Semiannual Report to Congress

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



Volume 86

April 1 – September30, 2021

OFFICE OF INSPECTOR GENERAL
E PLURIBUS UNUM
UNITED STATES
DEPARTMENT OF LABOR

Contents

Significant Concerns **8**

Worker and Retiree Benefit Programs
Unemployment Insurance Programs 20
Office of Workers' Compensation Programs 37

Worker Safety, Health, and Workplace Rights
Occupational Safety and Health Administration 42
Wage and Hour Programs 45
Bureau of International Labor Affairs 47

Employment and Training Programs
Employment and Training Administration Programs 50

Labor Racketeering **54**

Departmental Management **58**
Single Audits 61

Employee Integrity Investigations **62**

OIG Whistleblower Activities **64**

Legislative Recommendations **68**

Appendices
Funds Recommended for Better Use 77
Questioned Costs 78
Final Audit Reports Issued 79
Unresolved Audit Reports Over 6 Months Old 81
Corrective Actions Taken by the Department 82
Unimplemented Recommendations 86
Investigative Statistics 97
OIG Hotline 99
Fiscal Year 2022 Audit Workplan 100

Message from the Acting Inspector General

I continue to be impressed by the Office of Inspector General (OIG) staff's hard work and dedication. Their commitment to the mission and the important work of our office is evident by their sustained accomplishments during this difficult time. As the federal agency with primary oversight of the U.S. Department of Labor (DOL), the OIG remains committed to assisting DOL and Congress meet the challenges resulting from the pandemic. We remain diligently focused on protecting taxpayer funds from fraud, waste, and abuse, and ensuring that DOL programs function efficiently and effectively.

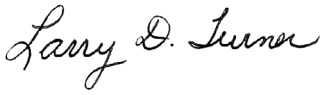
Throughout this report, we highlight several audits and investigations involving the COVID-19 pandemic. This work is consistent with our comprehensive Pandemic Response Oversight Plan that we created to address known and expected risks resulting from the pandemic. Specifically, during this reporting period, we reviewed how the pandemic affected the operations of the Wage and Hour Division, the Employment and Training Administration, and the Office of Workers' Compensation Programs. These reports highlighted inefficiencies and concerns promulgated by the OIG in previous reports, which have been exacerbated by the pandemic. A short summary of each pandemic-related report is included herein, and the full publications and additional information about how we are conducting oversight and responding to the pandemic are available via the OIG's Pandemic Response Portal.

A large part of our work on the pandemic has been in the unemployment insurance (UI) program. To date, as part of our investigative work, we have identified and stopped numerous multistate, multimillion-dollar UI fraud schemes targeting the program. The OIG is committed to safeguarding this essential program and will continue to alert the Department, the public, and our law enforcement and State Workforce Agency partners of any threats to the integrity of the UI system.

We also took advantage of this unprecedented opportunity to develop cross-cutting operations and innovative partnerships between components within the OIG. Our work has benefitted from this increased, holistic approach by merging the concerns highlighted in audit reports and investigations to provide comprehensive recommendations to DOL. The OIG is also a member of the Pandemic Response Accountability Committee, which was created to detect and prevent fraud, waste, abuse, and mismanagement of the trillions of dollars in funds provided by the Coronavirus Aid Relief and Economic Security Act and other legislation. As part of this effort, we are working with our OIG partners to identify major risks that cut across DOL programs and agency boundaries.

In addition to our extensive work relating to the pandemic, the OIG continues to conduct audits to review the effectiveness, efficiency, economy, and integrity of DOL programs and operations, and investigations into alleged violations of federal laws relating to DOL programs, personnel, and operations. This report highlights our office's significant audit and investigative accomplishments during the reporting period, and several significant concerns.

We will continue to work constructively with DOL leadership and Congress on our shared goals to identify improvements to DOL programs and operations and to protect the interests and benefits of the nation's workers, retirees, and taxpayers during this unprecedented time.



Larry D. Turner
Acting Inspector General

OFFICE OF INSPECTOR GENERAL
E PLURIBUS UNUM
UNITED STATES
DEPARTMENT OF LABOR

OIG Mission

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

Core Values

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

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

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

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

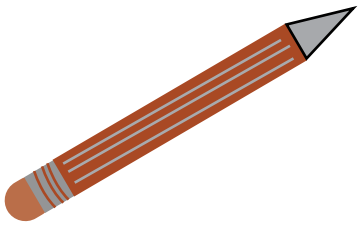
Transparency
We promote an environment of open communication through information sharing, accountability, and accurate reporting.

Strategic Goals

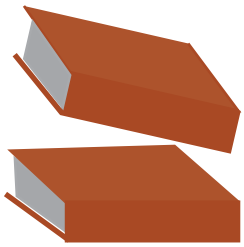
Goal 1: Deliver timely, relevant, and high-impact results.
Goal 2: Foster an internal OIG culture that drives high performance and engagement.
Goal 3: Promote responsible stewardship of OIG financial and nonfinancial resources.

Audit Statistics

15
Audits and Other Reports Issued



42
Recommendations for Corrective Action

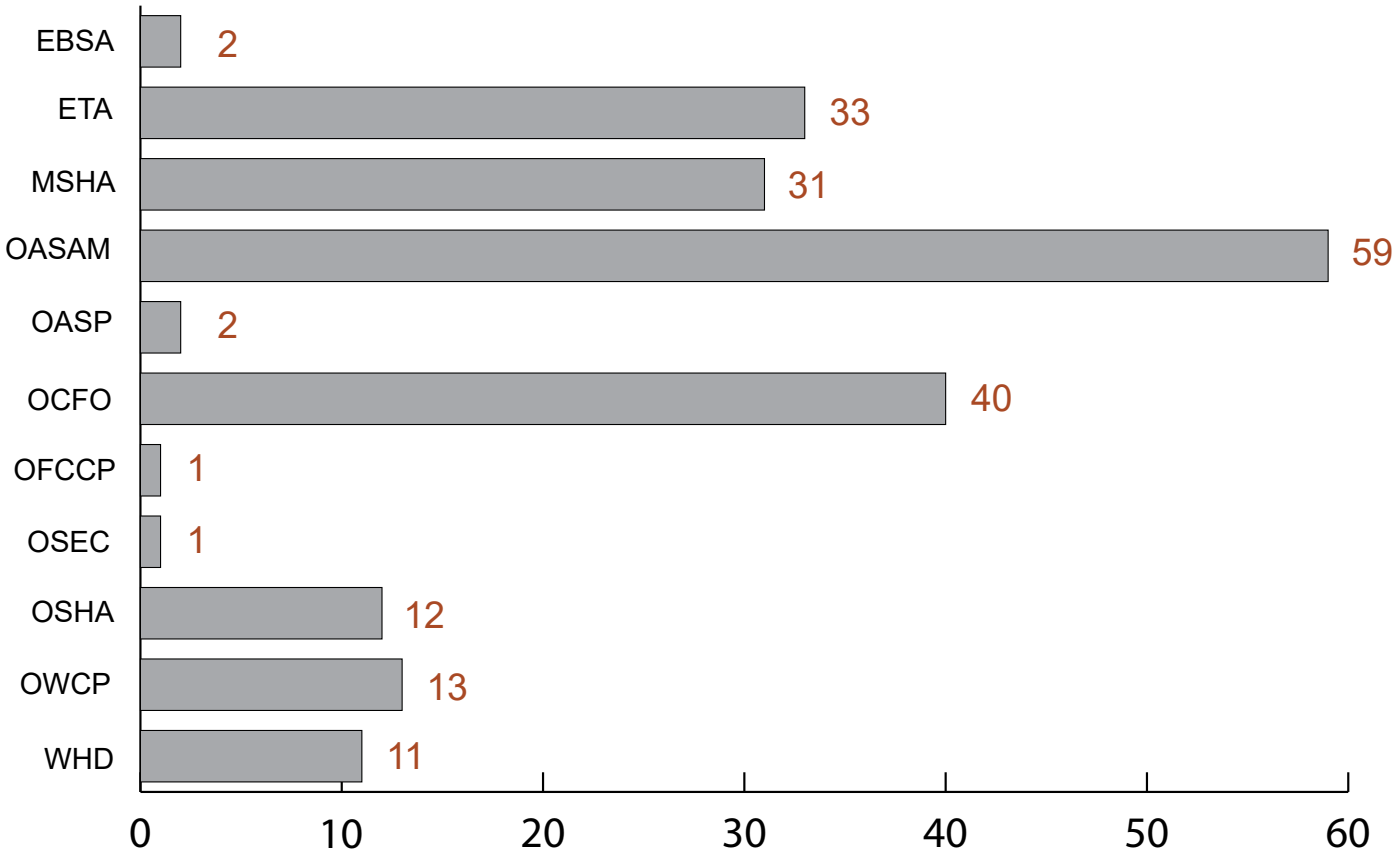


$34 Billion
in Funds Put to Better Use



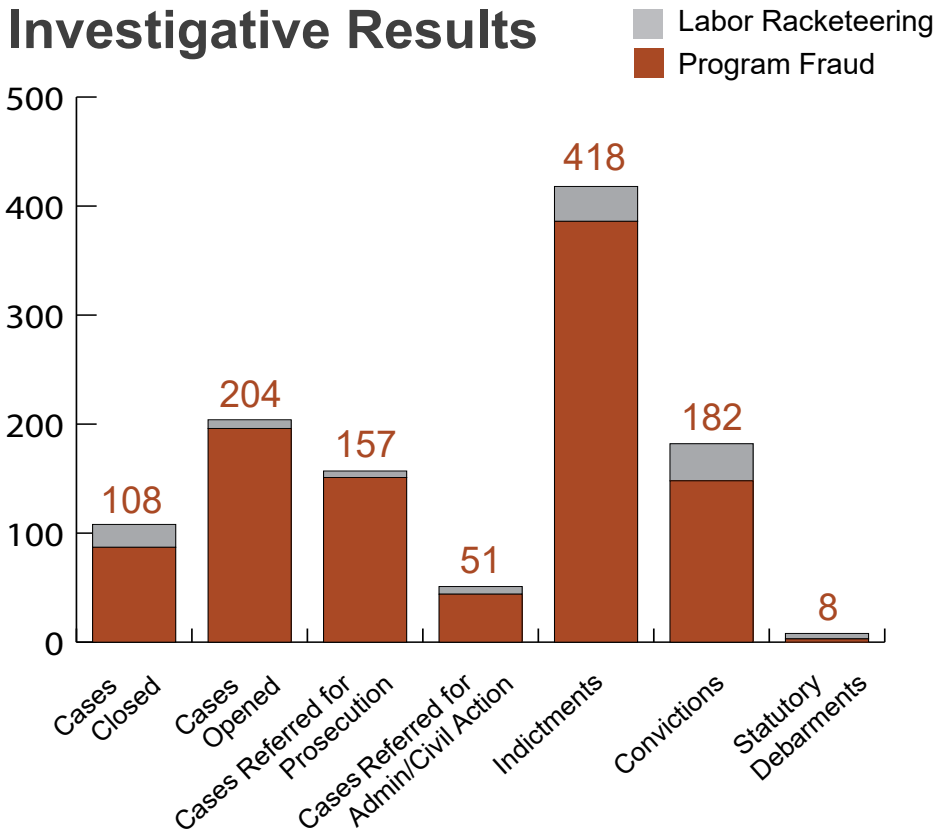
OIG Unimplemented Recommendations

OIG recommendations not fully implemented as of September 30, 2021

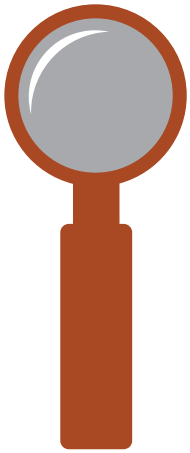


Investigative Statistics

Investigative Results



269 / 64



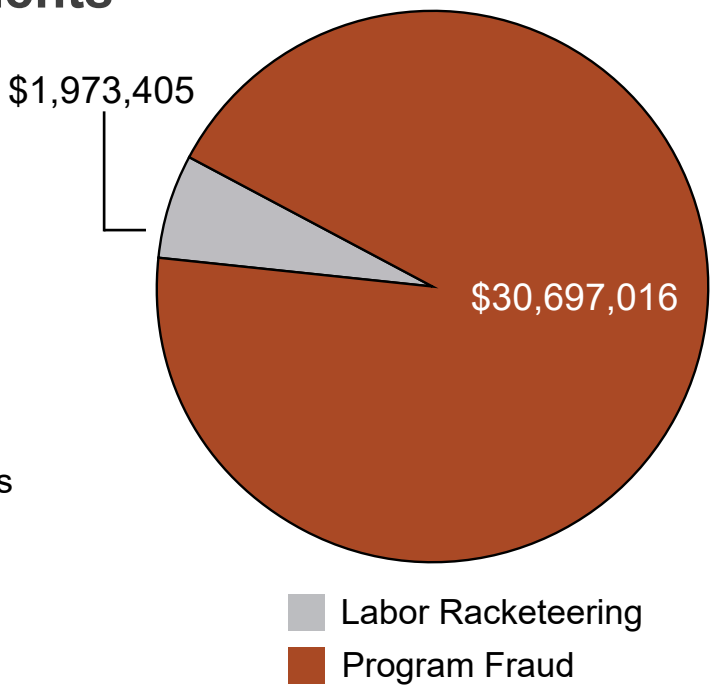
Over 260 investigative cases opened and over 60 cases closed

Monetary Accomplishments

These include

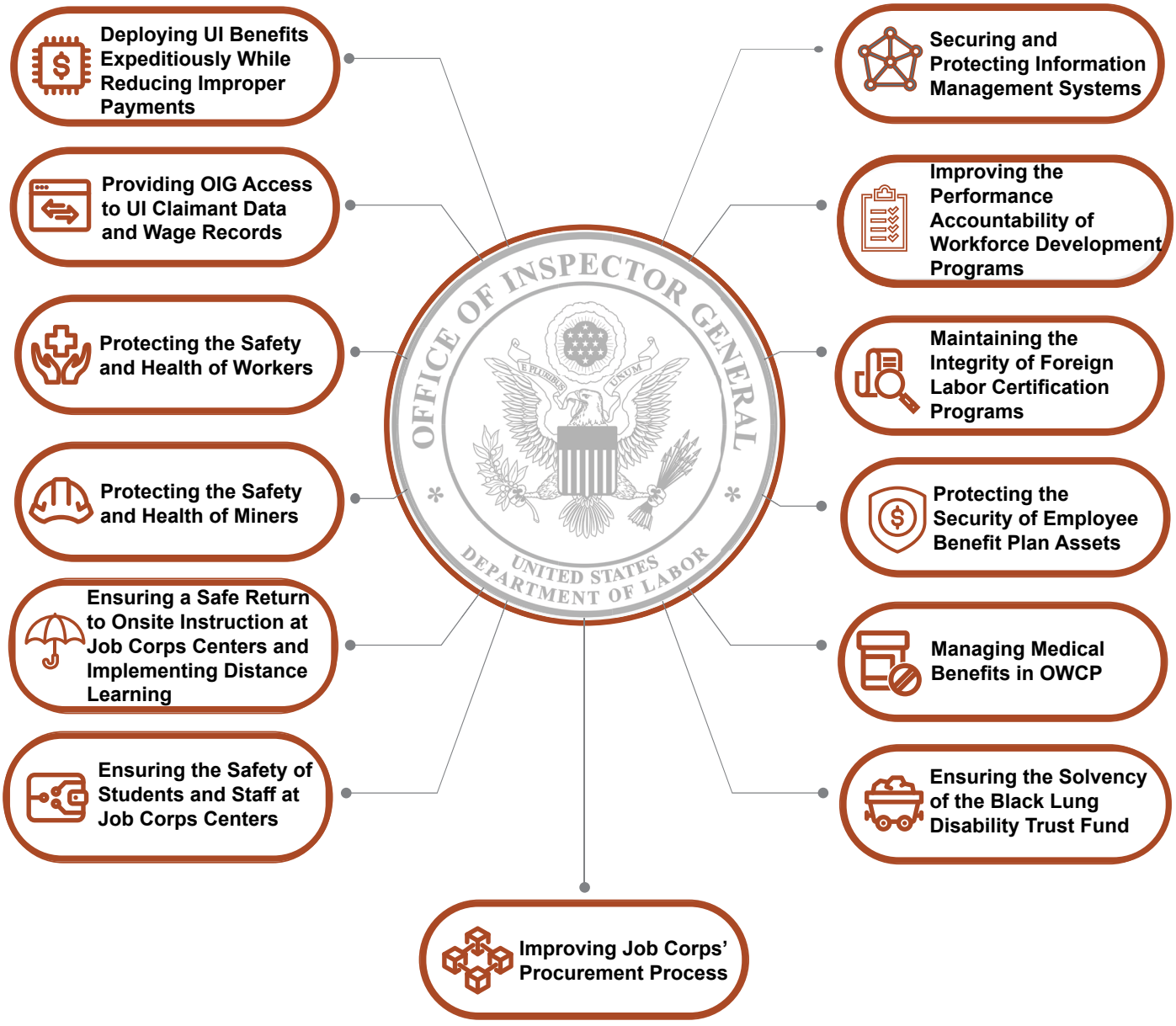
- Recoveries
- Cost-Efficiencies
- Restitutions
- Fines/Penalties
- Forfeitures
- Civil Monetary Actions

$32,670,421
Total



Significant Concerns

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



Deploying Unemployment Insurance Benefits Expeditiously While Reducing Improper Payments

Over the years, the OIG has repeatedly reported significant concerns with the ability of DOL and State Workforce Agencies (SWA) to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly in response to national emergencies and disasters. The OIG has reiterated these concerns following the economic downturn created by the COVID-19 pandemic and the unprecedented levels of federal funding allocated to the unemployment insurance (UI) program, which is currently estimated at approximately $872 billion.

The extraordinary increase in UI funding has resulted in more than 1,000 times the amount of investigative work involving the UI program. Since the start of the pandemic, the OIG has opened more than 27,000 complaints and investigations relating to UI benefits paid under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent legislation. Further, the OIG is in the process of reviewing an additional 128,000 UI fraud complaints from the National Center for Disaster Fraud. As a result of the surge in complaints, UI investigations now account for 92 percent of the OIG's investigative case inventory, compared to 12 percent prior to the pandemic.

For many years, the OIG has reported on the Department's limited ability to measure, report, and reduce improper payments in the UI program. Historically, the UI program experienced some of the highest improper payment rates among federal government benefit programs. The reported improper payment estimate for the regular UI program has been above 10 percent for 14 of the last 18 years. To date, DOL has not estimated an improper payment rate for UI benefits provided in response to the COVID-19 pandemic. According to DOL officials, they are currently following the Office of Management and Budget's guidance to evaluate and develop estimations of improper payments for the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) programs. Assuming an improper payment rate of 10 percent or higher for extended federal benefits under the CARES Act and subsequent legislation, at least $87 billion of the estimated $872 billion in UI program funds could be paid improperly, with a significant portion attributable to fraud. The OIG's substantial pandemic audit and investigative work indicate that UI program improper payments, including fraudulent payments, will be much higher than 10 percent. For example, the alert memorandum we issued on June 16, 2021, identified $17 billion in potential fraudulent payments in four high-risk areas. This is up from the $5.4 billion we identified in an alert memorandum issued on February 22, 2021, for the same high-risk areas.

Our prior audit work revealed that the Department has not done enough to formally assess the various strategies available to combat improper payments. Since the onset of the COVID-19 pandemic, DOL has issued a significant amount of guidance, additional funding, and technical assistance to states in order to support fraud prevention and combat improper payments. Despite these efforts, improper payments stemming from fraudulent activity continue to pose a significant threat to the integrity of the UI program, as identity thieves and organized criminal groups have found ways to exploit program weaknesses. For example, benefits paid via non-state-issued prepaid debit cards

help provide anonymity to those who submit fraudulent claims. Such issues are exacerbated by the significant funding increase in response to the COVID-19 pandemic, resulting in the need for greater oversight and scrutiny.

Under the Continued Assistance for Unemployed Workers Act of 2020, Congress did include additional provisions to mitigate the risk of improper payments—requiring applicants to provide additional evidence to support their initial eligibility for UI benefits for the PUA program. However, the Department needs to continue its ongoing work with states to implement strategies designed to reduce UI improper payments for emergency programs similar to the CARES Act and share best practices identified among states. These strategies include:

- providing guidance to states on how to deploy resources efficiently and expeditiously;
- using analytics to close IT security and process gaps as well as to tighten controls for benefit integrity;
- establishing performance measures for activities to ensure timely delivery of benefits to those in need; and
- developing the required reporting to improve effectiveness and accountability.

In addition, the Department needs to provide timely oversight to ensure that states are effectively carrying out these critical responsibilities.

We are aware that the Department is making multiple, strategic investments into the UI system. Specifically, the Department is providing up to $140 million to support states with fraud detection and prevention in all UI programs. DOL officials said they are also providing another round of funding ($100 million) to states to support fraud prevention and combat fraud in PUA and PEUC programs.

In addition to these efforts, the Department is providing up to $260 million in equity grants to states to promote equitable access to Unemployment Compensation (UC) programs. States may use these funds, in part, to develop strategies to improve public awareness of the UC program in order to improve claimant outreach and customer service processes, implement strategies to reduce backlogs, and improve access for workers in communities that may have historically experienced barriers to access. States can also use the funds to improve service delivery to provide a better experience and so recipients can receive their first benefit payments sooner and continue to receive subsequent benefits. We plan to evaluate the effectiveness of this new program as part of our FY 2022 Audit Workplan.

Providing the OIG Access to UI Claimant Data and Wage Records

The OIG's lack of direct access to UI claimant data and wage records from SWAs is of significant concern because this deficiency directly and adversely impedes the OIG's ability to combat fraud, waste, and abuse and provide independent oversight to help DOL reduce improper payments in employee benefit programs, including UI and Disaster Unemployment Assistance. For a number of years, OIG audits and investigations have been impeded by the lack of access to UI claimant data and wage records from SWAs. The COVID-19 pandemic and its detrimental consequences to U.S. unemployment greatly amplified that challenge. In response to an alert memorandum, the Employment and Training Administration (ETA) published a new Unemployment Insurance

Program Letter (UIPL) in August 2021 requiring states to provide the OIG with UI data related to the CARES Act and subsequent pandemic UI legislation. However, the new UIPL limits the OIG's access to UI data for audits and evaluations only to CARES Act UI and other temporary UI programs enacted in response to the pandemic that expired in September 2021, and not to all UI programs. ETA has required sharing of state UI data as a condition of the fraud prevention grants offered under the American Rescue Plan Act, which will provide such access through December 31, 2023. Once again the OIG is unable to provide effective oversight of the UI program because of a lack of access to all UI data.

The OIG must have easy and expeditious access to state UI claimant and wage records to conduct appropriate audit and investigative oversight of UI funds. In support of the OIG's oversight activities, the OIG needs the authority to access UI claimant data and wage records from SWAs to verify claimants' eligibility for UI benefits, including both initial eligibility (and amounts) and continuing eligibility. Direct and timely access to these records will permit the OIG to identify claimants who appear to be receiving benefits while also earning wages. Further, direct and timely access to UI data will allow the OIG to use our data analytics program to identify and investigate complex identity theft and multistate fraud schemes, as we have successfully done during the pandemic. The OIG could also use UI data to assess the outcomes of UI reemployment programs.

Granting the OIG access to UI claimant data and wage records from SWAs would provide the OIG with a valuable source of information for both audits and investigations. Similarly, sharing this information with DOL could help improve programmatic controls as well as the integrity of benefit payments.

Protecting the Safety and Health of Workers

The Occupational Safety and Health Administration (OSHA) is responsible for the safety and health of 130 million workers employed at more than 8 million establishments, and OSHA must ensure that employers are providing the level of protection required under relevant laws and policies. The OIG remains concerned about OSHA's ability to target its compliance activities to areas where it can have the greatest impact.

OSHA carries out its compliance responsibilities through a combination of self-initiated and complaint-based inspections. However, because of resource limitations, the program only reaches a fraction of the regulated entities. Consequently, OSHA must target the most egregious or persistent violators to protect the most vulnerable worker populations. OSHA faces challenges to ensure that workplaces where workers are exposed to safety and health violations are sufficiently covered.

Moreover, since the start of the pandemic, OSHA has received an influx of complaints. It received 15 percent more complaints in 2020, but performed 50 percent fewer (13,164 fewer, to be precise) inspections compared to a similar period in 2019. Therefore, the risk that OSHA may not ensure the level of protection that workers need at various job sites has increased. In addition, due to COVID-19 concerns, where an on-site inspection is warranted but cannot be performed safely, OSHA has turned to remote-only inspections. OSHA's on-site presence during inspections has historically resulted in timely mitigation efforts for at least a

portion of the hazards identified. However, with many OSHA inspections done remotely during the pandemic, workplace hazards may remain unidentified, thereby leaving more employees vulnerable.

While OSHA has issued several guidance documents to enhance safety provisions during the pandemic, guidance does not carry the weight of OSHA rules or standards. In June 2021, more than a year into the pandemic, OSHA issued an emergency temporary standard that only covered the health care industry. This emergency standard will expire in December 2021 unless OSHA takes action to make it a permanent standard. We are concerned whether this emergency temporary standard is sufficient to protect all workers and whether OSHA has the adequate resources for enforcement. In addition, in September 2021, President Biden issued an executive order to write a rule requiring employers with at least 100 workers to require employees to get vaccinated or produce weekly test results showing that they are virus free.

Protecting the Safety and Health of Miners

The Mine Safety and Health Administration's (MSHA) ability to complete mine inspections while safeguarding the health of miners and the agency's staff during the COVID-19 pandemic is a concern for the OIG. We are also concerned with the high incidence of powered haulage accidents in mines, which accounted for about half of all mine fatalities in 2017 and 2018 and a quarter of all mine fatalities in 2019. Powered haulage continues to represent a significant share of accidents. MSHA also needs to develop strategies to address lung disease in coal mining states, particularly by updating regulations regarding silica content in respirable dust. Respirable crystalline silica can cause deadly and incurable chronic diseases, such as silicosis and black lung disease.

Improving the Performance Accountability of Workforce Development Programs

The OIG has concerns about the Department's ability to ensure that its investment in workforce development programs is successful in advancing participants' skills and placing them in suitable employment. The high unemployment rate caused by the pandemic makes it more important than ever that the Department's workforce development programs assist job seekers and employers in finding and filling available jobs and assist workers in developing the right skills to fill new job openings. The Department's ability to obtain accurate and reliable data to measure, assess, and make decisions regarding the performance of grant recipients, contractors, and states in meeting the programs' goals is critical.

