



September 22, 2023

MEMORANDUM FOR: BRENT PARTON
Principal Deputy Assistant Secretary
for Employment and Training

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

FROM: CAROLYN R. HANTZ
Assistant Inspector General
for Audit

SUBJECT: COVID-19 – ETA Can Improve its Oversight to
Ensure Integrity over CARES Act UI Programs
Report No. 19-23-011-03-315

The purpose of this memorandum is to alert Employment and Training (ETA) management to three matters relating to the National Association of State Workforce Agencies (NASWA) that require attention. These matters resulted from our audit of ETA's oversight of Unemployment Insurance (UI) integrity for three key Coronavirus, Aid, Relief, and Economic Security (CARES) Act programs: Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, and Federal Pandemic Unemployment Compensation. This memorandum is not intended to address our complete audit objective. Given the additional work required to report on the objective as a whole, we are only reporting on the matters expressed in this memorandum and will subsequently close this audit. We anticipate that other ongoing and future work will address the remaining areas of focus not reported here.

NASWA is a national organization representing 53 state workforce agencies that includes all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. NASWA's mission is to "enhance state workforce agencies' ability to accomplish their goals, statutory roles and responsibilities." Part of NASWA's duties includes running the Integrity Data Hub (IDH). The IDH is a centralized platform that brings state workforce agencies together to compare and analyze UI claims data for enhanced detection and prevention of UI fraud and improper payments.

During the audit, we performed a comparative analysis of the effectiveness of NASWA's IDH. We also reviewed the terms of the cooperative agreement for NASWA's IDH (see Attachment I for full methodology).

Background

On March 27, 2020, Congress passed the largest stimulus package in U.S. history, the CARES Act. The estimated \$2.2 trillion package created the three key UI programs previously listed. The legislation required the U.S. Department of Labor to provide guidance, technical assistance, and oversight of states'¹ implementation of these programs. ETA is responsible for oversight of these key CARES Act UI programs.

In support of UI program integrity, ETA provided states with guidance and assistance to detect improper payments, including fraud. For example, ETA issued Unemployment Insurance Program Letter No. 23-20, which required states to maintain key eligibility determination processes for regular UI claims to be in conformity and compliance with federal UI laws. It also encouraged states to use NASWA's UI Integrity Center's tools, including the IDH, to ensure UI program integrity; to prevent, detect and recover improper UI payments; and to reduce UI fraud.

ETA and NASWA's Center for Employment Security Education and Research, Inc., entered into a cooperative agreement signed on March 27, 2018, to, among other things, establish and operate the IDH. The IDH is a part of NASWA's UI Integrity Center and is a tool to develop, implement, and promote innovative program integrity strategies to reduce improper payments.

ETA has two seats on NASWA's steering committee and its role as a member of the steering committee is to monitor, oversee, and provide guidance and direction for the UI Integrity Center. Further, ETA's role includes:

- facilitating connections between the UI Integrity Center and federal agencies implementing anti-fraud screening systems,
- leveraging ETA's UI Community of Practice to disseminate the UI Integrity Center's deliverables, and
- assigning a Federal Project Officer to monitor and inspect the UI Integrity Center's financial performance and products on an ongoing basis.

¹ In this memorandum, the term "state" refers to the administrative body that administers the 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 state workforce agency. There are, therefore, 53 state workforce agencies. The CARES 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 signed an agreement with the Department.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Our audit work focused on ETA's UI oversight activity from March 27, 2020, to June 30, 2021.

RESULTS

ETA needs to improve its oversight of NASWA's IDH. First, we found that ETA did not ensure an initial assessment of NASWA's IDH was performed in compliance with federal requirements. Second, we found ETA did not provide documentation it evaluated NASWA's security assessment reports. Because NASWA receives and stores UI data containing claimants' personally identifiable information (PII) from participating states, it is imperative that the information stored in the IDH is secure and protected. ETA must ensure all federally-mandated authorizations and monitoring activities of the IDH are performed and documented and any issues identified are sufficiently mitigated.

