

Exhibit B

U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



September 21, 2022

MEMORANDUM FOR: BRENT PARTON
Acting Assistant Secretary
for Employment and Training

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

FROM: CAROLYN R. HANTZ
Assistant Inspector General
for Audit

SUBJECT: **Alert Memorandum:** Potentially Fraudulent
Unemployment Insurance Payments in
High-Risk Areas Increased to \$45.6 Billion
Report Number: 19-22-005-03-315

The purpose of this memorandum is to alert you to concerns the Office of Inspector General (OIG) has determined needs immediate action. In February¹ and June² 2021, the OIG issued alert memoranda to the Employment and Training Administration (ETA) that cumulatively identified more than \$16 billion³ in potentially fraudulent unemployment insurance (UI) pandemic benefits paid in four specific high-risk areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) used to file UI claims with suspicious email accounts, and (4) of federal prisoners. Since then, the OIG has identified an increase of \$29.6 billion in potentially fraudulent

¹ Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf>

² Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

³ The two alert memoranda to ETA identified a cumulative total of nearly \$17 billion, including about \$915 million in potential fraud that was identified under more than one area, resulting in more than \$16 billion paid in potentially fraudulent UI benefits.

payments within three of the areas⁴ previously analyzed, raising the cumulative total for these high-risk areas to \$45.6 billion.⁵

The total potential fraud covers the period of March 2020 to April 2022. In 2021, the OIG shared with ETA the data and methodology used to identify potential fraud as well as recommended ETA take corrective actions and implement controls that would help mitigate and prevent fraud from occurring within the high-risk areas of the UI program. Specifically, in February 2021, the OIG recommended ETA: (1) establish effective controls, in collaboration with State Workforce Agencies (SWA or state), to mitigate fraud and other improper payments to ineligible claimants; and (2) work with Congress to establish legislation requiring SWAs to cross-match high-risk areas. As of the date of this alert memorandum, ETA has not taken sufficient action to implement these recommendations.

ETA's lack of sufficient action significantly increases the risk of even more UI payments to ineligible claimants. Our identification of the additional potentially fraudulent payments emphasizes the need for increased ETA engagement and assistance to mitigate fraud and protect the UI program's integrity.

Despite the OIG's continued efforts to identify potentially fraudulent payments to ineligible claimants, we continue to experience delays in obtaining the needed UI data. These delays impede our ability to perform our statutory duty to effectively and timely conduct audits and investigations of the UI program. The Department of Labor's (DOL or the Department) reading of applicable federal regulations, which ETA has adopted, contributes to the delays. Specifically, the Department interprets regulations at 20 Code of Federal Regulations (C.F.R.) Part 603 as prohibiting ETA from informing SWAs they are required to provide UI data to the OIG for both audit and investigative purposes. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the American Rescue Plan Act of 2021 (ARPA), ETA issued guidance providing for both audit and investigative access, but only on a temporary basis.⁶ This interpretation and subsequent guidance to

⁴ For this current alert memorandum and analysis, the OIG did not have access to the Department of Justice's Bureau of Prisons (BOP) data to determine the increase in potentially fraudulent payments. Therefore, the \$45.6 billion only includes the BOP amount reported in the June 2021 alert memorandum.

⁵ This \$45.6 billion is comprised of benefits paid to claimants from March 2020 through April 2022, in accordance with the Coronavirus Aid, Relief, and Economic Security Act, American Rescue Plan Act of 2021, and Consolidated Appropriations Act, 2021.

⁶ UIPL No. 04-17, Change 1, *Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or Misconduct to the Department of Labor's (Department) Office of Inspector General's (DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits*, issued August 3, 2021; UIPL No. 22-21, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, issued August 11, 2021.

SWAs contradict the Inspector General Act of 1978, as amended (IG Act), § 6(a)(1) and § 6(a)(3), which authorizes mandatory OIG access to DOL grantee information, including state UI data.

In our June 2021 alert memorandum, we recommended ETA amend 20 C.F.R. § 603.5 and § 603.6(a) through the rulemaking process to reinforce that state UI information must be provided to the OIG for all Inspector General engagements authorized under the IG Act, including audits, evaluations, and investigations. ETA implemented a temporary solution.

In August 2021, ETA issued Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1, requiring states to disclose UI data to the OIG for audits and investigations during the pandemic period.⁷ ETA also awarded fraud prevention grants to states conditioned on requiring OIG access to their UI data for audit and investigative purposes through December 31, 2023.⁸ However, ETA's actions were not sufficient to resolve the OIG's concerns regarding unimpeded access to SWA UI data.

In response to our recommendation, ETA informed us it is considering comprehensive updates to 20 C.F.R. Part 603. Although we met with ETA numerous times and requested a written plan with projected timelines, none was provided until July 2022, more than one year after we made the recommendation. The Department estimates the projected effective date of the updated regulations will be in February 2025, creating a 14-month gap from the December 31, 2023, expiration of the grants that temporarily expanded OIG access.⁹ During this 14-month period, the OIG's access to state UI data will again be impeded, in violation of the IG Act.

Although ETA stated it is exploring options for interim solutions to close the gap, the lack of timely, affirmative plans prevents us from ensuring the continued availability of data critical to identifying additional fraudulent UI benefit payments. ETA needs to amend its regulations and immediately issue guidance to notify states of the OIG's authority to access information for both audits and investigations without interruption or impediment.¹⁰ While ETA issued guidance to states on September 15, 2022, asserting the OIG's authority to access state

⁷ UIPL No. 04-17, Change 1, defined the pandemic period as approximately from January 27, 2020, to September 6, 2021.

⁸ See footnote 6.

⁹ UIPL No. 22-21, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, issued August 11, 2021

¹⁰ The Supreme Court of the United States has upheld the Department's authority to revise interpretations of its own regulations in this manner—see *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 100 (2015)—as well as the principle that changes in interpretations are valid, provided they are consistent with the underlying regulations. See *Shalala v. Guernsey Mem'l Hosp.*, 514 U.S. 87, 100–02 (1995).

UI data, the guidance does not require states to provide the OIG with such access. ETA has authority to reinterpret 20 C.F.R. Part 603 in order to facilitate the OIG's access during the 14-month period that 20 C.F.R. Part 603 is being amended.¹¹

Potentially Fraudulent UI Benefits Continue to Increase in High-Risk Areas

The OIG estimates a total of \$872.5 billion in pandemic-related UI funding since the COVID-19 pandemic began in March 2020.¹² In our June 2021 alert memorandum, the OIG utilized UI data from March 2020 to October 2020 to alert ETA to more than \$16 billion¹³ in potentially fraudulent UI pandemic benefits paid in four specific high-risk areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) used to file UI claims with suspicious email accounts, and (4) of federal prisoners.

In August 2021, the OIG issued another request for updated data to ETA and SWAs via an OIG Form 202 request,¹⁴ and once received, analyzed data covering pandemic benefits paid during the period of March 2020 through April 2022. Our analysis identified a total of \$45.6 billion¹⁵ paid in potentially fraudulent UI benefits, with increases in three of the aforementioned four high-risk areas (see Table 1). Those areas include payments to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, and (3) used to file for UI claims with suspicious email accounts.