The Department needs to ensure that its investments in credential attainment align with local employers' needs and are having the desired impact on participants' ability to obtain or advance in a job. In a 2018[1] audit that followed up on the employment status of a sample of Job Corps students 5 years after they left the program, we found that Job Corps faced challenges in demonstrating the extent to which its training

[1]DOL-OIG, "Job Corps Could Not Demonstrate Beneficial Job Training Outcomes," (March 30, 2018; Report No. 04-18-001-03-370).

programs helped those participants obtain meaningful jobs appropriate to their training.

In March 2018, ETA announced the National Health Emergency Grant program to help communities address the economic and workforce-related impacts of the opioid crisis. Research suggests that opioid dependency has been a leading cause of workforce exits for workers ages 25 to 54. To date, ETA has approved up to $133 million in grants to address the opioid crisis. It is vital that the Department monitor the performance of the discretionary grants it has awarded for the delivery of services to employers and workers affected by the opioid crisis.

Ensuring a Safe Return to On-Site Instruction at Job Corps Centers and Implementing Distance Learning During the Pandemic

The OIG is concerned about the ability of Job Corps to effect a safe return to in-person learning during the COVID-19 pandemic. Job Corps released a program instruction notice in September 2020 to help guide centers as they began a phased reopening. Preventing outbreaks of COVID-19 at centers across the United States will pose a significant challenge for Job Corps. Job Corps centers are mostly residential, with students and some staff living on campus. While Job Corps has implemented its distance learning programs, the OIG is concerned with two issues related to distance learning. First, many Job Corps programs, such as, plumbing and carpentry, are intensively hands-on and may not successfully transition to a virtual training model. Second, many Job Corps students may not have access to the equipment or high-speed Internet services they need in order to effectively participate in distance learning. Since the summer of 2020, Job Corps has procured and distributed laptops and mobile hotspots to students to participate in distance learning. Finally, the OIG is concerned with the potential learning gaps, such as those caused by delays to in-person instruction, that occurred because of the temporary suspension of Job Corps instructional programs at the onset of the pandemic and with how Job Corps intends to remediate these potential learning gaps.

Ensuring the Safety of Students and Staff at Job Corps Centers

In addition to the safety challenges posed by the COVID-19 pandemic, controlling on-campus violence and other criminal behavior remains a substantial challenge for Job Corps centers. The OIG audits from 2015[2] and 2017[3] revealed that some Job Corps centers failed to report and investigate serious misconduct, such as drug abuse and assaults. The audits also disclosed that some Job Corps centers downgraded incidents of violence to lesser infractions, creating an unsafe environment for students and staff. The follow-up work we completed in December 2017[4] and our ongoing review of Job Corps' corrective actions showed that Job Corps has taken steps to improve center safety and security. However, the OIG has concerns with the process Job Corps

[2]DOL-OIG, "Job Corps Needs to Improve Enforcement and Oversight of Student Disciplinary Policies to Better Protect Students and Staff at Centers," (February 27, 2015; Report No. 26-15-001-03-370).

[3]DOL-OIG, "Review of Job Corps Center Safety and Security," (March 31, 2017; Report No. 26-17-001-03-370).

[4]DOL-OIG, "Job Corps Took Action to Mitigate Violence, Drugs and Other Student Misconduct at Centers, But More Needs to Be Done," (December 29, 2017; Report No. 26-18-001-03-370).

uses to evaluate incoming applicants with respect to substance abuse and mental health issues. A March 2021[5] OIG audit report showed that the current process does not provide Job Corps centers the appropriate tools and resources to properly evaluate applicants for these challenges as they enter the program and does not ensure centers have the necessary resources to mitigate them. The OIG continues to monitor various safety initiatives and actions taken by Job Corps to keep students and staff safe.

Maintaining the Integrity of Foreign Labor Certification Programs

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

In 2003, the OIG issued a white paper[6] outlining vulnerabilities that then existed in four FLC programs, Permanent Employment Certification (PERM), H-1B, H-2A, and H-2B, and, in 2020, we issued a similar report.[7] We found that, although the post-2003 rules revamped the PERM, H-2A, and H-2B visa programs, as well as addressed some of the vulnerabilities cited in audits and investigations by the OIG and the Government Accountability Office, those same rules created challenges regarding DOL's responsibilities. Additionally, DOL continues to have limited authority over the H-1B and PERM programs which challenges the goal of protecting the welfare of the nation's workforce.

The statute limits DOL's ability to deny H-1B applications. Specifically, DOL may only deny incomplete and obviously inaccurate H-1B applications, and has only limited authority to conduct H-1B investigations in the absence of a complaint. The PERM program itself is persistently vulnerable to employers not complying with its qualifying criteria. Therefore, both the PERM and H-1B programs remain highly prone to fraud.

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

Finally, DOL has established a risk-based process to determine which H-2A and H-2B

[5]DOL-OIG, "Job Corps Should Improve Its Pre-Admission Evaluation Process," (March 25, 2021; Report No. 05-21-001-03-370).

[6]DOL-OIG, "Overview and Assessment of Vulnerabilities in the Department of Labor's Alien Labor Certification Programs," (September 30, 2003; Report No. 06-03-007-03-321).

[7]DOL-OIG, "Overview of Vulnerabilities and Challenges in Foreign Labor Certification Programs," (November 13, 2020; Report No. 06-21-001-03-321).

applications to audit. The new selection process identifies appropriate risk factors based on adjudication experience and available H-2A and H-2B application processing data. DOL has implemented the process and started the audits. Because the process is still new, it is difficult for ETA to determine whether the applications audited were those most likely to result in violations eligible for debarment.

Protecting the Security of Employee Benefit Plan Assets

The OIG remains concerned over the Employee Benefits Security Administration's (EBSA) ability to protect the benefit plans of about 158 million workers, retirees, and their families under the Employee Retirement Income Security Act of 1974 (ERISA). In particular, the OIG is concerned about the statutory limitations on EBSA's oversight authority and inadequate resources to conduct compliance and enforcement. A decades-long challenge to EBSA's compliance program, ERISA provisions allow billions of dollars in pension assets to escape full audit scrutiny. We have previously found that as much as $3.3 trillion in pension assets, including an estimated $800 billion in hard-to-value alternative investments, held in otherwise regulated entities such as banks, received limited-scope audits that provided few assurances to participants regarding the financial health of their plans. EBSA needs to focus its limited available resources on investigations that are most likely to result in the deterrence, detection, and correction of ERISA violations, particularly given the number of benefit plans EBSA oversees relative to the number of investigators it employs. Finally, EBSA lacks the authority under the Federal Employees' Retirement System Act (FERSA) to effectively oversee more than $790 billion in federal employee Thrift Savings Plan (TSP) assets. FERSA requires EBSA to conduct regular compliance audits to determine whether the Federal Retirement Thrift Board, an independent agency, is fulfilling its fiduciary duties and properly safeguarding TSP participants' assets.

Managing Medical Benefits in the Office of Workers' Compensation Programs

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

In the Energy Workers program, with an aging claimant population and an increased demand for home health care services, there is a potential for providers to exploit these benefits through unauthorized or unnecessary billing. Since 2010, home health care costs paid by the Energy Workers program have grown from $100 million to more than $675 million, amounting to 74 percent of all medical benefits paid by the program in FY 2020. OWCP needs to continue its efforts to analyze home health care billing for abusive practices and to identify and refer allegations involving potential fraud or abuse to the OIG for further investigation.

Past audits of the FECA program have identified internal control weaknesses related to OWCP's management of pharmaceuticals. For example, OWCP allowed increases in billing statements for compounded drugs to go undetected and failed to identify the overuse of opioids. Given the high risk of fraud related to prescription payments, OWCP needs to analyze and monitor FECA program costs to promptly detect and address emerging issues before they manifest into material concerns.

Consistent with prior audit recommendations by the OIG, OWCP imposed restrictions on opioid prescriptions in September 2019. In addition, in March 2021, OWCP contracted with a Pharmacy Benefits Manager (PBM) that will be responsible for pharmaceutical transactions, including implementation of FECA eligibility determinations and pricing for pharmaceutical drugs. OWCP needs to provide adequate oversight over the PBM to ensure that it is providing the most cost-effective and safe medical benefits. OWCP should also continue to monitor the COVID-19 pandemic and potential impacts on its ability to provide timely and effective benefits to injured workers.

Ensuring the Solvency of the Black Lung Disability Trust Fund

Miners and their dependent survivors receive lifetime benefits when awarded under the Black Lung Benefits Act. Mine operators pay these benefits when possible, and the Black Lung Disability Trust Fund (BLDTF) pays the benefits when a miner's former employer does not or cannot assume liability. The OIG's primary concern is that the current annual income of the BLDTF (primarily from an excise tax on coal) is not sufficient to cover annual benefit obligations to meet administrative costs, and to service past debt. According to DOL's Agency Financial Report, as of September 30, 2021, the BLDTF was carrying close to a $6.1 billion deficit balance, which is projected to grow to nearly $13 billion (in constant dollars) by September 30, 2046.

The excise tax that funds the BLDTF is levied on domestic sales of coal mined in the United States (coal exports and lignite are not subject to this tax). From January 1 through December 31, 2019, the tax rates were reduced to the rates originally set when the trust fund was established in 1978: $0.50 per ton of underground-mined coal or $0.25 per ton of surface-mined coal. Even though this rate reverted to higher, pre-2019 levels effective January 1, 2020, the temporary tax rate reduction plus the reduction in coal production will result in decreased cash inflows to the BLDTF. The Congressional Research Service reported in 2019 that "the decline in the excise tax rates will likely put additional financial strain on a trust fund that already borrows from the general fund to meet obligations."[8] Moreover, the tax rate will once again revert to the lower, 2019 levels beginning in January 2022, putting further strain on the BLDTF.

Securing and Protecting Information Management Systems

We remain concerned about the Department's ability to safeguard its data and information systems. While the Department implemented a new IT governance model, we continue to report deficiencies in its efforts and ability to identify vulnerabilities, to protect information systems and data, and to recover from security incidents. The most recent deficiencies we identified were in four

[8] Congressional Research Service, "The Black Lung Program, the Black Lung Disability Trust Fund, and the Excise Tax on Coal: Background and Policy Options," (January 18, 2019; Report No. R45261).

of the five information security functional areas as defined by the National Institute of Standards and Technology Cybersecurity Framework. These deficiencies continue to hinder the Department from identifying security weaknesses, from protecting its systems and data, and from detecting, responding to, and recovering from incidents. For example, DOL has not:

- implemented effective strategies and programs to identify system security vulnerabilities and ensure that appropriate actions are being taken;
- provided adequate oversight of its information systems, including those that are either owned or operated by contractors or other federal entities on behalf of DOL; or
- accurately identified its information system inventory, as well as its hardware and software asset inventory.

The Department's agencies rely on IT systems to obtain and create vast amounts of information and data in carrying out their missions. Included in these data are the personally identifiable information and personal health information of members of the public and federal employees. Securing these data is a concern because DOL's data integrity is constantly at risk from external and internal threats, and we continue to identify deficiencies in the Department's efforts to protect its information systems. In addition, we determined that the Department has not adequately planned for or implemented the technology tools required to manage and monitor IT security.

As the Department is moving its information systems to a shared services model and expanding its use of cloud and third-party providers for its information infrastructure and services, we continue to identify deficiencies in the Department's oversight of information systems managed by DOL's program agencies and systems operated by a third-party on behalf of the Department. As the Department continues this transition, we are concerned with the Department's ability to provide the necessary IT system oversight and to retain the specialized knowledge and expertise required to protect and manage its systems, including the contracted systems.

Since this issue was first identified in 2011, the Department has been unable to implement an effective asset management system. The Department maintains a significant number of desktops, laptops, tablets, and mobile devices for its employees. In addition, the Department maintains servers, routers, storage devices, and other IT hardware. The Department indicated that it implemented an enterprise asset management system in FY 2020 and is in the process of ensuring data quality. However, the Department needs to provide evidence of such implementation, and more work needs to be done to effectively track and protect its assets through their life cycle. Without effective asset inventory processes, the Department is unable to account for and secure its data and equipment.

These deficiencies represent ongoing risks to the confidentiality, integrity, and availability of DOL's information systems, which are necessary to support the Department's mission. Our concern is whether DOL can implement the necessary strategies and tools to provide sufficient capability and effective security for the Department's data and information systems as well as support the execution of its mission. Finally, we continue to be concerned that the position of the Chief Information Officer does not report directly to

the agency head. Realigning the organization to create a direct reporting relationship would provide the position with greater independence and authority to implement and maintain an effective information security program.

Improving the Job Corps' Procurement Process

Job Corps spends about $1 billion on goods and services annually for approximately 120 centers nationwide and is currently transitioning center operations from cost reimbursement to fixed-price contracts. The Department believes that this transition will lower government risk, reduce the administrative burden, generate more pre-award efficiencies, and encourage more participants to compete for contracts. Increased competition among contractors should lead to better contractor performance with fewer staffing shortages and improved services, including those for centers' safety and security.

We are concerned about the transition to fixed-price contracting because prior OIG work in this area found that the procurement processes by Job Corps did not ensure the best value for taxpayers. As the Department moves to fixed-price contracting, the Department must continue to ensure that its contract requirements are well-developed, that contract competition is fair, that contractor payments align with performance metrics and related outcomes, and that sound post-award oversight is used to quickly ameliorate deficiencies and poor performance.



Worker and Retiree Benefit Programs

Unemployment Insurance Programs

Enacted more than 80 years ago as a federal-state partnership, the unemployment insurance (UI) program is the Department's largest income-maintenance program. This multibillion-dollar program provides unemployment benefits to eligible workers who become unemployed through no fault of their own. Although the program's framework is determined by federal law, the benefits for individuals depend on state law and, generally, state funding of benefits that are administered by state workforce agencies in jurisdictions covering the 50 states, the District of Columbia, and U.S. territories, under the oversight of DOL's Employment and Training Administration (ETA). The federal government pays the program's administrative expenses.

DOL-OIG Oversight of the Unemployment Insurance Program

Background

As the federal agency with primary oversight of DOL, the OIG remains committed to meeting the challenges created by the coronavirus (COVID-19) pandemic and assisting DOL and Congress in improving the efficiency and integrity of the UI program. Strengthening the UI program to prevent improper payments, including fraud, and to detect and recover improper payments that have been made, is key to ensuring unemployed workers expeditiously receive much needed benefits while safeguarding tax dollars directed toward that goal.

The UI program is a joint federal-state program that acts as an initial economic safety net when individuals lose their jobs through no fault of their own. Each state workforce agency (SWA):

- administers a separate UI program under its laws, but follows uniform guidelines established by federal law;
- establishes requirements for eligibility, benefit amounts, and the length of time that benefits can be paid; and
- manages the personnel and system resources to administer their respective programs.

UI benefits are generally funded by state employer taxes with administrative costs funded by the federal government. Extensions and expansions of coverage and benefits, such as those provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent legislation, are also normally funded by the federal government. DOL's ETA is the federal agency responsible for providing program direction and oversight. The OIG conducts independent oversight of the UI program through audits to strengthen the integrity and efficiency of the program and criminal investigations to detect and combat large-scale fraud.

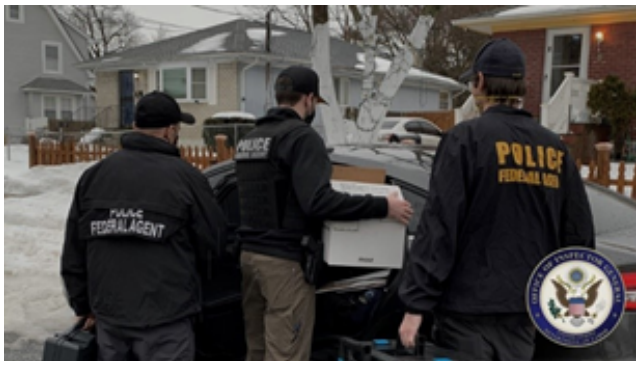
DOL-OIG UI Oversight Work

In April 2020, we published our Pandemic Response Oversight Plan detailing how the OIG would conduct its oversight, with a significant focus on the UI program. The plan was updated in April 2021. We structured the work for completion in four phases. Phases 1 and 2 focused on DOL's plans and initial implementation of administration and oversight activities. Phase 3 audit work will consist of assessments of program results during the pandemic, including the impact on agency operations; it is ongoing with audit work focused on significant issues the OIG identified during Phase 2, the pandemic's impact on agency operations at the national and state levels, and agency activities not previously covered during Phases 1 and 2. Phase 4 audit work will consist of roll-up reports based on lessons learned from audit work in Phases 1 through 3.

At the start of the pandemic, we examined past audits related to the American Recovery and Reinvestment Act of 2009 and the Disaster Unemployment Assistance program, and we assessed comparable lessons learned as they were applicable to the UI program. As a result, in late April 2020, we issued an advisory report outlining our initial concerns regarding the implementation of the UI program provisions under the CARES Act. The report summarized dozens of OIG recommendations to implement corrective action in these areas.

Since then, we have issued several other reports and alerts involving the UI program. For example, our assessment of DOL's CARES Act implementation plan resulted in an alert memorandum in May 2020, describing our concerns regarding claimant self-certification in the Pandemic Unemployment Assistance (PUA) program. In our view, reliance on such self-certifications rendered the PUA program highly vulnerable to improper payments and fraud. The OIG's alert memorandum informed recent COVID-19 legislation, which included provisions to improve SWAs' abilities to ensure proper claimant eligibility and to mitigate fraud.

In June 2020, the OIG provided a member briefing and a statement for the record to Congress highlighting challenges DOL and SWAs face in administering and overseeing the UI program. As the OIG reported, the unprecedented infusion of federal funds into the UI program gave individuals and organized criminal groups a high-value target to exploit. That target, combined with easily attainable stolen personally identifiable information and continuing UI program weaknesses that have already been identified by the OIG over the last several years, allowed criminals to defraud the system.



Indeed, following the passage of the CARES Act, fraud against the UI program exploded. Working with our federal and state partners, we have been able to identify billions in potential UI fraud nationwide. Since the start of the pandemic, the OIG has opened more than 27,000 investigative matters relating to UI benefits paid under the CARES Act and subsequent legislation. We are in the process of reviewing an additional 132,000 complaints from the National Center for Disaster

Fraud. As a result of the surge in complaints, UI investigations now account for 92 percent of the OIG's investigative case inventory, compared with 12 percent prior to the pandemic.

In response to the extraordinary increase in oversight demands, the OIG hired additional criminal investigators; increased the caseload of investigators already on-board; deployed federal and contract staff to review DOL and SWAs' efforts; and strengthened our data analytics program. In addition, we took several other actions to augment our efforts, including the following:

- initiated the development of a National UI Fraud Task Force, alongside the U.S. Department of Justice (DOJ);
- collaborated with DOJ on the strategic assignment of 12 term-appointed Assistant United States Attorneys assigned solely to prosecute UI fraud;
- established a multi-disciplinary Pandemic Rapid Response Team within the OIG;
- appointed a national UI fraud coordinator to manage our national investigative response to UI fraud;
- appointed seven regional UI fraud coordinators to partner with the SWAs and federal, state, and local law enforcement on UI fraud matters in their geographic areas of responsibility;
- leveraged resources from the Council of the Inspectors General on Integrity and Efficiency, Pandemic Response Accountability Committee;
- collaborated with States' auditors to help develop their audit strategies for the CARES Act UI programs; and
- implemented an extensive outreach and education program targeted to SWAs, the Department, financial institutions and their associations, law enforcement agencies, and the public to inform and raise awareness regarding fraud trends, best practices, red flags, and more.

Since the start of the pandemic, OIG investigations have led to more than 450 indictments and 130 convictions. In a recent OIG case, *U.S. v. Leelynn Danielle Chytka*, in the Western District of Virginia, a defendant pleaded guilty for her role in a scheme that fraudulently stole more than $499,000 in UI benefits using the identities of individuals ineligible for UI, including a number of prisoners.

Our efforts to date have directly resulted in the identification and recovery of more than $160 million in fraud involving the UI program. We have also assisted other federal and state agencies identify and recover more than $565 million in fraudulent UI benefits. Moreover, in the alert memoranda we issued in February and in June 2021, our investigators and auditors collaborated to identify $17 billion of potentially fraudulent UI benefits paid to individuals with social security numbers filed in multiple states, to individuals with social security numbers of deceased persons and of federal inmates, and to individuals with social security numbers used to file for UI claims with suspicious email accounts. We recommended that the Department and SWAs establish effective controls to mitigate fraud and other improper payments to ineligible claimants, including the four high-risk areas identified in the memoranda.

In addition, we recently issued a report detailing our review of DOL and SWAs' implementation of the three key new UI programs that posed the greatest risk for fraud, waste, and abuse: PUA, Pandemic Emergency Unemployment

Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). To perform our review, we selected 12 states based on a risk-assessment process that included several risk factors, including the states' improper payment rates, fraud allegations received, average weekly UI claims, previous audit findings, as well as congressional and public interest. We also administered surveys to the states that were not included in the in-depth analysis. Our review found that DOL and the 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. In addition, many states did not perform required or recommended improper payment detection and recovery activities: 40 percent of states did not perform required detection cross-matches, 88 percent did not perform the recommended detection cross-matches, and 38 percent did not perform required recovery activities. Further, 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.

Also, in September 2021, we issued a report on our assessment of DOL and states' strategies to reduce UI overpayments related to work search–the leading cause of improper payments prior to the pandemic. ETA estimated $2.9 billion, or 10.6 percent, of the $26.2 billion in UI benefits paid for the period July 1, 2018, through June 30, 2019, were paid improperly. The chief cause was overpayments, with states paying $878 million to UI claimants who had not complied with state work search requirements in accordance with the Middle Class Tax Relief and Job Creation Act of 2012. In part, the Act requires individuals to actively seek work in order to be eligible for UI benefits in a given week. We found ETA and state strategies did not consistently reduce UI overpayments related to work search, primarily because states had varying work search laws and requirements, with some more stringent than others. For example, one state uses a system that approves a payment after it detects a claimant has accessed the system and selected at least two job postings per week. In our review of system records for Program Year (PY) 2018, we determined that, on average, a claimant could complete one valid work search contact in as few as 11 seconds, which does not appear to be sufficient time to conduct a valid work search. We also found ETA's improper payment estimates inappropriately excluded certain types of overpayments for the UI program. Contrary to federal law and Office of Management and Budget requirements, ETA did not include the benefits paid to claimants who had not substantiated compliance with states' work search requirements in its UI improper payment rate calculations. UI claimants in at least 17 states received state formal warnings after failing to conduct or document adequate work searches. As a result, UI improper payments were understated by billions of dollars in Agency Financial Reports (AFR) for FY 2017 through FY 2020. For example, ETA excluded $2 billion (58.8 percent) of the $3.4 billion work search overpayments identified by states' Benefit Accuracy Measurement (BAM) staff during PY 2018. As such, the estimated 13.1

percent improper payment rate reported in the FY 2018 AFR would have been more accurately reported at 19.8 percent. Similarly, in FY 2019, work search overpayments were understated by $1.5 billion, and the reported improper payment rate of 10.6 percent would have been more accurately reported at 15.9 percent.

DOL's Progress

While concerns persist within the UI program, DOL has instituted efforts to focus on program integrity when implementing the CARES Act and other pandemic-related UI programs. These efforts include making multiple, strategic investments to combat fraud and promote equity, putting agreements in place with states to comply with all applicable requirements to receive funds, issuing operating guidance, and providing technical assistance to SWAs individually and through webinars. DOL has included requirements for SWAs to focus on program integrity in guidance related to pandemic-related UI funds. In addition, DOL has reinforced the need for SWAs to actively partner with the OIG to address fraud in the UI program.

Further, the UI Integrity Center, established by DOL through a cooperative agreement and operated by the National Association of State Workforce Agencies (NASWA), has continued to develop the Integrity Data Hub (IDH) to serve as a secure portal for SWAs to cross-match public and private sources of data, including new tools that will help prevent improper payments. DOL is working with NASWA's Integrity Center to further enhance SWA participation in and use of NASWA's IDH through additional guidance and regular communication with SWAs.

DOL-OIG UI Recommendations

The OIG has made several recommendations to improve the efficiency and integrity of the UI program. Specifically, DOL needs to:

- facilitate the OIG's access to UI claim data for audit and investigative oversight purposes through the issuance of Unemployment Insurance Program Letters and regulatory changes;
- continue to work with states to develop, operate, and maintain a modular set of technological capabilities;
- further enhance SWA participation in and use of the IDH operated by NASWA;
- work with SWAs to ensure that sufficient staffing and system resources are in place to manage sudden increases in the number of UI claims and payments to meet the continued requirements of the CARES Act and of similar future legislation;
- identify and implement strategies designed to reduce the UI improper payment rate, including sharing best practices identified among SWAs;
- ensure that SWAs are enforcing UI claimants' requirements to meet the conditions of UI eligibility, including: (1) being available for work, (2) actively seeking work, and (3) accepting suitable and safe work when offered;
- create a rapid response team consisting of federal and state officials capable of providing technical and other assistance to SWAs impacted by major disasters;
- establish effective controls, in collaboration with SWAs, to mitigate fraud and other

improper payments to ineligible claimants, including UI benefits paid to: multi-state claimants, claimants who used social security numbers of deceased individuals and of potentially ineligible federal inmates, and claimants with suspicious email accounts;
- work with Congress to establish legislation requiring SWAs to cross-match in high-risk areas, including the four areas identified in the February 22, 2021, alert memorandum;
- 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;
- assist states with claims, overpayment, and fraud reporting to create clear and accurate information, and then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery;
- develop standards for providing clear and reasonable timeframes to implement temporary programs to establish expectations for prompt benefit payments to claimants;
- develop and implement cause-level reduction targets to gauge and monitor the effectiveness of strategies implemented by states to reduce work search overpayments;
- examine the effectiveness of BAM's contact verification process to ensure it reflects the current methods claimants use to seek work;
- inform states that formal and informal warnings are not permissible under federal law;
- include in the UI improper payment estimate: (1) overpayments related to work search formal/informal warnings and payments to claimants who provide no or insufficient documentation to support eligibility with respect to work search; and
- incorporate the impact of UI improper payments related to temporary programs, such as those created by the CARES Act, into the traditionally estimated improper payment rate calculations.

