



July 1, 2021

MEMORANDUM FOR: SUZAN G. LEVINE
Principal Deputy Assistant Secretary for
Employment and Training

A handwritten signature in cursive script that reads "Carolyn R. Hantz".

FROM: CAROLYN R. HANTZ
Assistant Inspector General
for Audit

SUBJECT: **Alert Memorandum:** The Employment and Training Administration Does Not Require the National Association of State Workforce Agencies to Report Suspected Unemployment Insurance Fraud Data to the Office of Inspector General or the Employment and Training Administration Report Number: 19-21-006-03-315.

The purpose of this memorandum is to alert you to a concern the Office of Inspector General (OIG) identified during ongoing criminal investigations of Unemployment Insurance (UI) fraud related to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The National Association of State Workforce Agencies (NASWA) is a national organization that represents all 50 state workforce agencies, D.C. and U.S. territories (collectively referred to as "SWAs" herein). NASWA's mission is "to enhance the state workforce agencies' ability to accomplish their goals, statutory roles and responsibilities¹." Part of NASWA's duties include running the Integrity Data Hub (IDH). The IDH is a centralized platform that brings SWAs together to compare and analyze UI claims data for enhanced detection and prevention of UI fraud and improper payments. However, the Employment and Training Administration (ETA) does not require NASWA and its IDH to share suspected UI fraud data with ETA or the OIG as required by the Department of Labor Manual Series (DLMS) Chapter 8.

ETA believes the reference to Uniform Guidance, 2 CFR Parts 200 and 2900 in the cooperative agreement between NASWA and ETA, informs NASWA of the

¹ <https://www.naswa.org/about/bylaws>

requirement to report allegations of fraud. However, these provisions relate to assessment of risk posed by applicants and recipients, but do not address a grantee's obligation to report suspected fraud, waste, abuse, mismanagement, or misconduct of another individual or entity to DOL or the OIG. ETA needs to take immediate action and require NASWA to notify ETA or the OIG of suspected UI fraud, or improper payments.²

In response to a draft of this memorandum, ETA has committed to corrective action. Specifically, ETA stated it will modify the cooperative agreement between ETA and NASWA to incorporate a new term and condition that requires NASWA to share state Unemployment Compensation data that has been flagged by the UI Integrity Center's IDH with the OIG for fraud and audit purposes. The OIG appreciates ETA's commitment to corrective action and encourages the agency to expeditiously amend the cooperative agreement with NASWA. However, we disagree with ETA's assertion that the DLMS does not require the Department, NASWA or the states to provide all information flagged by the IDH.

The Inspector General Act (IG Act) established the duties and responsibilities of the OIG, including activities conducted for the purpose of promoting economy and efficiency, or preventing and detecting fraud and abuse in DOL programs and operations.³ To carry out these responsibilities, the OIG is authorized to have access to all materials relating to DOL programs. Therefore, in accordance with the IG Act, ETA and NASWA are required to disclose information to the OIG that NASWA flags in the IDH. ETA must apply policies contained in DLMS Chapter 8 consistent with the IG Act. The OIG's responsibilities to detect fraud and abuse in the UI program existed prior to COVID-19 pandemic benefits, and will continue beyond those extended benefits. As such, ETA and NASWA have an ongoing obligation to provide information to the OIG to fulfill its statutory responsibilities, and not just for the duration of pandemic benefits.

NASWA's UI Integrity Center

On September 27, 2017, ETA entered into a cooperative agreement with NASWA's Center for Employment Security Education and Research (CESER) for the UI Integrity Center of Excellence, a project which was incorporated into the grant awards provided by DOL to NASWA's CESER. ETA's role in the agreement is to monitor, oversee, and provide guidance and direction for the integrity center project. The cooperative agreement also addressed the responsibilities of the UI Integrity Center of Excellence (Integrity Center) and continued the Integrity Center's efforts to support the needs of SWAs in

² 2 CFR Part 200.53 defines improper payments as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements.

³ See Sections 4(a) and 6(a) of the Inspector General Act of 1978, Public Law (PL) 95-452; 5 U.S.C. App., as amended through P.L. 114-317, enacted December 16, 2016.

implementing strategies to ensure UI program integrity; to prevent, detect and recover improper UI payments; and to reduce UI fraud.

The UI Integrity Center operates the IDH tool that provides cross-matching functionality for SWAs to combat UI fraud. The centralized platform brings participating SWAs together in collective action to compare and analyze UI claims data for enhanced detection and prevention of fraud and improper payments.

