

# U.S. Department of Labor

Office of Inspector General—Office of Audit

REPORT TO THE  
EMPLOYMENT AND TRAINING  
ADMINISTRATION



## COVID-19: ETA'S OVERSIGHT OF SHORT-TIME COMPENSATION DID NOT DETECT \$129.6 MILLION IN QUESTIONED COSTS

This report was prepared by Regis & Associates, P.C., under contract to the U.S. Department of Labor, Office of Inspector General, and by acceptance, it becomes a report of the Office of Inspector General.

Handwritten signature of Carolyn R. Hantry in black ink.

U.S. Department of Labor  
Assistant Inspector General for Audit

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## BRIEFLY...

### COVID-19: ETA'S OVERSIGHT OF SHORT-TIME COMPENSATION DID NOT DETECT \$129.6 MILLION IN QUESTIONED COSTS

#### WHY WE DID THE AUDIT

On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act to provide expanded unemployment insurance (UI) benefits to workers unable to work due to the COVID-19 pandemic. Section 2110 provided grants to support the administration of Short-Time Compensation (STC) programs. Under Section 2108, the STC program provided for 100 percent federal reimbursement of STC benefits to states that previously operated a permanent or temporary program under state law.

To address concerns about risks associated with the disbursement of federal funds during the pandemic, we contracted with the independent certified public accounting firm of Regis & Associates, PC (Regis) to answer the following question:

Did the Employment and Training Administration (ETA) ensure states met STC requirements and used the related funds as intended by the CARES Act and related subsequent legislation?

#### READ THE FULL REPORT

For more information, go to:  
<http://www.oig.dol.gov/public/reports/oa/2024/19-24-003-03-315.pdf>

#### WHAT WE FOUND

Regis found only 5 of the 10 states selected for in-depth testing received Section 2110 grants and used the funds to promote and enroll employers in their STC programs and implement or improve the administration of STC in their localities. Regis found no compliance exceptions with those five states.

With respect to benefit reimbursements under Section 2108, Regis found ETA did not ensure states met STC reimbursement requirements or used the related funds as intended by the CARES Act and related subsequent legislation. Specifically, of the 10 states reviewed, Regis identified 7 states drew down federal reimbursements that were questionable. Specifically, Regis identified the following:

- Six states drew down \$28.1 million in excessive federal reimbursements. One of the six states drew down an additional \$100.1 million in reimbursements for payments without verifying the eligibility of claimants' employment status.
- One state drew down \$1.4 million in reimbursements without providing records to support their STC payments and drawdowns.

The states' noncompliance went undetected because ETA did not assess risks and establish controls to sufficiently monitor states' compliance with STC reimbursement requirements. ETA solely relied upon the review of claims and payment activity reports, which was insufficient in detecting the noncompliance issues found by Regis.

Due to ETA's insufficient monitoring of states' reimbursements under Section 2108, Regis identified the seven states were allowed to draw down about \$129.6 million in questioned costs. As a result of Regis' findings, four states have already returned \$11.6 million to ETA.

#### WHAT WE RECOMMENDED

Regis made three recommendations to ETA to improve oversight of STC and similar future temporary UI programs. ETA agreed with the recommendations.

**TABLE OF CONTENTS**

INSPECTOR GENERAL’S REPORT ..... 1

CONTRACTOR PERFORMANCE AUDIT REPORT ..... 5

RESULTS ..... 10

    ETA Did Not Provide Adequate Oversight of States’ Short-Time  
    Compensation Reimbursements ..... 10

CONCLUSION ..... 21

RECOMMENDATIONS..... 22

    Analysis of Agency’s Comments ..... 22

EXHIBIT 1: FUNDING MADE AVAILABLE TO 10 STATES UNDER THE CARES  
ACT, SECTION 2110..... 25

EXHIBIT 2: FUNDING MADE AVAILABLE TO 26 STATES UNDER THE CARES  
ACT, SECTION 2108..... 26

EXHIBIT 3: SECTION 2108 STC BENEFIT PAYMENTS AND FEDERAL FUNDS  
DRAWDOWN FOR 10 STATES ..... 27

EXHIBIT 4: QUESTIONED COSTS ..... 28

APPENDIX A: SCOPE AND METHODOLOGY ..... 29

APPENDIX B: AGENCY’S RESPONSE TO THE REPORT ..... 34



## **INSPECTOR GENERAL'S REPORT**

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The U.S. Department of Labor (DOL) Office of Inspector General (OIG) contracted with the independent certified public accounting firm of Regis & Associates, PC (Regis) to conduct a performance audit of the Short-Time Compensation (STC) program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and related subsequent legislation.

The OIG monitored Regis' work to ensure that it met professional standards and contractual requirements. Regis' independent audit was conducted in accordance with generally accepted government auditing standards.