Last, we found the IDH was less effective at identifying potentially improper multistate claims when compared to the Office of Inspector General's data. The IDH's effectiveness was further limited by the varying participation of states in providing data for analysis. Greater oversight of IDH performance is needed if ETA and states' reliance on this tool for program integrity, including fraud identification, is to continue.

ETA DID NOT ENSURE AN INITIAL ASSESSMENT OF NASWA'S IDH WAS PERFORMED

Despite the need for an effective and secure system, ETA did not have controls in place to ensure the Office of the Chief Information Officer's (OCIO) awareness and approval of the system-related terms of the ETA-NASWA cooperative agreement regarding the IDH. As a result, neither ETA nor any other independent entity conducted an initial assessment or audit of NASWA's IDH system in compliance with Office of Management and Budget Circular A-130.

DOL's authorizing official defined by departmental policy² is responsible under Office of Management and Budget Circular A-130 to complete an initial authorization to operate for each information system and all agency designated common controls. The initial authorization to operate is based on a determination of, and explicit acceptance of, the risk to agency operations and assets, individuals, other organizations, and the Nation, and prior to operational status. DOL's authorizing official would be responsible for such initial authorization and

² Department of Labor Manual Series 7-408.G

ongoing authorizations, as well as establishing information security continuous monitoring and privacy continuous monitoring programs in accordance with relevant National Institute of Standards and Technology standards that continually assess the risk of the IDH. DOL's authorizing official is a senior agency management official or designee. As it relates to the IDH, ETA was responsible for notifying OCIO of its requirement to serve in this capacity and perform the necessary security reviews of this system.

According to the Chief Information Security Officer, OCIO did not perform any assessments or evaluations of NASWA's IDH during the selection process for the cooperative agreement between NASWA and ETA. The Chief Information Security Officer stated the IDH was not evaluated initially because ETA did not inform OCIO of the need to review the IDH during the selection phase.

ETA DID NOT ENSURE OCIO TIMELY EVALUATED NASWA'S SECURITY ASSESSMENT REPORTS

ETA did not require a security assessment of the IDH system to be performed for more than 2 years after signing the cooperative agreement with NASWA for the operation of the IDH. Further, ETA did not ensure OCIO reviewed the results of the assessments or audits performed in a timely manner.

A Notice of Award between ETA and NASWA, signed on September 18, 2020, included funding to contract for system security audit services for the next 4 years, with an initial task of providing a complete audit of the IDH system security and yearly follow-on tasks providing audits of portions of the system.

The contractor performed their first NASWA system security audit, a Cyber Maturity Assessment for NASWA's IDH, and issued a report dated September 17, 2020. In addition to the contracted audit, the following security audits were performed by cybersecurity service providers during 2020:

- technical analysis/penetration test of NASWA's Suspicious Actor Repository, issued February 14, 2020; and
- risk assessment of NASWA's UI-ICON system, issued in December 2020.

Although the assessments were completed in 2020, OCIO did not start reviewing the assessments until August 2021. This was due to ETA's late notification of the requirement to review. On February 23, 2022, OCIO notified the Office of Inspector General that it completed its review. However, OCIO had no written documentation that supported the completion of this effort.

ETA's Responsibility for Safeguarding Sensitive Data

The September 18, 2020, Notice of Award between ETA and NASWA provided that NASWA must comply with the requirements in ETA's Training and

Employment Guidance Letter 39-11, Guidance on the Handling and Protection of Personally Identifiable Information (PII), which specifies:

ETA has examined the ways its grantees, as stewards of Federal funds, handle PII and sensitive information and has determined that to ensure ETA compliance with Federal law and regulations, grantees must secure transmission of PII and sensitive data developed, obtained, or otherwise associated with ETA funded grants.

It also states:

Grantees shall ensure that any PII used during the performance of their grant has been obtained in conformity with applicable Federal and state laws governing the confidentiality of information.