According to NASWA, “the UI Integrity Center prevented \$243 million in improper payments from September 2017 through February 2021.” However, the suspected fraud data collected as a result of cross-matching performed by the IDH is not shared with ETA or the OIG.

DLMS Chapter 8 requires DOL employees to advise grantees of its requirement to report allegations of fraud. However, ETA has not advised NASWA of this requirement and they believe Uniform Guidance 2 CFR 200.113 language in the cooperative agreement between NASWA and ETA addresses this requirement.

ETA Did Not Advise NASWA of the Requirement to Report Suspected Fraud

DLMS 8-106 (D)(3) requires that agency heads, supervisors, and managers advise grantees to report, promptly, in writing when possible, to a DOL employee overseeing their work, the OIG or both, allegations that they reasonably believe constitute fraud, waste, abuse, mismanagement or misconduct. If sent to DOL, the agency would be required to report the allegations to the OIG. The DLMS does not limit the reporting requirement to only those instances that could affect the award or continuation of a grant.

We asked ETA how they ensured NASWA complied with the DLMS requirement and whether ETA officials advised NASWA of the requirement. ETA provided the following statement:

ETA’s cooperative agreement with the National Association of State Workforce Agencies, Center for Employment Security Education and Research (NASWA/CESER) for the UI Integrity Operations includes the reference to Uniform Guidance, 2 CFR Parts 200 and 2900. Uniform Guidance 2 CFR 200.113, Mandatory disclosures, requires the non-Federal entity or applicant for a Federal award to disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

We believe that ETA’s cooperative agreement with NASWA/CESER does not meet the requirements of DLMS 8-106 (D)(3). ETA is improperly relying on

2 CFR 200.113, “Mandatory disclosures” to satisfy this requirement, when it does not fully encompass the intended scope of the DLMS. Specifically,

- CFR Part 200, when read in conjunction with 2 CFR Part 180, prescribes mandatory reporting of violations that may affect DOL’s decision whether to award a grant or continue a grant, but does not address situations where the grantee may become, through the normal course of its work, aware of other suspected fraud, waste, abuse, mismanagement, or misconduct. Other suspected fraud could include, but is not limited to, indications of fraud in UI claims;
- The CFR provision referenced by ETA only pertains to NASWA’s duty to report violations that could potentially affect its grant. As such, ETA’s notice to NASWA of its reporting requirements only pertains to mandatory disclosures of “violations potentially affecting the Federal award” (i.e., the grant);and
- ETA referenced certain CFR provisions included in its grant award; however, those CFR provisions did not advise NASWA of its obligation to report other (non-grantee related) “allegations that [NASWA] reasonably believe[s] constitute fraud, waste, abuse, mismanagement, or misconduct,” as required by DLMS 8-106(D)(3).

ETA also referred to 2 CFR 2900, which are the Department’s regulations for grants and agreements. Those provisions relate to assessment of risk posed by applicants, but do not address a grantee’s obligation to report suspected fraud, waste, abuse, mismanagement, or misconduct of another individual or entity to DOL or the OIG. The DLMS requires more from DOL employees and grantees.

The UI program is exposed to substantial risks, including the cost of UI benefit payments based on fraudulent claims. ETA needs to take immediate action and require NASWA to notify ETA, the OIG, or both of suspected UI fraud. NASWA reporting suspected UI fraud to the OIG will assist the OIG to effectively and efficiently detect and investigate large-scale fraud, deconflict investigations with SWAs, and identify and share fraud trends with ETA and SWAs in order to strengthen the UI program and help prevent fraud before it occurs.

ETA has expressed its commitment to continue working with the OIG to combat UI fraud and improper payments and to modify its agreement with NASWA. We look forward to continuing to work collaboratively with ETA to improve the efficiency and integrity of the UI program.

Recommendations

We recommend the Principal Deputy Assistant Secretary of Employment and Training:

1. Take immediate action to require NASWA to refer information to ETA and the OIG on suspected fraud, waste, abuse, mismanagement, or misconduct, per DLMS 8-106(D)(3). Such actions could include modification of ETA's grant award or issuance of unemployment insurance program policy guidance to ensure ETA complies with the notice requirement and its grantees comply with the reporting requirements of the DLMS.
2. Continue to work with the OIG and, within 30 days of this memorandum, meet with the OIG to develop a permanent approach to OIG access to IDH data.