Regis was responsible for the auditors' evaluation and the conclusions expressed in the report, while the OIG was responsible for reviewing Regis' report and supporting documentation.

### **PURPOSE**

STC is a program under which an employer reduces the number of hours worked by employees, rather than laying them off. Section 3306(v) of the Federal Unemployment Tax Act<sup>1</sup> states employees whose work weeks have been reduced by at least 10 percent, and by not more than the percentage, if any, that is determined by the state to be appropriate (but in no case more than 60 percent), are not disqualified from unemployment compensation.

Usually, STC benefits are paid from the states' trust funds. States then charge employers for STC benefit costs because employers participating in state STC

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<sup>1</sup> As amended by the Middle Class Tax Relief and Job Creation Act of 2012, including Title II, Subtitle D, Short-Time Compensation Program, Public Law 112-96 (February 22, 2012)

programs are directly causing the need for unemployment benefits by reducing the hours their employees work. Traditionally, state laws provide for the financing of unemployment compensation payments, including STC, in two ways: (1) experience-rated state unemployment taxes and (2) for certain employers only, reimbursement of benefit costs (payment in lieu of contributions) attributable to service with the employer.

On March 27, 2020, the CARES Act was enacted to provide expanded unemployment insurance benefits to workers who were unable to work due to the COVID-19 pandemic. Section 2110 of the CARES Act provided grants to support states when implementing and administering STC programs in their laws, as well as when promoting and enrolling employers, which included outreach to employers to promote the use of STC.

Section 2108 of the CARES Act temporarily provided 100 percent federal reimbursement of STC payments to states with an STC provision in its state law, whether the program was new or pre-existing. The DOL Employment and Training Administration (ETA) provides federal oversight of the unemployment insurance system, which includes the STC program.

Based on the risks associated with federal reimbursement of STC program costs during the pandemic, we contracted with Regis to conduct a performance audit to answer the following question:

Did ETA ensure states met STC program requirements and used the related funds as intended by the CARES Act and related subsequent legislation?

To answer this question, Regis conducted a performance audit that covered the period of March 27, 2020, to September 6, 2021.<sup>2</sup> Regis performed in-depth testing and analyses on 10 states—Connecticut, Iowa, Maine, Michigan, Missouri, Nebraska, Oregon, Pennsylvania, Washington, and Wisconsin. We selected the states based on: (1) the number of states that paid STC claims, stratified into the highest, middle, and lowest ranges, and (2) the extent to which the states had not been selected in previous OIG audits. Regis surveyed<sup>3</sup> 42 state workforce agencies.

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<sup>2</sup> The CARES Act authorized federal reimbursement of STC benefit payments for weeks of unemployment beginning on or after March 27, 2020, and ending December 31, 2020. The Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021 extended the STC program to include the weeks of unemployment ending on or before September 6, 2021.

<sup>3</sup> Regis distributed questionnaires for 42 state workforce agencies' responses regarding participation in the STC program and their experiences with implementation, administration, compliance, and ETA oversight.

Regis also reviewed procedures at the ETA and state levels to determine compliance with program requirements under Section 2110 and Section 2108 of the CARES Act. To determine compliance with Section 2110, Regis tested a sample of grant expenditures incurred for allowability. Regis also reviewed states' STC Grant Quarterly Progress Reports for completeness and accuracy.

To determine Section 2108 compliance, Regis tested claimant data for eligibility and reviewed benefit payments on the ETA 5159 Claims and Payment Activities reports for completeness and accuracy. Those benefit payments records were also reconciled to the federal expenditures recorded in the ETA 9130 Quarterly Financial Reports and the state drawdowns reported in the Payment Management System.<sup>4</sup>

## RESULTS

Regis found only 5 of the 10 states selected for in-depth testing received Section 2110 grants and used the funds to promote and enroll employers in their STC programs and implement or improve the administration of STC in their localities. Regis found no compliance exceptions with those five states. However, with respect to the benefit reimbursements under Section 2108, Regis found ETA did not ensure states met STC program reimbursement requirements or used the related funds as intended under the CARES Act and related subsequent legislation. Specifically, of the 10 states reviewed, Regis identified 7 states (Pennsylvania, Maine, Wisconsin, Oregon, Connecticut, Iowa, and Michigan) drew down federal reimbursements that were questionable.

The states' noncompliance went undetected because ETA did not assess risk and establish controls to sufficiently monitor states' compliance with STC reimbursement requirements. ETA solely relied upon ETA 5159 Claims and Payment Activities reports to conduct its monitoring of the STC program and as its method to ensure the reimbursement amount the states received aligned with the STC benefit payments that the states reported. However, federal reimbursements and STC benefit payments did not always align.