Thus, ETA must monitor and evaluate NASWA and the IDH for compliance with federal requirements related to the storage, safeguarding, and handling of PII.

Also, Training and Employment Guidance Letter 39-11 and ETA's cooperative agreement with NASWA required that NASWA ensure the IDH is compliant with the Federal Information Security Modernization Act of 2014 (FISMA).³ Federal agency responsibilities under FISMA are laid out in FISMA § 3554. Based on FISMA requirements, DOL must periodically assess the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency. DOL must also conduct periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, no less than annually.

In addition, FISMA § 3554(a)(1)(C) requires DOL to ensure information security management processes are integrated with agency strategic, operational, and budgetary planning processes. In order to properly equip NASWA to fulfill FISMA requirements, ETA needs to verify NASWA has budgeted for FISMA compliance, including how this was factored into its design and operation of the IDH.

Stronger Processes are Needed to Ensure Continued Protection

For almost 4 years, ETA did not ensure NASWA's IT systems safeguarded and maintained the integrity of stored and communicated data. ETA must ensure all federally-mandated authorizations and monitoring of the IDH are performed and documented timely.

³ FISMA, Pub. L. 113-283, 42 U.S.C. §§ 3551-3559

Ultimately, upon review, OCIO indicated it found no issues with NASWA's IDH security assessments and had one minor recommendation: that NASWA consider creating a unified report to document all identified risks to the system in one place. The Chief Information Security Officer stated he would provide that recommendation to ETA to relay to NASWA and he would not be sending an official report to NASWA.

ETA's continued oversight of these security assessments is critical to ensure adequate protection of the data within the IDH. This is particularly important as ETA has strongly encouraged states to participate and provide sensitive claimant PII for multi-party use.

NASWA'S IDH WAS LESS EFFECTIVE IN IDENTIFYING POTENTIALLY IMPROPER MULTISTATE CLAIMS WHEN COMPARED TO THE OFFICE OF INSPECTOR GENERAL'S DATA

Additionally, we found that NASWA's IDH can improve its ability to identify a greater number of potentially fraudulent multistate claims. The IDH seeks to improve UI program integrity by identifying potentially improper UI claims as flagged transactions from the cross-matching of data it performs. ETA issued Unemployment Insurance Program Letter 23-20 encouraging states to use the IDH. However, ETA lacks the authority to require states to use NASWA's IDH, which affects the data available that the IDH can use to cross-match. We compared the flagged transactions identified by the IDH to those we identified from subpoenaed data to evaluate the effectiveness of NASWA's IDH.

Specifically, our analysis found that the IDH was not able to identify the same amount of potentially improper multistate claims when compared to the Office of Inspector General's data. NASWA's IDH identified 39.7 percent of the potentially improper multistate claims when compared to those identified by the Office of Inspector General data for the same states using NASWA's multistate methodology.

Using NASWA's methodology, we performed a comparative analysis of NASWA's IDH flagged transactions to the potentially improper multistate claims identified by the Office of Inspector General. NASWA's flagged transactions were based on a certain number of claims filed, for a specific individual, in multiple states. This methodology included a threshold that was higher than what the Office of Inspector General would use to flag improper multistate claims. We obtained data from the IDH for September 2020, in which 19 states⁴ participated. We found NASWA's data included 735 potentially improper multistate claims.

⁴ As of February 22, 2023, 53 states had a participation agreement to use the IDH. However, the existence of a participation agreement does not provide information on whether the participants are using the IDH or the frequency in which they use the IDH.

We then evaluated the Office of Inspector General's state subpoenaed data for September 2020, and adjusted it to the 19 states and threshold used by NASWA. In doing this, we identified 1,851 potentially improper multistate claims. Therefore, we found NASWA only flagged 39.7 percent (735 of 1,851) of potentially improper multistate claims.