As previously stated, the OIG does not have current federal prisoner data. The OIG requested updated prisoner information from the U.S. Department of Justice, Federal Bureau of Prisons (BOP) for the pandemic period, but BOP declined "due to the burden created on BOP's resources and technological platform, which BOP prioritized for BOP operational requirements." However, we and other federal OIGs are currently working with BOP to determine if their

¹¹ This would be consistent with the Administrative Procedure Act and the plain language of the regulations. Specifically, 20 C.F.R. § 603.5(i) and § 603.6(a) and 29 C.F.R. § 96.41, when read consistently with one another and with the IG Act, require SWAs to disclose UI information for audits, evaluations, and investigations.

¹² Reported on the DOL OIG's public-facing website at

<https://www.oig.dol.gov/doloiguooversightwork.htm> (last updated on June 13, 2022, at the time of this memorandum's issuance), and in the OIG's Pandemic Response Oversight Plan (updated March 21, 2022), which is available at:

<https://www.oig.dol.gov/public/oaprojects/Updated%20Pandemic%20Response%20Oversight%20Plan%202022%20for%20Publication.pdf>.

¹³ The \$16 billion does not include about \$915 million in potential fraud that was identified under more than one area.

¹⁴ Form 202 is the *Notification of OIG Requirement for DOL Electronic Information* form used to request recurring information from each SWA.

¹⁵ The OIG will share with ETA the data and methodology used to identify this potential fraud so that ETA can share the methodology with the SWAs to assist with fraud mitigation and identification.

policies and procedures can be expanded to sharing data with other OIGs. As a result of the lack of updated data, the total dollar amount for federal prisoners remained the same from our previous analysis of prisoner data.

Table 1: High-Risk Data Comparison between June 2021 and April 2022

High-Risk Area	Total Potential Fraud Reported in June 2021¹⁶	Total Potential Fraud Reported through April 2022
Multistate Claimants	\$12,100,212,752	\$28,967,047,154
Deceased Persons	\$94,562,937	\$139,483,136
Suspicious Emails	\$3,595,842,652	\$16,265,578,304
Federal Prisoners ¹⁷	\$267,382,013	\$267,382,013
Total	\$16,058,000,354	\$45,639,490,607

Source: SWA data acquired, aggregated, and interpreted by the OIG Data Analytics team. Total amounts do not include duplicates that were identified in one or more areas. The total duplicate amount is \$7,399,611,229, including duplicates identified from previous Federal Prisoner amount reported in the June 2021 alert memorandum.

Multistate Claimants

According to the CARES Act, a claimant who worked in more than one state and became unemployed due to COVID-19-related reasons can only collect UI benefits in one state. The OIG reviewed UI pandemic benefits paid from March 2020 to April 2022 to individuals with Social Security numbers filed in two or more states, resulting in benefits collected from more than one state. This analysis revealed individuals used a total of 991,793 Social Security numbers to receive potentially fraudulent UI benefits totaling more than \$28.9 billion.

Deceased Persons

We determined 205,766 Social Security numbers of deceased persons were used to file claims for UI pandemic benefits. To identify potentially fraudulent benefit payments, the OIG identified cases where benefit claims were submitted after the date of death associated with certain Social Security numbers. Scrutiny

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

¹⁷ The OIG did not have access to BOP data to conduct additional analysis for this memorandum. The amount remains the same as what we reported in the June 2021 alert memorandum.

of the data identified \$139.4 million in potentially fraudulent benefits paid to claimants using these Social Security numbers.

Suspicious Email Accounts

We found potentially fraudulent UI benefits were paid to individuals using Social Security numbers to file claims with suspicious email accounts. The OIG identified several methods for using certain types of email accounts to aid in suspected fraudulent UI claims. These particular account types enable users to establish email addresses that can hide personal information, including the user's identity. The suspicious email addresses can also be used to apply for multiple UI claims.

Email service providers that supplied accounts offering anonymity were used extensively to file UI claims. In total, we determined 1,714,188 Social Security numbers associated with suspicious email addresses were used to file for \$16.2 billion in UI benefits.

Federal Prisoners

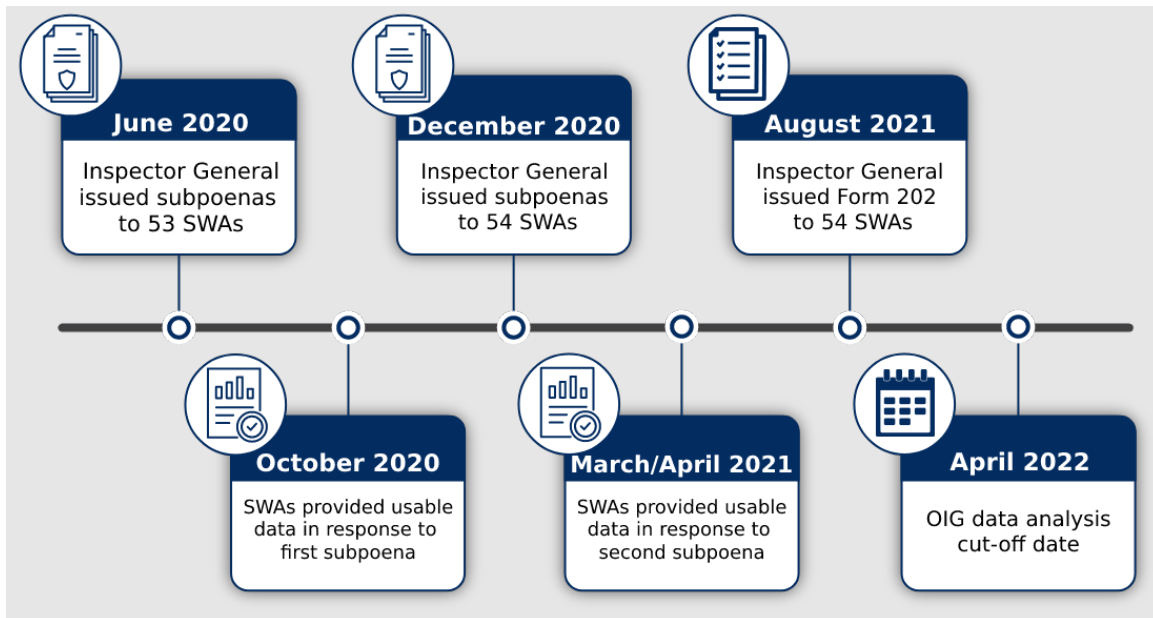
As previously reported in the June 2021 alert memorandum, we found Social Security numbers of potentially ineligible federal prisoners were used to file for UI claims that paid out more than \$267.3 million in UI benefits. ETA needs to ensure SWAs implement controls that can cross-match federal prisoner UI data to mitigate fraud. As previously mentioned, due to the OIG not having current federal prisoner data, there is no updated data as of the issuance of this memorandum.

The OIG Continues to Experience Delays in Obtaining UI Data from SWAs

Since the CARES Act was implemented in March 2020, we have worked to gain timely access to SWA UI data in an effort to prevent and detect fraud, waste, and abuse in the UI program. Through its endeavors, the OIG encountered numerous issues, including: (1) SWAs not providing access for each request, until subpoenas were issued to each SWA, (2) the OIG receiving data months after the request, and (3) the OIG receiving unusable and incomplete data.

In addition, we encountered difficulties obtaining data after ETA issued guidance directing SWAs to disclose UI data to the OIG. For example, some SWAs had difficulty creating a data connection or encrypting data, and some SWA management assumed the request was handled and did not follow up with their technical staff. Figure 1 illustrates the timeline of OIG data requests via subpoenas and via Form 202 to SWAs, as well as the responses from SWAs.