Regis found better ETA monitoring was needed to ensure states met STC program reimbursement requirements and accessed federal funds for allowable reimbursements, as intended under the provisions of Section 2108 of the CARES Act. The lack of sufficient monitoring allowed states to draw down excessive federal reimbursements and receive reimbursement for payments made to

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<sup>4</sup> The Payment Management System is an electronic, primarily self-service financial system, which allows states to draw down federal funds made available by ETA in sub-accounts.

potentially ineligible claimants and weeks of unemployment outside the eligibility period.

In total, Regis identified \$129.6 million in questioned costs.<sup>5</sup> As a result of Regis' audit work, four states have already returned \$11.6 million in federal funds to ETA.

We appreciate the cooperation and courtesies that ETA extended to Regis and the OIG during this audit.



Carolyn R. Hantz  
Assistant Inspector General for Audit

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<sup>5</sup> Questioned costs are costs: (A) resulting from an alleged violation of a law, regulation, contract, grant, or other document or agreement governing the use of federal funds; (B) that are not supported by adequate documentation (also known as an unsupported cost); or (C) that appear unnecessary or unreasonable.

**CONTRACTOR PERFORMANCE AUDIT REPORT**



Independent Auditors' Performance Audit Report on  
the Short-Time Compensation Program

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We were engaged by the U.S. Department of Labor (DOL) Office of Inspector General (OIG) to conduct a performance audit of the Short-Time Compensation (STC) program. The Employment and Training Administration (ETA) was responsible for the oversight of state workforce agencies' (SWA)<sup>6</sup> compliance with the provisions of the program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and related subsequent legislation.<sup>7</sup>

We conducted the audit to answer the following question:

Did ETA ensure states met STC program requirements and used the related funds as intended by the CARES Act and related subsequent legislation?

To answer this question, we conducted procedures to understand ETA's and states' processes and controls, including information technology and information system controls utilized in the implementation of the STC program. In addition,

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<sup>6</sup> This report 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.

<sup>7</sup> Under the CARES Act, weeks of unemployment beginning on or after March 27, 2020, and ending on or before December 31, 2020, were eligible for reimbursement. On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 extended the STC program to include weeks of unemployment ending on or before March 14, 2021. On March 11, 2021, the America Rescue Plan Act of 2021 extended the STC program to include weeks of unemployment ending on or before September 6, 2021.



we examined evidence supporting compliance with the CARES Act and related subsequent legislation.

We also performed in-depth testing and analysis on 10 states: Connecticut, Iowa, Maine, Michigan, Missouri, Nebraska, Oregon, Pennsylvania, Washington, and Wisconsin. Of the 10 states, we projected the test results of 2 states (Wisconsin and Pennsylvania) to the population of claims.<sup>8</sup> We surveyed 42 SWAs, of which 25 SWAs responded. Eleven of these SWAs had active STC agreements and received funding; therefore, we excluded responses from the 14 SWAs without active STC agreements.

We conducted this 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Our scope, methodology, and criteria are detailed in Appendix A.

## **STC PROGRAM FUNDING UNDER SECTION 2110 AND SECTION 2108**

On March 27, 2020, Congress passed the CARES Act to provide expanded unemployment insurance (UI) benefits to workers unable to work due to the COVID-19 pandemic. ETA was required to oversee numerous pandemic UI programs, including the STC program.<sup>9</sup>

The STC program was established prior to the COVID-19 pandemic to mitigate the effects of lowered economic activity during times when employers experience a reduction in available work hours by preserving employees' jobs and employers' trained workforces. Under the STC program, employers can reduce employees' work hours instead of laying them off, and those employees experiencing a reduction in hours are allowed to collect a percentage of unemployment compensation benefits to replace a portion of their lost wages.

Section 2110 of the CARES Act provided funds to support states' implementation and administration of their existing STC programs as well as enrollment of employers, which included outreach to employers to promote the use of STC for periods during the pandemic and beyond. ETA awarded a total of \$18.7 million to

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<sup>8</sup> We identified issues with the population of STC claims for the remaining eight states, which prevented projections.

<sup>9</sup> According to Unemployment Insurance Program Letter 21-20, the STC program is also known as "worksharing" or "shared work."

10 states with signed STC agreements under the provisions of Section 2110 of the CARES Act (see Exhibit 1, Table 1). At the time of our testing, 5 of the 10 states were within our audit scope (Washington, Missouri, Maine, Connecticut, and Oregon) and were awarded \$7 million in funds.