In addition, Congress should consider legislative proposals included in prior budget requests and pass legislation to improve UI program integrity. These legislative proposals are consistent with previous OIG findings and recommendations to improve the UI program. The proposals include the following:

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

Finally, Congress should consider legislative action to allow DOL and the OIG to have direct

access to UI claimant data and wage records for its oversight responsibilities. Real-time direct access to SWA UI claimant data and wage records systems would further enable the OIG to quickly identify large-scale fraud and expand its current efforts to share emerging fraud trends with state workforce partners in order to strengthen the UI program and likely prevent fraud before it occurs. In addition, the data analytics based on the direct access would further enable our auditors to identify program weaknesses and recommend corrective actions that will improve the timeliness of UI benefit payments and the integrity of the UI program.

DOL-OIG Ongoing and Planned UI Work

The OIG's efforts to strengthen and protect the UI program continue. In addition to working with our law enforcement partners to combat fraud in the program, we will be issuing additional reports covering critical areas of concern and opportunities for program improvement. These will include reports on:

- the capability of SWAs' legacy IT systems to process UI benefit claims timely and accurately;
- the effectiveness of SWAs' controls to ensure UI benefit payments are timely and made to only eligible claimants;
- DOL and SWAs' efforts to prevent and detect overpayments;
- the impact of CARES Act and subsequent legislation provisions on nontraditional UI claimants;
- SWAs' use of pandemic UI administrative funds;
- the sufficiency of SWAs' staffing resources to support implementation of pandemic UI programs;
- DOL efforts to ensure SWAs met full federal funding of first week compensation program requirements;
- reimbursement flexibility to employers under the Emergency Unemployment Relief for Government Entities and Non-profit Organizations;
- DOL and SWAs' efforts to ensure UI claimants comply with return to work requirements;
- SWAs' implementation of the Mixed Earners Unemployment Compensation Program;
- DOL controls to ensure states met the Short-Time Compensation program requirements;
- DOL and SWAs' effectiveness in identifying UI claimants who refused to return to work; and
- DOL and states' use of Equity Grants in addressing the potential racial and ethnic disparities in the UI program.

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

COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs

On March 27, 2020, Congress passed the CARES Act with the intent to provide expanded UI benefits to workers who were unable to work as a direct result of the COVID-19 pandemic. The expanded UI benefits required ETA to implement major changes to the existing UI system, including three programs that posed the greatest risk for fraud, waste, and abuse: PUA, PEUC, and FPUC.

The COVID-19 pandemic was historic in its impact on the UI system. 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, which resulted in backlogs in processing claims for weeks and, in some cases, months. As of January 2, 2021, federal funding to states for these three UI programs was $392 billion.

Due to the expanded benefits and associated risks, we conducted a performance audit to determine how DOL and states implemented the key UI programs of the CARES Act. We found that DOL and states struggled to implement the three key CARES Act UI programs. Specifically, DOL's guidance and oversight did not ensure that 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. As a result, unemployed individuals experienced financial hardships due to delays in receiving benefits (Figure 1).

Figure 1. Issues Caused by Delays in Receiving Unemployment Benefits



Source: Aggregated information from media reports

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. Across the country, news and law enforcement agencies have reported unprecedented levels of UI fraud. In our February 22, 2021, CARES Act alert memorandum,[9] we estimated that potential fraud could range into the tens of billions of

[9]DOL OIG, "Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWAs) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas," (February 22, 2021; Report No. 19-21-002-03-315).

dollars. For example, OIG components' work identified more than $5.4 billion of potentially fraudulent UI benefits in the four high risk areas shown in Figure 2.[10]

Figure 2. Potentially Fraudulent Activities



Source: OIG analysis of state data

In addition, 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 that its management of billions of dollars in supplemental program funding achieved the desired outcome and sufficiently met the requirements of the CARES Act. Nor could ETA adequately monitor criminal and civil actions involving fraudulent payments, including the age of outstanding overpayments. Further, ETA may not be able to accurately identify trends, weaknesses, or vulnerabilities in the CARES Act UI programs.

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

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf, Report No. 19-21-004-03-315 (May 28, 2021).

Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General

With approximately $872.5 billion in UI funds authorized to assist American citizens with pandemic-related employment issues and challenges, DOL-OIG needs direct access to claim and wage data from SWAs to expeditiously and efficiently combat fraud. The *Inspector General Act of 1978, as amended* (IG Act) authorizes the OIG to obtain UI information for all purposes (e.g., audit and investigative) to prevent and detect fraud, waste, and abuse within the UI program. We found that DOL's interpretation of federal

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

regulations and ETA's subsequent guidance to SWAs resulted in two primary disclosure limitations that contradict the IG Act. In addition, the interpretation and guidance increased the risk that billions of dollars in potentially fraudulent claims would not be detected and improper payments not be stopped.

First, we found that, contrary to the IG Act and federal regulations, Unemployment Insurance Program Letter (UIPL) 04-17 limits the mandatory sharing by SWAs of UI information to only those circumstances in which the OIG is conducting an investigation into a particular instance of suspected UI fraud. DOL's guidance to SWAs has restricted the OIG's ability to effectively and efficiently supervise audits of activities carried out by DOL for the purpose of preventing and detecting fraud and abuse—the OIG's statutory duty and responsibility required under the IG Act.

Second, UIPL 04-17 requires SWAs to enter into agreements with the OIG before any disclosures of confidential UI information, which also contradicts the IG Act and federal regulations and creates unnecessary delays. Because of this requirement, to obtain the UI data to date, the OIG has had to issue two rounds of subpoenas to each of the 54 SWAs. The subpoena process is resource- and time-intensive and results in the delayed detection of potentially fraudulent claims. Specifically in this case, the delays associated with subpoena issuance versus direct unencumbered access to data resulted in 3 to 4 month delays, respectively, and equated to the lack of detection and prevention of billions of dollars in potentially fraudulent claims at the earliest opportunity. Moreover, the follow up by SWAs to confirm actual fraud is also delayed, potentially allowing billions of dollars to be paid on fraudulent claims during the delays.

Previously, the OIG identified $5.4 billion in potential fraud.[11] Our analysis covering March 2020 to October 2020, increased the potential fraud identified to almost $17 billion in the same four areas: individuals with social security numbers filed in multiple states, individuals with social security numbers of deceased persons, individuals with social security numbers of federal inmates, and individuals with social security numbers used to file claims with suspicious email accounts. Our previous memorandum recommended establishing effective controls in the four areas, which would help prevent similar or even greater amounts of fraud.

The OIG recommended that ETA amend its regulations to reinforce that UI information must be provided for all OIG engagements authorized under the IG Act, including audits, evaluations, and investigations. In addition, the OIG recommended that ETA issue a new UIPL within 15 days and also revise UIPL 04-17, clarifying that UI information must be provided without a subpoena, with direct notification from the OIG to SWAs, and that, consistent with federal law and regulation, the new UIPL advise SWAs that no data sharing agreements are required. In addition, the OIG recommended that ETA and the OIG meet to develop a permanent approach for access by the OIG to UI data.

The OIG appreciates that ETA has committed to corrective action that will partially address our concerns. In response to the draft report, ETA stated that it would issue new guidance

[11]DOL-OIG, "Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWAs) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas," (February 22, 2021; Report No. 19-21-002-03-315).

requiring SWAs to disclose UI information to the OIG for audit purposes through the end of the period covered by the CARES Act and has done so. However, the IG Act requires that the IG have access to all records applicable to DOL programs and operations. This requirement includes SWAs provision of UI information to the OIG for all purposes at all times, without time period limitations. The OIG's use of UI information cannot be constrained by ETA as any purported limitation to OIG activities by an agency would also contradict the IG Act. The DOL Office of the Solicitor's interpretations and ETA's issued guidance will continue to (1) restrict the OIG's independence; (2) impede the OIG's access to critical UI information; and (3) hamper the OIG's timely accomplishment of its mission.

We made five recommendations to remove any data access restrictions stated or implied in the regulations and UIPLs and require SWAs to comply with requests for UI data from the OIG without subpoenas. In addition to access to historical UI data from the systems of SWAs, the OIG's access to real-time UI data could help prevent further, billions from being lost to fraud. In their response, ETA committed to corrective action that will partly address our concerns.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf, Report Number: 19-21-005-03-315 (June 16, 2021).

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

During ongoing criminal investigations of UI fraud related to pandemic relief funds, the OIG became aware of an urgent concern. NASWA represents all 50 state agencies as well as D.C. and U.S. territories (collectively, "SWAs" herein), with a mission to help the SWAs "accomplish their goals, statutory roles, and responsibilities." NASWA's responsibilities include managing the UI Integrity Center for Excellence's (UI Integrity Center) IDH, a centralized platform that brings SWAs together to compare and analyze UI claims data for enhanced detection and prevention of fraud and improper payments. However, the OIG found that ETA does not require NASWA to share suspected UI fraud data with either ETA or the OIG.

All DOL employees, contractor personnel, and grantees must report suspected fraud, per the Department of Labor Manual Series (DLMS) 8. On September 7, 2017, ETA entered into a cooperative agreement with NASWA for the UI Integrity Center, a project that was incorporated into DOL awards provided to NASWA's Center for Employment Security Education and Research. When asked how they ensured that NASWA complied with the DLMS requirement to report suspected fraud, ETA officials responded that the agreement with NASWA includes reference to Uniform Guidance, 2 CFR Parts 200 and 2900. However, the agreement does not meet

the requirements of DLMS 8-106 (D)(3), which requires all DOL agency heads, supervisors, and managers to advise grantees of the following requirement: DLMS requires all DOL employees, contractor personnel, and grantees to "report promptly, in writing when possible,…allegations that they reasonably believe constitute fraud, waste, abuse, mismanagement, or misconduct."

ETA is improperly relying on 2 CFR 200.113 to satisfy this requirement when it does not fully encompass the intended scope of the DLMS. Additionally, 2 CFR Part 2900 relates to assessment of risk posed by applicants, but does not address a grantee's obligation to report suspected fraud, waste, abuse, mismanagement, or misconduct to DOL or the OIG.

We made two recommendations to ensure that ETA requires NASWA to report suspected fraud data and works with the OIG to develop a long-term solution. ETA has expressed its commitment to work with the OIG to combat UI fraud and improper payments and modified its agreement with NASWA.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/19-21-006-03-315.pdf, Report Number: 19-21-006-03-315 (July 1, 2021).

Unemployment Insurance Overpayments Related to Work Search Underscore the Need for More Consistent State Requirements

ETA estimated that $2.9 billion, or 10.6 percent, of the $26.2 billion in UI benefits paid for the period of July 1, 2018, through June 30, 2019, were paid improperly. The chief cause was overpayments, with states paying $878 million to UI claimants who had not complied with state work search requirements in accordance with the Middle Class Tax Relief and Job Creation Act of 2012. In part, the act requires individuals to actively seek work in order to be eligible for UI benefits in a given week. As work search–related overpayments have generally been the top cause of improper payments for the federal-state UI program since FY 2012, we conducted this audit to determine to what extent ETA and state strategies reduced UI overpayments related to work search and to determine if ETA ensured that states reported work search information accurately.

We found that ETA and state strategies did not consistently reduce UI overpayments related to work search. We also found that ETA inappropriately excluded certain types of overpayments from its improper payment estimates for the UI program.

Although ETA provided 39 states with $9.5 million between FYs 2011 and 2016 to develop and implement strategies to reduce work search–related overpayments, ETA and state strategies did not achieve consistent and sustainable reductions in work search overpayment rates for Program Years (PYs) 2013 to 2019. Instead, the rates fluctuated between 2.8 percent and 5 percent of total UI payments and did not reflect a trend of continuous improvement. The agency was unable to consistently reduce these overpayments mainly because states had varying work search laws and requirements, with some more stringent than others. For example, under one state's requirements, a system approves a payment after it detects a claimant has accessed the system and clicked on at least two job postings per week. The system also records the amount of time the claimant spends searching for work online. In our review of system records for PY 2018, we determined, on average, that a claimant could

complete one valid work search contact in as few as 11 seconds, which does not appear to be sufficient time to conduct a valid work search. States need to recognize that less stringent work search requirements could result in ineffective and meaningless efforts to improve claimants' chances of gaining employment.

As the leading cause of UI improper payments, work search overpayments factored into the UI program's not meeting the standard set by the Improper Payment Information Act of 2002, as amended, an improper payment rate of less than 10 percent of total UI benefits paid in a given PY. The estimated UI improper payment rates published in the Department's Agency Financial Reports (AFR) from FY 2014 to FY 2019 ranged between 10.6 percent and 13.1 percent, and the rate of work search–related overpayments averaged nearly 34 percent of the improper payment rate.

Contrary to federal law and Office of Management and Budget requirements, ETA did not include the benefits paid to claimants who had not substantiated compliance with states' work search requirements in its UI improper payment rate calculations. UI claimants in at least 17 states received state formal warnings after failing to conduct or document adequate work searches. As a result, UI improper payments were understated by billions of dollars in AFRs for FY 2017 through FY 2020. For example, ETA excluded $2 billion (58.8 percent) of the $3.4 billion work search overpayments identified by states' BAM staff during PY 2018. As such, the estimated 13.1 percent improper payment rate reported in the FY 2018 AFR would have been more accurately reported at 19.8 percent. Table 2 shows the impact that excluding formal warnings had on UI overpayments and improper payments for FY 2017 through FY 2020.

Table 2: Impact of Excluding Formal Warnings (FYs 2017–2020)

	FY 2017	FY 2018	FY 2019	FY 2020
Reported UI Dollars Paid	$30,675,108,501	$27,949,217,692	$26,178,396,907	$20,448,076,675*
Reported IP** Rate	**12.48%**	**12.95%**	**10.61%**	**9.17%**
Reported IPs	$3,827,946,790	$3,620,043,228	$2,777,261,644	$1,874,378,574
Reported OP*** Rate	12.09%	12.54%	10.21%	8.72%
Reported OPs	$3,707,543,452	$3,504,125,686	$2,673,556,320	$1,783,417,628
OPs Understated	6.18%	7.28%	5.71%	2.56%
Adjusted IPs	$5,603,607,059	$5,537,189,819	$4,167,776,117	$2,398,430,116
IP Rate Adjusted to Include FWs****	**18.28%**	**19.81%**	**15.92%**	**11.28%**

Source: ETA
*UI benefits paid in the first 9 months of the program year,
**IP = Improper Payment, ***OP = Overpayment, ****FWs = Formal Warnings

We made four recommendations to ETA to improve efforts to reduce and accurately report UI overpayments related to work search. ETA agreed with our recommendations, but disagreed with the OIG's characterization of how the agency reported UI improper payments as being understated in recent years.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/04-21-001-03-315.pdf, Report No. 04-21-001-03-315 (September 29, 2021).

Virginia Beach Man Sentenced for $1.2 Million Small Business Loan Scam, UI Scheme

On April 9, 2021, Ronald A. Smith was sentenced to 120 months in prison for his role in an Internet-based loan scam that defrauded nearly 1,700 owners and prospective owners of small businesses out of $1,076,000, and for fraudulently collecting unemployment benefits during the COVID-19 pandemic. Smith's wife, Terri Beth Miller, was sentenced on April 16, 2021, to 60 months in prison, for her role in the small business loan scheme.

Smith and Miller set up an Internet-based company, Business Development Group, which offered, in exchange for an advance fee, assistance to individuals in preparing applications to obtain loans guaranteed by the Small Business Administration (SBA). From August 2012 through February 2018, Smith and Miller solicited potential customers on the basis of false, fraudulent, and misleading statements and representations, including the claims that the company was headquartered at the Trump Building in New York City with additional offices in Las Vegas, that it was affiliated with the SBA, that it had favorable relationships with banks across the nation, and that it had assisted well-known large companies in obtaining SBA loans. They offered a money-back guarantee, but in fact employed various fraudulent methods to deny refunds.

Smith also committed fraud in connection with emergency unemployment benefits by submitting a fraudulent application to the Virginia Employment Commission for unemployment compensation, including $600 per week in federal pandemic unemployment compensation authorized under the CARES Act. As a result, Smith obtained $9,600 in federal pandemic unemployment compensation of which he was not entitled.

This was a joint investigation with the FBI, the United States Postal Inspection Service (USPIS), and SBA–OIG. *United States* v. *Ronald A. Smith and Terri Beth Miller* (E.D. Virginia)

Former Stockton Man Sentenced to More than 6 Years in Prison for Unemployment Benefits Fraud and Identity Theft

Robert Maher, formerly of Stockton, California, was sentenced to 6 years and 3 months in prison for his involvement in a UI fraud scheme.

Between November 2010 and February 2018, Maher and his co-defendant created fictitious companies and fictitious employees by using the real identities of persons with and without their knowledge. Maher and his co-defendant then filed claims with the California Employment Development Department (EDD), falsely stating that the employees had been laid off or fired. The resulting unemployment benefits were deposited onto debit cards mailed to addresses controlled by

Maher or his associates. In all, Maher and his co-defendant filed at least 72 fraudulent claims for UI benefits, seeking a total of more than $700,000, of which EDD paid out approximately $609,000. This is a joint investigation with the FBI and EDD's Investigation Division. *U.S.* v. *Herron et al.—Robert Joseph Maher* (E.D. California)

California Woman Sentenced to More than 3 Years for Stealing COVID-19 Relief Funds

Cara Marie Kirk-Connell was sentenced to 37 months in federal prison for fraudulently obtaining more than $500,000 in COVID-19-related unemployment benefits by using the stolen personal information of dozens of individuals obtained from the "darknet."

From May to October 2020, Kirk-Connell used personal information, such as dates of birth and Social Security numbers that she knew had been stolen and accessed via the darknet to apply for UI benefits from the California EDD.

This was a joint investigation with the IRS Criminal Investigation Division (IRS–CI) and USPIS. *United States* v. *Cara Marie Kirk-Connell* (C.D. California)

Arizona Man Sentenced to Federal Prison for Stealing Pandemic Unemployment Funds

Delashaun Dean of Arizona was sentenced to 30 months in federal prison for possessing multiple unemployment benefits debit cards, all in different names, and intending to fraudulently obtain nearly $239,000 in benefits.

Between October 3 and October 5, 2020, the Las Vegas Metropolitan Police Department found 15 UI benefits debit cards issued by the California EDD in Dean's hotel room and on his person. The debit cards were in different names; none were in Dean's name. In addition, law enforcement found a fake driver's license and a notebook containing personal identifying information (PII) of multiple individuals, which had been used to apply for UI benefits. Nearly $239,000 in UI benefits were approved for claims associated with the recovered EDD debit cards.

United States v. *Delashaun Dean* (District of Nevada)

Mobile Man and Others Sentenced in Scheme to Defraud COVID-19 Benefit Programs

On July 2, 2021, Karderrius Phelion, of Mobile, Alabama, was sentenced to 30 months in prison and ordered to pay restitution of approximately $118,000, including almost $18,000 to the Minnesota Department of Employment and Economic Development. On the same date, Kashunte Tate was sentenced to 6 months in prison and ordered to pay $8,000, in restitution, and Khadijah Tate was sentenced to 60 days in prison and ordered to pay more than $16,000 in restitution. On June 25, 2021, Courtney Phelion was sentenced to 60 days in prison and ordered to pay $80,000 in restitution, and Brittany Bettison was sentenced to 90 days in prison.

Phelion and his co-conspirators defrauded the SBA via the Economic Injury Disaster Loan Program and attempted to obtain more than $300,000 in unlawful funding. Phelion utilized the identity of his deceased great-grandmother to obtain two credit cards, in violation of the federal aggravated identity theft statute. Furthermore, while Phelion worked for Highlights Technologies

as a contracted SBA loan processor, he fraudulently received PUA benefits from the State of Minnesota. Phelion defrauded the State of Minnesota of more than $17,000 in pandemic-related UI benefits.

This is a joint investigation with the SBA-OIG and Department of Homeland Security, Homeland Security Investigations (DHS-HSI). *U.S.* v. *Karderrius Phelion*. (S.D. Alabama)

Two Georgia Men Sentenced to Federal Prison for Unemployment Fraud and Tax Fraud Scheme

On August 31, 2021, Bamidele Muraina, a Nigerian hacker, was sentenced to 70 months in prison and was ordered to pay more than $260,000 in restitution to the Employment Security Department of Washington (ESD-WA) and almost $300,000 in restitution to the IRS. Also, on August 31, 2021, Muraina's co-conspirator Gabriel Kalembo was sentenced to 50 months in prison, and Kalembo was ordered to pay almost $200,000 in restitution to the ESD-WA and almost $100,000 in restitution to the IRS. At the time of Kalembo's criminal conduct, he was on federal supervised release from a prior fraud conviction in 2017.

From January 2018 through April 2020, Muraina hacked into multiple tax preparation and accounting firms located in several states and obtained access to the firms' accounts with a national tax preparation program designed to steal PII from their clients. Muraina then filed more than 275 fraudulent individual income tax returns in their names, resulting in Muraina seeking more than $2.6 million in fraudulent IRS refunds.

In May 2020, Muraina used stolen PII from Washington state residents to submit false claims for UI benefits in Washington. Muraina submitted fraudulent UI claims in the names of approximately fifty identity theft victims over a 1-week span, ESD-WA issued more than $280,000 in fraudulent UI benefits. Muraina then directed fraudulent funds from his UI benefit scheme and tax fraud scheme to be deposited into bank accounts set up by co-conspirators, including Kalembo, who was convicted in 2017, of conspiracy to commit wire and bank fraud in the Northern District of Georgia.

This is a joint investigation with the IRS-CI, U.S. Secret Service, USPIS, and DHS–HSI. *United States* v. *Muraina et al.* (N.D. Georgia)

Former California EDD Employee Convicted of Stealing Hundreds of Thousands of Dollars in PUA Benefits

Nyika Gomez, a former contract employee with California's EDD, in San Diego, California pleaded guilty for her role in a scheme to steal hundreds of thousands of dollars in PUA benefits. Gomez conspired with her boyfriend, an inmate serving a term of 94 years to life at California State Prison, Sacramento, to submit fraudulent PUA claims to EDD.

In July 2020, Gomez was employed by an EDD contractor as a call center agent where she helped individuals process their UI claims. In that position, Gomez received training in EDD's procedures and regulations, and she had access to confidential information regarding EDD's UI program.

Gomez used that knowledge to submit fraudulent unemployment insurance claims using PII she acquired from California prisoners, with help

from her inmate boyfriend. With his help, she also was able to purchase stolen PII from out-of-state residents, which she used to submit additional fraudulent unemployment claims. Gomez submitted UI claims and sought more than $214,000 in benefits. More than $93,000 was paid out on these claims.

This is a joint investigation with EDD's Investigation Division, the California Department of Corrections and Rehabilitation-Investigative Services Unit; USPIS and DHS–HSI. *U.S.* v. *Gomez* (S.D. California)

Michigan State Contractor and Co-Conspirator Pleads Guilty to $3.8 Million Pandemic Unemployment Insurance Fraud Scheme

On June 30, 2021, Brandi Hawkins, a former contract employee for the State of Michigan Unemployment Insurance Agency, pleaded guilty to a UI wire fraud scheme that defrauded the federal and state government of $3.8 million. On July 6, 2021, co-conspirator Johnny Richardson pleaded guilty to conspiring to commit wire fraud and money laundering.

Hawkins was a UI examiner who used her position to fraudulently release payment on more than 700 false PUA claims filed by her co-conspirators. If the Michigan Unemployment Insurance Agency had paid every fraudulent claim, the resulting loss would have been more than $12 million. Some of the fraudulent claims were filed using the identities of individuals without their authorization.

Richardson paid bribes to Hawkins in exchange for releasing payment on more than $680,000 in claims. Hawkins and Richardson used the proceeds of their scheme to purchase luxury goods. During the execution of a search warrant at Hawkins' residence, agents seized more than $200,000 in cash.

This is a joint investigation with the FBI, IRS-CI, USPIS, the U.S. Secret Service, and the State of Michigan Unemployment Insurance Agency. *United States* v. *Brandi Hawkins* (E.D. Michigan)

Inland Empire Woman Pleads Guilty to Illegally Obtaining COVID-19-Related Jobless Benefits in Prison Inmates' Names

Paris Thomas of San Bernardino, California pleaded guilty to her role in defrauding the California EDD of approximately $477,000 in UI benefits.

From June 2020 to December 2020, Thomas submitted at least 47 fraudulent UI claims to the EDD. Thomas admitted to receiving the names, Social Security numbers, dates of birth, and other personal identifiable information of California state prison inmates and others, which she used to submit applications for UI benefits via the Internet as if those persons were submitting the claims themselves. Thomas falsely represented to the EDD that the inmates were unemployed because of the COVID-19 pandemic. In exchange for cash payments, Thomas provided third parties with the electronic benefit payment debit cards, which were loaded periodically with UI benefits and EDD website login credentials linked to the fraudulent UI claims.

This is a joint investigation with the FBI and EDD's Investigation Division. *U.S.* v. *Thomas* (C.D. California)

Office of Workers' Compensation Programs

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

FECA is the largest of the programs and provides workers' compensation coverage to millions of federal, postal, and other employees for work-related injuries and illnesses. Benefits include those for wage loss, medical expenses, vocational rehabilitation, and for survivors for covered employees' employment-related deaths.

COVID-19: Pandemic Causes Delays in FECA Claims Adjudication

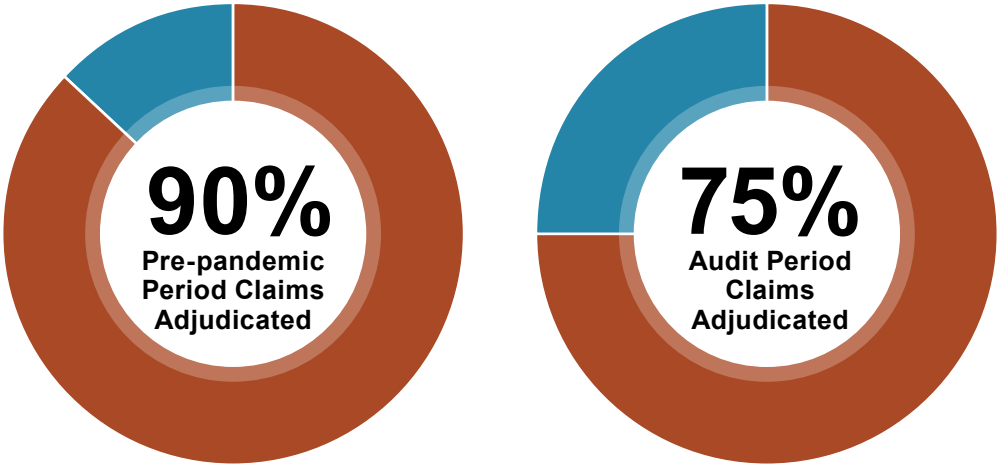
Among its responsibilities, OWCP administers the FECA program, which provides coverage to more than 2.6 million federal and postal workers. By June 16, 2020, less than 5 months after the declaration of a public health emergency in response to the COVID-19 pandemic, OWCP had received 2,866 COVID-19 FECA claims, including 48 death claims. As a result of this sudden influx in claims, OWCP anticipated a potential strain on resources and claims processing delays. Delays in claims adjudication could result in delayed benefit payments and hardship for claimants.

