

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT


U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



October 7, 2020

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: JOHN PALLASCH 
Assistant Secretary for Employment and Training

SUBJECT: Response to the Office of Inspector General Draft Report Number
19-20-XXX-03-315 – *COVID-19: States Cite Vulnerabilities in
Detecting Fraud While Complying with the CARES Act UI
Program Self-Certification Requirement*

Thank you for the opportunity to respond to the Office of Inspector General (OIG) draft report, *COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement*. The draft report provides the OIG's conclusions regarding actions taken by the Employment and Training Administration (ETA) and states to deter and detect fraud relating to the Pandemic Unemployment Assistance (PUA) program's self-certification process required in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The draft report focuses largely on state-provided information in response to an OIG-administered survey related to the implementation of the PUA program, with particular focus on the self-certification process.

As previously communicated to the OIG, ETA shares the OIG's concerns regarding potential fraud in the PUA program, arising from the self-certification eligibility process established under the CARES Act, and agrees that the PUA program's legal structure makes it vulnerable to fraud. For this reason, ETA has taken significant action to address improper payments and fraud in the Unemployment Insurance (UI) system stemming from the CARES Act and will continue to expand upon these efforts. ETA remains committed to working with states to ensure full compliance and faithful execution of the CARES Act.

When ETA becomes aware a state is being targeted by fraud schemes, it immediately reaches out to work with the state and provide assistance, as well as to advise the state on all appropriate steps and available resources to prevent and detect fraud and to recapture payments, where appropriate. ETA is also working to ensure states collaborate with the OIG and other federal law enforcement entities to identify and disrupt these organized fraud schemes. The Department of Labor (Department) continues to actively work with the OIG's Office of Investigations – Racketeering and Fraud, states, and other partners to aggressively address UI program fraud. Most recently, ETA partnered with the Inspector General's office to discuss this important matter with the states, articulating the key actions all states must take to prevent fraud in the PUA program, and other UI programs.

Additionally, the Department has included program integrity requirements for states in the majority of its issued operational guidance associated with the CARES Act. The most recently

issued UI Program Letters (UIPL) specifically require actions to prevent and detect improper payments and fraud and advises states of available resources to address this issue. For example, in UIPL No. 23-20, the Department provides guidance on tools available to states to prevent and detect improper and fraudulent payments, and in UIPL No. 28-20, the Department provided states \$100 million nationally in funding to assist with efforts in deterring fraud in the CARES Act UI programs.

The Department is committed to ensuring states have access to the most innovative and effective tools and resources to combat new and emerging fraud schemes. The Department created the UI Integrity Center (Center) and operates it in partnership with the National Association of State Workforce Agencies to support states by providing information, tools, and resources to address fraud and improper payments in the UI program. The Center is a significant technical assistance resource for state UI agencies that continues to develop new expertise and resources during the course of the COVID-19 pandemic. Among its assets, the Center operates an Integrity Data Hub—a secure, robust, and centralized multi-state data system that provides multiple solutions to support prevention and detection of fraud, including an identity verification solution states can use when claims are first filed, a Suspicious Actor Repository, a Fraud Alert System, and other data sources designed to identify potential fraud. State best practices are captured and disseminated through the Department’s UI Community of Practice on ETA’s technical assistance website, WorkforceGPS, and on routine state coordination calls focused on fraud prevention. The Center also provides states with in-depth consultations and coaching on fraud prevention strategies, including data mining and analytics, to respond to specific fraudulent activities affecting the state. The Center’s resources also include a National Integrity Academy with training modules for state staff specifically focused on fraud prevention and investigation. The Department and the Center are also actively communicating with banking institutions and their associations to promote relationships with states to establish effective partnerships to detect fraudulent activities and recover fraudulent overpayments.

Finally, as recently as September 29, 2020, the Secretary of Labor issued a letter to Governors of the 50 states, Puerto Rico, the U.S. Virgin Islands, Guam and American Samoa, and the Mayor of the District of Columbia to stress the importance of program integrity, preventing fraud, and partnering with the Department and the Center in this endeavor. The letter provided information on nine specific focus areas for state action on this critically important matter.

The Department also notes that on page 5 of the draft report, the OIG states that “the Department’s Solicitor’s office asserts that states have no authority to require claimants to provide documentation of wages earned or income verification” as a condition of eligibility. As we have stated in response to previous OIG reports, the Department’s Solicitor’s Office performed a legal analysis of this issue, and this position is based on the Department’s legal interpretation of the statutory provision.

Thank you again for the opportunity to respond to this draft report.

Enclosure