Based on our analysis, NASWA's IDH is limited in its effectiveness in identifying potentially improper payments, including fraud. This is further compounded by the fact that the IDH lacks consistent, regular participation of enrolled states. ETA officials maintained it did not have the authority to require states to participate in the IDH, nor did ETA have an alternate means of meeting the same program integrity objectives when a state opted out of participation. As such, state UI programs dependent on NASWA's IDH as a tool for reducing improper payments are vulnerable to under-detecting potentially improper payments, including fraud, due to lack of consistent, regular participation in the IDH by states and NASWA's higher threshold for identifying potentially improper payments.

RECOMMENDATIONS

We recommend the Acting Assistant Secretary for Employment and Training:

1. Implement a process to ensure OCIO performs required reviews of NASWA's IDH system in a timely manner.
2. Complete an evaluation of the effectiveness of the IDH system, including the methodology used in cross-matching data.
3. Determine the best threshold for flagging multistate claims in conjunction with NASWA.

SUMMARY OF ETA'S RESPONSE

On September 6, 2023, ETA provided us its formal response to the draft memorandum and recommendations (see Attachment II). ETA partially agreed with our first two recommendations and agreed with the third recommendation. In its response, ETA stated it has taken some corrective actions to address our recommendations.

For recommendation 1, ETA stated it agreed with the spirit of the recommendation but believed, according to DLMS 7-402, the IDH does not meet the definition of a federal information system, does not contain any DOL data, and did not require an initial assessment. To address the spirit of the recommendation, ETA did agree that oversight of the IDH is appropriate according to the terms of ETA's cooperative agreement. ETA stated it has taken some action regarding recommendation 1. Specifically, ETA and OCIO have implemented a process to involve OCIO in periodic reviews of the IDH in a timely

manner. Further, ETA added requirements to the cooperative agreement with NASWA on September 27, 2022, that requires the UI Integrity Center to ensure annual independent security assessments of the IDH are conducted. ETA stated it will continue to consult with OCIO to ensure OCIO has access to and receives the security assessments for its review to identify any security concerns related to the IDH.

For recommendation 2, ETA agreed with the intent of our recommendation. However, ETA requested removal of the recommendation from the memorandum because ETA believes it overlaps with an open OIG recommendation in a prior OIG report.⁵ That report recommended ETA work with NASWA to ensure the IDH cross-matches are effective at preventing the types of fraud that were detected during the pandemic and are regularly updated using the results of state fraud investigations. ETA said it has taken corrective actions in response to that audit's recommendation, and has recently been working with DOL's Chief Evaluation Office on an initial study to provide insights on the IDH's effectiveness for identifying fraud. This study started in July 2023 and is anticipated to be completed in the third quarter of fiscal year 2024.

Finally, ETA agreed with recommendation 3. ETA stated it has taken some action and worked with the UI Integrity Center to expand the IDH capabilities to identify and flag multi-state claims using a threshold that reduces false positives and ranks the multi-state claims as high priority. According to ETA, the IDH began returning prioritized claims to states on June 22, 2021. Additionally, ETA will continue to work with the UI Integrity Center on an ongoing basis to ensure the IDH identifies and appropriately flags claims that are high risk for potential fraud.

In its response, ETA requested closure of these three recommendations based on its stated corrective action.

OIG Response to ETA Management Comments

For recommendation 1, given that ETA agreed with the spirit of the recommendation, and agreed that oversight of the IDH is appropriate according to the terms of ETA's cooperative agreement, we consider the actions in response to the recommendation as meeting the intent.

For recommendation 2, ETA agreed with the intent of our recommendation. While we did not agree to delete the recommendation, ETA's approach is acceptable and meets the intent of the recommendation. We look forward to verification of the corrective action after the completion of the study.

⁵ 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>

Finally, ETA agreed with the third recommendation. However, the response does not indicate that ETA determined the best threshold for flagging multistate claims in conjunction with NASWA.

In its response, ETA requested closure of these three recommendations based on its stated corrective action. However, the OIG considers these recommendations open pending completion and/or verification of corrective action.

We appreciate the cooperation and courtesies the ETA personnel extended us. If you have any questions, please contact Michael Kostrzewa, Audit Director, at (972) 850-4003.

