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Hearing Title:
“The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud”

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Good morning, Chairman Smith, Ranking Member Neal, and distinguished members of the Committee. Thank you for the opportunity to testify on the important work of the U.S. Department of Labor (DOL or Department) Office of Inspector General (OIG). Although the OIG is responsible for overseeing all DOL programs and operations, I will focus my testimony today on the OIG's oversight of the unemployment insurance (UI) program during the COVID-19 pandemic.

The OIG has remained committed to meeting the challenges created by the COVID-19 pandemic and to assisting DOL and Congress in improving the efficiency and integrity of the UI program. As my testimony will show, strengthening the UI program to prevent fraud before it occurs and to detect it when it does are key objectives to ensure that unemployed workers expeditiously receive much needed benefits while safeguarding tax dollars directed toward that goal.

Unemployment insurance is generally administered by states with oversight from DOL's Employment and Training Administration (ETA). The OIG is an independent agency within DOL that serves the American people, DOL, and Congress by providing objective oversight of Departmental programs, including the UI program. The views expressed herein are based on the independent findings and recommendations of the OIG's work and are not intended to reflect DOL positions.

Overview of the Unemployment Insurance Program

Enacted more than 80 years ago, the UI program is the Department's largest income-maintenance program. A joint federal-state program, unemployment insurance is the first economic line of defense against the collective impact of unemployment and acts as a safety-net for individuals who lose their jobs through no fault of their own. The UI program requires states to make weekly benefit payments in a timely manner, providing needed assistance to unemployed workers while ensuring claimants meet eligibility requirements. It is equally important that the program has sufficient controls in place to quickly determine that benefits are or were paid to the right person in the correct amount. Each state workforce agency[1] (SWA or state):

- administers a separate UI program under its jurisdiction's 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

[1] This testimony uses "state" or "SWA" to refer to the administrative body that administers the UI program within the state, district, or territory. For the 50 states, as well as the U.S. Virgin Islands, Puerto Rico, and the District of Columbia, that administrative body is a SWA. There are, therefore, 53 SWAs. The Coronavirus Aid, Relief, and Economic Security Act also provided certain UI benefits to American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Marshall Islands, and the Republic of Palau, provided the territory signs an agreement with the Department.

- manages the personnel and system resources to administer their respective programs.

In normal circumstances, 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.

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 through criminal investigations to detect and deter large-scale fraud. The OIG's federal criminal investigations are time- and resource-intensive and one of the last lines of defense in safeguarding the UI program from fraud.

OIG Significant Concerns

The OIG has repeatedly reported significant concerns with DOL and states' ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight. We have been and remain particularly concerned about deployment of UI benefits in response to emergencies including natural disasters and economic downturns. The OIG has reiterated these concerns regarding the economic downturn created by the pandemic and the hundreds of billions of dollars allocated to the UI program.

Less than a month after the CARES Act passed, we published an advisory report[2] outlining areas of concern that ETA and the states should consider as they implemented the CARES Act UI provisions. Our identification of these areas represents years of work relating to DOL's UI program, including the response to past disasters. One of these areas was state preparedness: specifically, the issues of staffing and system capabilities.

Deploying Benefits Expeditiously and Efficiently

Rapid deployment of CARES Act funding was critical in helping workers in need. As acknowledged by the OIG, staff at ETA and states struggled during the COVID-19 pandemic as SWAs worked to ensure timely and accurate UI benefits in a time of national emergency. Anticipating and addressing the increased risk that came with the expanded funding was also vital to meeting the intent of the CARES Act. As the OIG's prior audit work has shown, quickly deploying funds can result in shortcomings in the

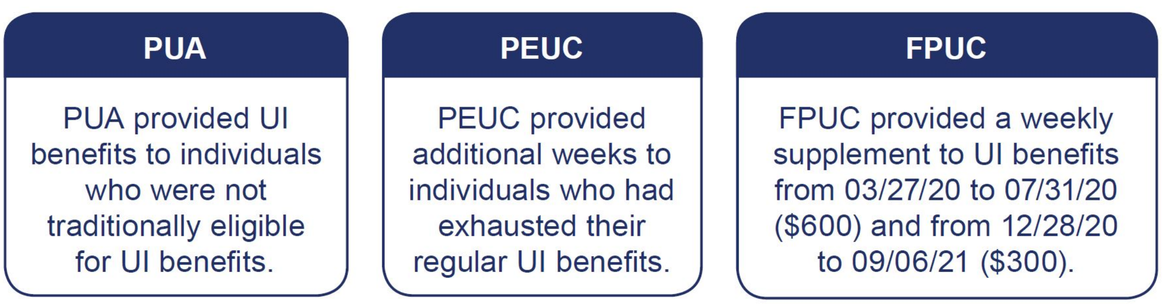
[2] Advisory Report, CARES ACT: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf

effective and efficient implementation of stimulus programs. For example, a 2011 audit report[3] found states took over a year to spend most of the American Reinvestment and Recovery Act of 2009 (Recovery Act) funding available for emergency staffing and at least 40 percent of funding for this purpose was unspent after 15 months.

In addition, a separate audit on the Recovery Act[4] found $1.3 billion of the $7 billion that DOL provided to states for UI modernization, including information technology (IT) modernization, would likely not have been spent before the period of availability expired. To access these funds, states had to meet certain modernization criteria; once accessed, the funds could be spent for several purposes including to modernize IT systems. Of the funds spent from the $7 billion, states did not always take advantage of the opportunity to modernize their IT systems.

To implement the new UI programs authorized by the CARES Act, states needed sufficient staffing and system resources to manage the extraordinary increases in the number of claims and payments. Our pandemic audit work has confirmed that ETA and states continued to face challenges in these areas as they endeavored to implement the new temporary UI programs, including Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC) (see Figure 1).

Figure 1: Three Key Pandemic-Related UI Programs



Source: CARES Act and related extensions

We also issued audit reports that advised ETA to establish methods to detect and recover improper payments, including fraudulent payments, and reported on the pandemic program that posed the greatest risk to the UI system: PUA. PUA's expanded coverage, for a population of claimants who were traditionally ineligible to receive UI

[3] Recovery Act: DOL Could Have Better Monitored the Use of Re-employment Services Funds to Adhere to Standards for Transparency and Accountability, Report No. 18-11-005-03-315 (March 31, 2011), available at: https://www.oig.dol.gov/public/reports/oa/2011/18-11-005-03-315.pdf
[4] Recovery Act: More Than $1.3 Billion in Unemployment Insurance Modernization Incentive Payments Are Unlikely to Be Claimed by States, Report No. 18-10-012-03-315 (September 30, 2010), available at: https://www.oig.dol.gov/public/reports/oa/2010/18-10-012-03-315.pdf

benefits,[5] presented significant challenges to states as they designed and implemented processes to determine initial and continued program eligibility. Further, we found the risk of improper payments including fraud was even higher under PUA because claimants could self-certify their eligibility for benefits.