Figure 1: Timeline of OIG Data Requests and Inspector General Subpoenas



Source: Based on OIG – Office of Investigations communication with ETA and SWA officials

As previously stated, upon eventual receipt of SWA data, we encountered instances where data files were not in the requested format, were incomplete, or were not the data required by the OIG. Each SWA also manages recurring data submissions to the OIG differently, which poses a risk to the OIG when analyzing UI data timely and accurately. Unfettered access to SWA UI data would help mitigate the delays experienced by the OIG when requesting data and enable the OIG to more efficiently conduct fieldwork and issue reports timely. Unfettered access to UI data would also significantly reduce the time and resources that SWAs expend on recurring data transfers to the OIG.

The Department's Guidance Interpreting 20 C.F.R. § 603.5 and § 603.6 Is Inconsistent with the Inspector General Act of 1978, as amended,¹⁸ and with 29 C.F.R. 96.41

The Department's guidance¹⁹ interpreting its unemployment compensation program regulations²⁰ is inconsistent with the IG Act to the extent it only affords the OIG restricted access to UI data. The IG Act requires the OIG to have timely access to all records related to programs it oversees. DOL's UI disclosure

¹⁸ Inspector General Act of 1978, as amended, Pub. L. 95-452, 5 U.S.C. App. 3, § 2(2)-(3).

¹⁹ UIPL No. 04-17 is the primary source of this impermissible interpretation; however, UIPL No. 04-17, Change 1, and UIPL No. 22-21 also interpret 20 C.F.R. Part 603 inconsistently with the IG Act.

²⁰ Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of State UC Information, 20 C.F.R. §603.5 and § 603.6 (2021)

regulations require SWAs to disclose “all information necessary for the proper administration of the UC program.”²¹ The OIG maintains disclosures for OIG purposes (i.e., for audits, evaluations, and investigations) are mandatory. Consequently, the Department must construe and apply its regulations²² consistently with the IG Act’s oversight mandate.²³

The Department’s interpretation²⁴ of this regulation prior to August 2021 only required SWAs to disclose UI data to the OIG upon request when the OIG was conducting an investigation into a particular instance of suspected UI fraud. In subsequent guidance²⁵ the Department interpreted the regulation consistently with the IG Act, by requiring SWAs to provide the OIG ongoing, recurring access to UI information for both investigations and audits. However, this new interpretation was temporary, lasting initially only through the end of the pandemic period (September 2021)²⁶ and currently only until December 31, 2023,²⁷ when the period of performance for SWA fraud prevention grants expires.

The Department’s interpretation of other 20 C.F.R. Part 603 provisions²⁸ also contradicts the subsequent guidance to SWAs²⁹ as well as the IG Act and other applicable regulations³⁰ authorizing OIG unimpeded access to state UI data. 20 C.F.R. § 603.5(i) permits SWAs to disclose confidential UI information “to a federal official for purposes of UC program oversight and audits.”³¹ As applied by the Department, this regulation does not require SWAs to comply with the IG Act or other applicable regulations requiring the OIG’s timely and complete access to state UI program information for audits.³² Without changes to remove ambiguities from 20 C.F.R. § 603.5(i), or adjustments to the Department’s interpretation of it,

²¹ 20 C.F.R. § 603.6(a)

²² 20 C.F.R. § 603.6(a)

²³ Inspector General Act of 1978, as amended, Pub. L. 95-452, 5 U.S.C. App. 3, § 2(2)-(3) (the OIG is required “to promote the economy, efficiency, and effectiveness in the administration of” DOL programs and to keep the Secretary and Congress “fully and currently informed about problems and deficiencies relating to the administration of such programs”)

²⁴ UIPL No. 04-17 (December 16, 2016) interpreting 20 C.F.R. § 603.6(a)

²⁵ UIPL No. 04-17, Change 1 (August 3, 2021); UIPL No. 22-21 (August 11, 2021)

²⁶ UIPL No. 04-17, Change 1 (August 3, 2021)

²⁷ UIPL No. 22-21 (August 11, 2021)

²⁸ UIPL No. 04-17 (December 16, 2016) interpreting 20 C.F.R. § 603.5(i)

²⁹ UIPL No. 04-17, Change 1 (August 3, 2021); UIPL No. 22-21 (August 11, 2021)

³⁰ Audit Requirements for Grants, Contracts, and Other Agreements, 29 C.F.R. § 96.41 (2021)

³¹ This expressly includes disclosures under 29 C.F.R. § 96.41.

³² 29 C.F.R. § 96.41 provides that the Secretary and the OIG “shall have access to any books, documents, papers, and records (manual and automated) of the entity receiving funds from DOL and its sub-recipients/subcontractors for the purpose of making surveys, audits, examinations, excerpts, and transcripts.”

the regulation will continue to impede OIG access authorities by preventing the OIG from requiring SWAs to disclose UI information for audits.³³

In response to a draft of this alert memorandum, ETA stated: “The regulations permit, but do not require, states to provide such data to the OIG for audit purposes.” ETA also stated that this “does not prevent the OIG from enforcing its authority under the Inspector General (IG) Act.” However, ETA’s guidance gives SWAs the option to decline OIG requests for information for audits, contrary to the IG Act. The Department cannot issue guidance that enhances ambiguities with other applicable Federal regulations, and permits SWAs to ignore the plain language of the IG Act.³⁴ Regardless of whether the regulations are ambiguous, agencies may not interpret regulations in plain contradiction of superseding statutes.

Cooperating with OIG audits and investigations is a necessary measure to help DOL and ETA ensure proper program administration, including UI program integrity. In issuing guidance³⁵ in August 2021, the Department read the regulation³⁶ as written to require disclosures to the OIG for audits and investigations as necessary for the proper administration of the UI program, but only during the pandemic period.³⁷

With the expiration of the period covered in that guidance,³⁸ ETA reverted to its original interpretation³⁹ where SWAs were only required to disclose UI information to the OIG’s Office of Investigations on a case-by-case basis, unless they accepted grant funds to combat fraud.⁴⁰ If SWAs accepted grant funds, they were then only required to provide UI information to the OIG for audits and investigations through December 31, 2023. As long as SWAs continue to receive

³³ In UIPL No. 23-12 (issued June 25, 2012), ETA applied 20 C.F.R. § 603.5(i) to require SWAs to disclose UI information, including confidential wage and claim information DOL collected and used for Office of Management and Budget evaluations of UC programs. The guidance requires SWAs to disclose the portions of UI data necessary for specific DOL evaluations, similar to the OIG’s need for certain UI data for its audits.

³⁴ The Department’s interpretations of ambiguous regulations is permissible only if it is reasonable. See *Kisor v. Wilkie*, 139 U.S. 2400, 2415-16 (2019). Although 20 C.F.R. 603.5(i) is ambiguous due to the contradictions with 29 C.F.R. 96.41 identified above, agency interpretations of regulations that are unambiguous are entitled to even less deference and only to the extent they are persuasive. See *United States v. Mead Corp.*, 533 U.S. 218 (2001); *Christensen v. Harris County*, 529 U.S. 576 (2000).