Attachments

SCOPE, METHODOLOGY, AND CRITERIA

SCOPE

Our scope for the audit covered ETA's oversight activities for ensuring program integrity of the PUA, PEUC, and FPUC programs for the period March 27, 2020, to June 30, 2021.

This memorandum is not intended to address our complete audit objective. Given the additional work required to report on the objective as a whole, we are only reporting on the matters expressed in this memorandum and will subsequently close this audit. We anticipate that other ongoing and future work will address the remaining areas of focus not reported here.

METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To answer our audit objective, we performed the following actions:

- Confirmed our understanding of ETA's guidance issuance processes through interviews with officials from ETA's National Office, regional offices, and NASWA;
- Reviewed the terms of the cooperative agreement between ETA and NASWA pertaining to NASWA's Integrity Data Hub;
- Reviewed laws, policies, procedures, documents, and internal/external audit reports;
- Reviewed guidance issuance records to determine if ETA's recent policies were consistent with requirements detailed in the CARES Act UI programs;
- Obtained background information relating to the total number of UI claims within our period of review from ETA's website;
- Conducted interviews with NASWA to identify their responsibilities and identified the total amount of improper payments NASWA assisted states with preventing; and
- Requested UI data from NASWA and compared it with the OIG's database of subpoenaed UI claims data to determine the difference between potentially identified improper payments.

INTERNAL CONTROLS

In planning and performing our audit, we considered ETA's internal controls relevant to our audit objectives by obtaining an understanding of those controls, and assessing control risks for achieving our objectives. The objective of our audit was not to provide assurance of the internal controls; therefore, we did not express an opinion on ETA's internal controls. Our consideration of internal controls for administering oversight of CARES Act UI programs would not necessarily disclose all matters that may be significant deficiencies. Because of the inherent limitations on internal controls, or misstatements, noncompliance may occur and not be detected.

RELIABILITY ASSESSMENT

We assessed the reliability of computerized data provided by states and NASWA. We evaluated the appropriateness of the data provided by assessing the data and controls over the data. Specifically, we performed analytical tests of the data and inquired with NASWA for any data discrepancies. Finally, as part of testing, we traced the data provided by NASWA to the OIG's database, which contained subpoenaed state UI claimant information.

CRITERIA

We used the following key criteria to answer our audit objective:

- Coronavirus Aid, Relief, and Economic Security Act of 2020
- Unemployment Insurance Program Letter No. 23-20, Program Integrity for the UI Program and the UI Programs Authorized by the CARES Act
- Office of Management and Budget Circular A-130
- Federal Information Security Modernization Act
- Training and Employment Guidance Letter 39-11, Guidance on the Handling and Protection of Personally Identifiable Information
- Department of Labor Manual Series 7-408

PRIOR COVERAGE

In 2021, we issued an alert memorandum of significant relevance to the subject of this report:


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>

U.S. Department of Labor

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

September 6, 2023

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

FROM: BRENT PARTON 
Principal Deputy Assistant Secretary

SUBJECT: Response to Draft Memorandum: *COVID-19 – ETA Can Improve its Oversight to Ensure Integrity over CARES Act UI Programs* Report No. 19-23-XXX-03-315

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

ETA is committed to strengthening Unemployment Insurance (UI) program integrity and ensuring states have guidance, tools, and resources to support fraud mitigation and improper payment reduction efforts. In the draft memorandum, the OIG acknowledges ETA's actions to support UI program integrity by highlighting ETA's guidance to states and ETA's encouragement for states to use the UI Integrity Center's Integrity Data Hub (IDH). However, the report highlights only two of ETA's numerous UI program integrity and antifraud strategies and does not recognize substantial accomplishments, made by the Department and states, to invest in, implement, and enhance tools, services and solutions to rapidly address program vulnerabilities.