ETA provided us their response to the draft alert memorandum and recommendations. We have included ETA's response (See Attachment).

cc: Jim Garner, Acting Administrator, Office of Unemployment Insurance
Laura P. Watson, Administrator, Office of Grants Management
Greg Hitchcock, Special Assistant, Office of Grants Management
Julie Cerruti, Audit Liaison


U.S. Department of Labor

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



June 29, 2021

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

FROM: ANA HAGEAGE 
Chief of Staff

SUBJECT: Response to the Office of Inspector General Alert Memorandum:
*The Employment and Training Administration Does Not Require
the National Association of State Workforce Agencies to Report
Suspected Unemployment Insurance Fraud Data to the Office of
Inspector General or DOL's Employment and Training
Administration*

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) Alert Memorandum, referenced above, and its recommendation. The detection and prevention of fraud in the unemployment insurance (UI) programs are of the utmost importance and priority for this Administration. ETA wants to continue to build upon a constructive and productive relationship with the OIG. The Department understands that the topic of OIG access to UI program data is an unresolved issue from the prior Administration. This Administration is very committed to solutions to help fight fraud.

This Administration inherited an enormous amount of fraud in these programs, including a new wave of criminal syndicates using stolen personally identifiable information to access UI benefits, and since the beginning has shown a serious commitment to fighting fraud, supporting robust oversight of relief programs, and finding solutions as quickly as possible. That is why the Administration worked with Congress to allocate \$2 billion in the American Rescue Plan Act (ARPA) to prevent and detect fraud, promote equity, and ensure timely payments to legitimate claimants. We are committed to this goal, and are providing new solutions aimed at reversing problems from the past Administration.

The UI Integrity Center is funded by the Department and is operated by the National Association of State Workforce Agencies (NASWA) through a cooperative agreement between ETA and NASWA. The topic of OIG access to UI program data has been an ongoing subject of discussion, particularly with respect to the data that the UI Integrity Center receives from and shares with states through data sharing agreements between NASWA and the states. As ETA has recently discussed with the OIG, this Administration will be working with the OIG, NASWA and the State Workforce Agencies to support the sharing of data with the OIG as permitted by law.

ETA especially appreciates the OIG's willingness to continue the dialogue to come to a mutually agreeable path forward on this issue. Specifically, ETA is committed to modifying the cooperative agreement between ETA and NASWA to incorporate a new term and condition that requires NASWA to share state Unemployment Compensation data that has been flagged by the UI Integrity Center's Integrity Data Hub (IDH) with the OIG for fraud and audit purposes.

While the Department of Labor Manual Series (DLMS) does not require the Department, NASWA, or the states to provide the OIG with all information flagged by the IDH, as an "IDH flag" without investigation is insufficient to suggest fraudulent activity, the Department, recognizing the scope of this crisis, has agreed to work with NASWA to facilitate providing this data to the OIG.

Again, ETA thanks the OIG for the opportunity to provide feedback. ETA reiterates our continuing interest and willingness to collaborate with the OIG to combat imposter fraud and improper payments and to strengthen and improve the UI program.

Response to the OIG Recommendation

Below is the OIG recommendation contained in the draft Alert Memorandum, followed by ETA's response and proposed action steps to address it.

Recommendation: Take immediate action to require NASWA to refer information to ETA and the OIG on suspected fraud, waste, abuse, mismanagement, or misconduct, per DLMS 8-106(D)(3). Such actions could include modification of ETA's grant award or issuance of unemployment insurance program policy guidance to ensure ETA complies with the notice requirement and its grantee complies with the reporting requirements of the DLMS.

ETA Response: While the DLMS does not require the Department, NASWA, or the states to provide the OIG with all information flagged by the IDH, as an "IDH flag" without investigation is insufficient to suggest fraudulent activity, the Department recognizes the OIG seeks additional data given the scope of the current crisis. Accordingly, the Department has agreed to work with NASWA in an effort to provide the OIG with information beyond that which is required by the DLMS.

Specifically, ETA is committed to modifying the cooperative agreement between ETA and NASWA to incorporate a new term and condition that requires NASWA to share state Unemployment Compensation data that has been flagged by the UI Integrity Center's IDH with the OIG for fraud and audit purposes. Prior to sharing this data, NASWA and the states will need to execute an updated IDH data sharing agreement. While states themselves must ultimately consent to updating their data sharing agreements, ETA commits to assisting NASWA with messaging the positive reasons for updating the state data sharing agreements and will support NASWA in negotiating the updated data sharing agreement with each state.