³⁵ UIPL No. 04-17, Change 1 (August 3, 2021)

³⁶ 20 C.F.R. § 603.6(a)

³⁷ ETA necessarily interpreted 20 C.F.R. § 603.5(i) as requiring disclosures to the OIG for audits in UIPL No. 04-17, Change 1, because prior to this it maintained that disclosures to the OIG for audits under this provision were optional. As we stated in the June 2021 alert memorandum and do so again here, disclosures to the OIG under 20 C.F.R. § 603.5(i) were always mandatory because such disclosures include disclosures under 29 C.F.R. § 96.41.

³⁸ UIPL No. 04-17, Change 1 (August 3, 2021)

³⁹ UIPL No. 04-17 (December 16, 2016)

⁴⁰ UIPL No. 22-21 (August 11, 2021)

any federal grants to administer their unemployment programs, ETA must facilitate the OIG's access to pertinent SWA information. Therefore, conditioning the OIG's access on whether SWAs accepted an additional grant award and ending SWAs' disclosure obligations when those funds expire contravenes the IG Act.

The OIG notes that ETA's issuance of the August 2021 guidance⁴¹ demonstrates the Department can circumvent the restrictions it had previously read into its regulations⁴² to require ongoing disclosures to the OIG for audits and investigations without amending those regulations. ETA issued the new guidance, citing § 2116 of the CARES Act, which provides authority for ETA to issue operating instructions or other guidance necessary to carry out the UI-related provisions of the CARES Act. ETA has relied on the CARES Act and SWAs' conditional acceptance of fraud prevention grant funds⁴³ to bypass what it interprets as limitations to OIG access for audits in its regulation.⁴⁴

Furthermore, neither the CARES Act nor other relevant statutes limit the OIG's authority to access information to the dates that ETA set forth in its current guidance to the SWAs. Any limitation on the OIG's access to UI information contravenes the IG Act. Reinterpreting the regulations as they are currently written while ETA works on a permanent solution of amending 20 C.F.R. Part 603 will facilitate the OIG's necessary ongoing access in the interim period during which the regulation is amended.⁴⁵

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

ETA's Action in Response to Prior Recommendations Isn't Sufficient to Provide the OIG Ongoing Access to SWA UI Data

ETA must ensure consistency between its regulations, or it risks continued violation of federal law, undermining DOL's goals, creating uncertainty, and increasing costs and burdens. Consequently, ETA must amend

⁴¹ UIPL No. 04-17, Change 1 (August 3, 2021); UIPL No. 22-21 (August 11, 2021)

⁴² 20 C.F.R. §§ 603.5(i), 603.6(a)

⁴³ UIPL No. 22-21 (August 11, 2021)

⁴⁴ 20 C.F.R. § 603.5(i)

⁴⁵ In response to a draft of this alert memorandum, ETA stated that any change to its interpretation of the regulations would require notice and comment rulemaking because it "would affect the rights and obligations of the regulated community and as such would be a legislative rule, not an interpretive rule." ETA's UIPLs referenced in this alert memorandum are interpretive rules that merely clarify existing duties for affected parties by interpreting the Department's legislative rules (i.e., 20 C.F.R. Part 603; 29 C.F.R. § 96.41) that alter the rights and obligations of SWAs and UI claimants. Altering interpretive rules does not require notice and comment rulemaking, regardless of the impact of the change, so long as the underlying law is unchanged. See *Stupp Corp. v. United States*, 5 F.4th 1341, 1352 (Fed. Cir. 2021)

20 C.F.R. Part 603 provisions on federal oversight and audit authorities' access to eliminate any ambiguity regarding OIG access to SWA information in the future. Since the beginning of the pandemic, the OIG and ETA have held recurring meetings to discuss access issues and other open recommendations.

In July of 2022, ETA provided the OIG a specific timeline in which it is considering comprehensive updates to the unemployment compensation confidentiality regulation found at 20 C.F.R. Part 603, including requiring SWAs to provide ongoing access to state unemployment compensation data. According to the estimated timeline, the ruling effective date could be February 2025. ETA is exploring other options for interim solutions to address the gap between December 31, 2023, and the publication of amended regulations.

While we recognize ETA's efforts to take action addressing our recommendations and concerns, ETA's plans are not sufficient to address our concerns and immediate action is still needed. ETA's current proposed action results in a 14-month gap from when the period of performance for SWA fraud prevention grants expires to when the proposed rule will go into effect. ETA has not reached a final resolution on the OIG's recommendations to amend both federal regulation and UIPL guidance that would give the OIG unfettered and on-going access to UI information.

Conclusion

As stated at the beginning of this alert memorandum, 18 months have elapsed since February 2021, when the OIG first alerted ETA to potentially fraudulent payments in the UI program within the four high-risk areas and recommended ETA take corrective actions. In June 2021, we further alerted ETA that the total had increased to \$16 billion in these high-risk areas. Despite ETA's concurrence to implement the OIG's recommendations, sufficient action has not been taken or implemented that would help mitigate and prevent even more potential fraudulent payments from occurring. We have now identified an additional \$29.6 billion in potentially fraudulent UI benefits paid, totaling a cumulative amount of \$45.6 billion.⁴⁶ Additionally, the delays in providing the OIG accurate, timely, and ongoing access to UI data led to interruptions in identifying potentially fraudulent payments much earlier in the pandemic.

Furthermore, 14 months have elapsed since the June 2021 alert memorandum, when the OIG first recommended ETA amend its regulation and UIPL guidance. Adherence to our recommendations would give the OIG accurate and ongoing access to UI information and effectively help mitigate fraud, waste, and abuse

⁴⁶ Of the \$45.6 billion total identified, the OIG had previously reported in prior OIG reports \$16 billion in potential fraudulent payments had been identified within the same four high-risk areas discussed in this alert memo. This report identifies \$29.6 billion in additional funds put to better use that were not claimed in our prior reports. See attachment for detailed information, including our calculation.

within the UI program. ETA has not taken sufficient action to reach a final resolution on the OIG's recommendations. ETA needs to take immediate action and provide the OIG unfettered access to complete and accurate UI data and not only for the UI activities related to COVID-19 programs. We reported in our June 2021 alert memorandum that we expected the actual amount of potential fraud to continue to increase. The continual increases in potential fraud are a significant concern that requires ETA's immediate attention and action.

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

Recommendations

We recommend the Assistant Secretary of Employment and Training:

1. Implement immediate measures to ensure SWAs are required to provide ongoing access to the OIG by amending its current guidance to require disclosures to the OIG for audits and investigations as necessary, mandatory, and without time limitation for the proper oversight of the UI program.
2. Expedite OIG-related amendments to 20 C.F.R. § 603.6(a) to make ongoing disclosures of UI information to DOL OIG mandatory by expressly adding the U.S. Department of Labor, Office of Inspector General (including its agents and contractors) to the list of required disclosures that are necessary for the proper oversight of the UI program without distinction as to purpose (e.g., audits versus investigations).
3. Expedite OIG-related amendments to 20 C.F.R. § 603.5(i) to expressly make disclosures of UI information to federal officials for oversight, audits, and investigations of federal programs mandatory.

On September 13, 2022, ETA provided us their formal response to the draft alert memorandum and recommendations (see Attachment II). The OIG appreciates all the effort ETA has made since our February 22, 2021 alert memorandum. Nonetheless, despite ETA's agreement to implement the OIG's recommendations, sufficient action has not been taken or implemented that would help mitigate and prevent even more potentially fraudulent payments from occurring. Our concerns remain regarding \$45.6 billion in potential fraud in the four high-risk areas and regarding a more permanent solution to unfettered

access to UI data, especially given the 14-month gap between December 31, 2023, and the potential rulemaking date of February 2025.