UI program integrity has and continues to be a top agency priority. As the frequency and complexity of fraud attacks against the UI program significantly increased throughout the COVID-19 pandemic, ETA reevaluated integrity initiatives, tools, and actions to ensure UI risk mitigation efforts were evolving to combat newly emerging fraud threats. ETA made available a total of \$765 million in grant opportunities to support states in strengthening UI program integrity, which includes up to \$525 million in Coronavirus Aid, Relief, and Economic Security (CARES) Act grant funding and up to \$240 million in American Rescue Plan Act (ARPA) grant funding to improve fraud prevention and detection and identity (ID) verification. ETA has also provided states with customized consultative assessments through its Tiger Team initiative, which includes providing approximately 200 recommendations to states that either directly or indirectly support program integrity improvements and made available nearly \$115 million to support implementation of Tiger Team recommendations. Furthermore, the Department is using ARPA funds to make available to states, for at least the next two years, both in-person and digital, government-operated, ID verification solutions (*i.e.*, the National ID Verification Offering). The National ID Verification Offering provides a remote, mobile-ready digital ID verification solution through Login.gov, in partnership with the United States General Services

Administration. In-person ID verification is being made available to states at over 19,000 retail post office locations across the country in partnership with the United States Postal Service. More information about the National ID Verification Offering is provided in section 4.c. of Unemployment Insurance Program Letter (UIPL) No. 11-23.¹

In addition to providing guidance, grant funding, and targeted technical assistance to states to improve UI program integrity, ETA has invested in enhancements to the IDH and continues to strongly encourage states' ongoing and consistent use of the IDH. ETA worked with the UI Integrity Center to provide funding to implement both an identity verification (IDV) solution and the bank account verification (BAV) service in the IDH to address increased UI fraud risks associated with ID fraud and "claims hijacking" or "claim/account" takeover. On May 5, 2022, ETA issued Training and Employment Notice (TEN) No. 24-21,² strongly encouraging integration of the IDH as part of all states' UI fraud management activities to improve program integrity and increase detection and prevention of improper payments, including fraudulent payments. On July 13, 2023, ETA issued UIPL No. 11-23,³ highlighting the IDH as a highly recommended fraud prevention and detection activity. UIPL No. 11-23 also identified three actions a state should take to strengthen fraud prevention and detection using the IDH, which included: taking advantage of, and using, all IDH functionalities; implementing IDH web service/real-time connectivity, if possible; and submitting all initial and continued claims to the IDH in real-time, or daily, at minimum. Additionally, on August 1, 2023, the UI Integrity Center, in partnership with ETA, hosted a webinar for states to discuss leveraging federal grant funds to support more robust IDH utilization. See TEN No. 02-23.⁴

As a result of ETA's ongoing investments, guidance, and recommendations regarding the IDH, both the functionality of the IDH and the number of states participating in the IDH have significantly increased since 2020.

Areas of Concerns with the OIG's Draft Memorandum

ETA reviewed an earlier version of the OIG's planned draft report, provided feedback and technical comments regarding ETA's oversight of the IDH, and expressed concerns regarding the OIG's assessment that the IDH is less effective at identifying potential improper payments when compared to the OIG's data analysis. Regrettably, the OIG's draft memorandum does not reflect ETA's earlier input. As a result, ETA notes the following concerns regarding the content in the draft memorandum.

- *ETA has ensured security assessments of the IDH are occurring and are shared with the Department's Office of the Chief Information Officer (OCIO).* ETA recognizes that it has responsibility for oversight of the cooperative agreement with the National Association of State Workforce Agencies (NASWA), and in collaboration with OCIO, included requirements in ETA's cooperative agreement with NASWA, executed in September 2022, that an annual independent security assessment of the IDH be conducted and that

¹ UIPL No. 11-23 - <https://www.dol.gov/agencies/eta/advisories/uipl-11-23>

² TEN No. 24-21 - <https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-24-21>