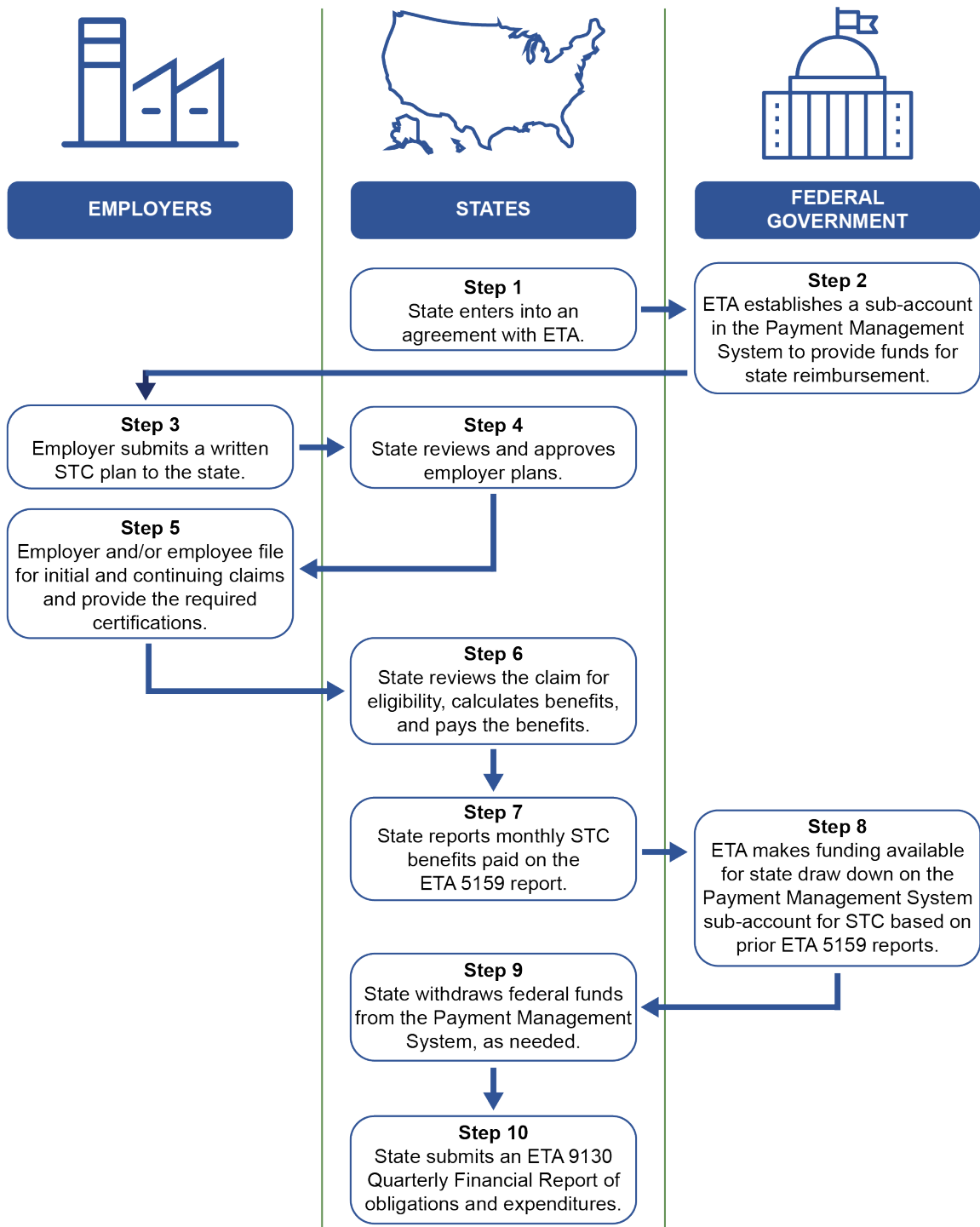
Prior to March 27, 2020, STC benefits were paid from the states' trust funds and charged back to employers. However, in response to the pandemic, Section 2108 of the CARES Act provided for 100 percent temporary federal funding of STC payments to any state operating an STC program in its law. To receive reimbursement, each qualifying state was required to enter into a new agreement with ETA that described the responsibilities of the parties (see Figure 1 for a step-by-step illustration of the certification and reimbursement process).

ETA grant officers then established a separate sub-account in the Payment Management System for states with STC agreements in place to draw down federal funds as reimbursements of state STC benefits paid. ETA estimated the funds made available to states based on the states' STC benefit payouts reported on monthly ETA 5159 Claims and Payment Activities reports (herein referred to as ETA 5159 reports)<sup>10</sup> for the most recent month and adjusted these amounts for any excess or shortfall in prior months. States could then withdraw funds from the Payment Management System, as needed, to cover state STC benefit expenses.

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<sup>10</sup> The ETA 5159 report contains monthly information on claims activities as well as the number and amount of benefit payments for the STC program.

**Figure 1: STC Section 2108 Certification and Reimbursement Process**



Source: Information contained in ETA Unemployment Insurance Program Letter 21-20

ETA made available funds totaling \$1.3 billion to 26 states that signed STC agreements under the provisions of Section 2108 of the CARES Act (see Exhibit 2, Table 2). The STC agreements for the 10 states in our audit scope provided for funding through June 30, 2022. Additionally, ETA granted Michigan's request to extend its grant agreement through September 30, 2022. For the 10 states, \$580.4 million was made available for reimbursement, of which \$496 million (85 percent) was reimbursed to the states. As of June 15, 2023, ETA had de-obligated the remaining funds.