Our subsequent reports identified continued programmatic weaknesses that led to workers unemployed through no fault of their own suffering lengthy delays in receiving benefits. For example, the OIG had audited the Disaster Unemployment Assistance (DUA) program in 2020 and found the Department had not established adequate controls to ensure benefits were paid timely.[6] States also had difficulty ensuring CARES Act programs were implemented promptly. For the PUA, PEUC, and FPUC programs, we identified that it took, on average, 38 days for the first payment to be made after the CARES Act passed. Also, we identified delays in the first payments for two other pandemic UI programs: it took 25 days for the FPUC program and 50 days for the PEUC program.[7]

We also found that—from April 1, 2020, to March 31, 2021—only 5 of the 53 SWAs (less than 10 percent) were able to timely pay benefits, including the FPUC supplement, to regular UI claimants. As a result, during the year following the passage of the CARES Act, more than six million Americans waited a month or more for CARES Act UI benefits. Furthermore, states are still challenged in paying claimants timely. For the month of December 2022, only 22 percent of states were paying regular UI claimants timely versus 75 percent before the pandemic started.

History of Improper Payments, including Fraud

For more than 20 years, the OIG has reported on the Department's challenges to measure, report, and reduce improper payments in the UI program, which has experienced some of the highest improper payment rates across the federal government. The reported improper payment rate estimate for the regular UI program has been above 10 percent for 15 of the last 19 years. In the last 2 years, ETA has estimated an improper payment rate of 18.71 percent and 21.52 percent, respectively.

The UI program requires states to make weekly benefit payments while ensuring claimants meet eligibility requirements. A state may

WHAT IS AN IMPROPER PAYMENT?

A payment is improper if it should not have been made or was to the wrong recipient.

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Examples include overpayments and underpayments.

*

An improper payment can be unintentional or intentional.

*

Intentional improper payments are more commonly referred to as financial fraud.

[5] The new PUA program extended unemployment benefits to self-employed, independent contractors, those with limited work history, and other individuals not traditionally eligible for unemployment benefits who were unable to work as a direct result of COVID-19.

[6] ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation, Report No. 04-20-002-03-315 (September 29, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/04-20-002-03-315.pdf

[7] Also, the 12 states we selected for in-depth analysis were generally unable to demonstrate they met the payment promptness standard ETA established for regular UI payments, which is to pay 87 percent of claimants within 14 or 21 days.

determine a payment is improper after a claimant receives benefits based on new information that was unavailable when the SWA approved the benefit payment or as a result of the requirement that claimants be provided with due process prior to stopping payment of benefits. The leading causes of improper payments have historically been:

- Claimants Do Not Meet Work Search Requirements[8] – Claimants who fail to demonstrate they meet state requirements for work search;
- Benefit Year Earnings – Claimants who continue to claim benefits after they return to work or who misreport earnings during a week in which benefits are claimed;
- Employers Do Not Timely Report Employees' Separation – Employers or their third-party administrators who fail to provide timely and adequate information about why individuals separated from their employment; and
- Fraud – Claims based on fraudulent schemes, such as those perpetrated during the pandemic.[9]

A Perfect Storm

Following the start of the pandemic in the United States in early 2020, unemployment compensation claims rose exponentially to historically unprecedented levels. Prior to the pandemic, numbers of UI claims were historically low. On March 14, 2020, the Department reported 282,000 initial unemployment claims. Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle.[10] Within 5 months, through August 15, 2020, the Department reported 57.4 million initial claims, the largest increase since the Department began tracking UI data in 1967.

The CARES Act provided significant funding to the UI program, which resulted in hundreds of billions of dollars in additional payments. New UI programs under the CARES Act meant more workers qualified.[11] Further, unemployed workers received a supplement per week in addition to their regular benefit amount and individuals who exhausted their regular unemployment benefits were provided additional weeks of

[8] The Middle Class Tax Relief and Job Creation Act of 2012 requires that individuals receiving UI benefits must be able to work, available to work, and actively seeking work as a condition of eligibility for regular compensation for any week. Accordingly, states generally require that unemployed workers demonstrate they were actively seeking work. Work search overpayments occur when states pay UI claimants who do not demonstrate that they were actively seeking work.

[9] ETA has included fraud as an element of the leading causes rather than as a separate cause. From July 2016 to March 2020, the other three causes resulted in over $9 billion in improper payments. Of this total, more than $3 billion was attributable to fraud. Since the pandemic started, fraud has significantly increased.

[10] COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf

[11] The PUA program covered workers not typically covered by UI who could self-certify that they were able to and available for work but unemployed due to COVID-19-related reasons.

unemployment compensation. Also, certain UI claims could be backdated to the beginning of the eligibility period. With the legislative extensions, claimants could receive up to 79 weeks of pandemic-related UI payments.

In June 2020, the OIG provided a member briefing[12] and a statement for the record[13] to Congress highlighting challenges DOL and states faced in administering and overseeing the UI program as well as the substantially increased fraud risk. The expanded coverage offered under the PUA program posed significant challenges to states as they implemented processes to determine initial and continued program eligibility for participants. The reliance solely on claimant self-certifications without evidence of eligibility and wages during the program's first 9 months rendered the PUA program extremely susceptible to improper payments, including fraud. In March 2022, the OIG provided oral and written testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs that spoke to the continuation of many of these concerns and challenges.[14]

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, combined with easily attainable stolen personally identifiable information and continuing UI program weaknesses identified by the OIG over the last several years, allowed criminals to defraud the system. Because many states were not prepared to process the extraordinary volume of new UI claims and struggled to implement the new UI programs, some internal controls that had been traditionally used or recommended for the processing of UI claims were not initially put in place.

This created multiple high-reward targets where an individual could make a fraudulent claim with relatively low risk of being caught. For example, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card. In fact, in an audit, we found 1 claim that was filed from a 3-bedroom house shared the same physical address as 90 other claims and used the same email address as 145 other claims.[15] In total, the likely fraudsters received $1,569,762 in unemployment benefits. In the same audit, we found that, from

[12] "Subcommittee on Government Operations Briefing with the Inspector General for the Department of Labor," Member Briefing, Opening Statement of Scott S. Dahl, Inspector General, U.S. Department of Labor; House Committee on Oversight and Reform; Subcommittee on Government Operations (June 1, 2020), available at: https://www.oig.dol.gov/public/testimony/20200601.pdf

[13] "Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic," Hearing, Statement for the Record of Scott S. Dahl, Inspector General, U.S. Department of Labor; Senate Committee on Finance (June 9, 2020), available at: https://www.oig.dol.gov/public/testimony/20200609.pdf

[14] "Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; Senate Committee on Homeland Security and Governmental Affairs (March 17, 2022), available at: https://www.oig.dol.gov/public/testimony/20220317.pdf

[15] COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf

March 28, 2020, to September 30, 2020, in 4 states, potentially fraudulent claims were paid 60.5 percent of the time.

Estimating the overall improper payment rate for the pandemic UI programs is critical for the efficient operation of the program. ETA and the states, under their program operating responsibilities, must determine the improper payment rate, including the fraud rate, for pandemic UI programs. In August 2020, we recommended that ETA estimate the improper payment rate for pandemic UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate of 18.71 percent for 2021, which ETA applied to two of the three key pandemic UI programs, PEUC and FPUC. Additionally, in December 2022, ETA reported an improper payment rate of 21.52 percent, which it also applied to PEUC and FPUC.[16]

We previously reported that, applying the 18.71 percent to an estimated $872.5 billion in federal pandemic UI funding, at least $163 billion in pandemic UI benefits could have been paid improperly, with a significant portion attributable to fraud. We are now able to report updated information, with two primary changes: (1) ETA released its annual improper payment rate estimate for fiscal year (FY) 2022 and (2) ETA has recently provided a total for pandemic UI spending.[17] While that expenditure information is likely to be updated, we are now able to report on actual expenditures rather than on estimated funding.