As part of its response, the FECA program developed a contingency plan, which included reallocating resources from opioid management to COVID-19 claims adjudication. The OIG assessed (1) to what extent the COVID-19 pandemic impacted the FECA program's ability to timely adjudicate claims and (2) if the changes the FECA program made to opioid management impacted opioid use among claimants. We found that the COVID-19 pandemic has had a negative impact on the FECA program's ability to timely adjudicate claims. Specifically, the FECA program's timeliness of adjudicating claims declined by 15 percent during the audit period (Figure 3). We also found that changes the FECA program made to opioid management have not negatively impacted opioid use among claimants; overall, opioid use continued to decline throughout the audit period.

The decline in the FECA program's ability to timely adjudicate claims was primarily driven by COVID-19 claims, which initially required significantly more time to adjudicate than other claims. On average, the FECA program required 48 days to adjudicate COVID-19 claims compared to 9 days for other claims. Although the average number of days to adjudicate COVID-19 claims improved throughout the audit period, lowering from 178 days in March 2020 to 37 days in December 2020, the FECA program still required five times as much time, on average, to adjudicate COVID-19 claims than it required to adjudicate other claims. As a result, 46 percent of COVID-19 claims remained unadjudicated as of March 31, 2021, as opposed to only 20.5 percent of the other 93,139 FECA claims received.

According to FECA program officials, adjudication of COVID-19 claims took longer because the

Figure 3. Timely Adjudicated FECA Claims, Pre-pandemic Period Compared to Audit Period



program afforded extended opportunities to COVID-19 claimants for submission of evidence to support their claims, since COVID-19 was a novel virus. Establishing causality between exposure to COVID-19 and the claimants' employment was part of this problem. While the adjudication delays were not necessarily caused by the FECA program, any delay could potentially cause hardship for claimants.

Further, the Institute for Health Metrics and Evaluation projected in July 2021 that the current increase in COVID-19 infections will continue through November 2021. Based on 2020 data, these increases could potentially rise rapidly in December 2021 and January 2022. If this occurs, there is a risk that the FECA program could face unplanned challenges, since their contingency plan was last updated in January 2021 and was based on projections through April 2021.

We recommended that OWCP require the FECA program to review Institute for Health Metrics and Evaluation projections in the fourth quarter of calendar year 2021 and, if necessary, update its contingency plan to ensure that claims are adjudicated as promptly as possible while continuing to consider potential negative impacts on opioid-affected claimants. OWCP agreed with the report recommendations.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/19-21-007-04-431.pdf, Report No. 19-21-007-04-431 (September 23, 2021).

DEEOIC Could Do More to Prevent Improper Payments of Home Health Care Costs

The Energy Employees Occupational Illness Compensation Program Act of 2000 authorizes compensation and medical benefits for certain work-related illnesses acquired by nuclear energy workers and allotted to them and their survivors. From FY 2001 to FY 2020, home health care represented the majority of all medical benefits—$3 billion out of $5 billion total—paid to

claimants in the Energy Employees Occupational Illness Compensation Program (Energy Workers program). In addition, OWCP's Division of Energy Employees Occupational Illness Compensation (DEEOIC) reported a total of more than $1 million in improper home health care payments in the Energy Workers program between 2017 and 2019. Because of concerns regarding the potential for providers to exploit these benefits through unauthorized billings, we conducted this audit to determine if DEEOIC had controls to help identify and prevent the improper payment of home health care benefits.

While DEEOIC generally had controls in place to identify and prevent improper payments of home health care costs, we found that the controls could be improved and brought into compliance with the Office of Management and Budget Circular A-123—Management's Responsibility for Internal Control.

Despite the fact that between 2017 and 2019, home health care costs were increasing, the Program Integrity Unit (PIU) did not have a tracking mechanism to proactively identify and analyze causes of improper payments to avoid making improper payments. During our testing, we found instances in which data analytics would have helped the PIU identify improper payments before they were made. The lack of a proper data tracking and analysis system means that the PIU cannot identify patterns of fraud, waste, or abuse.

In January 2020, DEEOIC developed a draft Standard Operating Procedure to guide the PIU's activities that contained detailed guidance for reviewing, auditing, and/or investigating claims. The draft Standard Operating Procedure, however, was never finalized because DEEOIC management did not place sufficient priority on this issue. Completed guidance could help the PIU consistently and appropriately follow procedures.

Despite forming the PIU in 2016 as a control to help it detect and prevent improper payments, the DEEOIC did not ensure that the PIU had proper leadership. According to DEEOIC officials, management of PIU staff was not consistent or well qualified to oversee performance and operations until the Performance Management Branch was created in 2020 and its first chief position was filled in June 2020.

We made three recommendations for controls to help identify and prevent the improper payment of home health care benefits. OWCP agreed with all three recommendations and has already taken corrective actions on the issues identified.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/03-21-001-04-437.pdf, Report No. 03-21-001-04-437 (September 16, 2021).

Two Dallas Men Each Sentenced to 87 Months in Prison for Defrauding OWCP

On September 27 and June 14, 2021, Kyle Hermesch and Michael Braddick were each sentenced to 87 months in prison. Hermesch and Braddick were also ordered to pay more than $6 million in joint and several restitution to OWCP for their participation in a scheme to defraud the program.

The investigation revealed that Braddick, President of Bioflex, and Hermesch, Chief Operating Officer of Bioflex, both engaged in a scheme to fraudulently bill OWCP through Braddick's durable medical equipment company,

Bioflex Medical. Bioflex provided durable medical equipment to patients who did not need the equipment. When Bioflex billed OWCP, they incorrectly billed transactions as rentals and incorrectly coded the durable medical equipment to increase the reimbursement paid by OWCP. Braddick and Hermesch also paid illegal kickbacks to other indicted and un-indicted co-conspirators, in exchange for OWCP beneficiary information, which they then used to submit additional fraudulent billing statements through Bioflex to OWCP.

This is a joint investigation with the United States Postal Service (USPS)–OIG, Veterans Affairs (VA)–OIG, and Department of Homeland Security–OIG. *United States* v. *Michael Charles Braddick*, *United States* v. *Kyle Martin Hermesch* (N.D. Texas)

Pharmacy Marketer Pleads Guilty to Paying and Receiving Kickbacks for His Role in a Scheme to Defraud the Office of Workers' Compensation Programs

On August 30, 2021, Hector Delacruz pleaded guilty to one count of conspiracy to pay and receive kickbacks for his role in a scheme to defraud federal health care programs.

Pharr Family Pharmacy billed various federal health care programs, to include OWCP, more than $110 million for bogus services through claims that were false, fraudulent, and the result of illegal kickbacks. Delacruz and his partner owned a marketing company in Pharr, Texas, and marketed on behalf of Pharr Family Pharmacy. Delacruz and a co-conspirator made agreements with physicians to write prescriptions for medically unnecessary compound prescription medication in exchange for a kickback of the profits. Delacruz and his co-conspirator funneled approximately $8.1 million dollars in kickbacks from Pharr Family Pharmacy through the marketing business.

This is a joint investigation with USPS–OIG, the FBI, Defense Criminal Investigative Service, and VA–OIG. *United States* v. *John Rodriguez et al.* (S.D. Texas)

Worker Safety, Health, and Workplace Rights

Occupational Safety and Health Administration

The mission of the Occupational Safety and Health Administration (OSHA) is to ensure that employers provide every worker in America safe and healthy working conditions. OSHA pursues this mission by setting and enforcing workplace safety and health standards; by investigating whistleblower complaints; by providing training, outreach, and education; and by encouraging continuous improvement in workplace safety and health.

OSHA's Diminished Enforcement Left More Workers at Risk for Exposure to Silica

OSHA's respirable crystalline silica (silica) final rule became enforceable for the construction industry in September 2017. However, approximately 1 month later, OSHA cancelled its existing silica National Emphasis Program (NEP) without replacing it, essentially eliminating OSHA's silica-focused inspection goals. The final rule had cut permissible levels of silica by 50 percent and was intended to protect at least 2.3 million workers OSHA estimated are at risk for silica exposure each year through common materials such as stone, brick, mortar, and ceramics. Reducing and eliminating worker exposure to silica is vital because, when inhaled, it causes serious, potentially fatal illnesses, including silicosis, an incurable lung disease. Prior to September 2017, OSHA had consistently and for more than 2 decades recognized and emphasized the importance of protecting workers from silica exposure through emphasis programs, ensuring that at least 2 percent of its inspections were silica-focused.

The OIG conducted an audit to determine to what extent OSHA has protected workers from exposure to silica. We found that OSHA's diminished enforcement efforts left more workers at risk for exposure to silica.

OSHA's silica inspections declined by more than 50 percent in the 2 FYs after the final rule first became enforceable. In FYs 2018 and 2019, OSHA performed only 880 silica inspections; in contrast, in FYs 2016 and 2017, before the final rule became enforceable, OSHA performed 2,108 silica inspections (Table 3).

In addition, from October 1, 2019, through February 20, 2020, OSHA had performed only 85 silica inspections. The NEP had required that at least 2 percent of inspections be silica-focused, and OSHA consistently met that goal. However, when canceling the silica NEP on October 26, 2017, OSHA did not issue a new NEP, so that there was no NEP in place until February 4, 2020. During the NEP lapse of more than 2 years, OSHA conducted some silica inspections, but those were unplanned and resulted from complaints. Overall, we found that the lapse likely resulted in OSHA's conducting approximately 600 fewer silica inspections per year.

OSHA worked for 18 years to develop and publish the final rule, with standards to protect workers from potential exposure to silica in their workplaces; yet diminished enforcement left more workers at risk for silica exposure. In addition

Table 3. Silica Inspections Before and After Final Rule

Fiscal Year	Before Final Rule (and During Emphasis)	After Final Rule (and During Lapse)
2016	1,026	
2017	1,082	
2018		466
2019		414
Totals	2,108	880
Source: OIG's analysis of OSHA's publicly available data		

to fewer inspections, we found that OSHA had not developed meaningful goals and processes to demonstrate that their educational efforts (outreach and guidance) succeeded in reaching the 2.3 million at-risk workers. We made three recommendations to improve OSHA's silica NEP, inspections, data, and outreach processes. OSHA provided a number of comments on the report and agreed that it is important to establish real and meaningful metrics for evaluating outreach conducted after the issuance of new standards.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/02-21-003-10-105.pdf, Report No. 02-21-003-10-105 (September 29, 2021).

New Jersey Company Sentenced to 24 Months of Probation and to a Fine of $325,000 for Committing an OSHA Violation That Resulted in a Worker's Death

On June 7, 2021, Dana Container, Inc., headquartered in Avenel, New Jersey, was sentenced to 24 months of probation and ordered to pay a fine of $325,000 after pleading guilty to willfully committing an OSHA violation resulting in an employee's death.

In March 2019, Dana Container, Inc., was contracted to clean crude oil residue from approximately 100 railcars, located at a railway yard in Pittston, Pennsylvania. Under OSHA regulations, an employee who is tasked by his or her employer to work in a confined space must be protected in various ways. Employers are required to test and monitor atmospheric conditions within the space to ensure that the atmosphere is non-hazardous and to purge, flush, or ventilate the space as necessary to eliminate or control any atmospheric hazards, including oxygen concentrations below 19.5 percent. Employers must also outfit any employee tasked with working in any atmosphere considered to be potentially hazardous with a particular type of OSHA-certified respirator.

On May 31, 2019, a Dana Container, Inc., employee entered one of the railcars at the Pittston site in order to scrape crude oil from the walls of the car. About 30 minutes after entering the railcar, the employee collapsed inside the car. He later died on scene, with the cause of death ruled to be asphyxiation. The atmosphere inside

the car was determined to be oxygen deficient, and although Dana Container, Inc., was aware of applicable OSHA regulations, the employee had not been outfitted with the proper OSHA-certified respirator.

This was a joint investigation with OSHA. *United States* v. *Dana Container, Inc.* (M.D. Pennsylvania)

Nebraska Railcar Cleaning Services and Owners Plead Guilty to Violating Environmental and Worker Safety Laws Related to Workers' 2015 Deaths

On July 12, 2021, Nebraska Railcar Cleaning Services, LLC (NRCS), its president and owner, Steven Michael Braithwaite, and its vice president and co-owner, Adam Thomas Braithwaite, pleaded guilty to 21 counts stemming from an investigation into an April 2015 fatal railcar explosion that killed two workers. The charges include conspiracy, violating worker safety standards resulting in worker deaths, violating the Resource Conservation and Recovery Act, and submitting false documents to OSHA.

NRCS was in the business of cleaning railcars, including rail tanker cars, which often involved NRCS sending workers inside the cars' tanks to scrape and remove various commodities, including gasoline, ethanol, petroleum by-products, and other residues. On various occasions prior to the April 2015 explosion, OSHA officials conducted regulatory inspections, during which they notified the principals of NRCS that they were in violation of OSHA safety regulations concerning confined space entries. Steven Braithwaite ultimately entered into a written agreement with OSHA, in which he represented that NRCS had been testing for benzene since July 2014, and Adam Braithwaite submitted falsified documents to OSHA purporting to show that NRCS had been purchasing equipment to test the contents of railcars for benzene and had taken other required safety precautions.

On or about January 2015, NRCS received an inquiry from one of its customers about cleaning product residue from a rail tanker car that contained a highly flammable product and benzene. NRCS responded that it could handle the material in the railcar. However, NRCS did not test the tanker car's benzene as required. On April 14, 2015, approximately 1 hour after two employees were sent into the tanker to complete the cleaning job, its contents ignited and exploded, killing both employees and injuring a third.

This is a joint investigation with the Environmental Protection Agency Criminal Investigation Division. *United States* v. *Nebraska Railcar Cleaning Services* (D. Nebraska)

Wage and Hour Programs

The Wage and Hour Division (WHD) enforces federal minimum wage, overtime pay, recordkeeping, and child labor requirements of the Fair Labor Standards Act (FLSA). WHD also enforces the Migrant and Seasonal Agricultural Worker Protection Act, the Employee Polygraph Protection Act, the Family and Medical Leave Act, the wage garnishment provisions of the Consumer Credit Protection Act, and a number of employment standards and worker protections as provided in several immigration-related statutes.

Additionally, WHD administers and enforces the prevailing wage requirements of the Davis-Bacon and Related Acts, the Service Contract Act, and other statutes applicable to federal contracts for construction and for the provision of goods and services. WHD also administered and enforced the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act under the Families First Coronavirus Response Act (FFCRA), which was effective from April 1, 2020, to December 31, 2020.

COVID-19: The Pandemic Highlighted the Need to Strengthen Wage and Hour Division's Enforcement Controls

Congress passed the FFCRA to ensure that American workers would not be forced to choose between their paychecks and the public health measures needed to combat the virus. With approximately 60 million employees in the United States covered by the FFCRA's paid leave provisions and 22 million COVID-19 cases in the working age population, WHD was responsible for implementing and enforcing the new law and 11 other labor laws, and also for making critical operational decisions during the COVID-19 pandemic. Given previously identified challenges with WHD's handling of FFCRA and also previously identified issues with its complaint processes, we conducted a performance audit to determine if WHD implemented effective controls for enforcing its FFCRA paid leave compliance.

We found that WHD did implement controls for enforcing FFCRA paid leave compliance, consistent with the agency's internal controls and enforcement, but these controls could be strengthened.

WHD relied on incoming complaints to enforce FFCRA paid leave. The agency does not require staff to document all incoming complaints and did not implement additional complaint handling controls specific to the FFCRA. As a result, WHD cannot ensure the agency took proper action on all FFCRA complaints, and could have turned away employees whose employers violated their right to obtain paid leave benefits through the FFCRA. Because WHD incorporated the FFCRA

into its existing processes, these control deficiencies also apply to non-FFCRA labor laws enforced by the agency.

In addition, WHD did not ensure that FFCRA complainants received the leave payments they were owed. By not always requiring staff to follow up with complainants, WHD did not verify payments were made. WHD also did not have a method for analyzing trends regarding conciliation outcomes or a conciliation performance measure to determine if WHD was meeting agency objectives. As a result, WHD cannot determine how effective the agency was at securing FFCRA payments for workers when using conciliations. WHD has also increasingly used conciliations to enforce non-FFCRA labor laws. However, WHD's current conciliations policy makes it difficult for WHD to adequately assess the effectiveness of conducting conciliations in its enforcement of other labor laws as well.

Finally, we found that WHD conducted fewer investigations and implemented enforcement changes during the pandemic, assessing $66.8 million less in back wages compared to the prior year. WHD conducted fewer investigations in FY 2020 for the other 11 laws—including the FLSA—than it had in prior years, including a reduction in agency-initiated investigations, and utilized remote investigations more often. Although the reduction in oversight and the decrease in back wages can be attributed to pandemic restrictions, WHD did not assess its use of remote investigations or develop a plan for continuing agency-initiated investigations in a remote environment at the onset of the pandemic. As a result, WHD risked not achieving its mission and risked not protecting wages earned by those still working during the economic disruption.

While the paid leave provisions of the FFCRA are no longer in effect, we made five recommendations to WHD to address the control weaknesses we identified in its complaints and conciliation processes for the other enforcement programs.

WHD generally agreed with our recommendations although disagreed specifically with our recommendation on conciliations process improvements. WHD stated its established policy properly records the effectiveness of WHD conciliations in securing back wages for workers. However, WHD's current policy does not require follow-up with the complainant or proof of back wage payments resulting from conciliations, nor do they have a method for analyzing trends regarding the outcomes of conciliations to determine if WHD was meeting agency objectives. Therefore, we continue to assert that this recommendation is needed to ensure that WHD is meeting its mission to secure wages using conciliations.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/19-21-008-15-001.pdf, Report No. 19-21-008-15-001 (September 30, 2021).

Bureau of International Labor Affairs

The Bureau of International Labor Affairs (ILAB) safeguards dignity at work—both at home and abroad—by strengthening global labor standards, enforcing labor commitments among trading partners, promoting racial and gender equity, and combating international child labor, forced labor, and human trafficking.

ILAB Properly Performed Oversight in Compliance with the USAID Memorandum of Agreement and Ensured Catholic Relief Services Was in Compliance with the Cooperative Agreement Requirements

ILAB awarded $3,478,000 received from the United States Agency for International Development (USAID) through a modified Memorandum of Agreement (MOA) to Catholic Relief Services (CRS). CRS applied the funding to a project in El Salvador and Honduras focused on improving livelihood outcomes among at-risk youth to prevent their engagement in the worst forms of child labor. Public Law 114-113, Division K, Title VII, General Provisions, requires that the Inspector General for the agency receiving the transfer or allocation of such USAID funds perform periodic audits of the use of the funds.

The OIG contracted with the independent certified public accounting firm of Castro & Company, LLC (Castro) to conduct a performance audit to determine if ILAB: (1) ensured that CRS performed in accordance with the cooperative agreement requirements; (2) ensured that costs claimed under the MOA were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreement; and (3) properly performed oversight over CRS in compliance with the MOA and its policies and procedures.

Castro determined that ILAB generally ensured CRS was in compliance with the cooperative agreement requirements. ILAB also ensured that costs claimed under the award were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the cooperative agreement. ILAB also properly performed oversight in compliance with the USAID MOA and its policies and procedures. However, Castro did identify one instance in which ILAB did not perform a thorough review of CRS's Inventory Listing. While Castro noted that CRS purchased a vehicle that deviated from the approved budget justification, the vehicle purchased cost less than the approved cost and still achieved the intended purpose. In addition, CRS did not meet three of its performance indicator targets; however, this did not impact CRS's achievement of the overall project goals.

Castro identified a best practice used by ILAB that enabled CRS to achieve the majority of the performance objectives. To ensure performance compliance, ILAB uses a developed and implemented Management Procedures and Guidelines (MPG) procedure to perform periodic site visits to project locations, to review prior audit reports on the awardees and any partners in order to identify potential weaknesses in internal controls or areas of noncompliance, to

perform multiple reviews over project deliverables, and to hire external, independent consultants to perform mid-term and final performance evaluations over the awardees. Castro determined that these controls contributed to greater success in CRS achieving the performance objectives.

Castro made two recommendations to the Deputy Undersecretary of International Labor Affairs to update its MPG to improve oversight procedures for inventory management. ILAB concurred with one of the two recommendations to improve its oversight procedures for inventory management.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/17-21-003-01-070.pdf, Report No. 17-21-003-01-070 (September 23, 2021).



Employment and Training Programs

Employment and Training Administration Programs

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

Memorandum: Review of Appropriated Funds to Administer the Industry-Recognized Apprenticeship Program

In a November 20, 2019 congressional inquiry, the former Assistant Secretary for ETA disclosed the possible misapplication of ETA's Training and Employment Services (TES) appropriated funds in direct support of Industry-Recognized Apprenticeship Program (IRAP) activity, along with ETA's corrective action. During the financial statement audit conducted by KPMG LLP as contractors of the OIG, we performed certain inquiries and procedures to address whether ETA properly used appropriated funds for IRAP activity. The OIG found that ETA had initially used TES appropriated funds for certain IRAP activities and, after identifying the misapplication of those funds, subsequently corrected the funding source to Program Administration funds.

Since 1937, under the National Apprenticeship Act, the Secretary of Labor has been authorized to support certain work toward apprenticeships. ETA's work includes administering Registered Apprenticeship programs to which, in 2018, Congress appropriated $145 million in TES funds. While IRAPs are private-industry-led, high-quality apprenticeship programs that provide individuals with opportunities to obtain workplace-relevant knowledge and progressive advancement in skills, IRAP is not a Registered Apprenticeship program. Any activity done or created to carry out the functions and purpose of IRAP could not be funded from the TES appropriation.

During our audit, ETA indicated a sequence of events leading to its correction of the funding source for $1,114,590 in IRAP-related expenditures. Based on our review of ETA's accounting of $1,114,590 in IRAP activities, no information came to our attention that would indicate ETA had improperly used Program Administration funding for IRAP activities.

We also reviewed the appropriation language to determine whether ETA had appropriately used Program Administration funds for IRAP-related activities. We concluded that ETA's use of Program Administration funds was appropriate for their administration of IRAP activities. Specifically, the Consolidated Appropriations Act, 2018, authorized Program Administration funds for the expenses of administering employment and training programs. Congress did not further restrict ETA's authority to expend the funds. Absent appropriations language designating the funds for a specific purpose or program, ETA may exercise discretion in allocating the funds for expenses related to the administration of ETA employment and training programs.

The OIG made no recommendations. While ETA had initially erred by charging IRAP activities to TES-appropriated funds, ETA identified the error and subsequently corrected the funding source to Program Administration. Furthermore, no information came to our attention that would indicate ETA had improperly used Program Administration appropriated funds in 2018 and 2019 to administer IRAP activities.

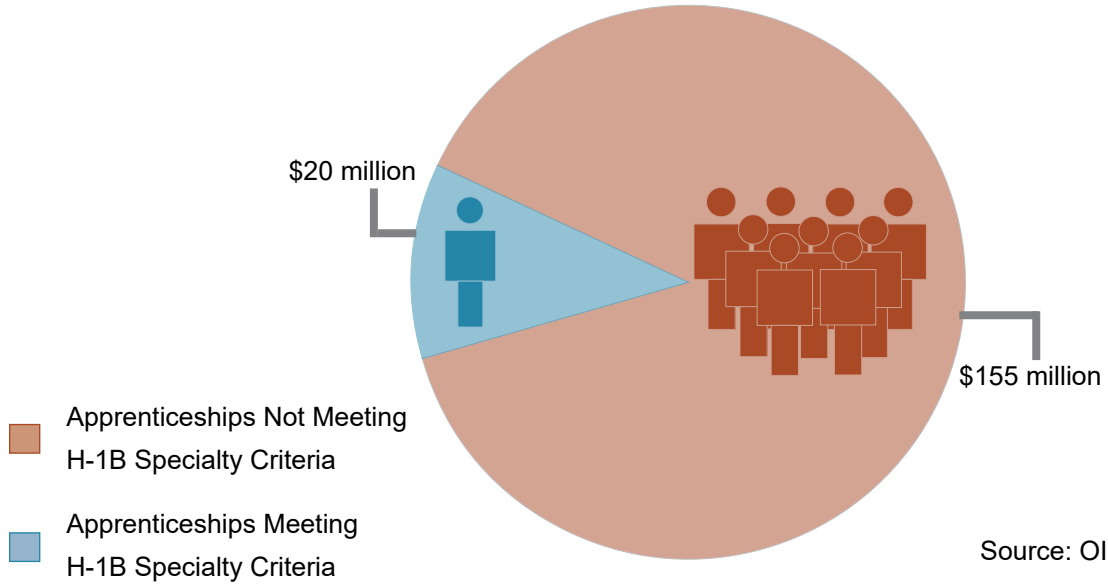
For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/22-21-006-03-375.pdf, Report No. 22-21-006-03-375 (May 28, 2021).

ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program

ETA awarded $175 million in grants, running through at least September 2020, for the American Apprenticeship Initiative (AAI) grant program. The AAI program was intended to expand apprenticeships into high-growth occupations and industries, increase apprenticeship opportunities for underrepresented populations, and reduce the United States' need for foreign workers under the H-1B visa program, among other goals. Because of concerns with ETA grant programs and the Registered Apprenticeship program, we conducted an audit to determine if ETA sufficiently planned and executed the AAI grant program. We found that, while ETA made progress in achieving some of the program's goals, systemic weaknesses throughout the program resulted in ETA not sufficiently planning and executing the AAI grant program.