## **CHALLENGES PRESENTED BY THE COVID-19 PANDEMIC**

The pandemic had a profound impact on the UI program, presenting states with unprecedented challenges. According to ETA officials, these challenges included managing an unprecedented surge in claim volume, adapting to remote work environments, and implementing several new temporary pandemic UI programs, which included the three largest programs: Federal Pandemic Unemployment Compensation, Pandemic Unemployment Assistance, and Pandemic Emergency Unemployment Compensation. In addition, program officials stated that the additional program administration funding that ETA received was not enough and came too late to accomplish its oversight of all these new programs.

ETA officials stated that, for much of the pandemic and the life of these new programs, Congress did not provide any new funding for ETA staffing. When the American Rescue Plan Act of 2021 was enacted in March 2021, it extended the temporary programs through September 6, 2021, and provided some temporary funding for additional staffing in ETA. However, this funding came a year after the onset of the pandemic and after the most critical time of administering new temporary programs while states struggled to process the highest level of claims in the history of the UI program.

In addition, the enacted levels of funding for program administration in workforce security, which funds UI program staff in the Department's national and regional offices, declined significantly between Fiscal Year (FY) 2006 and FY 2021, resulting in a reduction in staff. Specifically, in FY 2006, the UI program had 419 staff,<sup>11</sup> far higher than the 169 staff employed by the program during the pandemic in FY 2021.<sup>12</sup> It was in this environment that ETA had the immense

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<sup>11</sup> FY 2008 Performance Budget: Employment and Training Administration Program Administration, last accessed April, 19, 2024, available at:

<https://www.dol.gov/sites/dolgov/files/general/budget/2008/CBJ-2008-V1-09.pdf>

<sup>12</sup> FY 2023 Congressional Budget Justification: Employment and Training Administration Program Administration, last accessed April 19, 2024, available at:

<https://www.dol.gov/sites/dolgov/files/general/budget/2023/CBJ-2023-V1-09.pdf>

responsibility of overseeing the many new, temporary UI programs while continuing its oversight of prior existing responsibilities.

Our report focuses on the performance of ETA's and states' STC program operations during the challenging times of the COVID-19 pandemic.

## RESULTS

We found only 5 of the 10 states selected for in-depth testing received Section 2110 grants and used the funds to promote and enroll employers in their STC programs and implement or improve the administration of STC in their localities. We found no compliance exceptions with those five states.

With respect to benefit reimbursements under Section 2108, we found 7 of 10 states—Pennsylvania, Maine, Wisconsin, Oregon, Connecticut, Iowa, and Michigan—did not comply with STC reimbursement requirements. Specifically, we found, of the 10 states tested, 6 states drew down \$28.1 million in excessive federal reimbursements of STC benefit payments,<sup>13</sup> which we identified as questioned costs (see Exhibit 3, Table 3). One of these six states did not comply with requirements to certify the employment status of claimants, resulting in \$100.1 million in questioned costs. Of the remaining four states tested, one did not maintain any supporting records for labor hours worked or the reduction of hours, resulting in an estimated \$1.4 million in questioned costs. As a result of states' noncompliance, we identified \$129.6 million in total questioned costs (see Exhibit 4).

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### **ETA DID NOT PROVIDE ADEQUATE OVERSIGHT OF STATES' SHORT-TIME COMPENSATION REIMBURSEMENTS**

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ETA did not adequately monitor states to ensure they complied with STC program reimbursement requirements under Section 2108 of the CARES Act. According to ETA officials, ETA monitored the STC program by reviewing ETA 5159 reports to ensure the amount of STC funding the states received aligned with the amount of benefit payments reported by the states. However, we determined ETA's review of the STC reports was not sufficient as ETA did not take measures to validate the accuracy of the federal reimbursements claimed by

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<sup>13</sup> The remaining four states tested paid \$4.6 million in STC benefits that they were not reimbursed with Section 2108 federal funds (see Exhibit 3, Table 4).

the states. While the ETA 5159 report was a good tool for estimating funds needed by states, it reported aggregate monthly payment totals without consideration of whether the payments were eligible for reimbursement under Section 2108 of the CARES Act.

We identified 7 of the 10 states (Michigan, Maine, Wisconsin, Oregon, Pennsylvania, Connecticut, and Iowa) did not meet STC program reimbursement requirements. Specifically, we found:

- one state drew down reimbursements for payments without verifying the eligibility of claimants' employment status,
- one state operated an information technology (IT) system that improperly duplicated STC payments,
- one state drew down reimbursements for payments to claimants whose reduced hours exceeded the STC threshold,
- two states could not provide records to support their STC payments and drawdowns, and
- two states drew down reimbursements for STC payments that were for weeks of unemployment outside of the program eligibility period.