³ UIPL No. 11-23 - <https://www.dol.gov/agencies/eta/advisories/uipl-11-23>

⁴ TEN No. 02-23 - <https://www.dol.gov/agencies/eta/advisories/ten-02-23>

ensures the IDH meets specific data security requirements, including storage, safeguarding, and the handling of personally identifiable information. In the draft memorandum, the OIG asserts that ETA did not conduct an assessment during the initial implementation of the IDH in 2018 and did not have controls in place to ensure OCIO's awareness and approval of the system-related terms of the cooperative agreement between ETA and NASWA regarding the IDH. ETA noted that the Department of Labor Manual Series (DLMS) 7- 402, states that the requirements, including the requirements of Office of Management and Budget Circular A-130 apply to "[a]ll information held, used, or owned by DOL" and "[a]ll DOL information systems or equipment used to access the information held, used, or owned by DOL." The information in the IDH is not held, used, or owned by DOL and the IDH is not a DOL system used to access the information held, used, or owned by DOL. Nevertheless, ETA has included a requirement for an independent annual security assessment of the IDH and sharing the information with the Department as part of the cooperative agreement executed in September 2022.

- Comparing IDH analysis, which relies on voluntary state participation and data, to OIG analysis, which relies on comprehensive, legally compelled data from all states, is potentially misleading. As ETA has shared with the OIG, it is not appropriate or fair to compare the IDH's performance with the OIG's data analytics process. States' participation in the IDH is voluntary, inconsistent, and cannot currently be compelled by the Department, whereas the OIG's data is comprised of UI data subpoenaed from all states for all weeks. As only a limited number of states participated in the IDH in 2020, data subpoenaed from all states would necessarily be more comprehensive and consistent than data provided by the limited number of states. To further enhance the effectiveness of the IDH, ETA is actively seeking legislative authority to require states to use the IDH as a part of its Fiscal Year (FY) 2024 budget submission. The Department has proposed a comprehensive package of integrity provisions designed to provide new and expanded tools and controls for states to help improve efforts to prevent fraud and improper payments in the UI system, which included a requirement for states to use the IDH to prevent and detect improper payments, including fraud.
- The IDH has evolved and continues to improve with significant enhancements since the period of focus for the OIG's report. The OIG is aware that state uptake of IDH resources has increased significantly since the onset of the pandemic. In March of 2020, while 34 states had an IDH Participation Agreement, 21 states were using the Suspicious Actor Repository (SAR), and just three states were using the Multi-State Cross-Match (MSCM). With only three states participating in the MSCM, it would be challenging for the IDH to identify similar levels of potentially improper multi-state claims when comparing it to the OIG's vast dataset of subpoenaed UI claims data from states. However, with ETA's continued investments to increase IDH functionality and encouragement for states to use the IDH, states have rapidly onboarded and increased usage, enhancing the IDH's ability to offer a more powerful multi-state fraud detection tool. Currently, all 53 states have a signed IDH Participation Agreement, 52 states are using the SAR, 51 states are using the MSCM, 44 states are using the IDV solution, and 38 states are using the BAV service. Since the period evaluated by this draft

memorandum, usage of IDH's MSCM has increased from just 6 percent of states to over 96 percent of states.

Responses to the OIG Recommendations

Below, please find each of the OIG's recommendations contained in the draft memorandum, followed by ETA's proposed action steps to address each of the OIG's recommendations.

Recommendation 1: Implement a process to ensure OCIO performs required reviews of NASWA's IDH system in a timely manner.

Response: ETA agrees with the spirit of this recommendation but does not agree with the recommendation as worded. According to DLMS 7-402, the IDH does not meet the definition of a Federal information system and does not contain any DOL data. As a result, ETA believes that OCIO does not have any required involvement. However, ETA agrees that oversight of the IDH is appropriate according to the terms of ETA's cooperative agreement regarding the operation of the UI Integrity Center.