With those updates, more than $888 billion in total federal and state UI benefits were paid for benefit weeks during the UI pandemic period.[18,19] Applying the estimated 21.52 percent improper payment rate to the approximate $888 billion in pandemic UI expenditures, at least $191 billion in pandemic UI payments could have been improper payments, with a significant portion attributable to fraud.

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[16] ETA's reported improper payment rate estimate of 21.52 percent does not include the PUA program. However, it is the most current improper payment rate from ETA. Furthermore, PUA had control weaknesses that may have facilitated comparable or greater improper payments. Therefore, applying ETA's rate to all of the approximately $888 billion in UI payments for the pandemic period including PUA would equate to at least $191 billion in improper payments.

[17] According to ETA, the data provided reflects CARES Act UI program activity through January 23, 2023, with the exception of the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week program, which is through December 31, 2022; data provided regarding the regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-Servicemembers programs reflect the monthly totals from April 2020 through September 2021.

[18] With the exception of PUA, for which claims could be backdated to January 27, 2020, we define the UI pandemic period as March 27, 2020, through September 6, 2021. We also note that, according to ETA, it cannot provide final total costs of the programs because states are still processing claims that were for weeks of unemployment prior to expiration of the programs.

[19] The Government Accountability Office published a relevant report in December 2022 that cited approximately $878 billion in UI payments for the period reviewed. The expenditure information we have provided in this testimony contains more recent updates than were available to the Government Accountability Office when it published its report, which is available at: https://www.gao.gov/products/gao-23-105523.

Based on our audit and investigative work, the improper payment rate for pandemic UI programs was likely higher than 21.52 percent. For example, neither of these two rates included estimates for the PUA program. ETA stated it would report the estimated improper payment rate for PUA in 2022. However, the Office of Management and Budget granted the Department an extension to report on PUA in FY 2023. To date, the Department has not yet reported the PUA improper payment rate.

As previously mentioned, PUA had control weaknesses that may have facilitated comparable or greater improper payments. The reliance solely on claimant self-certifications without evidence of eligibility and wages during PUA's first 9 months rendered the program extremely susceptible to improper payments including fraud. Notably, in the first 6 months after the CARES Act passed, we found 4 states paid $1 out of $5 in PUA benefits to likely fraudsters.[20] Subsequent to our work identifying the fraud risks, Congress took action to require supporting documentation to improve states' abilities to ensure proper claimant eligibility and to mitigate fraud. However, a significant amount of UI benefit money had already been paid improperly.

When the OIG identifies anti-fraud measures that may help the program, we share them with the Department and SWAs as appropriate. For example, in alert memoranda issued in February 2021,[21] in June 2021,[22] and in September 2022,[23] our investigators, auditors, and data scientists collaboratively identified $45.6 billion of potentially fraudulent UI benefits paid in four high-risk areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal inmates, and (4) used to file for UI claims with suspicious email accounts (see Table 1).

[20] COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf

[21] Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies 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

[22] 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

[23] Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to $45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf

Table 1: Potential Fraud in Four High-Risk Areas through April 2022

High-Risk Area	Total Potential Fraud Reported through April 2022
Multistate Claimants	$28,967,047,154
Deceased Persons	$139,483,136
Federal Prisoners[24]	$267,382,013
Suspicious Emails	$16,265,578,304
Total	**$45,639,490,607**

Source: OIG analysis of data from SWAs, the U.S. Department of Justice's Bureau of Prisons, and the U.S. Social Security Administration

We shared our methodology and underlying data[25] with ETA for further dissemination to the SWAs, and we recommended they establish effective controls to mitigate fraud and other improper payments to ineligible claimants. We are currently examining whether states took effective measures to address the four high-risk areas.

In its December 2022 report,[26] the Government Accountability Office (GAO) included these findings in support of the determination that substantial levels of fraud and potential fraud occurred during the pandemic. GAO noted that the Department has not yet developed an antifraud strategy or addressed the most significant fraud risks in the program. GAO also reported that all six of its October 2021 recommendations to ETA for UI fraud risk assessment remain open. GAO is currently attempting to determine an estimate of fraud in the UI program, having reported a potential minimum of $60 billion in pandemic-related fraudulent UI payments.

OIG Pandemic Investigative Work

The volume of UI investigative matters currently under review is unprecedented in the OIG's history. Prior to the pandemic, the OIG opened approximately 100 UI investigative matters annually. Since April 1, 2020, the OIG has opened over

[24] The OIG did not have access to federal prisoner data to conduct additional analysis for this memorandum. The amount remains the same as what we reported in the June 2021 alert memorandum. In the June 2021 alert memorandum, the OIG utilized UI data from March 2020 through October 2020.
[25] Data provided to DOL for further dissemination to the SWAs included data related to more than 3 million suspicious claimants associated with over $16 billion that the OIG identified in our alert memorandum dated June 16, 2021. The over $16 billion did not include about $915 million in potential fraud that was identified under more than one area. As soon as is practical, the OIG will share further data related to additional suspicious claimants identified in a subsequent alert memorandum with DOL so that it can disseminate this information to the SWAs. The methodology has not changed.
[26] GAO, Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy, Report No. GAO-23-105523 (December 22, 2022), available at: https://www.gao.gov/products/gao-23-105523

198,000 investigative matters concerning UI fraud. That is an increase of more than 1,000 times in the volume of UI work that we are facing. UI investigations now account for approximately 96 percent of the OIG investigative case inventory, compared to approximately 11 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 onboard; deployed federal and contract staff to review DOL and states' 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,[27] 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 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 (PRAC);
- collaborated with state auditors to help develop their audit strategies for the CARES Act UI programs;
- joined the DOJ COVID-19 Fraud Enforcement Task Force;[28]
- 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;[29] and
- joined DOJ's Pandemic Fraud Strike Force Teams initiative.[30]

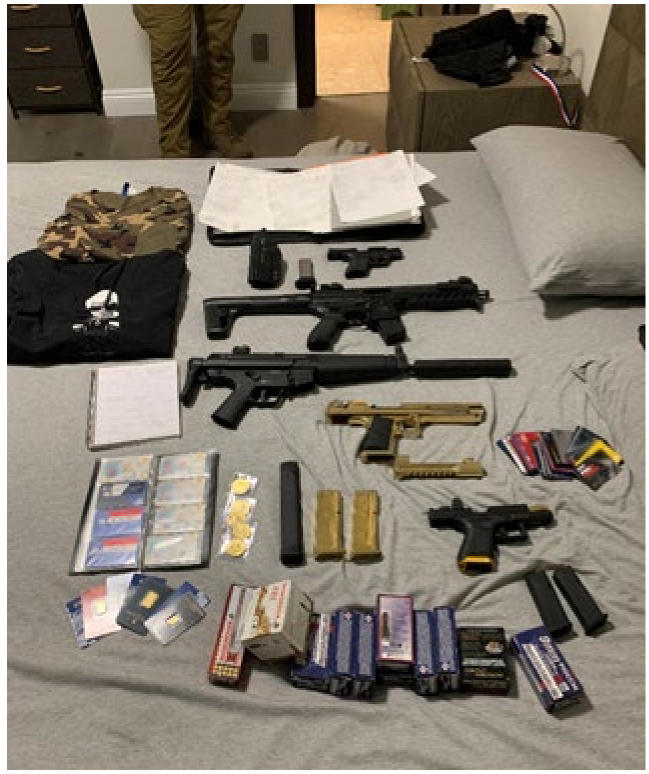
[27] More information on the National Unemployment Insurance Fraud Task Force is available at: https://www.justice.gov/coronavirus/national-unemployment-insurance-fraud-task-force.