We identified \$129.6 million in questioned costs of which \$100.1 million is attributed to questionable reimbursements drawn down by Michigan. As a result of our audit work, four states have already returned \$11.6 million in federal funds to ETA.

## **MICHIGAN SWA**

The Michigan SWA paid \$100.1 million in total STC benefits to claimants and drew down \$100.1 million in federal funds from the Payment Management System as reimbursement. However, these reimbursements may have been made for claimants who were employed on a seasonal, temporary, or intermittent basis, which was unallowable according to ETA guidance.

Michigan did not require employers to certify in their STC applications that the employees met the STC employment status criteria for receiving federal reimbursements under Section 2108. Specifically, the Michigan SWA did not require employers to certify that the employees were not employed on a seasonal, temporary, or intermittent basis. Unemployment Insurance Program Letter (UIPL) No. 21-20 states that no reimbursement will be made for STC benefit payments if the individual is employed by the employer on a seasonal, temporary, or intermittent basis, as defined under state law or as defined by the UIPL if state law does not include definitions of these terms. The SWA communicated to employers, through public websites and employer seminars, the STC eligibility guidelines and requirements, including that seasonal, temporary, and intermittent workers were not eligible for benefits. However, ETA and the SWA could not provide documentation supporting that the SWA verified employers complied with this requirement. Therefore, we identified \$100.1 million in questioned costs.



In addition, we identified that Michigan drew down \$46,527 in excessive federal reimbursements. The SWA drew down funds for STC benefit weeks that were not within the program eligibility period established by the CARES Act and related subsequent legislation, which were weeks of unemployment beginning on or after March 27, 2020, and ending on or before September 6, 2021. We questioned these costs and requested the Michigan SWA to refund \$46,527 to ETA. On May 20, 2024, as a result of our audit, Michigan returned \$46,546 to ETA.

From April 2020 through September 2021, Michigan reported approximately \$100.7 million on its ETA 5159 reports, which did not align with the actual benefit payments made or funds drawn down. ETA's sole reliance on the ETA 5159 reports resulted in insufficient validation of the actual benefit payments eligible for reimbursement. Because ETA did not perform monitoring reviews over the SWA's STC claimant eligibility verification processes, it did not identify eligibility non-compliance.

## OREGON SWA

Claimant-level detail as of November 28, 2022, supported that the Oregon SWA made STC benefit payments totaling only \$107.9 million. However, the state accessed a total of \$110.4 million from the Payment Management System as reimbursement for STC benefits paid. Therefore, as of November 28, 2022, the SWA drew down federal funds for reimbursement totaling \$2.5 million more than it was eligible to receive. Based on updated STC payment data obtained on April 12, 2024, Oregon drew down \$15.8 million in questionable federal reimbursements.

Despite Oregon's initial claimant-level detail showing STC payments totaling \$107.9 million, the SWA had reported approximately \$110.4 million in paid STC benefits from April 2020 through September 2021 on its ETA 5159 reports. According to SWA officials, the reported STC benefit payments were subsequently reduced by \$2.5 million in the state's UI system as adjustments for overpayments and reported on the ETA 227 Overpayment Detection and Recovery Activity report.<sup>14</sup> However, Oregon did not provide any support that overpayments related to STC claims were established or recovered. Therefore, we questioned the relationship between their asserted reduction in STC payments and the reporting of overpayments on the ETA 227 reports. Furthermore, the Oregon SWA could not provide transaction details to support the assertion that it previously paid \$110.4 million in STC payments.

According to Oregon SWA officials, they were unable to provide the claimant-level detail to support the adjustments for overpayments because its legacy UI system purged data after 5 months. The Code of Federal Regulations states that financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award must be retained for a period of 3 years from the date of submission of the final expenditure report.<sup>15</sup> In accordance with UIPL 21-20, Attachment II, states' STC agreements required state agencies to maintain records pertaining to the administration of Section 2108 of the CARES Act, as well as make all records available for inspection, examination, and audit by federal officials or employees, as DOL may designate or as may be required by law. Oregon acknowledged the need to improve its systems' retention capability and plans to fully implement a modernized IT system, with unlimited retention of claimant data, by March 2024.

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<sup>14</sup> The ETA 227 Overpayment Detection and Recovery Activity report provides information on overpayments of intrastate and interstate claims under the state's unemployment compensation and under federal UI programs. ETA and state agencies need such information to monitor the integrity of the benefit payment processes in the UI system.