We found systemic weaknesses in the execution, as well as in the planning and award processes, of the AAI grant program. For execution, 88.5 percent of the apprenticeships did not meet the specialty occupation criteria for H-1B visas, and, often, they were not in H-1B occupations, which makes it difficult for

Figure 5: More than $155 Million in Apprenticeships Did Not Meet H-1B "Specialty Occupation" Criteria



Source: OIG analysis of ETA data

ETA to demonstrate that the program has helped reduce the U.S. need for foreign workers under the H-1B visa program (see Figure 5).

As a result, ETA could have put more than $155 million in funds to better use by having grant recipients create apprenticeships that either start in H-1B occupations or have career pathways leading to H-1B occupations at the end of the apprenticeship.

ETA's planning weaknesses included insufficiently designing AAI goals, metrics, and the reporting system, and resulted in data quality issues that negatively impacted some aspects of a $6.6 million contractor evaluation of the program. ETA did not have the reporting system ready to access on day one, forcing the use of an interim reporting process. During that process, ETA violated the Paperwork Reduction Act (44 U.S. Code § 3501) by collecting data before receiving approval from the Office of Management and Budget. The system did not flag issues with eligibility of participants. We also found incomplete and inaccurate data such as:

- participants over 100 years in age;
- blank entries for contact information, including 4,856 blank Social Security numbers (SSNs); and
- duplicate entries, including SSNs and the use of 123-456-7890 as the phone number 164 times.

Finally, we found significant weaknesses in the award process, including incorrect award amounts, incorrect timing of compliance reviews, incorrect scoring of grantee proposals, and inaccurate public reporting, which can damage public trust in government. Moreover, ETA could have put $4.5 to $10 million of funds to better use in future grant programs if it had made AAI grants that adhered to its own guidance.

Generally, the weaknesses occurred because ETA did not sufficiently design various processes with appropriate controls or provide sufficient oversight, because personnel did not fully understand all the requirements, and because grant recipients did not follow instructions. As a result, ETA will have difficulty measuring program success, monitoring the grant recipients, and accurately reporting.

We made seven recommendations, including establishing internal controls to verify participant eligibility, complete and accurate system data, and achievement of desired outcomes, such as reducing H-1B visas. ETA agreed with six of our recommendations and discussed corrective actions it had been making in some of these areas since the AAI grant program started. However, ETA disagreed with our recommendation to delete duplicate records in the AAI reporting system and to populate missing information and correct inaccurate SSNs and contact information. We made this recommendation to ETA because, as the awarding agency, it has responsibility for the data in the reporting system and oversees the grant recipients. We reviewed information through March 2021 to verify that significant data issues still existed more than 2 years after ETA was notified of the data issues. To address this issue, ETA can either correct the data itself or oversee the grant recipients' correction of the data.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/05-21-004-03-375.pdf, Report No. 05-21-004-03-375 (September 30, 2021).

Labor Racketeering

Labor Racketeering

Under the Inspector General Act of 1978, the OIG is responsible for investigating labor racketeering and the influence of organized criminal enterprises involving unions, employee benefit plans, and labor-management relations.

Labor racketeering refers to the infiltration, exploitation, or control of a union, employee benefit plan, employer entity, or workforce, carried out through illegal, violent, or fraudulent means. Labor racketeering investigations by the OIG focus largely on individuals and organized criminal enterprises engaged in embezzlement, extortion, violence against union members or employers, and other related criminal activities.

Our investigations continue to identify fraudulent payments from employers to union representatives in order to gain favorable labor agreements for the employer. Our investigations have also identified complex financial and investment schemes used to defraud union-affiliated benefit plans, resulting in millions of dollars in losses to plan participants.

New York Labor Union President Sentenced to 60 Months in Prison for Selling Union Membership

On September 8, 2021, Salvatore Tagliaferro, the former president of the Local 926 chapter of the United Brotherhood of Carpenters and Joiners of America, was sentenced to 60 months in prison and ordered to pay restitution of approximately $145,000. Tagliaferro was found guilty, after a 1-week trial of honest services wire fraud, conversion of union assets, and conspiracy, in connection with his involvement in a scheme to solicit cash bribes from hundreds of prospective union members in exchange for membership.

From at least in or about 2017 through approximately June 2019, Tagliaferro, as the President of the Local 926, abused his position as an officer and employee of the Union by soliciting and accepting cash bribes from prospective Union members in exchange for securing the bribe payors' admission to the Local 926. Working with other co-conspirators, Tagliaferro identified prospective members and solicited cash payments in amounts ranging from $600 to $2,000. Once prospective members had paid bribes, Tagliaferro then used his authority to ensure that they were admitted into the Local 926 and received Union membership cards. Over the course of the scheme, the Local 926 ballooned by more than 800 new members, but for 2 years, more than half of the new members never worked a single Union job. Tagliaferro and a co-conspirator split the cash bribes obtained from the bribe payors during clandestine early morning meetings outside a construction site in lower Manhattan. In total, they each received at least $70,000 as a result of the scheme.

This was a joint investigation with DOL–Office of Labor-Management Standards (OLMS) and the New York City Department of Investigation. *United States* v. *Tagliaferro et al.* (S.D. New York)

Flushing, New York, Man Sentenced to 30 Months in Prison for Stealing $4.1 Million in Pension Funds and Approximately $305 Thousand in Health Care Funds

On April 20, 2021, Chaim Stern was sentenced to 30 months in prison for embezzlement and tax offenses related to his operation of nursing homes in Bridgeport and Waterbury, Connecticut. He also was ordered to pay more than $4.1 million to his employees' pension plan and almost $2.5 million to the Internal Revenue Service.

Stern was the principal operator of the Bridgeport Health Care Center (BHCC), Bridgeport Manor, and the Rosegarden Health and Rehabilitation Center, LLC (Rosegarden), in Waterbury, which are privately owned nursing and rehabilitation facilities. Between approximately 2011 and 2018, Stern stole approximately $4.1 million from the BHCC Pension Plan, over which he was the trustee, principally by diverting the money to a purported charity (called Em Kol Chai), which he controlled, as well as to himself and other entities. Also, in approximately February 2015, Stern misapplied approximately $305,000 from the BHCC Health Plan by diverting the money from a stop-loss insurance plan that was intended to pay for an employee health claim and, instead, used it for other purposes, including Em Kol Chai, the operation of the BHCC, and for his personal use.

Stern also failed to pay millions of dollars in other health insurance claims that he was obligated to pay on behalf of his employees, resulting in many cases of debt collection action against employees by the health care providers. Payment of outstanding claims is currently being handled through civil litigation. However, Stern has been ordered to pay for any claims that remain outstanding after the resolution of the pending civil case.

In addition, from at least January 2017 through March 2018, Stern failed to pay outstanding health care claims and caused BHCC and Rosegarden to fail to pay employment taxes he collected from BHCC and Rosegarden employees. Also, from January 2017 through June 2018, Stern caused BHCC and Rosegarden to fail to pay BHCC and Rosegarden's share of employment taxes. The total tax loss resulting from Stern's conduct is more than $4.3 million. This was a joint investigation with DOL–Employee Benefits Security Administration (EBSA), Boston Regional Office, and IRS–CI. *United States* v. *Chaim Stern* (D. Connecticut)

Bronx Man Sentenced to 18 Months in Prison for Role in Large-Scale Wire Fraud Conspiracy

On June 23, 2021, Edwin Cordero was sentenced to 18 months in federal prison for his role in a high-tech wire fraud conspiracy that targeted financial institutions and retirement plans. Cordero was initially charged with conspiracy to commit wire fraud related to multiple thefts from 401(k) plans covered under the Employee Retirement Income Security Act (ERISA) and other financial instruments. The thefts were conducted by Cordero and other co-conspirators both in the United States and overseas. The conspirators had been employing business email compromise and other cyber hacking methods to perpetrate the crimes against multiple large financial institutions and ERISA-covered plans. Additionally, Cordero was ordered to pay more than $148,000 in restitution and forfeiture. This is a joint investigation with the FBI. *United States* v. *Joshua Suarez et al.* (D. New Jersey)

FCA US LLC Sentenced for Conspiring to Make Illegal Payments to UAW Officials

On August 17, 2021, Fiat Chrysler Automobiles US LLC (FCA) was sentenced for conspiring to violate the Taft-Hartley Act by making more than $3.5 million in illegal payments to officers of the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) between 2009 and 2016. The illegal payments to UAW officials took multiple forms, including lavish meals, rounds of golf, extravagant parties for the UAW International Executive Board, an Italian-made shotgun, high-end clothing, designer shoes, and other personal items paid for with credit cards issued by the jointly controlled training center. FCA executives also paid off the $262,000 home mortgage of former UAW Vice President. The former UAW Vice President and his widow received hundreds of thousands of dollars funneled through a purported charitable organization and sham companies under their control, which had lucrative contracts with the UAW-Chrysler National Training Center (NTC). In many instances, FCA passed the illegal Taft-Hartley payments through the NTC, which was entirely funded by FCA and was supposed to provide training and health and safety protections for FCA workers.

FCA's sentence includes the payment of a $30 million fine, a 3-year term of probation, and 3 years of oversight by an independent corporate compliance monitor to ensure compliance with federal labor and tax laws.

This is a joint investigation with the DOL–OLMS, the IRS, IRS–Criminal Investigation Division, and the FBI. *United States of America* v. *FCA US LLC* (E.D. Michigan)

California Woman Sentenced for Her Role in Defrauding Union Health Plan

Lucine Ilangezyan, the former insurance biller for R&R Medspa, was sentenced to 18 months in prison and ordered to pay almost $8 million in restitution. Ilangezyan engaged in a scheme with the owners of the clinic to submit fraudulent claims to health insurance companies, including the International Longshore and Warehouse Union, Pacific Maritime Association Benefit Plan. The proceeds from the scheme were used to provide patients with "free" cosmetic procedures.

Ilangezyan and her co-conspirators induced patients to visit the clinics to receive free cosmetic procedures, including facials, laser hair removal, and Botox injections, which were not covered by insurance. The co-conspirators obtained insurance information from the patients and fraudulently billed insurance companies for unnecessary medical services or for services that were never provided. Using the fraudulent proceeds from the insurance companies, the defendants calculated a "credit" that patients could use to receive "free" or discounted cosmetic procedures.

During the course of the conspiracy, Ilangezyan and her co-conspirators submitted more than $20 million in claims to the insurance companies, which paid almost $8 million on those claims.

This was a joint investigation with DOL–EBSA, Los Angeles Regional Office. *United States* v. *Roxy Khadem et al. Lucine Ilangezyan* (C.D. California)

Departmental Management

Departmental Management

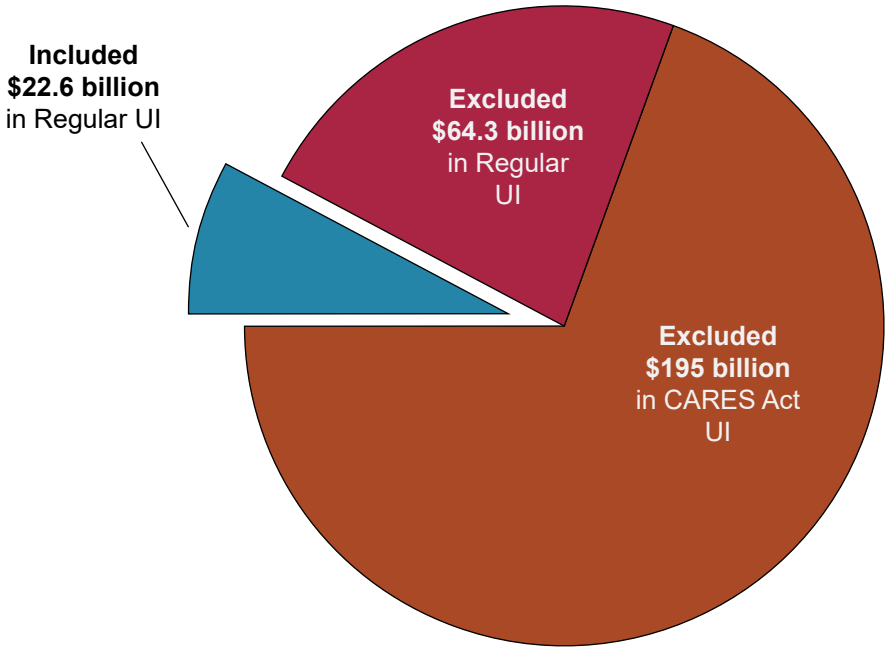
The OIG performs oversight work involving the Department's operations, financial management, and information technology (IT) services.

DOL Complied with the Payment Integrity Information Act for FY 2020, but Reported UI Information Did Not Represent Total Program Year Expenses

The OIG contracted with the independent certified public accounting firm of KPMG LLP (KPMG) to conduct a performance audit related to DOL's compliance with the Payment Integrity Information Act of 2019 (PIIA) for FY 2020, which ended September 30, 2020. KPMG concluded that DOL met all six requirements for compliance with PIIA. These six requirements relate to publishing improper payments information and improper payments reduction targets, as well as conducting program-specific risk assessments.

However, as KPMG noted in its report, DOL permitted state workforce agencies to suspend their improper payment sampling efforts for the final quarter of the unemployment insurance (UI) program year to reduce the burden on program resources responsible for processing UI benefit claims and implementing new programs related to the COVID-19 pandemic.

Figure 6. UI Benefits Included and Excluded from FY 2020 IP Rate



Source: OIG review of ETA's reported data on UI

The Office of Management and Budget–approved decision to suspend testing for the fourth quarter of the program year permitted approximately $64.3 billion, or 74 percent of the total $86.9 billion program year expenses reported by DOL, to go untested for improper payments. Moreover, three new programs that provided federally funded unemployment benefits authorized by the CARES Act were excluded from the UI program improper payment information as they were not in existence for more than 12 months as of the reporting period. These three programs, which are the Pandemic Unemployment Assistance program, the Pandemic Emergency Unemployment Compensation program, and the Federal Pandemic Unemployment Compensation, in total comprised approximately $195 billion, or 69 percent of the total $281.8 billion unemployment expenses reported by DOL for Program Year (PY) 2020. As such, DOL's improper payment information is reflective of only $22.6 billion, or 8 percent of total unemployment expenses reported by DOL for PY 2020 (Figure 6).

Although DOL's reported UI improper payment rate of 9.17 percent is compliant with PIIA, it is not representative of the total unemployment expenses for PY 2020. The OIG's initial pandemic audit and investigative work indicate that UI program improper payments, including fraudulent payments, are likely higher than 10 percent. KPMG and the OIG recommended that DOL management develop procedures to ensure changes to its improper payment process are communicated to the Office of Management and Budget in a timely manner and that those communications are properly maintained for subsequent review and inspection.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/22-21-007-13-001.pdf, Report No. 22-21-007-13-001 (August 6, 2021).

DOL's IT Governance Lacked the Framework Necessary to Support the Overall Mission

DOL spends more than $685 million annually on a portfolio of IT assets that support the operation and management of its programs. Prior audit work found that DOL's information security program contained deficiencies in critical, high-risk areas. As cited for many years through audit reports, these issues were attributed, in part, to the DOL Chief Information Officer's (CIO) lack of authority and a misaligned reporting structure for the CIO's position.

In 2019, DOL initiated an effort under the direction of the Assistant Secretary for Administration and Management (ASAM) to realign its IT resources from across the organization and consolidate IT functions into an IT Shared Services model under the CIO within the Office of the Assistant Secretary for Administration and Management (OASAM). Given our prior concerns and the changes underway, we conducted a performance audit to determine if DOL's IT governance structure appropriately aligns authority and responsibility to support the overall mission of the Department.

We determined that DOL's IT governance structure does not appropriately align the CIO's authority and responsibility to support DOL's overall mission. We found IT governance at DOL was ambiguous, ad hoc, and reliant on personnel to fulfill their duties without codified policies and procedures. To be effective, the CIO must be positioned within DOL's leadership to ensure the implementation of IT governance and without the

appearance of any conflicts of interest. This is not the case at DOL because the CIO reports to the ASAM, the head of one of the CIO's customer agencies, who also represents the CIO in key enterprise planning and strategy meetings.

DOL made progress in ensuring that the CIO controls key IT functions within the Department. However, blind spots remained in their visibility and authority with IT because of agencies not fully integrating into the IT Shared Services model, leading to a lack of control over essential IT systems, contract procurements, project management, and hardware asset inventory. IT processes critical to proper IT governance were also weakened by ad hoc design and reliance upon personnel. As a result, the current state of DOL IT is currently reliant upon the direction of the ASAM, and, without implementing codified structures, it is directly impacted by personnel changes.

The Associate Deputy Secretary for the Department disagreed with one recommendation to elevate the CIO position to a level commensurate with DOL's Assistant Secretaries and the CFO and reporting to the Deputy Secretary. The Associate Deputy Secretary accepted the other four recommendations and will develop a plan to implement them.

For more information, go to https://www.oig.dol.gov/public/reports/oa/2021/23-21-002-01-001.pdf, Report No. 23-21-002-01-001 (September 30, 2021).

Service Auditors' Report on the Integrated Federal Employees' Compensation System for the Period October 1, 2020 to June 30, 2021

The OIG contracted with an independent certified public accounting firm to perform an examination of the integrated Federal Employees' Compensation System (iFECS) transaction processing for the application and general controls as described in the report, were fairly presented, suitably designed, and effectively operating for the period October 1, 2020, through June 30, 2021.

The controls and control objectives included in the description are those that the management of the Office of Workers' Compensation Programs' Division of Federal Employees' Longshore and Harbor Workers' Compensation and OASAM believe are likely to be internal controls for financial reporting relevant to user entities of the Federal Employees Compensation Act Special Fund and iFECS throughout the period.

The firm examined the suitability of the design and operating effectiveness of the controls and control objectives. The firm concluded in all material respects that the description fairly presented the claims processing system and that the related controls were suitably designed and operated effectively to reasonably assure achievement of the related control objective throughout the period.

This report, No. 22-21-008-04-431 (September 30, 2021), contains sensitive information and will not be released publicly.

Single Audits

A single audit provides an organization-wide examination of an entity expending federal assistance funds received for its operations. The audit is typically conducted annually by an independent certified public accountant, and its objective is to provide assurance to the U.S. government regarding the management and use of funds by recipients such as states, schools, universities, and nonprofits.

Quality Control Review of Single Audits

Under Uniform Guidance,[12] cognizant federal agencies must oversee the implementation of single audit requirements. DOL is currently cognizant for six entities, and the OIG periodically performs quality control reviews (QCR) of the entities' single audits. During this reporting period, we conducted one QCR on the Single Audit of the Chicago Cook Workforce Partnership for the Fiscal Year Ended June 30, 2019. Based on our review of the audit documentation related to DOL-funded programs, we determined that Mitchell Titus LLP's audit work was acceptable and met the requirements of applicable standards, including generally accepted government auditing standards, generally accepted auditing standards, and Uniform Guidance.



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

Employee Integrity Investigations

The OIG is responsible for investigating possible misconduct or criminal activities involving senior DOL employees or individuals providing services to the Department.

Substantiated

The OIG received an allegation that a Program Analysis Officer in DOL's Performance Management Center (PMC), was running a personal business while on extended medical leave from their position with PMC.

Our investigation determined that three days before the employee was scheduled to return to PMC from a detail position, the employee requested extended sick leave due to a "serious health condition" that rendered the employee unable to work, in any capacity, within DOL. The investigation substantiated that while on sick, annual, and leave without pay, the employee was working in multiple personal businesses. The employee participated in paid public speaking engagements attended by other federal employees, taught a Supervisory Development Course as a contract instructor for the U.S. Office of Personnel Management (OPM), held office as the president of a private association, and is the founder and CEO of a certified professional coaching business catering to federal government agencies and nonprofit organizations. In addition, the employee solicited DOL employees, via their government email address, to participate in a fee-based event hosted by the employee. The solicitation email included instructions on how to register using the company Data Universal Numbering System's number and Commercial and Government Entity code number for accepting payments from federal agencies.

Prior to completion of the investigation, the OIG was notified that the employee requested disability retirement from OPM. The OIG was later notified that after denial of the disability retirement, the employee refused to return to duty as instructed and on November 29, 2020, DOL terminated the employee for excessive absence and being "absent without official leave."

Closed Investigations Not Disclosed to Public

- The OIG conducted an investigation as to whether a senior employee leaked internal information to a prospective contractor that resulted in an advantage to that contractor during the solicitation process. The OIG investigation did not substantiate the allegation. The investigation was closed without further action.
- The OIG conducted an investigation as to whether a senior employee engaged in a conflict of interest when the official began working as a consultant on a DOL contract immediately upon retirement from DOL. The OIG substantiated the allegation. Criminal charges were declined as DOL could not show any record that the employee had received ethics training or any guidance concerning post-employment restrictions, and therefore the employee was not subject to any required cooling-off period postemployment. The investigation was closed without further action.

OIG Whistleblower Activities

OIG Whistleblower Activities

Whistleblower Protection Coordinator

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

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

OIG Whistleblower Activities

Whistleblower Retaliation Investigations

The OIG can initiate its own investigations into allegations of improper or illegal retaliation brought by DOL employees or, on a discretionary basis, refer such allegations to OSC for review and investigation. At the current time, the OIG has two open investigations involving complaints of whistleblower retaliation filed by two DOL employees.

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

- Closed one investigation of alleged whistleblower retaliation made by an employee of a DOL grantee or contractor after preliminary investigation revealed that the individual's allegation of retaliation had been investigated by another OIG with a report being issued by that OIG; and
- Ended this reporting period with four pending investigations.

At the end of this reporting period, the Department is overdue in issuing its decisions on three complaints. The OIG sent all three of these reports to the Secretary or his designee in earlier reporting periods.



OFFICE OF INSPECTOR GENERAL
E PLURIBUS UNUM
UNITED STATES
DEPARTMENT OF LABOR

Legislative Recommendations

Legislative Recommendations

The Inspector General Act requires the OIG to review existing or proposed legislation and regulations, and to make recommendations in the Semiannual Report *concerning their impact both on the economy and efficiency of the Department's programs and on the prevention of fraud, waste, and abuse. The OIG continues to propose the following legislative actions to increase efficiency and protect the Department's programs.*

Allow DOL and the OIG Access to UI Claimant Data and Wage Records

Congress should consider legislative action to allow DOL and the OIG to have direct access to State Workforce Agency (SWA) unemployment insurance (UI) claimant data and wage records for our respective oversight responsibilities. The Department has stated that outside of the temporary authority provided by the Coronavirus Aid Relief and Economic Security (CARES) Act, it lacks the authority to require SWAs to provide the OIG with access to UI claimant data and wage records unless the OIG is conducting an investigation into a particular instance of suspected UI fraud. The Department is unable to cite any law enacted by Congress to support its opinion; and contrary to the Department's belief, the IG Act of 1978, as amended, authorizes the OIG's access to information related to the Department's programs, unless Congress enacts law that expressly refers to the OIG and limits the OIG's right of access. Furthermore, in a June 2021 alert memorandum,[13] the OIG recommended that the Employment and Training Administration (ETA) amend its regulations through rulemaking to reinforce that UI information must be provided to the OIG for all Inspector General (IG) engagements.

This lack of direct and real-time access to data has severely hampered the OIG's ability to effectively oversee the UI program. In order to overcome this impediment and effectively oversee UI benefits provided in response to the COVID-19 pandemic, the OIG issued multiple IG subpoenas to all SWAs, seeking UI claimant data. OIG data scientists then normalized and analyzed the data to identify potential fraud and programmatic weaknesses. While the Department did issue an Unemployment Insurance Program Letter in July 2021, requiring SWAs to provide the OIG with UI data related to the CARES Act and subsequent pandemic UI legislation, the OIG no longer has access to such data for audit purposes with the temporary UI benefits that expired on September 6, 2021. Thus, without data access, the OIG is unable to provide effective oversight of the UI program. The OIG has communicated in the past the value of receiving periodic reporting on this data, such as on a monthly or quarterly basis, rather than requesting this data via legal action, such as subpoenas, under special circumstances.

The results of our efforts have shown that data analytics is a vital tool in performing our

[13] DOL OIG, "Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General," (June 16, 2021; Report No. 19-21-005-03-315).

oversight function. The OIG's efforts resulted in the identification of billions in improper payments, with most attributable to potential fraud. The OIG was further able to recommend programmatic changes to put billions in federal funds to better use. In addition, the OIG shared portions of our methodology with ETA to allow the Department and SWAs to stop fraud before it occurs. The use of IG subpoenas is time consuming and inefficient and it does not allow the OIG to identify fraud as it is occurring.

Real-time access to SWA UI claimant data and wage records systems would assist in the Department's programmatic oversight responsibilities to identify improper payments and weak controls. This access is also vital to the OIG's oversight responsibility and would enable the OIG to quickly identify and investigate large-scale fraud. It would also allow the OIG to expand our current efforts to share emerging fraud trends with ETA and SWAs in order to strengthen the UI program and likely prevent fraud before it occurs. In addition, conducting data analytics based on direct access would further enable our auditors to identify program weaknesses and recommend corrective actions that would improve the timeliness of UI benefit payments and the integrity of the UI program.

Enact the UI Integrity Legislative Proposals

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

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

In addition to the above, the President's FY 2020 budget request included a new proposal to require states to access data sources available through the National Association of State Workforce Agencies' Integrity Data Hub (IDH). The IDH contains a Suspicious Actor Repository that allows states to exchange data elements from known fraudulent UI claims as well as additional real near-time data sources to help states detect improper payments and fraud, including an identity verification tool to prevent fraudulent UI benefit claims. This proposal will require states to cross-match UI claims against the data sources available through the IDH. The UI program's system-wide use of the IDH will result in increased prevention, detection, and recovery of improper and fraudulent payments.

These legislative proposals are consistent with previous OIG findings and recommendations

to address UI improper payments. In order to maintain UI program integrity, the OIG has recommended, as of February 2021, establishing legislation that requires SWAs to cross-match high-risk areas, including UI benefits paid to individuals with Social Security numbers filed in multiple states, belonging to deceased persons and federal inmates, or used to file for UI claims with suspicious email accounts.

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

If DOL is to have a meaningful role in the foreign labor certification process for H-1B specialty occupation visas, it must have the statutory authority to ensure the integrity of that process, including the ability to verify the accuracy of information provided on labor condition applications, and to initiate its own H-1B investigations more broadly. Currently, the Department is statutorily required to certify an H-1B application unless it determines that the application is "incomplete or obviously inaccurate." However, DOL may not initiate its own H-1B investigations based on reasons outside the four statutory criteria, unlike investigations into the H-2A and H-2B programs.