[28] DOJ Office of Public Affairs, "Attorney General Announces Task Force to Combat COVID-19 Fraud," press release (May 17, 2021), available at: https://www.justice.gov/opa/pr/attorney-general-announces-task-force-combat-covid-19-fraud

[29] The OIG has issued or assisted in issuing an: UI fraud consumer protection guide; UI fraud investigations guide; UI fraud alert for state/local law enforcement; UI text message phishing alert; UI fraud and phishing alert; UI fraud and identity theft alert; and UI detection and mitigation alert for financial institutions, available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

[30] The OIG joined the DOJ and other federal law enforcement partners as participants on the DOJ's new COVID-19 Strike Force Teams initiative, announced on September 14, 2022. These Strike Force teams will operate out of U.S. Attorney's Offices in the Southern District of Florida, the District of Maryland, and a joint effort between the Central and Eastern Districts of California. They will use dedicated special agents from the OIG to focus on significant fraud schemes with an international nexus. DOJ, "Department Announces COVID-19 Fraud Strike Force Teams," press release (September 14, 2022), available at: https://www.justice.gov/opa/pr/justice-department-announces-covid-19-fraud-strike-force-teams

As the primary federal law enforcement agency responsible for providing oversight of the UI program, the OIG has vigorously pursued COVID-19 pandemic-related UI fraud. In fact, we announced in September 2022 that OIG investigations had resulted in more than 1,000 individuals being charged with crimes involving UI fraud since March 2020.[31] This number has risen.



During the execution of a UI fraud search warrant, OIG agents recovered multiple firearms, UI debit cards, and notebooks containing personally identifiable information.

As of January 2023, our pandemic investigations have resulted in upwards of 700 search warrants executed and over 1,200 individuals charged with crimes related to UI fraud. These charges resulted in more than: 500 convictions; 11,000 months of incarceration; and $905 million in investigative monetary results. We have also referred over 23,000 fraud matters that do not meet federal prosecution guidelines back to the states for further action.

In one recent OIG investigation, 11 members and associates of the Brooklyn-based Woo Gang were charged with a multi-million-dollar pandemic UI fraud scheme.[32] In another recent OIG investigation, a former California Employment Development Department employee was sentenced to more than 5 years in prison for fraudulently obtaining nearly $4.3 million in pandemic relief UI funds.[33]

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[31] "Labor Watchdog's Pandemic Work Results in More Than 1,000 Individuals Charged with UI Fraud and $45.6 Billion Identified in Potentially Fraudulent Pandemic UI Benefits," press release (September 22, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/DOL-OIG%20Pandemic%20Work%20Results%20in%20More%20Than%201000%20Individuals%20Charged%20with%20UI%20Fraud.pdf. For more details about OIG investigations, please visit: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

[32] DOJ, U.S. Attorney's Office, Eastern District of New York, "11 Members and Associates of the Brooklyn-Based Woo Gang Charged with Multi-Million Dollar COVID Unemployment Insurance Fraud," press release, (February 17, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/11_Members_and_Associates_of_the_Brooklyn-Based_Woo_Gang_Charged_with_Multi-Million_Dollar_COVID.pdf

[33] DOJ, U. S. Attorney's Office, Central District of California, "One-Time EDD Employee Sentenced to More Than 5 Years in Prison for Fraudulently Obtaining Nearly $4.3 Million in COVID Relief Funds," press release (February 4, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/One-Time_EDD_Employee_Sentenced_to_More_Than_5_Years_in_Prison_for_Fraudulently_Obtaining_Nearly.pdf

In another OIG investigation, a Nigerian state official was sentenced to 5 years in prison for stealing U.S. disaster aid, including approximately $500,000 in pandemic-related unemployment benefits. The official stole the personal identifying information of more than 20,000 Americans to submit more than $2 million in claims for federally funded disaster relief benefits and fraudulent tax returns.[34]

Working with Domestic and International Law Enforcement Partners

Early in the pandemic, the OIG worked with the DOJ to create the National UI Fraud Task Force, a nine-agency federal task force focused on law enforcement intelligence sharing, deconfliction, joint national and regional messaging, and the effective use of investigative and prosecutorial resources. The National UI Fraud Task Force has also worked closely with partners at the International Organized Crime Intelligence and Operations Center (IOC-2) to develop a deconfliction process to coordinate investigative information across federal law enforcement agencies. Through data analytics and a leads generation process, the National UI Fraud Task Force and IOC-2 partner agencies have identified significant fraud committed against the UI program by domestic and international criminal organizations. Many of these include street-level criminal organizations with ties to illegal guns and drugs. These investigations are ongoing and actively being investigated through the National UI Fraud Task Force, the COVID-19 Fraud Enforcement Task Force, and the COVID-19 Strike Force initiative.

The OIG has been very engaged on DOJ's COVID-19 Fraud Enforcement Task Force. We have representation on its subcommittees involving communications, forfeiture, corporations and large business fraud, and data, and we co-chair the task force's criminal enterprise subcommittee. Recently, the OIG also joined the DOJ Strike Force initiative.

The OIG has also participated in other initiatives. For example, in 2020 and 2021, the OIG supported DOJ's annual Money Mule Initiative,[35] which aimed to raise awareness about and suppress money mule activity. Money mules are people who, at someone else's direction, receive and move money obtained from victims of fraud. The OIG conducted extensive internal and external outreach regarding money mules and identified and targeted money mules in coordination with DOJ and other partner agencies.

In addition, the OIG issued alerts to financial institutions about UI fraud both on its own and jointly with its partners, such as the U.S. Secret Service (Secret Service), Financial Crimes Enforcement Network (FinCEN), and the National UI Fraud Task Force. One

[34] DOJ, U.S. Attorney's Office, Western District of Washington, "Nigerian state official sentenced to 5 years in prison for stealing U.S. disaster aid and taxpayer refunds," press release (September 26, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/Nigerian_state_official_sentenced_5_years_stealing_disaster_aid_USAO%20WD-WA_09262022.pdf

[35] More information about DOJ's Money Mule Initiative is available at: https://www.justice.gov/civil/consumer-protection-branch/money-mule-initiative.

such joint OIG/Secret Service alert[36] served as a framework for the recovery of millions of dollars of fraudulent UI funds being held by financial institutions. Later, in 2021, the OIG authored a National UI Fraud Task Force alert issued through FinCEN to financial institutions requesting they identify funds they froze due to suspicion of fraud. The OIG created a process with DOJ and the Secret Service to collect that data and work with those financial institutions to return fraudulent funds to SWAs. The OIG and its law enforcement partners are working with hundreds of financial institutions in response to our request.

The PRAC has also played a pivotal role in amplifying the ability of OIGs to share information and conduct internal and external outreach to stakeholders that have been impacted by pandemic fraud. For example, the OIG worked with the PRAC on social media tool kits related to money mule activity and erroneous 1099-G forms that were issued to victims of UI fraud. The OIG has also worked with the PRAC, DOJ, and the Secret Service to create a web-based survey where financial institutions can more broadly report UI and other types of pandemic fraud. This information is being collected by the PRAC, analyzed by its partners, and, if appropriate, sent to field personnel for further action.