Potential Funds for Better Use⁴⁷**Table 1: Total Net Funds for Better Use**

Description	Amount
Total Funds for Better Use	\$45.7 Billion
Funds for Better Use Claimed in Prior OIG Alert Memoranda ⁴⁸	(\$16.1 Billion)
Net Funds for Better Use	\$29.6 Billion

The table shows the total net funds for better use for the four high-risk areas previously identified. For the period March 2020 to April 2022, the total potential fraud we identified in this alert memorandum was \$45.7 billion. To prevent double counting, we subtracted the \$16.1 billion in potential fraudulent payments identified in the previous June 16, 2021, alert memorandum. The scope of that analysis was March 2020 to October 2020. As a result, we are claiming \$29.6 billion as total net funds for better use in this alert memorandum.

⁴⁷ As defined by the Inspector General Act of 1978, “funds for better use” means funds that could be used more efficiently or achieve greater program effectiveness if management took certain actions. These actions include reduction in future outlays and deobligation of funds from programs or operations.

⁴⁸ Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

ATTACHMENT II

U.S. Department of Labor

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



September 13, 2022

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

FROM: BRENT PARTON 
Acting Assistant Secretary

SUBJECT: Response to Draft Alert Memorandum: *Potentially
Fraudulent Unemployment Insurance Payments in High-
Risk Areas Increased to \$45.6 Billion*, Report Number: 19-
P22-009-03-315

The Department of Labor's (Department) Employment and Training Administration (ETA) appreciates the opportunity to respond to the above-referenced Office of Inspector General (OIG) draft alert memorandum.

ETA recognizes the OIG's crucial role under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. 116-136, in helping to combat fraud and abuse within the Unemployment Insurance (UI) programs. Additionally, ETA agrees with the OIG's assessment regarding the significant increase in fraudulent activity challenging state UI programs across the nation during the pandemic. ETA is committed to continuing its efforts to explore, research, identify, and provide states with new tools, resources, strategies, and guidance, as warranted, to help states combat the continually changing and new types of sophisticated fraud impacting the UI system.

This alert memorandum builds on and provides additional information since the OIG's February 2021 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 Number: 19-21-002-03-315. ETA would like to take this opportunity to detail the many actions taken by ETA since February 2021 to support states in addressing fraud. Many of ETA's actions have been directly aimed at addressing the specific types of fraud identified by the OIG: individuals using identical social security numbers to file claims across multiple states, using social security numbers belonging to deceased persons and incarcerated individuals, and filing claims with suspicious email accounts.

ETA's Efforts to Combat Fraud in the UI Program. ETA continues to actively and aggressively address fraud in the Unemployment Compensation (UC) programs and UI program integrity remains a top agency priority. While this alert memorandum focuses almost exclusively on facilitating OIG's access to state-owned UI data, ETA's efforts extend beyond this to also include providing extensive guidance, technical assistance, and funding to states to

support them in combatting fraud and reducing improper payments, which includes strengthening fraud prevention and detection and improving overpayment recovery activities. ETA has invested in new tools, datasets, and resources and made these available to states to aid states in more quickly identifying potential fraud. ETA continues to develop and oversee implementation of fraud mitigation strategies to address emerging and evolving fraud risks.

Since the publication of the earlier alert memorandum in February 2021, ETA has taken the following actions supporting states' efforts to address fraud in the UI programs:

- ETA continues to provide guidance to states in the form of Unemployment Insurance Program Letters (UIPL) and Training and Employment Notices (TEN) that alert states to new UI program requirements, important program trainings, UI integrity resources, and operational recommendations. ETA has included a focus on fraud prevention and program integrity in the majority of its recent guidance documents and has issued a total of 21 program integrity-related UIPLs and TENs since February 2021. A list of these guidance documents is provided in Attachment I to this response.
- ETA continues to provide fraud prevention grant opportunities to states to strengthen their efforts. Prior to February 2021, ETA announced the availability of up to a total of \$200 million in fraud prevention grants and awarded states a total of \$199.7 million in funding to prevent and detect fraud and recover overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) programs. Since February 2021, ETA has announced the availability of up to an additional \$465 million (a total of up to \$665 million) in funding to states for fraud prevention and detection and overpayment recovery activities. See UIPL No. 28-20, Change 2, issued August 11, 2021; UIPL No. 28-20, Change 4, issued July 22, 2022; and UIPL No. 22-21, issued August 11, 2021.
- Since July 2021, the Department has been deploying multidisciplinary technical assistance teams (Tiger Teams) to states to conduct consultative assessments to address state-specific, unique challenges and to collect best practices on preventing and detecting fraud, promoting equitable access, reducing backlogs, and ensuring timely payment of benefits. To date, the Department's Tiger Teams have worked with 24 states to address immediate needs and issues to achieve improvements in operational processes and customer experiences, while also proposing solutions to address fraud and support more equitable access for legitimate claimants.

ETA also provided a grant opportunity under UIPL No. 02-22, making available to states up to \$200 million to support states in improving UC systems and processes following a Tiger Team consultative assessment for fraud detection and prevention, promoting equitable access, and ensuring the timely payment of benefits, including backlog reduction, for all UC programs. Trends from the Tiger Teams recommendations are found at https://oui.doleta.gov/unemploy/pdf/TigerTeamCohortTrendsJune_2022.pdf.

- ETA has included combatting UI fraud, in addition to reducing UI improper payment rates, as a National Priority for state UI agencies as part of the annual State Quality

Service Plan (SQSP) process for Fiscal Years (FY) 2022 and 2023 (*see* UIPL No. 24-21, issued August 20, 2021, and UIPL No. 17-22, issued July 22, 2022). ETA also increased states' SQSP Integrity Action Plan (IAP) reporting requirements for the FY 2022 SQSP IAP by requiring states to begin providing a six-month IAP update to their integrity strategies. Furthermore, ETA developed a new IAP template for states' use in developing their FY 2023 SQSP IAP submissions and is requiring states to submit more comprehensive and detailed IAPs that address specific integrity topics, including fraud prevention and detection and overpayment recovery strategies in FY 2023.

- On March 22, 2021, the Department launched www.dol.gov/fraud, a website created for people to understand UI identity fraud, how to report it, and to provide resources to help victims. The Office of Unemployment Insurance (OUI) worked closely with other federal and state agencies to consolidate the necessary steps to help victims of UI identity fraud and conducted testing to confirm the website's instructions were clear and easy to understand.
- Following the OIG's data analysis of UI claims data obtained from subpoenas and discussed in the alert memorandum issued on February 22, 2021, ETA developed a process to receive data from the OIG and share encrypted files with states that included the results of the OIG's analysis. ETA coordinated and oversaw delivery of this data to the states to aid state efforts in preventing fraud and in pursuing investigations on these claims. This was completed at the end of April 2021.
- The Department, in partnership with the Social Security Administration (SSA), established a secure incarceration data exchange between the Interstate Connection Network (ICON) and the SSA's Prisoner Update Processing System (PUPS). The incarceration data exchange provides state UI agencies with the ability to cross-match UI claims information with SSA's prisoner data to aid states in determining if an individual meets UI eligibility requirements. *See* UIPL No. 01-22.
- ETA continues to provide funding and support to the UI Integrity Center to enhance existing tools and develop new resources for states to use to combat fraud, strengthen fraud prevention and detection of improper payments, enhance fraud management operations, and improve overpayment recovery efforts. ETA has strongly encouraged states to take advantage of the UI Integrity Center's resources, specifically the Integrity Data Hub (IDH). State participation in the IDH increased significantly since February 2021, at which time only 39 states were using the Suspicious Actor Repository (SAR), 32 states were using the Multi-State Cross-Match, (MSCM), and 21 states were using the Identity Verification solution (IDV). To date, all 53 states have executed an IDH Participation Agreement, 50 states are using the SAR, 48 states are using the MSCM, and 41 states are using the IDV solution. ETA continues to work with all states to strengthen the robustness and frequency of how they are using these tools. In addition, the UI Integrity Center has made extensive enhancements to IDH functionality and developed new tools and resources to support states with UI integrity and fraud prevention activities. A list of these enhancements and resources are provided in Attachment II to this response.