Our concern with the Department's limited ability to ensure the integrity of the certification process is heightened by the results of OIG analyses and investigations showing that the program is susceptible to significant fraud and abuse, particularly by employers and attorneys. For example, some staffing companies utilize the H-1B program without having scheduled jobs already lined up. Some employers and attorneys misrepresent their need for workers to DOL, then reassign the extra workers to other companies or require foreign workers to find their own work. There have also been instances when companies illegally generated profit by requiring foreign workers to pay fees and recurring payments to secure H-1B visas. Without statutory authority to ensure program integrity, the Department cannot verify employers' attestations to the H-1B certifications unless a complaint is filed. This is unlikely, as foreign workers are generally reluctant to file complaints, for fear of retaliation and losing their jobs.

Amend Pension Protection Laws

Legislative changes to the Employment Retirement Security Act of 1974 (ERISA) and criminal penalties for ERISA violations would enhance the protection of assets in pension plans. To this end, the OIG continues to recommend the following legislative actions:

- **Repeal ERISA's limited-scope audit exemption.** This exemption excludes pension plan assets invested in financial institutions, such as banks and savings and loan firms, from audits of employee benefit plans. Notwithstanding recent changes to auditing standards that strengthen limited-scope audits, these audits prevent independent public accountants who are auditing pension plans from rendering an opinion on the plans' financial statements in accordance with professional auditing standards. These "no opinion" audits offer no substantive assurance of asset integrity either to plan participants or to the Department.

- **Expand the authority of the Employee Benefits Security Administration (EBSA) to correct substandard benefit plan audits and ensure that auditors with poor records do not perform additional plan**

audits. Changes should include providing EBSA with greater enforcement authority over registration, suspension, and debarment as well as the ability to levy civil penalties against employee benefit plan auditors. The ability to correct substandard audits and take action against auditors is essential, as benefit plan audits help protect participants and beneficiaries by ensuring the proper valuation of plan assets and computation of benefits.

- **Require direct reporting of ERISA violations to DOL.** Under current law, a pension plan auditor who finds a potential ERISA violation is responsible for reporting it to the plan administrator, but not directly to DOL. To ensure that improprieties are addressed, we recommend that plan administrators or auditors be required to report potential ERISA violations directly to DOL. This change would ensure the timely reporting of violations and would more actively involve auditors in safeguarding pension assets as a first line of defense against the abuse of workers' pension plans.

- **Strengthen criminal penalties in U.S.C. Title 18.** Three sections of U.S.C. Title 18 serve as the primary criminal enforcement tools for protecting pension plans covered by ERISA. Section 664 prohibits embezzlement or theft from employee pension and welfare plans; Section 1027 prohibits making false statements in documents required by ERISA; and Section 1954 prohibits giving or accepting bribes related to the operation of ERISA-covered plans. Sections 664 and 1027 subject violators to up to 5 years' imprisonment, while Section 1954 calls for up to 3 years' imprisonment for violators. The OIG recommends raising the maximum penalty up to 10 years for all three violations to correspond with the 10-year penalty imposed by Section 669 (for theft from health care benefit programs), which would serve as a greater deterrent and, consequently, further protect employee pension plans.

Improve the Integrity of the FECA Program

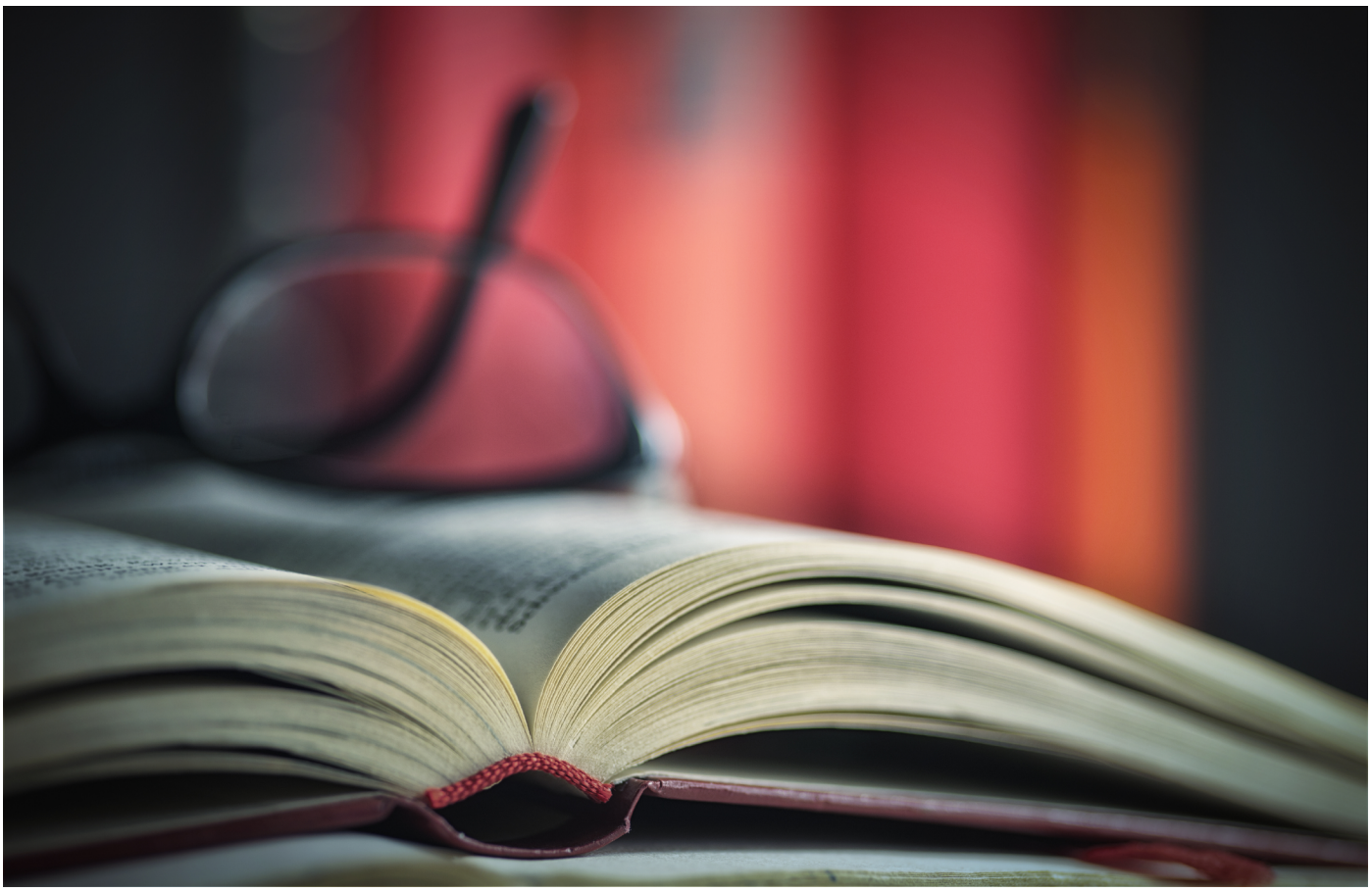
Legislative reforms should be considered in the following areas to improve the effectiveness and integrity of the FECA program:

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

- **Establish a 3-day waiting period at the beginning of the claims process.** FECA legislation provides for a 3-day waiting period, which is intended to discourage the filing of frivolous claims. As currently written, however, the legislation places the waiting period at the end of the 45-day continuation-of-pay period, thereby negating its purpose. Legislation passed in 2006 placed the waiting period for postal employees immediately after an employment-related injury. If the intent of the law is to ensure a true waiting period before an employee applies for benefits, then that period should likewise come immediately after an employment-related injury—for all federal workers, not exclusively postal employees.

This proposal was included in the President's FY 2021 budget as part of the Office of Workers' Compensation Programs' (OWCP) FECA reform.

- **Allow the temporary suspension of questionable medical providers pending the outcome of an investigation.** While FECA regulations allow OWCP to exclude a provider through administrative means, OWCP must give notice to the provider and afford the provider an opportunity for a hearing before DOL's Office of Administrative Law Judges. This process and the various procedures involved can be lengthy. Although the Department's suspension and debarment process is being successfully applied to FECA medical providers, legislative changes are necessary to enable DOL to immediately suspend all payments to providers who have been indicted for fraudulent billing practices. This proposal was included in the President's FY 2021 budget as part of OWCP's FECA reform.



Appendices

Reporting Requirements Under the Following Acts

Inspector General Act of 1978

REPORTING REQUIREMENT		PAGE
Section 4(a)(2)	Recommendations on Existing and Proposed Legislation and Regulations relating to the programs and operations of DOL	68
Section 5(a)(1)	Description of Significant Problems, Abuses, and Deficiencies relating to the administration of programs and operations	ALL
Section 5(a)(2)	Description of Recommendations for Corrective Action with Respect to Significant Problems, Abuses, and Deficiencies	ALL
Section 5(a)(3)	Significant Recommendations from Previous Semiannual Reports on Which Corrective Action Has Not Been Completed	81
Section 5(a)(4)	Matters Referred to Prosecutive Authorities and the Prosecutions and Convictions Which Have Resulted	97
Section 5(a)(5) and Section 6(c)(2)	Summary of Each Report Made to the Head of DOL under Section 6(c)(2) (Information or assistance requested and unreasonably refused in the judgment of the Inspector General).	None to report
Section 5(a)(6)	List of Audit Reports, Inspection Reports, and Evaluation Reports Subdivided According to Subject Matter	79
Section 5(a)(7)	Summary of Particularly Significant Reports	ALL
Section 5(a)(8)	Statistical Tables Showing the Total Number of Audit Reports, Inspection Reports, and Evaluation Reports and the Total Dollar Value of Questioned Costs, Including Unsupported Costs, for Reports— (A);(D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; and (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	78
Section 5(a)(9)	Statistical Tables on Management Decisions on Recommendations That Funds Be Put to Better Use (A);(D) for which no management decision had been made by the beginning or the end of the reporting period; (B) which were issued during the reporting period; and (C) for which a management decisions was made during the reporting period, including the dollar value of disallowed and not disallowed costs	77

Reporting Requirements Under the Following Acts, continued

Inspector General Act of 1978, continued

Section 5(a)(10)	Summary of Each Audit Report, Inspection Report, and Evaluation Report Issued Before the Commencement of the Reporting Period— (A) for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report; (B) for which no establishment comment was returned within 60 days of providing the report to the establishment; and (C) for which there are any outstanding unimplemented recommendations, including the aggregate potential cost savings of those recommendations	86 – 100
Section 5(a)(11)	Description and Explanation for Any Significant Revised Management Decision	None to report
Section 5(a)(12)	Information on Any Significant Management Decisions with Which the Inspector General Disagrees	None to report
Section 5(a)(13)	Information from the Federal Financial Improvement Act Section 804(b)—instances and reasons when an agency has not met intermediate target dates in remediation plan	None to report
Section 5(a)(14)	Peer Review Reporting (A) Results of any peer review conducted by another OIG; or (B) A statement identifying the date of the last peer review conducted	None to report
Section 5(a)(15)	Outstanding Peer Review Recommendations	None to report
Section 5(a)(16)	Peer Reviews Conducted by DOL-OIG and Recommendations Outstanding or Not Fully Implemented	None to report
Section 5(a)(17)	Statistical Tables on Investigative Findings Showing Total Number of— (A) reports issued (B) persons referred to DOJ for prosecution (C) persons referred to State and local prosecuting authorities (D) indictments and criminal informations that resulted from any prior referral to prosecuting authorities	97
Section 5(a)(18)	Metrics Used for Developing the Data for the Statistical Tables Under Section 5(a)(17)	97
Section 5(a)(19)	Summary of Investigations of Senior Government Employees Where Allegations of Misconduct Were Substantiated—including the facts, circumstances, status, disposition of the matter, and name of the official if made public by the Office	None to report
Section 5(a)(20)	Description of Whistleblower Retaliation Cases Including Information About the Official Found to Have Engaged in Retaliaton and What, if any, Consequences that Establishment Imposed to Hold that Official Accountable	67

Reporting Requirements Under the Following Acts, continued

Inspector General Act of 1978, continued

Section 5(a)(21)	Summary of Instances of Attempted Departmental Interference with the Independence of the Office, including—with budget constraints and incidents where the establishment has: resisted or objected to oversight activities; or restricted or significantly delayed access to information	None to report
Section 5(a)(22)	(A) Descriptions of Inspections, Evaluations, Audits, and Investigations That Are Closed and Were Not Disclosed to the Public; and (B) Descriptions of Investigations Conducted By the Office Involving a Senior Government Employee that is Closed and Was Not Disclosed to the Public	59

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

Section 989C	Peer Review Reporting	None to report

Funds Recommended for Better Use

Funds Put to a Better Use Agreed to by DOL*		
	Number of Reports	**Dollar Value ($ millions)**
For which no management decision had been made as of the commencement of the reporting period	1	5,409
Issued during the reporting period	2	33,901
Subtotal	**3**	**39,310**
For which a management decision was made during the reporting period:		
• Dollar value of recommendations that were agreed to by management		39,154
• Dollar value of recommendations that were not agreed to by management		
For which no management decision had been made as of the end of the reporting period	**1**	**156**
Funds Put to a Better Use Implemented by DOL		
	Number of Reports	**Dollar Value ($ millions)**
For which final action had not been taken as of the commencement of the reporting period	2	5.6
For which management or appeal decisions were made during the reporting period	2	39,154
Subtotal	**4**	**39,160**
For which a management decision was made during the reporting period:		
• Dollar value of recommendations that were actually completed		0
• Dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed		0
For which no final action had been taken by the end of the period	**4**	**39,160**

*The term “recommendation that funds be put to better use” means a recommendation by the OIG that funds could be used more efficiently or achieve greater program effectiveness if management took actions to implement and complete the recommendation. This term is defined by the Inspector General Act and includes, among other things, reductions in future outlays; deobligation of funds from programs or operations; costs not incurred in the future by implementing recommended improvements related to the operations of the establishment, a contractor, or a grantee; and any other savings specifically identified, including reverting funds to the U.S. Treasury to be used for other purposes.

Questioned Costs

Resolution Activity: Questioned Costs*		
	Number of Reports	**Questioned Costs ($ millions)**
For which no management decision had been made as of the commencement of the reporting period (as adjusted)	1	2
Issued during the reporting period	0	0
Subtotal	**1**	**2**
For which a management decision was made during the reporting period:		
• Dollar value of disallowed costs		2
• Dollar value of costs not disallowed		0
For which no management decision had been made as of the end of the reporting period	0	0
For which no management decision had been made within six months of issuance	0	0

Closure Activity: Disallowed Costs		
	Number of Reports	**Disallowed Costs ($ millions)**
For which final action had not been taken as of the commencement of the reporting period (as adjusted)	3	**1.1**
For which management or appeal decisions were made during the reporting period	1	2.0
Subtotal	**4**	**3.1**
For which final action was taken during the reporting period:		
• Dollar value of disallowed costs that were recovered		1.0
• Dollar value of disallowed costs that were written off		0
• Dollar value of disallowed costs that entered appeal status		0
For which no final action had been taken by the end of the reporting period	**2**	**2.1**

*As defined by the Inspector General Act, questioned costs include alleged violations of law, regulations, contracts, grants, or agreements; costs not supported by adequate documentation; or the expenditure of funds for an intended purpose that was unnecessary or unreasonable. Disallowed costs are costs that the OIG questioned during an audit as unsupported or unallowable and that the grant/contracting officer has determined the auditee should repay. The Department is responsible for collecting the debts established. The amount collected may be less than the amount disallowed, and monies recovered usually cannot be used to fund other program operations and are returned to the U.S. Treasury.

Final Audit Reports Issued

Report Name	Number of Recommendations	Questioned Costs ($)	Funds Put to Better Use ($)
Bureau of International Labor Affairs			
ILAB Properly Performed Oversight in Compliance with the USAID Memorandum of Agreement and Ensured Catholic Relief Services was in Compliance with the Cooperative Agreement Requirements; Report No. 17-21-003-01-070; 09/23/21	2	0	0
Employment and Training Administration			
COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs; Report No. 19-21-004-03-315; 05/28/21	4	0	33,745,677,576
Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General; Report No. 19-21-005-03-315; 06/16/21	5	0	0
Alert Memorandum: The Employment and Training Administration Does Not Require the National Association of State Workforce Agencies to Report Suspected Unemployment Insurance Fraud Data to the Office of the Inspector General or the Employment and Training Administration; Report No. 19-21-006-03-315; 07/01/21	2	0	0
Unemployment Insurance Overpayments Related to Work Search Underscore the Need for More Consistent State Requirements; Report No. 04-21-001-03-315; 09/29/21	4	0	0
ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program; Report No. 05-21-004-03-375; 09/30/21	7	0	155,582,864
Office of the Chief Financial Officer			
The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Information Did Not Represent Total Program Year Expenses; Report No. 22-21-007-13-001; 08/06/21	1	0	0
Occupational Safety and Health Administration			
OSHA's Diminished Enforcement Left More Workers at Risk for Exposure to Silica; Report No. 02-21-003-10-105; 09/29/21	3	0	0
Office of the Secretary			
DOL's IT Governance Lacked the Framework Necessary to Support the Overall Mission; Report No. 23-21-002-01-001; 09/30/21	5	0	0
Office of Workers' Compensation Programs			
DEEOIC Could Do More To Prevent Improper Payments of Home Health Care Costs; Report No. 03-21-001-04-437; 09/16/21	3	0	0
COVID-19: Pandemic Causes Delays in FECA Claims Adjudication; Report No. 19-21-007-04-431; 09/23/21	1	0	0
Federal Agencies with Responsibilities for the Federal Employees' Compensation Act Program; Report No. 22-21-008-04-431; 09/30/21	0	0	0
COVID-19: The Pandemic Highlighted the Need to Strengthen Wage and Hour Division's Enforcement Controls; Report No. 19-21-008-15-001; 09/30/21	5	0	0
Reports Total (13 Reports)	42	$0	**$33,901,260,440**

Other Reports

Report Name	Number of Recommendations
Employment and Training Programs	
Workforce Innovation and Opportunity Act	
Quality Control Review for the Single Audit of the Chicago Cook Workforce Partnership for the Fiscal Year Ended June 30, 2019; Report No. 24-21-002-03-390; 05/26/21	0
Apprenticeship	
Review of Appropriated Funds to Administer the Industry-Recognized Apprenticeship Program; Report No. 22-21-006-03-375; 05/28/21	0
Other Report Total (2 Reports)	**0**

Unresolved Audit Reports Over 6 Months Old

Agency	Report Name	Number of Recommendations	Questioned Costs ($)
Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency			
ETA	Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	4	0
ETA	COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20	2	0
MSHA	MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	2	0
MSHA	MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No. 23-19-002-06-001; 08/16/19	1	0
MSHA	MSHA Needs to Improve Efforts to Protect Coal Miners From Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/20	2	0
MSHA	MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated; Report No. 05-21-002-06-001; 03/31/21	1	0
OASAM	FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
OCFO	DATA Act: DOL's Reported Data Generally Met Quality Standards but Accuracy Issues Remain; Report No. 03-20-001-13-001; 11/21/19	3	0
OCFO	DOL Needs to Do More to Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	2	0
OFCCP	OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20	1	0
WHD	DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	1	0
Agency Management Decision or Grant/Contracting Officer's Final Determination Not Issued by Close of Period			
	NONE		
Total Nonmonetary Recommendations and Questioned Costs		**20**	**0**

Agency	Report Name	Number of Recommendations	Funds Recommended for Better Use ($)
Agency Management Decision or Grant/Contracting Officer's Final Determination Did Not Resolve; OIG Negotiating with Agency			
Total Funds Recommended for Better Use		**0**	**$0**

Total Audit Exceptions and Funds Recommended for Better Use	**20**	**$0**
Total Funds Recommended for Better Use	0	0
Total Audit Exceptions and Funds Recommended for Better Use	**20**	**$0**

Corrective Actions Taken by the Department

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

OSHA Needs to Improve the Guidance for its Fatality and Severe Injury Reporting Program to Better Protect Workers; Report No. 02-18-203-10-105; 09/13/18

The Occupational Safety and Health Administration (OSHA) requires employers to report all work-related fatalities, certain injuries, inpatient hospitalizations, amputations, and losses of an eye within specific timeframes. OSHA also encourages employers to conduct investigations into these incidents so they can abate the hazards that caused them. Our audit found OSHA: (1) had no assurance employers reported these work-related incidents; (2) did not follow its policies consistently to issue citations when employers failed to report them; and (3) lacked justification for its decision to allow employers to perform investigations into these incidents and for closing investigations without first obtaining sufficient evidence that employers had abated the hazards. Furthermore, OSHA did not monitor employer investigations to ensure accuracy and completeness of the information reported.

In response to our audit, on December 21, 2018, OSHA issued a guidance memorandum titled, "Additional Guidance on Case File Documentation," to remind field staff of the need to document significant events within the inspection case file, such as the decision not to issue a citation or conduct an inspection. After issuing this guidance, OSHA reached out to field staff to reinforce the need for such documentation. OSHA issued more guidance on March 7, 2019, for monitoring rapid response investigations (RRIs). To verify the integrity of the process, OSHA created a random inspection list of 100 establishments that had submitted RRIs deemed sufficient and closed within the prior 3 months, and then determined if employers adequately investigated the incidents and took appropriate abatement actions.

Trade Adjustment Assistance Community College and Career Training Grants: ETA Spent $1.5 Billion and Met Its Stated Capacity Development Goals, but is Challenged to Determine if the Investment Improved Employment Outcomes; Report No. 02-18-201-03-330; 07/26/18

Our audit covered approximately $1.5 billion in grant funds awarded to 173 grantees for the Trade Adjustment Assistance Community College and Career Training Grants Program. We found that grantees generally achieved their goals related to developing, expanding, and improving training programs; however, less than half of the students who were unemployed found a job. Additionally, the Employment and Training

Corrective Actions Taken by the Department, continued

Administration (ETA) lacked information to determine if the resulting employment was in a high-wage, high-skill occupation.

In response to our audit, ETA provided documentation demonstrating its use of the National Directory of New Hires data as the method for collecting employment outcomes data beyond the period of performance for discretionary grants. Furthermore, ETA provided its Memorandum of Understanding with the Kansas Department of Commerce that will be used for obtaining wage record information for its national and discretionary grant programs to analyze wage data and program outcomes.

Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud; Report No. 19-20-002-03-315; 05/26/20

On March 27, 2020, Congress passed the Coronavirus Aid Relief and Economic Security Act, which included approximately $392 billion in funding to operate new or existing unemployment compensation programs, including the Pandemic Unemployment Assistance (PUA) program. PUA was designed to provide benefits to individuals who are not traditionally eligible for unemployment assistance. DOL directed states to allow PUA applicants to self-certify that they are able and available for work but unemployed due to a COVID-19 related reason. However, DOL did not direct the states to require PUA recipients to provide documentation within 21 days to support the recipient's employment or self-employment. DOL's decision to rely solely on claimant self-certifications rendered the PUA program highly vulnerable to improper payments and fraud.

In response to our audit, DOL agreed to consult with Congress and offer technical assistance if Congress wished to amend the self-certification provision to require submission of documentation to substantiate an individual's previous employment or self-employment. On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 was signed into law. The Act included a requirement for PUA recipients to provide, within established time frames, documentation that supports employment or self-employment or planned employment or self-employment. PUA recipients who fail to provide requested documentation within those established time frames are not eligible for the program.

ETA Could Not Demonstrate that Credentials Improved WIOA Participants' Employment Outcomes; Report No. 03-20-002-03-391; 09/30/20

ETA ensures employment and training services provided by the Workforce Innovation and Opportunity Act's (WIOA) core programs are coordinated and complementary so job seekers may acquire skills and

Corrective Actions Taken by the Department, continued

credentials that meet local employers' needs. Accordingly, job training and any credential obtained from the training should improve the employment opportunities of participants. Our audit found ETA lacked data to measure the impact credentials had on participants' outcomes and did not ensure participants' data was accurate, valid, and reliable.

In response to our audit, ETA stated it agrees that understanding the impact of credentials on employment outcomes is important to assessing the success of many of ETA's WIOA programs, especially since WIOA established credential attainment as an outcome subject to sanctions. ETA has provided extensive technical assistance to states on credentials, including information to better define and accurately report credentials, and convened a group of several state teams to develop useful strategies and tools to assess appropriate credentials. State teams of the Credential Attainment Cohort, a collaboration between DOL and the Department of Education, developed credential attainment tools that serve as companion resources to the Credential Attainment Decision Tree Tool. In addition, states were provided with an action plan template to assist in the development of their strategies for determining what qualifies as a credential.

Also, ETA continues to strengthen its data validation efforts. Beginning with WIOA Title I data, ETA is currently piloting a Quarterly Report Analysis (QRA) tool to leverage existing data to identify potential data anomalies and to enhance program decision-making. The QRA serves as a technical assistance tool for grant recipients to identify areas in their reported data that may require additional attention or correction in support of their data validation efforts prior to the submittal of the data to ETA. ETA stated many of ETA's regional offices conducted general oversight of state Data Validation (DV) practices during their WIOA monitoring reviews. State DV policy and practices were discussed and verified and in some cases DV results were reviewed for one quarter during the course of the WIOA monitoring review.

Job Corps Should Improve Its Pre-admission Evaluation Process; Report No. 05-21-001-03-370; 03/25/21

The Workforce Innovation and Opportunity Act requires Job Corps to assess the suitability, or "fit," of applicants for the program. Admitting applicants to the Job Corps program without sufficiently evaluating their ability to fit within the program can result in program disruptions and safety issues. The Job Corps program currently provides academic and career skills training to nearly 30,000 low-income, disadvantaged youth at 121 residential centers nationwide. However, Job Corps' admissions screening process does not allow Admissions Counselors to sufficiently inquire about an applicant's history to help them determine if applicants are ready for the Job Corps program. A large portion of Center Directors surveyed said they had observed an increase in the number of separations due to mental health and substance abuse issues

Corrective Actions Taken by the Department, continued

during their tenure, and two-thirds of Center Directors reported an increase in the number of violent incidents they associated with mental health issues.