The OIG, through its membership in IOC-2, has also been engaged with several allied national police agencies to strategize about pandemic-related fraud and how to best establish practices to share information. The issue of pandemic fraud has not only been an issue for the United States, but it has also negatively impacted our foreign partners' pandemic programs. We have conducted outreach and education related to pandemic fraud, including UI fraud, with our Five Eyes[37] partner countries as participants on the International Public Sector Fraud Forum.

The OIG, IOC-2, and our federal law enforcement partners have identified numerous instances of international organized criminal groups engaged in UI fraud. We will continue to work with our domestic and international law enforcement partners on these matters.

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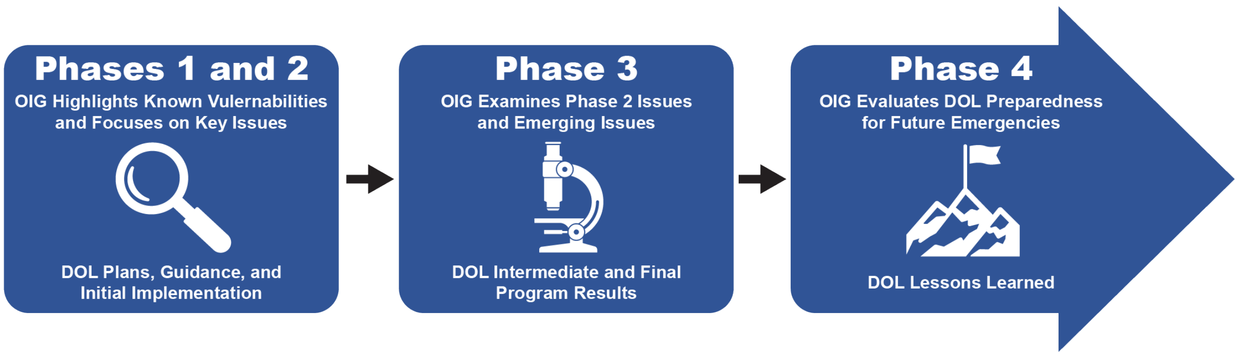
[36] Secret Service and OIG, "Detection and Mitigation of Unemployment Insurance Fraud Guidance for Financial Institutions," July 6, 2020, available at: https://www.neach.org/Portals/0/USSS-DOL%20OIG%20UI%20Advisory%207_6_2020.pdf

[37] Five Eyes is an intelligence alliance. The Five Eyes countries include Australia, Canada, New Zealand, the United Kingdom and the United States. The International Public Sector Fraud Forum consists of representatives from organizations from the Five Eyes countries, whose collective aim is to share best and leading practices in fraud management and control across public borders. International Public Sector Fraud Forum guidance is available at: https://www.gov.uk/government/publications/international-public-sector-fraud-forum-guidance.

OIG Pandemic Oversight Work

In April 2020, shortly after CARES Act enactment, we published our Pandemic Response Oversight Plan[38] detailing how the OIG would conduct its pandemic oversight, with a significant focus on the UI program. We designed our four-phased plan to provide recommendations to DOL to address current and emerging vulnerabilities with the pandemic response and to prevent similar vulnerabilities from hampering preparedness for future emergencies (see Figure 2).

Figure 2: The OIG's Four-Phased Design for Pandemic Oversight



Source: OIG Pandemic Response Oversight Plan

Phases 1 and 2, which are complete, focused on DOL's plans, guidance, and initial implementation of administration and oversight activities. Phase 3 audit work, assessing program results and emerging issues, is ongoing. Our Phase 4 work plans include summarizing our pandemic response oversight work and reporting on lessons learned related to UI, worker safety and health, and employment and training. We have published two plan updates, most recently on March 21, 2022, with another planned for FY 2023.

At the start of the pandemic, we examined past audits including those related to the Recovery Act and the DUA program,[39] and we assessed comparable lessons learned.

[38] Pandemic Response Oversight Plan (updated March 21, 2022), available at: https://www.oig.dol.gov/public/oaprojects/Updated%20Pandemic%20Response%20Oversight%20Plan%202022%20for%20Publication.pdf

[39] Examples include: Recovery Act: DOL Could Have Better Monitored the Use of Re-employment Services Funds to Adhere to Standards for Transparency and Accountability, Report No. 18-11-005-03-315 (March 31, 2011), available at: https://www.oig.dol.gov/public/reports/oa/2011/18-11-005-03-315.pdf; Recovery Act: States Challenged in Detecting and Reducing Unemployment Insurance Improper Payments, Report No. 18-16-005-03-315 (August 2, 2016), available at: https://www.oig.dol.gov/public/reports/oa/2016/18-16-005-03-315.pdf; and Audit of Florida Disaster Unemployment Assistance Grant Number 1359 - DR (March 26, 2004), Report No. 04-04-004-03-315 (March 26, 2004), available at: https://www.oig.dol.gov/public/reports/oa/2004/04-04-004-03-315.pdf.

As a result, in April 2020, we issued the previously noted advisory report[40] identifying six initial areas of concern for ETA and the states to consider while implementing CARES Act UI provisions: (1) state preparedness (specifically the issues of staffing and system capabilities), (2) initial eligibility determination, (3) benefit amount, (4) return to work, (5) improper payment detection and recovery, and (6) program monitoring. Our identification of these areas represents at least 16 years of work relating to DOL's UI program, including the response to past disasters. The advisory report summarized dozens of OIG recommendations to implement corrective action in these areas.

We have issued several subsequent reports, including alert memoranda addressing urgent concerns, involving the UI program, such as the following:

- In May 2020, we issued an alert memorandum[41] describing our concerns regarding claimant self-certification in the PUA program. In our view, reliance on such self-certifications rendered the PUA program highly vulnerable to improper payments including fraud. Subsequent to our work, Congress took action to require supporting documentation to improve states' abilities to ensure proper claimant eligibility and to mitigate fraud through the Consolidated Appropriations Act, 2021.

- In August 2020, we reported[42] states did not use existing tools effectively to combat fraud and other improper payments. We also stated ETA should work with the OIG to obtain access to state claimant data that could be used to identify and disrupt fraudulent schemes that threaten the integrity of UI programs, including those under the CARES Act.

- In May 2021, we reported[43] that DOL and states struggled to implement the three pandemic UI programs that posed the greatest risk for fraud, waste, and abuse: PUA, PEUC, and FPUC. 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, or reported accurate and complete program activities. This occurred primarily because states' IT systems were not modernized, staffing resources

[40] Advisory Report: CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf
[41] 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 (May 26, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf
[42] COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under The CARES Act Report No. 19-20-008-03-315 (August 7, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf
[43] COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf

were insufficient to manage the increased number of new claims, and, according to state officials, ETA's guidance was untimely and unclear.

- In November 2021, we issued[44] the Department a qualified opinion, for the first time in 25 years, on its consolidated financial statements and reported one material weakness related to pandemic-related UI funding. There were two primary causes for this issue: (1) the Department being unable to support \$47.3 billion it estimated for UI claims in appeal or unprocessed as of September 30, 2021, and (2) unreliable reporting of \$4.4 billion in UI benefit overpayments due to certain states' non-reporting of UI overpayment activity.

