized elements for various functions of UI systems, such as front-end claims-taking, identity and wage verification to validate claimant eligibility. These modular capabilities will be developed with a focus on scalability to ensure future capacity to increase resources on demand to manage and process any sudden increases in claims volume and the agility to integrate other modular modernized components as they are developed and made available to states.

Recommendation 3: Assist states with claims, overpayment, and fraud reporting to create clear and accurate information. Then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery.

ETA Response: ETA concurs with this recommendation. ETA has completed the following actions to improve clear and accurate reporting by states:

- Issued comprehensive instructions for reporting on CARES Act programs. For example, Attachment II of UI Program Letter (UIPL) No. 16-20, Change 4,[1] provided detailed instructions for reporting on overpayment recoveries in the PUA program;
- Conducted webinars to amplify the guidance and to provide clarification and answers to questions regarding the reporting requirements for each program. As another example, following the issuance of UIPL No. 16-20, Change 4, ETA conducted a webinar on January 11, 2021, that also focused on the enhanced reporting requirements for the PUA program; and
- Implemented an automated menu-driven system for states to input and submit the CARES Act-related reports to ETA; each of these reports have customized edits to ensure reporting of accurate information.

ETA will take the following actions to improve state reporting of claims, overpayment, and fraud:

- Host an additional webinar in the third quarter of Fiscal Year (FY) 2021 focused on CARES Act program reporting; this webinar will identify common deficiencies and provide additional clarifications regarding the reporting instructions to states; and
- As part of its monitoring of states' implementation of CARES Act programs, continue to address reporting deficiencies and provide appropriate technical assistance and guidance on reporting requirements.

With regard to assisting states in fraud detection and recovery, ETA provided states with $200 million in funding to implement tools to combat fraud and to add integrity staff to conduct fraud prevention, detection, and investigatory activities through UIPL Nos. 28-20[2] and 28-20, Change 1,[3] published on August 31, 2020, and January 15, 2021, respectively. Each provided funding opportunities of $100 million to states for fraud prevention activities in the PUA and PEUC programs enacted under the CARES Act. ETA will continue to assist states in the efficient use of these resources, analyze data reported by states, and work with states to establish and strengthen fraud detection and recovery of improper payments.

ETA will provide technical assistance to states regarding the implementation of tools and other mechanisms for ensuring payment integrity, including the use of identity verification solutions

[1]Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_4.pdf.
[2] Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_28-20.pdf.
[3] Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_28-20_Change_1.pdf.

4

and data sources and tools currently available through the UI Integrity Center's IDH. In the first quarter of FY 2021, ETA worked with the UI Integrity Center to implement an IDH Prioritization Template, accompanied by tutorials and webinars, to assist states with analyzing and prioritizing the results and leads returned by the IDH on potential fraud cases. This resource provides states with strategies to mitigate false positives, efficiently use IDH results and prioritize workload, and effectively deploy investigative resources.

ETA will continue to actively work to identify tools and expand the IDH datasets to enhance the fraud prevention and detection resources available to states.

Recommendation 4: Develop standards for providing clear and reasonable timeframes to implement temporary programs to establish expectations for prompt benefit payments to claimants.

ETA Response: ETA concurs with this recommendation. In its recent guidance, ETA has started providing clear and reasonable time frames for states to implement new program features or changes in program requirements to establish expectations for benefit payments to claimants. As an example, in Section 3.a., page 2, and Section 4.b.i, page 9, of UIPL No. 16-20, Change 5,[4] issued on February 25, 2021, the Department advised that it "expects many states will need until the end of March or later to have the new COVID-19 related reasons in place." Another example is found in Section 3.a, page 2 of UIPL No. 14-21,[5] issued on March 15, 2021, where the Department advises that it "expects many states will need until the middle of April or later to implement the new provisions and begin notifying individuals." ETA will continue to provide the public clear and reasonable time frames, to the extent possible, to set realistic expectations for states to implement future program changes and/or extensions. Additionally, for future legislation, ETA will proactively work with legislators to incorporate in our technical assistance insights into operational timelines so that legislation, where possible, can include these types of timing expectations.

[4]Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_5.pdf.
[5]Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_14-21.pdf.

5

APPENDIX C: ACKNOWLEDGEMENTS

Key Contributors to this report were:

Nick Cumby, Lead-Auditor
Dwight Gates, Audit Director
Hilda Gil, Auditor
Sharon Newby, Auditor
Betty Norwood, Lead-Audit Manager
Christy Powell, Auditor
Thomas Price, Auditor
Jaimie Richardson, Audit Manager
Michael Roberts, Auditor
Mark Sanderson, Audit Manager
Lynda Sanford, Audit Manager
Lorenzo Thornton, Auditor
Travis Williams, Auditor

REPORT FRAUD, WASTE, OR ABUSE
TO THE DEPARTMENT OF LABOR

Online
http://www.oig.dol.gov/hotline.htm

Telephone
(800) 347-3756 or (202) 693-6999

Fax
(202) 693-7020

Address
Office of Inspector General
U.S. Department of Labor
200 Constitution Avenue, NW
Room S-5506
Washington, DC 20210