Based on these identified concerns, we recommended the Assistant Secretary for Employment and Training evaluate the funding needs of Center Mental Health Consultant (CMHC) and Trainee Employee Assistance Program (TEAP) Specialists center functions to determine if adjustments are needed to adequately support students with mental health or substance abuse issues. In response to our recommendation, the Employment and Training Administration evaluated the needs of CMHCs and TEAP Specialists and, on April 16, 2021, Job Corps issued Policy and Requirements Handbook Change Notice 20-05, which announced that effective June 15, 2021, CMHC hours will be increased from nine hours per 100 students per week, to 20 hours per 100 students per week. This increase in hours will help CMHCs provide earlier identification, assessment, and treatment for students who may be at risk. In addition, Job Corps will consult with the Office of the Assistant Secretary for Administration and Management's Civil Rights Center to evaluate resource requirements to assist and provide reasonable accommodations for students with mental health conditions/psychiatric disabilities. Job Corps is currently monitoring centers' student support and funding needs, as well as funding availability, to determine whether to increase the TEAP Specialist hours further.

Unimplemented Recommendations

During this reporting period, we encountered no instances of audits or evaluations provided to the Department for comment that were not responded to within 60 days. In addition, agencies have provided management decisions in response to all audits and evaluations issued before the commencement of this reporting period.

From October 1, 2011, through March 31, 2021, the OIG made 1,608 audit recommendations to the Department, of which 208 have not been fully implemented. These 208 recommendations include 131 recommendations resulting from audits issued since the end of FY 2019, and in many cases, the Department has corrective action plans in place.

RECOMMENDATIONS MADE PRIOR TO APRIL 1, 2021, NOT YET IMPLEMENTED

Fiscal Year	Total Number of Recommendations Made	Unimplemented Recommendations	
		Total Number	Monetary Impact ($)
2011	319	7	0
2012	213	2	0
2013	195	0	0
2014	128	1	0
2015	163	6	0
2016	100	1	0
2017	112	17	0
2018	98	6	51,750
2019	84	37	0
2020	105	47	5,660,468
2021	91	84	5,411,954,825
Total	**1,608**	**208**	**5,417,667,043**

High-Priority Unimplemented Recommendations

The following table summarizes the unimplemented recommendations the OIG considers to be the highest priorities for the Department.

Report Title; Report Number; Date Issued	Unimplemented Recommendation(s)
Worker Safety	
MSHA Needs To Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/17	Clarify mine operators' responsibilities for local coordination under the Mine Improvement and New Emergency Response (MINER) Act, including coordination and communication between the operator, mine rescue teams, and local emergency response personnel, and familiarizing local rescue personnel with surface functions that may be required in the course of mine rescue work.
COVID-19: OSHA Needs To Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105; 08/14/20	Continue to monitor and evaluate the Region II triage pilot and consider extending the triage process to all regions to expedite screening whistleblower complaints.
MSHA Needs To Improve Efforts To Protect Coal Miners from Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/20	Adopt a lower legal exposure limit for silica in coal mines based on recent scientific evidence. Establish a separate standard for silica that allows MSHA to issue citations and monetary penalties when violations of its silica exposure limit occur. Enhance its sampling program to increase the frequency of inspector samples where needed (e.g., by implementing a risk-based approach).
COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk; Report No.19-21-003-10-105; 02/25/21	Improve OSHA's inspection strategy by prioritizing very high- and high-risk employers for COVID-19-related onsite inspections as businesses reopen and increase operations in various localities across the United States. Ensure remote inspections are tracked retroactive to February 1, 2020, and going forward. Compare remote inspections to onsite inspections and document analysis of the frequency and timeliness of inspectors in identifying and ensuring abatement of worksite hazards. Analyze and determine whether establishing an infectious disease-specific emergency temporary standard (ETS) is necessary to help control the spread of COVID-19 as employees return to worksites.
Employment and Training Programs	
ETA Needs To Improve Its Disaster National Dislocated Worker Program; Report No. 02-21-002-03-391; 01/29/21	Establish written timelines for when disaster relief should begin providing relief to those impacted by a disaster. Develop a strategy to continuously work with state grantees to ensure local areas maximize the use of disaster relief funds, and that states are sufficiently monitoring subrecipients. Evaluate ETA's monitoring of grantees and technical assistance provided to ensure grantees have greater opportunities to achieve key performance goals. Ensure that on future awards that include self-certification processes, regular eligibility verification is performed. Recover $1,988,627 in questioned costs.

High-Priority Unimplemented Recommendations, continued

Report Title; Report Number; Date Issued	Unimplemented Recommendation(s)
Employee Benefits	
OWCP'S Efforts To Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	Develop effective procedures, including seeking legislative authority to conduct matches with SSA retirement records, to ensure that claimants who receive SSA retirement benefits are identified timely and their FECA benefits are adjusted accordingly.
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-Insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16	Reduce or eliminate exemption thresholds for small plans.
OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 05/14/19	Ensure the Pharmacy Benefits Manager (PBM) implements a drug utilization review as specified in the contract. Ensure the PBM, when developing its formulary, considers all classes of drugs to determine if prior authorization or letters of medical necessity (LMN) would be appropriate.
Unemployment Insurance Benefits	
COVID-19: More Can Be Done To Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20	Include CARES Act UI transactions in the Benefit Accuracy Measurement (BAM) or develop an alternative methodology to reliably estimate improper payments for those programs. Issue guidance directing states to provide access to state UI claimant data, in order to prevent and detect fraud.
Alert Memorandum: The Employment and Training Administration (ETA) Needs To Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21	Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including the areas identified in the memorandum: UI benefits paid to multi-state claimants, claimants who used the social security numbers of deceased individuals, potentially ineligible federal inmates, and claimants with suspicious email accounts. Effective controls will help prevent similar or greater amounts of fraud and allow those funds to be put to better use. Work with Congress to establish legislation requiring SWAs to crossmatch high-risk areas, including the four areas identified in the memo.
Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General; Report No. 19-21-005-03-315; 06/16/21	Amend 20 CFR 603.5 and 603.6(a) through the rulemaking process to reinforce that UI information must be provided to DOL OIG for all IG engagements authorized under the IG Act, including audits, evaluations, and investigations. Continue to work with the OIG, and within 30 days of the memorandum, meet with the OIG to develop a permanent approach for OIG access to UI data.
Departmental Management	
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	Realign the organizational structure as it relates to the CIO to address organizational independence issues.
DOL Did Not Comply with Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18	Maintain its current focus on increasing its technical assistance and funding to states to improve the improper payment reduction strategies in order to ensure compliance with the improper payments estimate rate threshold.

High-Priority Unimplemented Recommendations

Report Title; Report Number; Date Issued	Unimplemented Recommendation(s)
Stronger Controls Needed Over Web Application Security; Report No. 23-20-001-07-725; 11/14/19	Establish and maintain a comprehensive inventory of web applications, identifying which applications are public-facing and contain sensitive information. Review and update the DOL Plan of Action and Milestones (POA&M) policy to ensure agency corrective actions and timeframes are implemented. Establish and verify the implementation of Department-wide policies and procedures specific to associated risks to web applications, securing web servers, and web application programming.
DATA Act: DOL's Reported Data Generally Met Quality Standards but Accuracy Issues Remain; Report No. 03-20-001-13-001; 11/21/19	Where appropriate, correct the errors in DOL's source systems and develop corrective action plans to address the underlying causes for data elements with significant errors. Ensure that OASAM issue guidance to ensure Contracting Specialists accurately input the Period of performance Start Date into the procurement system's Effective Date field. Identify risks specific to DATA Act reporting and take appropriate action to ensure internal controls address the resulting areas of concern.
FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered by Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19	Implement improvements in DOL's information security program for the following areas: Risk Management, Configuration Management, Identity and Access Management, Data Protection and Privacy, Information Security Continuous Monitoring, Incident Response, and Contingency Planning.
DOL Needs To Do More To Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	Establish and implement procedures to ensure the E2 Solutions (E2) travel and management tool is managed in compliance with contractual security requirements and DOL computer security policies for contracted information systems. Establish and implement procedures to ensure E2 account management practices enforce DOL's security policies. These procedures must include application of the principle of least privilege when creating, monitoring, and deactivating E2 user accounts.
FY 2020 Independent Auditors' Report on the DOL Financial Statements; Report No. 22-21-004-13-001; 11/16/20	Formally document the level of precision used in the reviews to ensure that the review occurs at an appropriately precise level to identify errors within model functionality and data input, which would allow the reviewer to identify material errors in the estimates. Maintain documentation of the reviews performed to assess the reasonableness of the underlying data, assumptions, and formulas used in the models that is sufficiently detailed to evidence the specific items reviewed, analysis performed, and conclusions reached. Provide additional training to the reviewers of the estimates to reinforce established policies and procedures, as necessary. Amend policies and procedures to provide specific steps to be performed during the reviews and the documentation requirements, which should include the specific items reviewed, analyses performed, and conclusions reached.

High-Priority Unimplemented Recommendations, continued

Report Title; Report Number; Date Issued	Unimplemented Recommendation(s)
DOL Did Not Demonstrate It Followed A Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	Develop policies and procedures to document its rationale and supporting evidence for key decisions in the development of economic regulatory analysis. Develop policies and procedures to document its rationale and supporting evidence when DOL determines the prescribed regulatory guidance does not apply. Enforce policies and procedures that require employees to maintain records that document government business. Employees should not be discouraged from maintaining such records. Develop policies and procedures to ensure that after a regulatory action has been published in the Federal Register, or otherwise issued to the public, DOL identifies for the public in a complete, clear, and simple manner the substantive changes between the draft submitted to the Office of Information and Regulatory Affairs (OIRA) for review and the action subsequently announced.
FY 2020 FISMA DOL Information Security Report: Progress Needed To Improve Risk Management and Continuous Monitoring Information Security Controls; Report No. 23-21-001-07-725; 12/22/20	Provide training to responsible personnel over the third-party continuous monitoring review checklist. Enforce DOL policies and procedures regarding separation of duties so developers do not possess the ability to migrate changes to production. Enforce DOL security baseline polices with DOL's Cloud Service Providers (CSP) and develop a security configuration checklist for the CSPs. Develop sufficiently defined quantitative and qualitative metrics that provide meaningful indications of security status and trend analysis at all risk management tiers. Review, revise as necessary, finalize, and implement their revised Software Development Life Cycle Manual. Implement a process for approving deviations from established configuration settings.
Job Corps Safety	
COVID-19: ETA Should Continue to Closely Monitor Impact on Job Corps Program; Report No. 19-20-007-03-370; 07/28/20	Prior to reopening campuses, ensure all centers have proper controls in place to adhere to federal, state, local, and other guidelines—from physical distancing to having ample disinfectant, cleaning, and PPE supplies. Ensure centers provide needed resources to address the learning needs of all students, including students who require reasonable accommodations, hands-on-instruction, and special equipment to learn.
Job Corps Should Improve Its Pre-Admission Evaluation Process; Report No. 05-21-001-03-370; 03/25/21	Make a final determination on the legality and permissibility of pre-enrollment behavioral assessment tools, such as drug screenings, trial periods, or personality or aptitude tests that would be appropriate for use within Job Corps. Perform cost/benefit analyses to determine which, if any, of these pre-enrollment behavioral suitability assessment tools would be beneficial to Job Corps. Incorporate the results of these recommendations, as appropriate, in revising guidance to improve the assessment process.

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

Report Name	Number of Recommendations	Funds Put to Better Use ($)
Employment and Training Administration		
ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation; Report No. 04 20 002-03-315; 09/29/20 Establish policies, procedures and controls to ensure states provide DUA staff annual training and have required written state DUA policies and procedures in place.	1	5,564,769
Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21 Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to ineligible claimants, including the areas identified in the memorandum: UI benefits paid to multi-state claimants, claimants who used the social security numbers of deceased individuals, potentially ineligible federal inmates, and claimants with suspicious email accounts. Effective controls will help prevent similar or greater amounts of fraud and allow those funds to be put to better use.	1	5,409,966,198
Total	**2**	**$5,415,530,967**

Summary of Reports with Unimplemented Recommendations with Other Monetary Impact

Report Name	Number of Recommendations	Funds Put to Better Use ($)
Employment and Training Administration		
Job Corps Could Not Demonstrate Beneficial Job Training Outcomes; Report No. 04-18-001-03-370; 03/30/18 We recommend the Employment and Training Administration determine and assess liquidated damages to contractors that misreported data based on invalid placements.	1	51,750
Total	**1**	**$51,750**

Reports with Unimplemented Recommendations for Management Improvement or Disallowed Costs Owed

The following table lists all OIG reports issued prior to this semiannual reporting period with recommendations that have not yet been fully implemented (as of September 30, 2021).

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed ($)
Employee Benefits Security Administration		
Limited-Scope Audits Provide Inadequate Protections to Retirement Plan Participants; Report No. 05-14-005-12-121; 09/30/14	1	0
EBSA Did Not Have the Ability to Protect the Estimated 79 Million Plan Participants in Self-Insured Health Plans from Improper Denials of Health Claims; Report No. 05-17-001-12-121; 11/18/16	1	0
Employment and Training Administration		
Job Corps Oversight of Center Performance Needs Improvement; Report No. 26-12-006-03-370; 09/28/12	1	0
Investigative Advisory Report – Weaknesses Contributing to Fraud in the Unemployment Insurance Program; Report No. 50-15-001-03-315; 07/24/15	6	0
ETA Violated the Bona Fide Needs Rule and the Antideficiency Act; Report No. 26-17-002-03-370; 09/21/17	1	0
Program Specific Performance Measures Are Needed to Better Evaluate the Effectiveness of the Reemployment Services and Eligibility Assessment Program; Report No. 04-17-002-03-315; 09/26/17	3	0
Experience Works, Inc. Misused More Than $4 Million in SCSEP Grant Funds; Report No. 26-18-002-03-360; 09/28/18	1	0
Job Corps Should Do More to Prevent Cheating in High School Programs; Report No. 26-19-001-03-370; 09/25/19	5	0
ETA Had No Reasonable Assurance That $183 Million in H-1B TST Grant Funds Helped Participants Get H-1B Jobs; Report No. 06-19-001-03-391; 09/27/19	1	0
COVID-19: ETA Should Continue to Closely Monitor Impact on Job Corps Program; Report No. 19-20-007-03-370; 07/28/20	2	0
COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act; Report No. 19-20-008-03-315; 08/07/20	2	0
ETA Should Do More To Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation; Report No. 04-20-002-03-315; 09/29/20	2	95,699
ETA Needs To Improve Its Disaster National Dislocated Worker Program; Report No. 02-21-002-03-391; 01/29/21	5	1,988,627
Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas; Report No. 19-21-002-03-315; 02/22/21	1	0

Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed ($)
Job Corps Should Improve Its Pre-admission Evaluation Process; Report No. 05-21-001-03-370; 03/25/21	3	0
Mine Safety and Health Administration		
MSHA Needs to Provide Better Oversight of Emergency Response Plans; Report No. 05-17-002-06-001; 03/31/2017	6	0
MSHA Did Not Evaluate Whether Civil Monetary Penalties Effectively Deterred Unsafe Mine Operations; Report No. 23-19-002-06-001; 08/16/19	2	0
MSHA Can Improve Its Pre-Assessment Conferencing Program; Report No. 05-19-001-06-001; 09/23/19	9	0
COVID-19: MSHA Faces Multiple Challenges in Responding to the Pandemic; Report No. 19-20-006-06-001; 07/24/20	1	0
MSHA Needs To Improve Efforts To Protect Coal Miners from Respirable Crystalline Silica; Report No. 05-21-001-06-001; 11/12/20	3	0
MSHA Can Improve How Violations Are Issued, Terminated, Modified, and Vacated; Report No. 05-21-002-06-001; 03/31/21	10	0
Office of the Assistant Secretary for Administration and Management		
The Department Could Do More To Strengthen Controls Over Its Personal Identity Verification System; Report No. 04-11-001-07-001; 03/31/11	1	0
Ineffective Accounting for Sensitive Information Technology Hardware and Software Assets Places DOL at Significant Risk; Report No. 23-11-001-07-001; 03/31/11	6	0
FISMA Fiscal Year 2015: Ongoing Security Deficiencies Exist; Report No. 23-16-002-07-725; 09/30/16	1	0
FY 2018 FISMA DOL Information Security Report; Report No. 23-19-001-07-725; 03/13/19	5	0
Alert Memorandum: Security Vulnerability Relating to DOL Information Security Property; Report No. 50-19-002-07-725; 06/17/19	2	0
Stronger Controls Needed Over Web Application Security; Report No. 23-20-001-07-725; 11/14/19	3	0
FY 2019 FISMA DOL Information Security Report: Implementation of Security Tools Hindered By Insufficient Planning; Report No. 23-20-002-07-725; 12/23/19	13	0
DOL Could Improve Areas of Physical Security To Help Effectively Safeguard Employees; Report No. 17-20-001-07-001; 05/21/20	3	0
FY 2020 FISMA DOL Information Security Report: Progress Needed to Improve Risk Management and Continuous Monitoring Information Security Controls; Report No. 23-21-001-07-725; 12/22/20	25	0
Office of the Assistant Secretary for Policy		
DOL Did Not Demonstrate It Followed A Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	2	0

Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed ($)
Office of the Chief Financial Officer		
The Department Needs To Take Action To Improve the Quality of its Data Act Submissions Report; Report No. 03-18-001-13-001; 01/19/18	2	0
DOL Did Not Comply with Improper Payments Elimination and Recovery Act for FY 2017; Report No. 03-18-002-13-001; 05/15/18	1	0
DATA Act: DOL's Reported Data Generally Met Quality Standards but Accuracy Issues Remain; Report No. 03-20-001-13-001; 11/21/19	3	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2019; Report No. 22-20-005-13-001; 12/19/19	6	0
DOL Needs To Do More To Secure Employees' Personally Identifiable Information in the Travel Management System; Report No. 23-20-003-13-001; 09/10/20	2	0
FY 2020 Independent Auditors' Report on the DOL Financial Statements; Report No. 22-21-004-13-001; 11/16/20	6	0
Management Advisory Comments Identified in an Audit of the Consolidated Financial Statements for the Year Ended September 30, 2020; Report No. 22-21-005-13-001; 12/18/20	20	0
Office of Federal Contract Compliance Programs		
OFCCP Did Not Show It Adequately Enforced EEO Requirements on Federal Construction Contracts; Report No. 04-20-001-14-001; 03/27/20	1	0
Office of the Secretary		
DOL Needs To Do More To Implement the Geospatial Data Act of 2018; Report No. 23-20-004-01-001; 09/30/20	1	0
Occupational Safety and Health Administration		
OSHA Needs To Improve the Guidance for Its Fatality and Severe Injury Reporting Program To Better Protect Workers; Report No. 02-18-203-10-105; 09/13/18	1	0
OSHA Procedures For Issuing Guidance Were Not Adequate and Mostly Not Followed; Report No. 02-19-001-10-105; 03/28/19	4	0
Review of the Occupational Safety and Health Administration's Referral to and Reclamation of Debt from the U.S. Department of the Treasury; Report No. 22-20-006-10-001; 03/16/20	1	0
COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints During the Pandemic; Report No. 19-20-010-10-105; 08/14/20	2	0
COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk; Report No. 19-21-003-10-105; 02/25/21	4	0
Office of Workers' Compensation Programs		
OWCP'S Efforts To Detect and Prevent FECA Improper Payments Have Not Addressed Known Weaknesses; Report No. 03-12-001-04-431; 02/15/12	1	0

Reports with Unimplemented Recommendations, continued

Report Name	Number of Unimplemented Recommendations	Disallowed Costs Owed ($)
Interim Report on Audit of Pharmaceutical Management in DOL Benefit Programs - OWCP Needs Better Controls Over Compounded Prescription Drugs; Report No. 03-17-001-04-431; 05/23/17	6	0
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund (September 30, 2018); Report No. 22-19-003-04-431; 11/02/18	1	0
OWCP Must Continue Strengthening Management of FECA Pharmaceuticals, Including Opioids; Report No. 03-19-002-04-431; 05/14/19	2	0
Alert Memorandum: Vulnerability in OWCP FECA Bill Pay Processing System; Report No. 50-20-001-04-430; 05/07/20	1	0
Special Report Relating to the Federal Employees' Compensation Act Special Benefit Fund; Report No. 22-21-001-04-431; 10/30/20	2	0
Wage and Hour Division		
Better Strategies Are Needed To Improve the Timeliness and Accuracy of Davis-Bacon Act Prevailing Wage Rates; Report No. 04-19-001-15-001; 03/29/19	6	0
DOL Needs To Improve Debarment Processes To Ensure Foreign Labor Program Violators Are Held Accountable; Report No. 06-20-001-03-321; 09/30/20	3	0
DOL Did Not Demonstrate It Followed a Sound Process in Promulgating the 2017 Tip Rule Notice of Proposed Rulemaking; Report No. 17-21-001-15-001; 12/11/20	2	0
Totals	**205**	**$2,084,326**

Investigative Statistics

	Division Totals	Total
Investigative Reports Issued / Cases Closed (includes investigative reports issued, case closing reports, and matters referred for possible civil and/or administrative action)**:**		108
Program Fraud Labor Racketeering	87 21	
Cases Opened:		204
Program Fraud Labor Racketeering	196 8	
Cases Referred for Prosecution (each case is measured as a singular statistic and may include more than one person or business entity)**:**		157
Program Fraud Labor Racketeering	151 6	
Cases Referred for Administrative/Civil Action (each case is measured as a singular statistic and may include more than one person or business entity)**:**		51
Program Fraud Labor Racketeering	44 7	
Persons Referred to the Department of Justice for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution)**:**		221
Program Fraud Labor Racketeering	213 8	
Persons Referred to State and Local Prosecuting Authorities for Criminal Prosecution (includes the number of individuals and business entities referred for prosecution)**:**		31
Program Fraud Labor Racketeering	31 0	
Indictments and Criminal Informations That Resulted from Any Prior Referral to Prosecuting Authorities (includes sealed and unsealed indictments)**:**		418
Program Fraud Labor Racketeering	386 32	
Indictments (includes sealed and unsealed indictments)**:**		418
Program Fraud Labor Racketeering	386 32	
Convictions:		182
Program Fraud Labor Racketeering	148 34	
Statutory Debarments:		8
Program Fraud Labor Racketeering	3 5	
Recoveries, Cost-Efficiencies, Restitutions, Fines/Penalties, Forfeitures, and Civil Monetary Actions:		**$32,670,421**
Program Fraud Labor Racketeering	$30,697,016 $1,973,405	

Investigative Statistics, continued

Recoveries (the dollar amount/value of an agency's action to recover or to reprogram funds or to make other adjustments in response to OIG investigations):	$5,070,034
Cost-Efficiencies (the one-time or per annum dollar amount/value of management's commitment, in response to OIG investigations, to utilize the government's resources more efficiently):	$6,122,668
Restitutions/Forfeitures (the dollar amount/value of restitutions and forfeitures resulting from OIG criminal investigations):	$13,683,986
Fines/Penalties (the dollar amount/value of fines, assessments, seizures, investigative/court costs, and other penalties resulting from OIG criminal investigations):	0
Civil Monetary Actions (the dollar amount/value of forfeitures, settlements, damages, judgments, court costs, and other penalties resulting from OIG criminal investigations):	$ 7,793,732
Total:	**$32,670,421**

OIG Hotline

The OIG Hotline provides a communication link between the OIG and persons who want to report alleged violations of laws, rules, and regulations; mismanagement; waste of funds; abuse of authority; or danger to public health and safety. During the reporting period April 1, 2021, through September 30, 2021, a total of 145,240 complaints were opened in the OIG Hotline's complaint management system. Of these, 131,511 were complaints received from the National Center on Disaster Fraud (NCDF). Almost all of these complaints involve concerns regarding COVID-19-related unemployment benefits. During this reporting period, 7,794 referrals were made for further review and/or action in response to complaints opened in the OIG Hotline's complaint management system. Numerous individual complaints involving alleged fraud regarding COVID-19-related unemployment benefits were referred to both the OIG's Office of Investigations and the appropriate State Workforce Agency. During this reporting period, the OIG Hotline received additional complaints that are awaiting processing.

Complaints Received (by method reported):	
Telephone	100
E-mail/Internet	145,136
Mail	2
Fax	2
Walk-in	0
Total	**145,240**
Contacts Received (by source):	
Complaints from Individuals or Nongovernmental Organizations	13,574
Complaints/Inquiries from Congress	2
Referrals from U.S. Government Accountability Office	0
Complaints from Other DOL Agencies	3
Complaints from Other (non-DOL) Government Agencies	131,661[1]
Total	**145,240**
Disposition of Complaints:	
Referred to OIG Components for Further Review and/or Action	4,449
Referred to DOL Program Management for Further Review and/or Action	84
Referred to Non-DOL Agencies/Organizations	3,231
No Referral Required / Informational Contact	30
Total	**7,794**

[1]Includes a significant amount of complaints received from the NCDF that originated from individuals.

Fiscal Year 2022 Audit Workplan

Bureau of Labor Statistics (BLS)
Discretionary Audit

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

Bureau of International Labor Affairs (ILAB)
Mandatory Audit

Memoranda of Agreement between USAID and ILAB – In Progress. ILAB signed two agreements with the U.S. Agency for International Development (USAID) that transferred approximately $7 million to ILAB for grant-funded projects. The projects are intended to ensure a fair global playing field for workers by enforcing trade commitments, strengthening labor standards, and combatting child labor, forced labor, and human trafficking. This mandatory audit focuses on how taxpayer dollars were spent and if the reported program results were reliable.

Employment and Training Administration (ETA)
Discretionary Audits

ETA Contract and Grant Programs

COVID-19: ETA Efforts to Help Workers Who Lost Jobs Due to the Pandemic. Although estimates vary widely, economists generally report that somewhere between 20 and 40 million jobs were lost in 2020 as a result of the COVID-19 pandemic and subsequent business closures. At the same time, the unemployment rate increased from 3.8 percent in 2019 to 8.6 percent in 2020. This audit will focus on steps taken by ETA to ensure workers who need job search assistance or training have access, in person or remotely, to resources to assist them with job placement.

COVID-19: ETA Job Training Programs Performance. In March 2020, the COVID-19 pandemic caused many of ETA's job training programs to cease operation. This interrupted participants' job training, hence potentially preventing them from completing their training and getting a job in the areas they were trained. This audit will assess the impact of the pandemic on ETA's job training programs by reviewing which and how many job training programs were interrupted and how ETA was able to resume training and ensure participants completed training programs they had started prior to the pandemic.

Job Corps

COVID-19: Job Corps Training Program Performance During the Pandemic. In the middle of March 2020, the COVID-19 pandemic forced Job Corps to quickly shut down its centers and send most of its 29,000 students home. As with most other schools in the U.S., Job Corps had not planned for a transition to a distance learning program when in-person instruction abruptly ceased. This audit will review the impact that the sudden interruption of in-person instruction had on the ability of Job Corps to educate its students during the COVID-19 pandemic.