- In July 2022, we reported[45] that the Department did not meet the requirements for compliance with the Payment Integrity Information Act (PIIA) for FY 2021. PIIA requires federal agencies to identify programs susceptible to significant improper payments, estimate the improper payments for those programs, and report on actions to reduce the improper payments in those programs. While DOL met three of the six compliance requirements for UI programs, we found DOL did not meet the other three requirements: it did not publish all improper payment estimates, did not demonstrate improvement from the improper target rate published in FY 2020, and did not report an improper payment rate of less than 10 percent.

- In August 2022, we issued an alert memorandum[46] describing our concerns regarding states either not submitting required CARES Act UI program reports to ETA or reporting zero activity. We found the reporting to be deficient for the eight reports we examined. For the PUA program, which was highly susceptible to improper payments including fraud, seven states reported zero overpayments for all months during the entire program period of March 2020 through September 2021. Without accurate state performance information, Congress and ETA are not able to: fully assess state activities, mitigate the risk of overpayments including fraud, identify program weaknesses, or establish lessons learned that may be leveraged to improve states' performance under similar, future temporary programs.

[44] FY 2021 Independent Auditor's Report on the DOL Financial Statements, Report No. 22-22-003-13-001 (November 19, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2022/22-22-003-13-001.pdf
[45] The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2021, Report No. 22-22-007-13-001 (July 1, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/22-22-007-13-001.pdf
[46] Alert Memorandum: Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs, Report No. 19-22-004-03-315 (August 2, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-004-03-315.pdf

- As of September 2022, we have issued three alert memoranda[47] that identified a total of $45.6 billion in potentially fraudulent UI benefits paid from March 2020 through April 2022 in the four specific high-risk areas previously mentioned, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file UI claims with suspicious email accounts. We previously recommended in our June 2021 alert memorandum that ETA amend 20 Code of Federal Regulations Part 603 and update its guidance to provide the OIG with access to SWA UI data for all IG engagements authorized under the Inspector General Act of 1978, as amended (IG Act). In September 2022, we recommended ETA implement immediate measures to ensure ongoing OIG access to UI claims data for audit and investigative purposes and expedite regulatory updates to require ongoing disclosures of UI information to the OIG for audits and investigations of federal programs.

- In September 2022, we reported[48] ETA and states did not protect pandemic-related UI funds from historic levels of improper payments including fraud nor from payment delays. We attributed this to four causes: lack of eligibility testing, untimely oversight, PUA self-certification, and the 3-month suspension of a primary oversight tool. Additionally, DOL's interpretation of its regulations on data access hindered the OIG's timely and complete access to UI claims data to assist in detecting and deterring fraud. We estimated that, in the initial 6 months after the CARES Act passed, 4 states paid $30.4 billion in PUA and FPUC benefits improperly (42.4 percent) including $9.9 billion paid to likely fraudsters (13.8 percent). Further, based on our analysis of ETA's timeliness reports, at least 6.2 million American workers nationwide waited a month or more for pandemic-related UI benefits during the year after the CARES Act passed.

- In December 2022, for the second straight year, we issued[49] the Department a qualified opinion on its consolidated financial statements and reported one material weakness related to pandemic-related UI funding. There were two primary causes for this issue: (1) the Department was unable to support

[47] (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; and
(3) Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to $45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf

[48] COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf

[49] FY 2022 Independent Auditor's Report on the DOL Financial Statements, Report No. 22-23-002-13-001 (December 13, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2023/22-23-002-13-001.pdf

$7.9 billion it estimated in remaining pandemic-related UI claims in appeal or unprocessed as of September 30, 2022, and (2) the Department was unable to support the $3.5 billion it estimated in remaining pandemic-related UI benefit overpayment receivables.

OIG Recommendations

The OIG has made several recommendations to DOL and Congress to improve the efficiency and integrity of the UI program. While action has been taken to resolve some recommendations, further action is needed to close them. Summaries of key recommendations that remain open follow.

OIG Recommendations to DOL

OIG Access to Claims and Wage Data

- Implement immediate measures to ensure ongoing OIG access to UI claims data for all audit and investigative purposes
- Expedite regulatory updates to require ongoing disclosures of UI information to the OIG for audits and investigations of federal programs

Staffing and Systems for Prompt Payments during Emergencies

- Continue to work with states to develop, operate, and maintain a modular set of technological capabilities (i.e., staffing and replacing legacy IT systems) to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment
- Create a rapid response team consisting of federal and state officials capable of providing technical and other assistance to SWAs impacted by major disasters
- 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
- Develop standards for providing clear and reasonable timeframes to implement temporary programs to establish expectations for prompt benefit payments to claimants

Controls for Improper Payments

- Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to potentially ineligible claimants, including multistate claimants, claimants who used Social Security numbers of deceased persons and federal prisoners, and claimants with suspicious email accounts

- Include CARES Act UI transactions in the Benefit Accuracy Measurement (BAM)[50] system or develop an alternative methodology to reliably estimate improper payments for those programs
- For DOL financial statements, design and implement controls to ensure management's reviews of [UI program] estimates are performed at a sufficient level of detail and adequate documentation is maintained to assess the reasonableness of the estimates

Guidance and Assistance to States

- 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
- Examine the effectiveness of the BAM system contact verification process to ensure it reflects the current methods claimants use to seek work

Coordination with Congress

- Work with Congress to establish legislation requiring SWAs to cross-match in high-risk areas, including to individuals with Social Security numbers: filed in multiple states, of deceased persons, of federal prisoners, and with suspicious email accounts

OIG Recommendations to Congress

In addition, Congress should consider legislative proposals included in prior DOL budget requests and pass legislation to improve UI program integrity. The DOL proposals include the following:

- 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.

These legislative proposals are consistent with previous OIG findings and recommendations to improve the UI program.

The OIG has also recommended that Congress ensure DOL and the OIG have ongoing, timely, and complete access to UI claimant data and wage records for our respective

[50] BAM is a quality control statistical survey used to identify errors and support corrective action in the state UI system. It usually focuses on the three major UI programs: regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-service members. The BAM data are an estimate of the total improper payments in the UI program, in each state and the nation as a whole, based on a statistically valid examination of a sample of paid and denied claims.

oversight responsibilities. In addition, in our November 2022 Semiannual Report to Congress, the OIG recommended that Congress extend the statute of limitations for fraud involving pandemic-related UI programs, and authorize OIG participation in asset forfeiture funds to combat UI fraud and other crimes.

DOL's Progress

The Department has emphasized the progress it has made in addressing challenges with the UI program. According to DOL, it has instituted efforts to focus on program integrity when implementing the pandemic-related UI programs. These efforts include establishing agreements 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 its guidance relevant to UI funds. In addition, DOL has reinforced the need for SWAs to actively work with the OIG to address fraud in the UI program. As previously mentioned, GAO recently reported that DOL has yet to develop an antifraud strategy to ensure it addresses the most significant fraud risks facing the UI system.[51]

The Department has facilitated the OIG's access to UI data but only for benefit weeks covered by CARES Act programs and related extensions. In addition, ETA has required grant recipients to share state UI data with the OIG as a condition of the fraud prevention grants offered under the American Rescue Plan Act of 2021 (ARPA), which will provide such access through December 31, 2023. However, three states did not receive the grants; therefore, the data provided to the OIG will be incomplete. The OIG needs access to all UI program data to effectively do its job.