- ETA continues to strengthen our partnership with the OIG by meeting regularly with the OIG to discuss emerging UI fraud issues, streamline communication with states, and coordinate fraud prevention and overpayment recovery efforts. ETA's activities occurring in partnership with the OIG are set out in Attachment III to this response.
- ETA has worked with states, Federal law enforcement, and banks to facilitate conversations and aid in the recovery of fraudulently obtained and overpaid UI funds. ETA has provided guidance, technical assistance, coordination, and education opportunities to state UI programs to help states navigate the complexities of the Automated Clearing House (ACH) network, banking regulations, law enforcement initiatives, and the many other challenges associated with overpayment recovery. These efforts are reflected in Attachment IV to this response.
- The Department continues to encourage states to strengthen identity verification processes and procedures and is exploring options to provide states with additional support in this area. The Tiger Teams have made recommendations to eight states to improve identity verification. The recommendation notes that the Department strongly encourages states to adopt an array of solutions and techniques to detect and fight fraud and to have robust strategies in place to verify the identity of individuals applying for UI benefits. On April 13, 2021, ETA issued guidance to highlight the importance of identity verification in ensuring the proper payment of unemployment benefits and to provide guidance to states on required administrative procedures when processing claims and determining UI eligibility in cases where an individual's identity is questionable. See UIPL No. 16-21. The Department is currently engaged with the Government Services Administration (GSA) to explore the identity verification services available through GSA's login.gov. On March 31, 2022, an initial pilot began with a state UI agency to evaluate login.gov as a potential identity proofing solution for state UC programs. The Department is continuing to evaluate the pilot to examine how login.gov might be implemented in ways that best support equitable access and program integrity goals, as well as how the Department might extend the solution to other states.

Filing UI Claims in Multiple States. Concerning the content of this alert memorandum, ETA believes a couple of topics merit comment. First, in discussing multi-state claims, the OIG erroneously states that a claimant can only file for UI benefits in one state and indicates as part of their methodology to estimate the potential amount of fraud, that they examined claims using the same social security number filed in two or more states. In fact, individuals may file in multiple states; however, they are only eligible to receive benefits from one state and one program for any given week of unemployment. For example, a person may work and earn wages in multiple states and is unsure in which state they should file a claim. So, they file in the states they have earned wages. The state agencies then determine the appropriate paying state and will request the wage credits from the other state(s) transferred to the paying state for use in determining eligibility.

Facilitating OIG Access to State-Owned UI Data. Next, ETA notes that much of this alert memorandum focuses on the OIG's recommendation to have access to state UI data for investigative and audit purposes. This issue has been addressed in prior OIG reports and alert

memoranda. ETA is concerned that the OIG's mischaracterization of the Department's efforts to provide the OIG access to state UI data portrays ETA as opposing or obstructing the effort to provide such access. This characterization is not fair and is not reflective of ETA's actions. The UI confidentiality regulation does not obstruct the OIG from accessing state UI data. ETA has acted to provide the OIG the requested access but is limited by the Administrative Procedure Act (APA) in what it can do immediately and continues to pursue ongoing efforts in good faith to provide access. In addition, contrary to what is conveyed in this alert memorandum, ETA has not changed the interpretation of its UI confidentiality regulations or created any type of exemption to the regulations.

The UI confidentiality regulation, found at 20 CFR Part 603 and explained in UIPL No. 04-17, Change 1, are derived from the "methods of administration" requirement of Section 303(a)(1) of the Social Security Act and require states to provide the OIG their UI data for investigative purposes. The regulations permit, but do not require, states to provide such data to the OIG for audit purposes. As such, the Department is unable to enforce such disclosure for purposes of audit as a condition of states receiving their UI administrative grant, but this does not prevent the OIG from enforcing its authority under the Inspector General (IG) Act. The alert memorandum mischaracterizes the Department and the existing UI confidentiality regulations as obstructing the OIG's access to data. The regulations, which implement Section 303(a)(1) of the Social Security Act, do not obstruct the OIG's access. The OIG, using its own authority under the IG Act, may request the data and the UI confidentiality regulations permit states to provide the data for audit purposes.

In the Department's Spring 2022 regulatory agenda, ETA announced that it is considering an update that would, among other things, require states, as a condition of receiving their UI administrative grant under the Social Security Act, to provide the OIG with ongoing access to UI data for audit purposes, in addition to investigative purposes, and that ETA intends to publish a Request for Information concerning this matter in November 2022.

ETA has been taking actions to support the OIG having access to UI data for both purposes in the interim until the existing regulations can be revised. In August 2021, using authority provided under the CARES Act, ETA issued guidance to states requiring states to provide the OIG access to UI data for investigations and audits for weeks of unemployment through the expiration date of the CARES Act programs. This alert memorandum repeatedly mischaracterizes the recent guidance issued by the Department as a reinterpretation of, or a new exception, to the existing UI confidentiality regulations. This is not correct. This guidance was not the result of a new interpretation or exception to the regulation. It was done under the temporary authority of the CARES Act. The Department relied on its authority under the CARES Act to issue implementing guidance without going through notice and comment rulemaking. In addition, and separate from the CARES Act, the guidance reiterated an *ongoing* requirement to disclose such data to the OIG for fraud investigations and rescinded prior guidance to make clear that such disclosures do not require any written agreement between the state and the OIG.

Also, in August 2021, ETA made available to states an opportunity to seek fraud prevention grants and conditioned these grants on states providing the OIG access to state UI data. Fifty

states have been awarded these grants which currently have a performance period through December 2023. ETA has committed to the OIG that it is actively exploring future opportunities to continue the requirement for states to provide the OIG access to data until the regulations can be revised.

Finally, the Department has committed to pursuing a change in the regulations set forth at 20 CFR Part 603 to require states to provide UI data for audits, but to exercise that authority, the Department must do so through notice and comment rulemaking because this would be a new interpretation of the statute that would affect the rights and obligations of the regulated community. The APA prohibits the Department from issuing new requirements without first providing notice to the public and an opportunity for comment.

Response to the OIG Recommendations

ETA is committed to continuing its work with states to implement the OIG's recommendations. Below, please find each of the OIG's recommendations contained in this alert memorandum followed ETA's response and proposed action steps to address them.

Recommendation 1: Implement immediate measures to ensure [State Workforce Agencies] SWAs are required to provide ongoing access to the OIG by amending its current guidance, consistent with the OIG's analysis of 20 C.F.R. 603, 29 C.F.R. Part 96 and the IG Act, to require disclosures to the OIG for audits and investigations as necessary, mandatory, and without time limitation for the proper administration of the UI program.

