


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.