On August 31, 2021, the Department announced the establishment of the Office of Unemployment Insurance Modernization to work with state and federal partners to modernize and reform the UI system.[52] According to DOL, the Office of Unemployment Insurance Modernization will provide oversight and management of the $2 billion allotted to UI initiatives by ARPA to prevent and detect fraud, promote equitable access, ensure timely benefit payments, and reduce backlogs.

The Department also noted it has announced grant opportunities to states, including funds for pilot states to engage community-based organizations to help workers learn about UI benefits and related services and to support state agencies in delivering timely benefits to workers. DOL stated it has also made progress on implementing further grant opportunities, such as for: fraud prevention, promoting equitable access to UI programs, the Tiger Teams initiative to consult with states in improving UI systems and

[51] GAO, Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy, Report No. GAO-23-105523 (December 22, 2022), available at: https://www.gao.gov/products/gao-23-105523
[52] For information about the strategic vision outlined in August 2021 UI modernization plans, a fact sheet is available at: https://oui.doleta.gov/unemploy/pdf/FactSheet_UImodernization.pdf.

processes, and the opportunity to participate in its UI IT Modernization Project-Claimant Experience Pilot.[53]

OIG Challenges Overseeing the UI Program

The OIG's three biggest challenges overseeing the UI program are in the areas of data access, resource limitations, and the statute of limitations related to UI fraud.

Data Access

The OIG's lack of ongoing, timely, and complete access to UI claimant data and wage records from SWAs remains a significant challenge. This deficiency directly and adversely impedes the OIG's ability to provide independent oversight and combat fraud, waste, and abuse to help DOL reduce improper payments in its programs, including regular and temporary UI programs.

The power and use of data and predictive analytics enables the OIG to continuously monitor DOL programs and operations to detect and investigate fraud. Continuous monitoring serves as a deterrent to fraud, allows the OIG to promptly discover areas of weakness, and assists DOL management to timely correct problems. However, the OIG's ability to proactively detect UI fraud through our audit and investigative activities continues to be impacted by these data concerns.

Prior to August 2021, DOL required SWAs to disclose UI data only for specific fraud investigations. DOL asserted it lacked the authority to require SWAs to provide UI data to the OIG for audits. As a result, the OIG was forced to take the unprecedented step of using Inspector General subpoenas to obtain this critical data. DOL's interpretation of its regulations hindered the OIG's ongoing, timely, and complete access to state UI claims data to assist in detecting and deterring large-scale fraud.

Specifically, DOL continues to interpret regulations[54] as prohibiting ETA from requiring SWAs to provide UI data to the OIG for all audit and investigative purposes, except those involving specific instances of suspected fraud. This interpretation and subsequent guidance to SWAs contradict the IG Act, which authorizes mandatory OIG access to DOL grantee information, including SWAs' UI data.

[53] For more details, Training and Employment Notice No. 16-21 is available at: https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEN/2021/TEN_16-21.pdf.
[54] 20 Code of Federal Regulations Part 603

In our June 2021 alert memorandum,[55] we recommended that ETA amend its regulations[56] through the rulemaking process to reinforce that SWAs' UI information must be provided to the OIG for all IG engagements authorized under the IG Act, including audits, evaluations, and investigations. To date, ETA has implemented only a temporary solution. On August 3, 2021, ETA issued guidance[57] requiring SWAs to disclose UI data to the OIG for audits and investigations during the period January 27, 2020, to September 6, 2021. ETA also awarded fraud prevention grants to states conditioned on requiring OIG access to their UI data for investigative and audit purposes through December 31, 2023.

However, ETA's actions are not sufficient to resolve the OIG's recommendations or concerns. In response to our recommendations, ETA has taken limited actions to support the OIG having access to UI data. For example, it published guidance that reminded states of the OIG's authority under the IG Act and strongly encouraged states to comply with OIG requests. ETA also informed us it is considering comprehensive updates to the relevant regulations. We met with ETA numerous times and requested a written plan with projected timelines. ETA provided a plan to the OIG in July 2022. The projected timeline creates a 14-month gap between when the grants requiring OIG access end on December 31, 2023, and the publication of updated regulations anticipated to be effective in February 2025. Unless the Department implements an interim solution ensuring the OIG's complete and timely access to UI program data and information by the end of 2023, the Department's regulations will renew impediments to the OIG's access experienced prior to and during the pandemic and may necessitate additional subpoenas.

While the OIG and ETA agree that changing regulations requires notice and comment rulemaking, an immediate and legally sound interim solution is available to ETA. In the alert memorandum issued September 21, 2022, the OIG highlighted the Department's authority to amend its interpretation of its regulations without changing the regulations themselves. ETA could immediately amend its interpretation of its regulations to be consistent with the IG Act. Specifically, ETA can issue guidance to inform SWAs that they must timely provide UI data to the OIG for audits and investigations consistent with the IG Act. The historic levels of improper payments that the OIG has identified, including potential fraud, supports the conclusion that the OIG's continued access to state UI data is imperative.

To aid in resolving this issue, we previously requested that Congress consider legislative action to authorize DOL and the OIG to have unfettered access to UI claimant data and wage records for our oversight responsibilities. Unfettered access to states' UI claimant data and wage records systems would further enable the OIG to

[55] 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 the 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
[56] 20 Code of Federal Regulations Part 603.5 and Part 603.6(a)
[57] Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1

quickly identify large-scale fraud and expand its current efforts to share emerging fraud trends with ETA and SWAs to strengthen the UI program and deter fraud before it occurs. In addition, conducting data analytics from such 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. To underscore this point, based on the data obtained by the OIG, our auditors, investigators, and data scientists in our Office of Audit and Office of Investigations worked collaboratively to identify $45.6 billion of dollars in potential UI fraud[58] paid in the four specific high-risk areas, such as to multistate claimants and deceased persons.

Resource Limitations

The OIG greatly appreciates that Congress appropriated a total of $38.5 million in supplemental funding during the pandemic to fund the OIG's oversight of expanded DOL programs and operations. However, most of this funding will be fully expended by the first or second quarter of FY 2024. In addition, the OIG's FY 2021 and FY 2022 appropriations remained flat and the FY 2023 appropriation was $11 million less than requested. As a result, the OIG is currently in the process of reducing its workforce through attrition. This includes reducing our investigative capacity by approximately 20 percent by the end of FY 2023. Similarly, from an oversight perspective, the OIG has had to cancel 10 audits related to pandemic oversight that were planned for FY 2023. These reductions in the OIG's investigative and audit capacity are of great concern given the issues discussed in this testimony.

Today, the OIG has 111 field agents to investigate approximately 2,000 investigative matters currently assigned to our field offices, an average of 18 investigative matters per agent. The ideal caseload per agent is between 5 and 10 open investigative matters, which ensures that the matter can proceed efficiently through the investigative and prosecutorial processes. It is important to note that the OIG is still reviewing approximately 162,000 open UI fraud complaints received throughout the pandemic and continues to receive between 100 to 300 new UI fraud complaints each week.

In addition, based on past oversight experience of federal UI disaster aid, the OIG expects to be actively investigating UI fraud relating to the pandemic for several years. The OIG will likely be conducting these investigations through at least September 2026 when the statute of limitations for most pandemic-related violations will have expired. In many cases, the statute of limitations will expire sooner than that. We simply do not have the resources to review the 162,000 open UI fraud complaints and to conduct investigations of each instance of suspected fraud before the statute of limitations expires.