<sup>15</sup> 2 C.F.R. § 200.334, Retention Requirements for Records



During the audit, ETA and the Oregon SWA disagreed that the SWA could not account for the \$2.5 million difference between the payment amounts shown in the initial claimant-level data and reported on the ETA 5159 reports. On April 12, 2024, ETA provided Oregon’s revised total payment amounts without supporting claimant level-data, which showed \$94.6 million in STC payments, a \$13.3 million reduction from the claimant level data provided on November 28, 2022. Based on the \$94.6 million in total STC benefits to claimants and drawdowns of \$110.4 million from the Payment Management System, we found Oregon drew down \$15.8 million in excessive federal reimbursements.



Without claimant-level transactions to support the STC payments reported on the ETA 5159 and adjustments made within its UI system, we could not verify the actual STC benefits paid and identified the lack of records as an indicator for potential fraud. As a result, we questioned the unsupported amount of \$15.8 million. ETA’s monitoring of the ETA 5159 reports was not sufficient to validate that actual benefit payments were accurately reported and eligible for reimbursement.

## **MAINE SWA**

The Maine SWA paid \$7.7 million in total STC benefits to claimants, which was reported on its ETA 5159 reports. However, Maine drew down almost \$15.5 million from the Payment Management System as reimbursement, resulting in \$7.8 million in excessive federal reimbursements.

As a result of our audit, Maine researched the STC payments and discovered a discrepancy in its UI system which resulted in errors on the ETA 5159 reports. Specifically, a portion of STC benefit payments was double counted, resulting in overstatements on the ETA 5159 report. We concluded the SWA did not comply with Section 2108 of the CARES Act, which established that states should be reimbursed with federal funds in amounts equal to 100 percent of STC benefits paid under the provisions of the state law. Subsequently, as a result of our audit work, Maine revised the ETA 5159 reports, returned the \$7.8 million to ETA, and adjusted the difference within the Payment Management System.



ETA’s monitoring of the ETA 5159 reports was insufficient in validating the actual benefit payments that were eligible for reimbursement. Without ETA monitoring the validity and accuracy of benefit payments claimed for federal reimbursement,

there was a risk that similar UI system accounting issues in other states went undetected, resulting in excessive drawdowns of federal reimbursements.

## **WISCONSIN SWA**

From April 2020 through September 2021, the Wisconsin SWA reported approximately \$16.7 million on its ETA 5159 reports. However, based on our review of the claimant-level detail, Wisconsin made STC payments totaling \$21 million for eligible benefit weeks under the CARES Act.

During testing, we found benefits totaling \$2,754, paid through 10 of the 61 sampled claims tested, should not have been included as STC claimant data because the claimants' hours were reduced by 100 percent. This exceeded the 60 percent workweek reduction threshold established by the Federal Unemployment Tax Act. Therefore, the state was ineligible to receive federal reimbursement under Section 2108 of the CARES Act for the 10 claims that should have been paid with the state's regular UI funding.

Based on the results of the sample testing, we found Wisconsin accessed federal reimbursements totaling a projected \$3.4 million—in federal reimbursements for STC benefits paid through a total of 396,008 claims—that involved claimants whose reduced workweek hours exceeded the 60 percent threshold.

This amount closely aligns with what the state determined, based on a detailed review of its claims data in 2022. We requested the Wisconsin SWA review STC claims data from April 2020 through September 2021 to determine the extent of errors in the data. Due to limitations in the SWA's antiquated systems, it had to manually review and recharge regular UI and STC claims to ensure the claims were paid by the appropriate program. On October 10, 2022, Wisconsin completed its review of the claimant data and recharging process and determined a total of \$17.6 million in STC benefits were paid to claimants, despite the state drawing down \$20.9 million in federal reimbursements. As a result, Wisconsin returned \$3.3 million to ETA between January 6, 2023, and October 25, 2023.

Due to the excessive funds, we determined the Wisconsin SWA did not comply with Section 2108 of the CARES Act, which established that states should be reimbursed with federal funds in amounts equal to 100 percent of STC benefits paid under the provisions of the state law. We, therefore, identified the \$3.3 million as questioned costs.

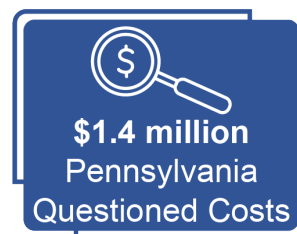


ETA's monitoring of the ETA 5159 reports was insufficient in validating the actual benefit payments that were eligible for reimbursement. The absence of an ETA monitoring review allowed the inclusion of regular UI payments in STC benefit payments to go undetected, resulting in Wisconsin drawing down federal reimbursements that it was not entitled to receive. This error may have occurred in other states that were not tested by our audit.

## **PENNSYLVANIA SWA**

The Pennsylvania SWA paid about \$9.8 million in total STC benefits to claimants and drew down \$9.4 million from the Payment Management System, resulting in \$419,214 that was not reimbursed with federal funds. However, upon a review of sampled claimant data, we projected Pennsylvania accessed \$1.4 million in federal reimbursements for claims for which it did not maintain any supporting records for labor hours worked.