ETA Response: ETA is committed to exploring all avenues and opportunities to legally require, rather than permit, states to provide the OIG access to state UI data, including for audit purposes. However, ETA is bound by the APA to engage in notice and comment rulemaking to make changes to the regulations at 20 C.F.R. Part 603. ETA will examine future grant opportunities as possible ways to extend the current grant condition on the fraud prevention grants. ETA will also look at other actions that can be taken to achieve this outcome. Based on a conversation with the OIG auditors and counsel on September 6, 2022, ETA will issue, as quickly as possible, a TEN reiterating the authority of the OIG under § 6(a) of the IG Act to request information and data from states for investigations and audits and that the Department's regulations do not contradict this authority. The TEN will encourage states to comply with any such requests made by the OIG.

Recommendation 2: Expedite OIG-related amendments to 20 C.F.R. § 603.6(a) to make ongoing disclosures of UI information to DOL OIG mandatory by expressly adding the U.S. Department of Labor, Office of Inspector General (including its agents and contractors) to the list of required disclosures that are necessary for the proper administration of the UI program without distinction as to purpose (e.g., audits versus investigations).

ETA Response: Based on a conversation with the OIG auditors and counsel on September 6, 2022, ETA will issue, as quickly as possible, a TEN reiterating the authority of the OIG under §6(a) of the IG Act to request information and data from states for investigations and audits and

that the Department's regulations at 20 CFR Part 603 do not contradict this authority. The TEN will encourage states to comply with any such requests made by the OIG. ETA will also continue with efforts to pursue changes to the UI confidentiality regulations at 20 CFR Part 603, but to do so, the Department must comply with the notice and comment requirements of the APA, given that this requirement is in a regulation and any change to the Part 603 regulations would affect the rights and obligations of the regulated community and as such would be a legislative rule, not an interpretive rule. As discussed in the response to Recommendation 1, ETA is committed to finding a path to continue the requirement beyond the current grant condition that is effective through December 2023, until the regulations can be properly changed. ETA will keep the OIG apprised of the efforts to achieve this result until it is accomplished.

Recommendation 3: Expedite OIG-related amendments to 20 C.F.R. § 603.5(i) to expressly make disclosures of UI information to federal officials for oversight, audits, and investigations of federal programs mandatory.

ETA Response: Based on a conversation with the OIG auditors and counsel on September 6, 2022, ETA will issue, as quickly as possible, a TEN reiterating the authority of the OIG under § 6(a) of the IG Act to request information and data from states for investigations and audits and that the Department's regulations at 20 CFR Part 603 do not contradict this authority. The TEN will encourage states to comply with any such requests made by the OIG. ETA will also continue with efforts to pursue changes to the UI confidentiality regulations at 20 CFR Part 603, which requires the Department to comply with the notice and comment requirements of the APA. As discussed in the response to Recommendation 1, ETA is committed to finding a path to continue the requirement beyond the current grant condition that is effective through December 2023, until the regulations can be properly changed. ETA will keep the OIG apprised of the efforts to achieve this result until it is accomplished.

Attachment I

Integrity-Related Unemployment Insurance Program Letters (UIPL) and Training and Employment Notices (TEN) issued since February 2021

UIPLs

- UIPL No. 28-20, Change 4, *Support for States to Resolve Outstanding Items from the Expired Coronavirus Aid, Relief, and Economic Security (CARES) Act Unemployment Compensation (UC) Programs, Including Additional Funding to Assist States with Reporting and Detection and Recovery of Overpayments*, issued July 22, 2022
- UIPL No. 17-22, *Additional Planning Guidance for the Fiscal Year (FY) 2023 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, issued July 22, 2022
- UIPL No. 16-22, *Announcement of the Pandemic Unemployment Assistance (PUA) Improper Payment Estimate Reviews and the Cancellation of the 2022 Benefit Accuracy Measurement (BAM) Paid Claims Peer Reviews*, issued July 14, 2022
- UIPL No. 02-22, *Grant Opportunity to Support States Following a Consultative Assessment for Fraud Detection and Prevention, Promoting Equitable Access, and Ensuring the Timely Payment of Benefits, including Backlog Reduction, for all Unemployment Compensation (UC) Programs*, issued November 2, 2021
- UIPL No. 01-22, *Announcing the Availability of an Incarceration Data Exchange and Instructions to Access the Data Exchange between the Unemployment Insurance (UI) Interstate Connection Network (ICON) and the Social Security Administration (SSA) Prisoner Update Processing System (PUPS)*, issued October 29, 2021
- UIPL No. 16-20, Change 6, *Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes*, issued September 3, 2021
- UIPL No. 24-21, *Additional Planning Guidance for the Fiscal Year (FY) 2022 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, issued August 20, 2021
- UIPL No. 22-21, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, issued August 11, 2021
- UIPL No. 28-20, Change 2, *Additional Funding to Assist with Strengthening Fraud Detection and Prevention Efforts and the Recovery of Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs, as well as Guidance on Processes for Combatting Identity Fraud*, issued August 11, 2021
- UIPL No. 04-17, Change 1, *Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or*

Attachment I

Misconduct to the Department of Labor's (Department) Office of Inspector General's (DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits, issued August 3, 2021

- UIPL No. 20-21, *State Instructions for Assessing Fraud Penalties and Processing Overpayment Waivers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended, issued May 5, 2021*
- UIPL No. 19-21, *Benefits Held by Banks and Financial Institutions as a Result of Suspicious and/or Potentially Fraudulent Activity and the Proportional Distribution Methodology Required for Recovering/Returning Federally Funded Unemployment Compensation (UC) Program Funds, issued May 4, 2021*
- UIPL No. 16-21, *Identity Verification for Unemployment Insurance (UI) Claims, issued April 13, 2021*

List of TENs

- TEN No. 01-22, *Adjudications Virtual Training and Conference, issued July 20, 2022*
- TEN No. 24-21, *Encouragement for States to Use the Integrity Data Hub (IDH) available through the Unemployment Insurance (UI) Integrity Center, issued May 5, 2022*
- TEN No. 23-21, *Unemployment Insurance Interstate Benefits and Federal Programs Training, issued March 14, 2022*
- TEN No. 22-21, *2022 Unemployment Insurance (UI) State Information Data Exchange System (SIDES) Seminar, issued March 3, 2022*
- TEN No. 16-21, *Announcing Grant Awards Made to States Selected to Participate in the Unemployment Insurance (UI) Information Technology (IT) Modernization Project - Claimant Experience Pilot, issued December 2, 2021*
- TEN No. 15-21, *Announcing the National Association of State Workforce Agencies (NASWA) Unemployment Insurance (UI) Integrity Center's Behavioral Insights Toolkit, issued November 17, 2021*
- TEN No. 06-21, *Accessing Unemployment Insurance (UI) Identity Verification and Fraud Protection (Identity Proofing) Services using the U.S. Department of Labor's (Department) Blanket Purchase Agreements (BPA), issued September 15, 2021*
- TEN No. 19-20, *2021 Unemployment Insurance (UI) State Information Data Exchange System (SIDES) Seminar, issued March 15, 2021*