Similarly, the OIG has less than 100 auditors to oversee DOL programs that cost taxpayers billions of dollars each year. The OIG intended to use its remaining ARPA

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[58] Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to $45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf

funds to conduct additional oversight work using contractors and to support that work using contract data analysts and scientists. However, the OIG is now forced to use the remaining ARPA funds to fund salaries and benefits of employees brought on board during the pandemic to assist with the oversight of pandemic-related programs and operations. This will result in fewer audits and recommendations for improvement of pandemic-related programs and operations.

Finally, although the OIG has focused the majority of its audit and investigative resources on UI benefit programs, the OIG has extensive responsibilities covering other high-risk DOL programs that continue to warrant significant oversight, including:

- other worker benefit programs, such as workers' compensation;
- worker safety and health, including occupational and miner safety and health and workplace rights;
- employment and training programs, including grants and the Job Corps program;
- statistics, legal and international programs, and contracting;
- information technology and data analytics;
- financial management and single audits; and
- other DOL operations and programs.

Areas of significant concern include managing medical benefits such as opioids, maintaining the integrity of Foreign Labor Certification programs, protecting the security of employee benefit plan assets, ensuring the solvency of the Black Lung Disability Trust Fund, and improving the Job Corps' procurement process. It is a crucial time for the OIG to help DOL ensure programmatic strength to review the effectiveness, efficiency, economy, and integrity of DOL programs and operations.

Over the past 10 fiscal years, on average, every dollar invested in the OIG resulted in a return on investment of nearly 75 dollars to the federal government and American taxpayers. Over this period, the OIG identified more than $69 billion including questioned costs and funds recommended to be put to better use. The OIG offers an important investment for U.S. taxpayers, particularly in times of resource constraint.

Statute of Limitations

We are concerned that, unless Congress acts to extend the statute of limitations for fraud associated with pandemic-related UI programs, many groups and individuals that have defrauded the UI program may escape justice. Even with the OIG's tireless efforts, the current statute of limitations associated with UI fraud means federal law enforcement may still fall short in fully investigating and prosecuting the most egregious cases of UI fraud, especially given the volume and complexity of UI fraud matters we are tasked to investigate. Currently, the statute of limitations for many of these cases will expire in 2025 as the statutes most often used to prosecute UI fraud have 5-year limitations.

Pandemic-related UI fraud referrals that we receive often include complex schemes involving criminal enterprises and bad actors who use sophisticated techniques to maintain their anonymity. For instance, in a recent pandemic-related UI fraud investigation into the theft of over $4 million in UI benefits from a SWA, conspirators orchestrated a scheme to file UI claims using stolen identities, which were often associated with elderly citizens.[59] The conspirators then opened bank accounts using the stolen identities for the sole purpose of having fraudulent UI proceeds deposited into them. They withdrew the fraudulent proceeds and purchased money orders made out to themselves and to an online vehicle auction company. The conspirators then laundered the UI funds by using the money orders to purchase salvaged automobiles in the United States and ship them to Nigeria. They also facilitated the transfer of conspiracy proceeds to overseas bank accounts in Nigeria. This complex fraud investigation spanned both domestic and foreign jurisdictions. The defendants have been convicted of conspiracy to commit wire fraud.

Criminal investigations like this one require significant resources and time. Although the OIG is currently returning to pre-pandemic staffing levels due to limited resources, we had temporarily leveraged resources from Congress to hire more criminal investigators and significantly expand the number of staff reviewing UI fraud matters. We have also leveraged additional federal resources by partnering with DOJ and other federal law enforcement agencies. While these investigative resources have helped us address the incredible volume of UI fraud matters, the OIG anticipates identifying and investigating pandemic-related UI fraud until the statute of limitations expires, which, absent congressional action, will start to expire in early 2025.

In August 2022, an extension of the statute of limitations was implemented for crimes involving the U.S. Small Business Administration's Paycheck Protection Program and Economic Injury Disaster Loan program.[60] Congress should likewise consider extending the statute of limitations for existing laws when pandemic-related UI programs are defrauded. The expansion of the statute of limitations would provide investigators and prosecutors time to effectively and efficiently pursue and hold accountable those who defrauded the UI program and victimized the American people during the pandemic.

OIG Ongoing and Planned 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 audit reports covering critical areas of concern and opportunities for improvement in the UI program.

[59] DOJ, U.S. Attorney's Office, Northern District of Alabama, "Georgia Resident Pleads Guilty to COVID-19 Unemployment Fraud Targeting Several States," press release (June 8, 2022), available at: https://www.justice.gov/usao-ndal/pr/georgia-resident-pleads-guilty-covid-19-unemployment-fraud-targeting-several-states

[60] The White House, "Bills Signed: H.R. 7334 and H.R. 7352," (August 5, 2022), available at: https://www.whitehouse.gov/briefing-room/legislation/2022/08/05/bills-signed-h-r-7334-and-h-r-7352/

Planned and in-progress[61] Phase 3 audit work includes:

- ETA's efforts to ensure UI program integrity;*
- DOL's oversight of emergency UI administrative transfers to states;*
- ETA and state efforts to detect and recover overpayments;*
- adequacy of state IT resources;*
- adequacy of state staffing resources;*
- effectiveness of programs for nontraditional claimants;*
- effectiveness of the Temporary Full Federal Funding program;*
- effectiveness of the Short-Time Compensation program;*
- effectiveness of the Mixed Earners Unemployment Compensation program;*
- effectiveness of the Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes program;*
- PRAC Case Study Project on federal pandemic response funds in select geographic areas;*
- concerns over use of third-party identity verification contractors;*
- ETA and states' efforts to address multistate claimants;*
- ETA and states' efforts to address claimants using the Social Security numbers of deceased persons;*
- ETA and states' efforts to address claimants using the Social Security numbers of federal prisoners;*
- ETA and states' efforts to address claimants with suspicious email accounts;*
- concerns over data warehousing and analytics to prevent UI fraud;*
- DOL and states' oversight of UI claimants return to work;
- ARPA Equity Grants; and
- impact of waivers on UI overpayments, fraud investigations, and recoveries.

Conclusion

Mr. Chairman, the OIG remains committed to providing vigilant oversight of the UI program. As I discussed today, keeping fraud out of the UI program through preventative efforts and controls and quickly rooting it out when it occurs are requisite undertakings to ensure that unemployed workers receive much needed benefits without delay while protecting tax dollars directed towards sustaining the UI system. We will continue to work closely with Congress, DOL, and our law enforcement partners to keep these important benefits available for workers in need.

Beyond our UI work, the OIG's pandemic oversight continues to involve a substantial focus on other essential programs operated by DOL, including worker safety and health and employment and job training programs. We also continue oversight over numerous other areas including: combatting threats to the integrity of foreign labor certification

[61] Audits in progress are marked with an asterisk (*).

programs, addressing the opioid crisis by fighting fraud against the Federal Employees' Compensation Act program, and overseeing the efficiency and integrity of other important DOL programs and operations.

Thank you for the opportunity to testify at today's hearing. I would also like to take a moment to thank the dedicated employees of the OIG, who continue to work tirelessly in support of the agency and our essential oversight mission.

I would be pleased to answer any questions you or the other members of the Committee may have.