Job Corps Fixed Price Contact Transition. In 2019, Job Corps began to transition its contracts for educational, outreach, admissions, and career transition services to firm fixed-price contracts using the number of students enrolled at the center as the basis for the contract price. This transition is planned in phases and is expected to continue through 2024. The change to firm fixed-price contracts, especially in a time of severely declining enrollment, raises questions about Job Corps' ability to control costs and monitor program performance. This audit will review Job Corps' strategy for monitoring and controlling costs and program performance using firm fixed-price contract vehicles.

Unemployment Insurance (UI) Program

COVID-19: DOL's Oversight of Emergency UI Administrative Grants to States – In Progress. The Families First Coronavirus Act provided $1 billion to DOL to provide emergency administration grants to state UI agencies for the administration of their unemployment compensation programs. Administrative resources are critical to delivering an effective UI program that is relied upon by millions of American taxpayers, especially now during the pandemic. Funds provided through these emergency administrative grants may only be used for the administration of the UI program and are not available for the payment of UI benefits. This audit focuses on the Department's monitoring of the emergency administration grants and if these funds were accurately tracked and reported, at both the state and federal level.

COVID-19: Audit of ETA's Oversight of UI Integrity of CARES Act Programs – In Progress. States are responsible for administering their UI programs while DOL provides oversight and direction for the UI system nationwide. When Congress, through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, expanded UI for workers who were suddenly unemployed because of the pandemic, states were already processing a substantial influx in UI claims. States then had to implement three new UI programs, resulting in additional major challenges. Resources stretched, states attempted to pay benefits quickly, and

the risks of fraud and increased improper payments rose significantly. As of March 31, 2021, states and the territories had drawn down a total of approximately $495.2 billion to administer the new UI programs—98 percent of the total drawdown funding ($505.6 billion) for all CARES Act programs. Over the years, ETA has implemented various program integrity and fraud reduction initiatives; however, these initiatives have offered only a partial solution. This audit evaluates ETA's role in managing the integrity of the UI programs under the CARES Act, including working with states and partners to identify and share best practices and data to reduce fraud.

COVID-19: CARES Act UI Claimant Eligibility – In Progress. As of January 2, 2021, DOL reported nearly 74 million initial jobless claims since March 14, 2020. This was the largest increase in initial jobless claims since DOL began tracking UI data in 1967. Among providing other relief, the approximately $2.2 trillion CARES Act expanded UI benefits. Past audits of UI program expansions have shown that ETA did not adequately ensure proper controls were in place to ensure funds were paid to eligible claimants. States likely paid billions of dollars in benefits to individuals who were not eligible for CARES Act programs. This audit focuses on how effective states' controls were in ensuring that CARES Act UI program benefits were paid promptly and only to eligible claimants.

COVID-19: Audit of States' Information Technology Systems Capability in Processing Unemployment Insurance Claims – In Progress. From March 28, 2020, to August 1, 2020, unemployed workers submitted more than 57 million initial UI claims and another 502 million continued claims under regular and CARES Act UI programs. Many states and U.S. territories used antiquated information technology (IT) systems—some dating from the 1970s—to process the claims influx and implement the new CARES Act programs. The need for IT modernization had already become apparent during the Great Recession where some states' systems failed completely. In October 2020, the National Association of State Workforce Agencies (NASWA) UI IT Support Center reported that only 22 states had modernized their systems. Using outdated IT systems can cause payment delays and can also increase improper payments including fraud. This audit will determine to what extent the capability of states' IT systems impacted their ability to process timely and accurate UI claims.

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

COVID-19: Audit of DOL and States' Efforts to Detect and Recover Improper Payments – In Progress. Under the CARES Act, ETA was required to implement large-scale changes to its existing **UI**

system, including establishing six new programs. The new programs were intended to provide expanded UI benefits to workers who were suddenly jobless as a direct result of the COVID-19 pandemic. Given the challenge of rapidly implementing new programs during a crisis situation, ETA and states faced an additional hurdle of using controls, previously identified as weak and deficient in published OIG reports and alert memorandums, to process more than 77 million seasonally adjusted initial jobless claims and 571 million seasonally adjusted continued claims over the course of the pandemic's first year. According to OIG's conservative estimate as of January 2, 2021, such circumstances increased the risk of UI improper payments (including fraud, waste, and abuse) to exceed a total of $40 billion. This audit focuses on determining if ETA ensured states had adequate controls to prevent, detect, and recover improper payments stemming from UI benefits under the CARES Act and the Continued Assistance Act.

COVID-19: Audit of States' Use of Staffing to Support Implementation of CARES Act UI Programs – In Progress. From March 2020, the unprecedented high rate of unemployment resulting from the COVID-19 pandemic led to challenges for states in processing UI claims, completing mandatory reporting, and performing required overpayment detection procedures due to insufficient staffing. DOL and states found themselves unprepared for the circumstances surrounding COVID-19 and struggled to implement CARES Act UI programs while unemployed workers faced lengthy delays in receiving UI benefits. The CARES Act provided states with temporary "emergency" flexibility through December 31, 2020, for additional staffing and to otherwise quickly process unemployment claims, and subsequent legislation extended these CARES Act UI provisions. This audit focuses on DOL's efforts to ensure states' staffing supported the implementation of UI programs under the CARES Act and its amendments.

COVID-19: Audit of the Temporary Full Federal Funding Program – In Progress. Under the CARES Act, the Temporary Full Federal Funding (TFFF) program paid the cost of the first week of an eligible claimant's UI benefits for states with no waiting week. The program also paid the cost of the first week for those who chose to waive their waiting week requirements. This flexibility allowed eligible claimants to receive their benefits quickly and get the much-needed relief to offset the effects of COVID-19. As of July 2021, ETA had provided states more than $6.8 billion through the TFFF program. This audit focuses on DOL's efforts to ensure states met program requirements and used the TFFF program as intended by the UI provisions of the CARES Act, the Continued Assistance Act, and the American Rescue Plan (ARP) Act.

COVID-19: Emergency Unemployment Relief for Government Entities and Nonprofit Organizations – In Progress. The CARES Act created the Emergency Unemployment Relief for Government Entities and Nonprofit Organizations (EURGENO) program. It provided funds to reimburse governmental entities and certain nonprofits for amounts paid for unemployment between March 13, 2020, and September 6, 2021. This audit will determine to what extent ETA and states effectively executed the EURGENO program and ensured compliance with the UI provisions of the CARES Act and its amendments.

COVID-19: Short-Time Compensation (STC) Program. Passage of the CARES Act expanded UI program benefits to new and existing programs, including the STC program. The CARES Act included provisions that increased the federal reimbursement to 100 percent of benefits for states that have an

STC program in their laws and provided for a 50 percent reimbursement for states that do not have an STC program in their laws but agreed to operate a program on a temporary basis. The STC program acts as a work share program, with employers reducing the number of hours offered to employees and the state making up the difference in the form of benefit payments. The CARES Act provided for an estimated $2.2 billion for benefit reimbursements and administrative costs. Twenty-seven states have participated in the program and reported benefit reimbursement payments of approximately $1.1 billion as of July 31, 2021. This audit will determine how states implemented the STC program for the benefit of unemployed individuals and to meet the intent of the program.

COVID-19: Mixed Earners Unemployment Compensation. The Mixed Earners Unemployment Compensation (MEUC) program is a new temporary, federal program under the Continued Assistance Act and the ARP Act. It provided additional benefits to certain self-employed individuals who are available for work for the week ending January 2, 2021, through the week ending September 4, 2021. This audit will determine how states implemented the MEUC program for the benefit of unemployed individuals and to meet the intent of the program.

COVID-19: Audit of DOL and States Oversight of UI Claimants Return to Work. The CARES Act and its related extensions provided generous additional UI benefits to claimants that lost their employment due to the COVID-19 pandemic. However, business and state leaders reported that these generous UI benefits incentivized claimants to refuse suitable employment offers and led to labor shortages as the economy reopened. As a result, numerous states ended their participation in the enhanced federal jobless benefits program ahead of its expiration citing complaints from businesses that say they were unable to find workers. This audit will focus on DOL and states' compliance with return to work provisions under the CARES Act.

American Rescue Plan Act Equity Grants. The ARP Act provided $2 billion in funding to the Department to prevent and detect fraud, promote equitable access, ensure timely payment of benefits and reduce backlogs. This includes $260 million in Equity Grants to improve claimant outreach and customer service processes and to implement strategies to reduce backlog and improve access for workers in communities that may historically experience barriers. These first-of-their-kind grants will provide funding for states to improve public awareness and service delivery as the Department seeks to address potential racial and ethnic disparities in the administration and delivery of UI benefits in some states. This audit will focus on the Department's and states' effectiveness in addressing the potential racial and ethnic disparities in the UI program.

Mine Safety and Health Administration (MSHA)

Discretionary Audits

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

Integrity of Dust Sampling. Miners are exposed to harmful substances in their work environment daily. MSHA samples for and control many of these substances, including airborne toxins such as coal dust and respirable crystalline silica. Since 1990, at least 150 mine operators, agents, and contractors have pleaded or been found guilty of submitting fraudulent dust samples used to regulate airborne toxins in mines (e.g., silica and coal dust). This audit will assess MSHA's efforts to address sample manipulation.

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

Occupational Safety and Health Administration (OSHA)

Discretionary Audits

COVID-19: OSHA Operations and Efforts to Protect Workers – In Progress. Since the beginning of the COVID-19 pandemic in March 2020, OSHA has reduced its number of inspections and increased its number of non-formal complaint investigations. In July 2020, OSHA was named in a lawsuit by meatpacking employees who said OSHA was failing to do its job properly. OSHA stated its existing regulations and updated pandemic guidelines were sufficient to keep workers safe. This audit focuses on the impact of the COVID-19 pandemic on OSHA operations, including the number and types of inspections it has been using to safeguard workers, and OSHA's future plans to ensure safe and healthy working conditions during pandemics.

COVID-19: OSHA Inspection Collaboration Audit – In Progress. While many industries suffered the impact of COVID-19 outbreaks during the pandemic, health care and meatpacking workers have had some of the highest rates of COVID-19 infections. OSHA has been performing inspections of worker safety in these environments, while the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) have been performing on site inspections to ensure patient care and product quality. However, according to HHS and USDA OIG officials, their inspectors have not been

reporting employee safety and health issues to OSHA. This audit focuses on OSHA's efforts to promote collaboration with other federal agencies that also conduct on-site inspections for potential workplace safety and health violations, especially during the pandemic.

COVID-19: OSHA Effectiveness of the National Emphasis Program (NEP). Due to the COVID-19 pandemic, OSHA has received a surge of complaints while garnering the attention of Congress, labor unions, and the media with requests to act swiftly on behalf of the 130 million workers at more than 8 million worksites nationwide whom OSHA is responsible for protecting. OSHA launched the NEP on March 12, 2021, to focus on companies that put the largest number of workers at serious risk of contracting COVID-19, and on employers that engage in retaliation against employees who complain about unsafe or unhealthful conditions or exercise other rights under the Occupational Safety and Health (OSH) Act. The audit will focus on OSHA's efforts to administer the NEP to ensure that employees in high-hazard industries or work tasks are protected from the hazard of contracting COVID-19 and from retaliation.

COVID-19: OSHA's Adequacy of Plans and Use of Funds under the American Rescue Plan Act Funds – In Progress. With increased concern regarding the safety and health of workers during the COVID-19 pandemic, OSHA has received a significant rise in complaints. We previously reported OSHA received 15 percent more complaints from February to October 2020, than during a similar period in 2019. To address the continued impact of COVID-19 on the economy, public health, state and local governments, individuals, and businesses, on March 11, 2021, Congress passed the ARP Act. The ARP Act provides relief to OSHA in the amount of no less than $100 million. This audit focuses on whether OSHA adequately developed plans to use ARP Act funds to carry out COVID-19-related worker protection activities, and whether OSHA has controls in place to effectively use ARP Act funds to protect workers from COVID-19, particularly in high-risk workplaces, including health care industries, meat and poultry processing facilities, agricultural workplaces, and correctional facilities.

COVID-19: OSHA Effectiveness of Whistleblower Complaint Corrective Actions. OSHA received a 30 percent increase in whistleblower complaints during the early months of the COVID-19 pandemic. OSHA enforces whistleblower provisions found in 25 statutes that protect employees from retaliation for reporting unsafe or unhealthful conditions or otherwise exercising their rights provided under the statutes. Prior to the pandemic, OSHA averaged 9 months to close a whistleblower complaint investigation, already much longer than the 30-, 60-, or 90-day statutory timeframes. Potential for even greater delays exist with the significant increase of whistleblower complaints received during the pandemic and decrease in the Whistleblower Protection Programs' full-time employment. These delays can leave workers to suffer emotionally and financially. The audit will focus on OSHA's efforts to implement corrective actions that improve the Whistleblower Protection Program to ensure workers are protected from retaliation.

COVID-19: OSHA Future Pandemic Planning Adequacy. The COVID-19 pandemic has raised specific concerns about the safety and health of workers. OSHA, under the OSH Act, shall issue an Emergency Temporary Standard (ETS) if the agency determines that employees are exposed to grave danger from substances or agents determined to be toxic or physically harmful or from new hazards, and an ETS is

necessary to protect employees from such danger. Since the start of the pandemic OSHA has received numerous complaints and requests from Congress and other stakeholders to issue an ETS. While OSHA has issued numerous pieces of guidance, guidance itself is not enforceable and cannot operate in lieu of an ETS. OSHA initially proposed a broad-based ETS, covering multiple industries, but changed course and only issued an ETS for health care on June 21, 2021. This audit will (1) determine if OSHA has plans to issue an ETS covering other high-risk industries, (2) review the effectiveness OSHA's plans for addressing future pandemics, and (3) evaluate other actions OSHA has taken to safeguard workers in high-risk industries during the ongoing pandemic.

Use of Complainant Interviews in OSHA Complaint Inspections – In Progress. OSHA conducts approximately 9,000 complaint inspections annually and issues citations in 24 percent of those inspections. Inspectors are not required to interview complainants at any point during the inspection process, which could result in OSHA having little interaction with complainants and witnesses during complaint inspections. This audit focuses on OSHA's use of complainant and witness testimony during a complaint inspection to ensure the complaint or referral was addressed adequately.

Rising Injury Rates among Online Retailers' Warehouse Workers. High-speed fulfillment of online orders has become the industry standard, with large online retailers promising free 2-day, next-day, and even same-day deliveries of orders. To accomplish such speedy deliveries, warehouses around the nation have been forced to work ever faster, and some have reported increased pressure to meet production quotas. This may be having a significant impact on the health and safety of warehouse workers. For example, injury rates among warehouse workers have skyrocketed, with one organization reporting that injury rates at a leading online retailer are 80 percent higher and also more severe than at other online retailers' warehouses. The State of California recently passed legislation to help protect warehouse workers by empowering state safety regulators to take additional enforcement actions. This audit will review what, if any, actions OSHA has taken to address the rising injury rates and severity of injuries at online retailers' warehouse facilities.

Office of the Assistant Secretary for Administration and Management (OASAM)

Mandatory Audit

Federal Information Security Management Act (FISMA) Audit – Annual. In performing its various missions, DOL collects and processes sensitive information through approximately 77 major information systems. FISMA recognizes the significant risks involved with information technology and its important role in fulfilling agency missions. As such, FISMA sets a framework for securing all federal government systems by developing security standards and methods for measuring the effectiveness of those security standards. This audit will focus on the status of the DOL Information Security Program in implementing an effective framework to secure DOL information systems.

OIG FY 2022 Audit Workplan

OASAM

Discretionary Audits

IT Modernization – In Progress. IT modernization is critical to preventing security breaches, excessive costs, missed deadlines, and low-quality IT products and services. DOL recently transitioned to an IT Shared Services model providing OASAM greater control over IT and IT funding. Our audit will focus on the management of IT modernization efforts across the Department, including software integration, legacy systems, and shared services.

Office of the Chief Financial Officer

Mandatory Audits

DOL Consolidated Financial Statements Audit – Annual. We will determine if DOL's consolidated financial statements present fairly, in all material respects, the financial position of DOL as of September 30, 2022. We will consider DOL's internal controls over financial reporting and test DOL's compliance with applicable laws, regulations, contracts, and grant agreements that have a direct and material effect on the consolidated financial statements.

Review of DOL's Improper Payment Reporting in the Annual Financial Report – Annual. In FY 2020, the UI program and Federal Employees' Compensation Act (FECA) reported outlays of $86.9 billion and $3 billion, respectively, with an estimated improper payment rate of 9.17 percent and 2.34 percent, respectively. Based on the Department's risk assessments, the UI and FECA programs continue to be considered the most susceptible to improper payments of all DOL programs. This audit will determine if DOL complied with the Payment Integrity Information Act of 2019, which required DOL to: (1) conduct a program-specific risk assessment for each required program or activity, (2) publish and meet annual reduction targets for each program assessed to be at risk for improper payments, and (3) report information on the efforts of each program to reduce improper payments.

Office of Federal Contract Compliance Programs

Mandatory Audit

Combatting Race and Sex Stereotyping – Completed. Executive Order (EO) 13950 prohibits the Federal Government from promoting race or sex stereotyping or scapegoating in the Federal workforce, and states that contracting and grant funds shall not be used for these purposes. The EO further states that Federal agencies, contractors, and grant recipients should foster environments devoid of hostility and should be trained to create inclusive workplaces. The Federal Government is, and must always be, committed to the fair and equal treatment of all individuals before the law. This review will determine DOL's compliance with EO 13950 to ensure that Federal agencies, including DOL, maintain an inclusive workplace free of race or sex stereotyping or scapegoating.

OIG FY 2022 Audit Workplan

Office of the Assistant Secretary for Administration and Management (OASAM)

Mandatory Audits

Federal Information Security Management Act (FISMA) Audit – Annual. In performing its various missions, DOL collects and processes sensitive information through approximately 77 major information systems. FISMA recognizes the significant risks involved with information technology and its important rol in fulfilling agency missions. As such, FISMA sets a framework for securing all federal government systen by developing security standards and methods for measuring the effectiveness of those security standarc This audit will focus on the status of the DOL Information Security Program in implementing an effective framework to secure DOL information systems.

OASAM

Discretionary Audits

IT Modernization – In Progress. IT modernization is critical to preventing security breaches, excessive costs, missed deadlines, and low-quality IT products and services. DOL recently transitioned to an IT Shared Services model providing OASAM greater control over IT and IT funding. Our audit will focus on the management of IT modernization efforts across the Department, including software integration, legacy systems, and shared services.

Office of the Chief Financial Officer (OCFO)

Mandatory Audits

DOL Consolidated Financial Statements Audit – Annual. We will determine if DOL's consolidated financial statements present fairly, in all material respects, the financial position of DOL as of September 30, 2022. We will consider DOL's internal controls over financial reporting and test DOL's compliance with applicable laws, regulations, contracts, and grant agreements that have a direct and material effect on the consolidated financial statements.

Review of DOL's Improper Payment Reporting in the Annual Financial Report – Annual. In FY 2020, the UI program and Federal Employees' Compensation Act (FECA) reported outlays of $86.9 billion and $3 billion, respectively, with an estimated improper payment rate of 9.17 percent and 2.34 percent, respectively. Based on the Department's risk assessments, the UI and FECA programs continue to be considered the most susceptible to improper payments of all DOL programs. This audit will determine if DOL complied with the Payment Integrity Information Act of 2019, which required DOL to: (1) conduct a program-specific risk assessment for each required program or activity, (2) publish and meet annual reduction targets for each program assessed to be at risk for improper payments, and (3) report informati on the efforts of each program to reduce improper payments.

OIG FY 2022 Audit Workplan

Office of Federal Contract Compliance Programs

Mandatory Audit

Combatting Race and Sex Stereotyping – Completed. Executive Order (EO) 13950 prohibits the Federal Government from promoting race or sex stereotyping or scapegoating in the Federal workforce, and states that contracting and grant funds shall not be used for these purposes. The EO further states that Federal agencies, contractors, and grant recipients should foster environments devoid of hostility and should be trained to create inclusive workplaces. The Federal Government is, and must always be, committed to the fair and equal treatment of all individuals before the law. This review will determine DOL's compliance with EO 13950 to ensure that Federal agencies, including DOL, maintain an inclusive workplace free of race or sex stereotyping or scapegoating.

Office of the Assistant Secretary for Policy

Mandatory Audits

DOL Implementation of Geospatial Data Audit – Biannual. Congress enacted the Geospatial Data Act of 2018 (GDA) to foster efficient management of geospatial data, technologies, and infrastructure through enhanced coordination among federal, state, local, and tribal governments, along with the private sector and academia. The GDA applies to federal agencies that collect, produce, acquire, maintain, distribute, use, or preserve geospatial data. To improve the management and oversight of geospatial data and related investments, the GDA identified 13 requirements for federal agencies to implement. This audit will focus on the extent DOL implemented the requirements and improved its management of geospatial data.

Office of Workers' Compensation Programs (OWCP)

Mandatory Audits

Report Relating to the Federal Employees' Compensation Act (FECA) Special Benefit Fund – Annual. We will determine whether: 1) the Schedule of Actuarial Liability, Net Intra-Governmental Accounts Receivable, and Benefit Expense was fairly presented for the year ending September 30, 2022; and 2) internal controls over financial reporting related to the Schedule were in compliance with laws and regulations that could have a direct and material effect on the Schedule.

Longshore and Harbor Workers' Compensation Act (LHWCA) Special Fund – Annual. We will determine if DOL's LHWCA Special Fund financial statements presented fairly, in all material respects, the financial position of the LHWCA Special Funds as of September 30, 2021.

District of Columbia Workmen's Compensation Act (DCCA) Special Fund Financial Statement Audits – Annual. We will determine if DOL's DCCA Special Fund financial statements presented fairly, in all material respects, the financial position of the DCCA Special Funds as of September 30, 2021.

FECA Statement on Standards for Attestation Engagements No. 18 – Annual– In Progress. We will determine if DOL's Integrated Federal Employees' Compensation System transaction processing for application and general controls, as described in the report, were fairly presented, suitably designed, and effectively operating for the period October 1, 2020, through June 30, 2022.

OWCP

Discretionary Audits

COVID-19: Oversight and Adjudication of COVID-19 FECA Claims. In response to the COVID-19 pandemic, OWCP created new procedures to specifically address COVID-19 claims received from federal workers engaged in high-risk employment. In addition, the ARP Act made it easier for federal workers diagnosed with COVID-19 to establish coverage. OWCP must ensure claims resulting from the pandemic are appropriately adjudicated to reduce the risk of fraud and abuse while at the same time ensuring claimants receive benefits they are entitled to receive. As of late June 2021, OWCP had received over 15,000 COVID-19 FECA claims and paid out over $6.3 million in benefits. Given this influx of claims, this audit will focus on an after-the-fact review of OWCP's administration and oversight of COVID-19 claims received by the FECA program.

Energy Employees' Claims Processing. From its inception to the end of FY 2020, the OWCP Energy program awarded approximately 127,000 claimants compensation and medical benefits totaling over $18.52 billion. One of the major functions of the Energy program is to determine whether an individual qualifies for Part B and/or Part E benefits. As of October 3, 2021, the Energy program had denied 42 percent of claims filed under Part B and 47 percent of claims filed under Part E. This audit will determine the reasons claims are denied and why claims are denied at such a high rate.

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

Medical Bill Pay Processing Data Integrity – In Progress. In 2020, OWCP launched a new bill pay processing system: the Workers' Compensation Medical Bill Processing (WCMBP) system. OWCP and its programs rely on accurate and complete data from this new system and OWCP's legacy systems to provide the efficient and effective processing of medical bills and case management. This audit assesses OWCP's processes and controls to determine the reliability of the OWCP's data in managing the workers' compensation programs.

Wage and Hour Division (WHD)

Discretionary Audits

WHD Enforcement Program. WHD enforces laws that address more than 147.8 million workers with minimum wage, overtime pay, migrant and seasonal protections, prevailing wages on government-funded contracts, and other wage protections. To complement its enforcement efforts, WHD uses a variety of

methods to help employers understand their labor responsibilities, such as opinion letters, compliance videos, outreach events, and compliance partnerships. This audit will focus on how WHD has met its enforcement requirements and leveraged its resources between compliance assistance and enforcement activities.

Veterans' Employment and Training Services (VETS)

Discretionary Audits

COVID-19: VETS Reintegration and Training Programs. The COVID-19 pandemic has presented new challenges for VETS in its mission to prepare America's veterans, transitioning service members, and military spouses for meaningful careers; provide them with employment resources and expertise; protect their employment rights; and promote their employment opportunities. The audit will focus on how the pandemic impacted VETS reintegration and training programs, as well as the effectiveness of the training programs during a health crisis.

Multi-Agency

Mandatory Audits

Charge Card Risk Assessment – Annual. The Government Charge Card Abuse Prevention Act of 2012 was designed to prevent recurring waste, fraud, and abuse of government charge cards, and requires agencies to implement safeguards and internal controls to reduce these risks. This audit will determine if DOL has established controls over its purchase and travel card programs to prevent and detect illegal, improper, or erroneous purchases and payments.

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

Multi-Agency

DiscretionaryAudits

Enterprise Risk Management. OMB Circular A-123 requires agencies to implement an Enterprise Risk Management (ERM) process. Agencies' ERM efforts are to be coordinated with the Government Performance and Results Modernization Act of 2010's strategic planning and review process, the internal control process required by the Federal Managers' Financial Integrity Act, and GAO's Green Book. We will determine if management has implemented an effective ERM process that identifies, assesses, responds, and reports on risks.

Office of Inspector General, U.S. Department of Labor
200 Constitution Avenue, NW
Room S-5502
Washington, DC 20210

To learn more about the Office of Inspector General's current and planned work, please visit www.oig.dol.gov.

Office of Inspector General

United States Department of Labor

Report Fraud, Waste, and Abuse

Contact the Hotline

202.693.6999 800.347.3756

Fax: 202.693.7020

www.oig.dol.gov



The OIG Hotline is open to the public and to federal employees 24 hours a day, 7 days a week, to receive allegations of fraud, waste, and abuse concerning Department of Labor programs and operations.

OIG Hotline

U.S. Department of Labor

Office of Inspector General

200 Constitution Avenue, NW

Room S-5506

Washington, DC 20210