Attachment II

**Unemployment Insurance (UI) Integrity Center Enhancements and Resources
(Since February 2021)**

- Implementation of a Bank Account Verification (BAV) service. The BAV service provides states with access to near real-time information to proactively identify and authenticate bank account information provided by the UI claimant by validating the account's status and ensuring the individual identified as the claimant is the account owner and/or authorized user prior to initiating the UI benefit payment. The BAV service went into Integrity Data Hub (IDH) production on February 15, 2022, and to date, 29 states are using the BAV service.
- Completion of two IDH Results Management projects, which includes IDH Results Prioritization that went live on June 22, 2021, and IDH Results Sorting, Filtering, and Outcomes that went live on May 5, 2022. IDH Results Prioritization allows states to receive IDH results in order of priority level to help states more quickly identify emerging UI fraud schemes. IDH Results Sorting, Filtering, and Outcomes allows states to analyze and manage IDH results quickly and easily. It also allows states to provide outcomes data to the IDH team which helps the IDH team better understand how states are utilizing the IDH.
- In October 2021, the UI Integrity Center launched the Behavioral Insights (BI) toolkit which brings together practices from the field of behavioral science to promote UI integrity and reduce UI improper payments. The BI Toolkit offers a collection of resources to help UI agencies improve integrity and customer compliance through targeted changes to program communications and processes. The BI toolkit includes a sub-collection of resources, articles, templates, and how-to information housed within the online Knowledge Exchange Library. On November 17, 2021, ETA issued Training and Employment Notice No. 15-21, announcing the availability of the BI toolkit.
- Conducted 10 webinars for states on fraud prevention and detection strategies, including webinars on UI identity fraud, internal security, fictitious employers, identity verification, overpayment recoveries, and IDH results management and prioritization.
- Presented to states on fraud prevention, detection, and overpayment recovery strategies and effective integrity tools during multiple events in Calendar Year 2021 and 2022, including the 2022 National Association of State Workforce Agencies' UI Interstate Benefits and Federal Programs Training Conference, the State Information Data Exchange Seminar, and the 2021 NASWA Summit.
- Convened monthly regional integrity workgroups with state UI integrity management and field staff to provide states an opportunity to share and discuss specific integrity strategies and share promising practices, recent fraud activities and countermeasures, and innovative operational enhancements on integrity topics with the broader UI community.

Attachment II

- Continued adding to the UI collection in the Knowledge Exchange Library (Library), which is an online, searchable, knowledge-sharing platform that includes a repository of all UI Integrity Center resources including, model state operational processes, promising state practices, and recommendations to strengthen UI program integrity. The Library currently contains over 2,600 UI integrity-related resources.
- The UI National Integrity Training Academy (Academy) continues to develop and provide rigorous and relevant training programs and materials to states, offering program integrity training for state UI staff via online, eLearning modules and virtual instructor-led trainings that lead to credentials and certification. Current all-time enrollments in Academy trainings are up to 13,690 learners, which represent all 53 states.

Attachment III

Employment and Training Administration (ETA) Activities in Partnership with the Office of Inspector General (OIG) (Since February 2021)

- On May 12, 2021, ETA coordinated a call with states and the OIG to provide updates on OIG activities and to encourage states to partner with the OIG to combat fraud.
- On August 3, 2021, ETA issued Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1, which outlined requirements for states to refer allegations of Unemployment Compensation (UC) fraud, waste, abuse, mismanagement, or misconduct to the OIG and to disclose information related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to the OIG for purposes of UC fraud investigation and audits. ETA also reminded states of their requirements to share information requested by the OIG for both audits and investigations for the period of performance of the grants that otherwise would not be required of states.
- On August 11, 2021, ETA issued UIPL No. 22-21, announcing the availability for fraud prevention grant funding and conditioned the award of the grants on states agreeing to information disclosure with the OIG.
- ETA updated the Unemployment Insurance (UI) Integrity Center's cooperative agreement to include Integrity Data Hub (IDH) data sharing with the OIG. ETA and the UI Integrity Center are actively engaged in a substantial data extract project to share IDH data with the OIG and have completed several actions to advance this effort. A new IDH Participation Agreement was developed, to include a provision for sharing state IDH information with the OIG. ETA announced Version 5.0 of the IDH Participation Agreement in Training and Employment Notice No. 24-21 on May 5, 2022. In addition, the UI Integrity Center provided an estimated timeline and budget to ETA for the OIG IDH Data Extract project on April 15, 2022.
- ETA worked with the OIG to develop and refine a process for states to submit fraudulent Facebook pages directly to Facebook to facilitate the quick removal of the fake social media pages.
- ETA engaged with the OIG and other Federal agencies on a workgroup to identify strategies to mitigate text message phishing schemes. As part of this effort, ETA's Regional Offices obtained information for the workgroup about the scope of the fraudulent text messaging issue by asking states to provide examples/screenshots of known text messaging schemes. ETA's Regional Offices also gathered information from states on their current text messaging practices to inform public outreach regarding fraudulent text messaging.
- ETA disseminates National Unemployment Insurance Fraud Task Force alerts to its Regional Offices and the states.

Attachment III

- ETA held a national “meet and greet” meeting between ETA’s Regional Offices and the OIG’s Regional Offices on December 6, 2021, to strengthen the Regional Office relationships and to begin developing reoccurring joint ETA/OIG Regional Office calls with states to share fraud trends and analysis, provide recommendations for responding to emerging fraud schemes, offer updates on prosecution efforts, and facilitate sharing of UI fraud and integrity-related challenges and best practices among states. ETA’s Regional Offices began hosting the joint quarterly conference calls with the OIG and the states in the first quarter of Calendar Year 2022 and continues to hold calls each quarter.
- On August 25, 2022, ETA and the OIG presented to over 1,200 UI adjudicators during the closing plenary of the adjunction training conference. ETA presented on national UI integrity efforts and the OIG presented on their case work in the UI fraud space. The presentations outlined the need for ETA, state UI agencies, and the OIG to work together to prevent and detect UI fraud through enhanced collaboration and data sharing.

Attachment IV

Overpayment Recovery Efforts

- Ongoing participation on banking workgroup calls to discuss ongoing recovery efforts and improve communication between banking organizations, federal government agencies, and law enforcement agencies.
- ETA issued Unemployment Insurance Program Letter (UIPL) No. 19-21 on May 4, 2021, providing guidance to states on the proportional distribution methodology for recovering federally funded Unemployment Compensation (UC) benefits, which are held by banks and financial institutions as a result of suspicious and/or potentially fraudulent activity.
- Required states to include recovery strategies, such as working directly with financial institutions and/or law enforcement agencies to recover UC funds held by banks and financial institutions, in their Integrity Action Plans as part of the annual State Quality Service Plan process.
- At the request of the Department of Justice (DOJ), the Office of Inspector General (OIG) developed a form for states to complete to compile a list of state contacts for forfeiture/seizure efforts and gather insight into state practices in this area. ETA facilitated state responses to this request and provided the responses to DOJ and the OIG.
- On June 11, 2021, ETA coordinated a call between state Unemployment Insurance (UI) agencies, the OIG, and DOJ to provide states with information on law enforcement's forfeiture and seizure efforts.
- On July 13, 2021, ETA coordinated a call with state UI agencies and National Automated Clearing House Association (Nacha) to discuss the Automated Clearing House network, the Nacha opt-in changes, and to educate states on banking rules and opportunities for engagement with the state's Originating Depository Financial Institution.
- ETA has connected numerous states with banks attempting to return overpaid UC benefits. ETA continues to coordinate with states and banking partners to address overpayment recovery questions and concerns.