To address the spirit of this recommendation, ETA and OCIO have implemented a process to involve OCIO in periodic reviews of the IDH in a timely manner. ETA added requirements to the cooperative agreement with NASWA that requires the UI Integrity Center to ensure annual independent security assessments of the IDH are conducted. The cooperative agreement also requires Plans of Action & Milestones (POA&Ms) to be developed, which include implementation time frames and scheduled completion dates for each POA&M as part of an ongoing continuous process improvement. NASWA is required to share the results of the security assessments and resulting POA&Ms with the Department and provide a quarterly POA&M status update to the Department. ETA ensures the IDH POA&M updates are provided to OCIO for input on a quarterly basis. ETA has and will continue to consult with OCIO to ensure OCIO has access to and receives the security assessments and POA&Ms to identify security concerns, if any, related to the IDH. These security requirements were added to the cooperative agreement between ETA and NASWA executed on September 27, 2022 (See Section V.c). Given the actions taken by ETA, ETA respectfully requests that this recommendation be closed.

Recommendation 2: Complete an evaluation of the effectiveness of the IDH system, including the methodology used in cross-matching data.

Response: ETA agrees with the intent of this recommendation, but requests that this recommendation be removed from the final memorandum. This recommendation is duplicative and overlaps with an existing open OIG recommendation. The OIG issued Report Number 19-22-006-03-315,⁵ on September 30, 2022, with a recommendation that ETA work with NASWA to ensure the IDH cross-matches are effective at preventing the types of fraud that were detected during the pandemic and regularly update using the results of state fraud investigations

⁵ OIG Report 19-22-006-03-315, *COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or From Payment Delays*, issued September 30, 2022, <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>.

(Recommendation 4). ETA partially agreed with the recommendation and proposed an alternate approach to accomplish the intended result. ETA's alternate approach was to work with NASWA to ensure appropriate evaluations are conducted regarding the effectiveness of the IDH tools and functionalities. In the OIG's March 6, 2023 audit resolution memorandum for this audit, the OIG confirmed that ETA's alternative actions meet the intent of the OIG's recommendation.

ETA has already included this item as a high priority on its learning agenda for FY 2023. Furthermore, ETA engaged with the Department's Chief Evaluation Office, and has started an initial study to provide insights on the IDH's effectiveness for identifying fraud. The findings from this initial study will inform a feasibility assessment and continuous improvement options for any future analysis of the IDH's effectiveness. This initial study was begun in July 2023 and is anticipated to be completed in the third quarter of FY 2024. Since there is a significantly similar recommendation in an earlier separate OIG report to which ETA has already engaged in activity to implement, ETA respectfully requests that this recommendation be removed from the final memorandum for this audit.

If the OIG decides to retain this recommendation in the final version of this memorandum, ETA requests that the OIG acknowledge that the corrective actions already undertaken in response to the earlier audit report recommendation will also be recognized as corrective actions to meet this recommendation.

Recommendation 3: Determine the best threshold for flagging multistate claims in conjunction with NASWA.

Response: ETA agrees with this recommendation. ETA worked with the UI Integrity Center to expand IDH capabilities to identify and flag multi-state claims using a threshold that reduces potential false positives and ranks the multi-state claims as high priority. The IDH began returning prioritized claims to states on June 22, 2021. In addition, high priority multi-state claims included in the data file of all claims that are reasonably believed to constitute fraud are also shared monthly with the OIG's Office of Investigations.

As part of the Department's ongoing fraud risk management activities, which are conducted in alignment with the leading practices in the Government Accountability Office's Fraud Risk Framework, ETA developed a UI Fraud Risk Prolife to identify fraud risks facing the UI program, assess the likelihood and impact of the risks, and prioritize residual risks. This includes any risks identified by the OIG, such as multi-state claims. The Department will continue to identify risks to the UI program, develop new and update existing strategies to mitigate fraud as well as other improper payments, and evaluate the effectiveness of our fraud risk management activities. This includes continuing to work with the UI Integrity Center on an ongoing basis to ensure the IDH identifies and appropriately flags claims that are high risk for potential fraud.

ETA completed corrective actions that address this recommendation on June 22, 2021, and thus respectfully requests closure of this recommendation.