The Pennsylvania SWA paid STC benefits totaling \$1,890, through 11 of 78 claims selected for testing. However, the SWA was unable to provide biweekly employer certifications for these claimants, which show the number of hours worked. Based on the results of our testing, we projected that Pennsylvania paid \$1.4 million in STC benefits through a total of 80,187 claims that lacked supporting records. We consider the \$1.4 million to be questioned costs, as the STC agreement with ETA required Pennsylvania to maintain records pertaining to the administration of Section 2108 of the CARES Act.



From April 2020 through September 2021, Pennsylvania reported approximately \$9.9 million on the ETA 5159 reports, which did not align with the actual benefit payments made and funds drawn down. ETA's monitoring of the ETA 5159 reports was insufficient in identifying these non-compliances. Without ETA performing monitoring reviews of the SWAs' eligibility verification processes for STC claimants and use of federal funds, similar non-compliances could go undetected.

## CONNECTICUT SWA

The Connecticut SWA paid about \$55.1 million in total STC benefits to claimants during the period of review. However, the state drew down approximately \$55.9 million from the Payment Management System, resulting in \$774,080 in excessive federal reimbursements. The state drew down funds for STC benefit weeks that were not within the program eligibility period established by the CARES Act and related subsequent legislation, which were weeks of unemployment beginning on or after March 27, 2020, and ending on or before September 6, 2021. We questioned these costs and requested Connecticut refund \$774,080 to ETA.



From April 2020 through September 2021, the Connecticut SWA reported approximately \$55.8 million on the ETA 5159 reports, which did not align with the actual benefit payments made and funds drawn down. ETA's monitoring of the ETA 5159 reports was insufficient in validating states' actual benefit payments were within the STC program period and eligible for reimbursement.

## IOWA SWA

The Iowa SWA paid about \$9.7 million to claimants in total STC benefits. However, we found the state drew down \$10.1 million from the Payment Management System, resulting in \$448,283 in excessive federal reimbursements. Iowa erroneously drew down funds for benefit weeks after the STC benefit eligibility period established by the CARES Act and related subsequent legislation, which was the week of unemployment ending on or before September 6, 2021. As a result of our identification of these questioned costs, Iowa issued a refund of \$448,283 to ETA for the excess federal funds received as reimbursement.



The Iowa SWA did not comply with its agreement with ETA, according to UIPL 21-20, Attachment II, Section V (c), which states that no payments are to be made to a SWA under an STC program for weeks of unemployment ending after December 31, 2020, or a later date, if provided for in any subsequent amendments to Section 2108 of the CARES Act. The Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021 extended the STC program to include the weeks of unemployment ending on or before September 6, 2021.

From April 2020 through September 2021, Iowa reported approximately \$10.2 million on its ETA 5159 reports, which did not align with the total benefit payments made or funds drawn down. ETA's monitoring of the ETA 5159 reports was insufficient in validating that states' actual benefit payments were within the STC program period and eligible for reimbursement.

Based on our review of the ETA 5159 reports and claimant level data, we found Iowa, as well as the other six states we tested, did not report accurate STC benefit payments. In a previous OIG report,<sup>16</sup> the OIG emphasized the importance of complete and accurate reporting of information for CARES Act UI programs. In response to the report, ETA agreed with the OIG that complete and accurate reporting is important to the administration and oversight of the temporary UI programs created under the CARES Act and related subsequent legislation.

### **ETA DID NOT ASSESS RISKS AND ESTABLISH CONTROLS TO SUFFICIENTLY MONITOR STATES' COMPLIANCE**

ETA regional offices did not assess risks and establish controls to sufficiently monitor states' compliance with STC reimbursement requirements when the funding source changed from the state to the federal government. Prior to the pandemic, STC benefits were paid from the states' trust funds and charged back to employers. Under Section 2108 of the CARES Act and related subsequent legislation, the federal government reimbursed the states for 100 percent of STC benefits paid for weeks of unemployment from March 27, 2020, through September 6, 2021. Since the risks were not identified and assessed, ETA did not establish controls to sufficiently monitor states' compliance with STC reimbursement requirements. According to ETA officials, ETA did not have the monitoring resources to perform a 100 percent verification of all claims. However, sufficient monitoring does not require 100 percent verification of all claims. ETA did not review any of the states' draw downs, associated claims, and STC benefit payments to verify if states were eligible for federal reimbursement.

ETA relied on the review of ETA 5159 reports, which was inadequate in detecting the noncompliance issues. ETA used these reports to conduct its oversight of the STC program and as its method to ensure the reimbursement amount the states received aligned with the STC benefit payments the states reported. However, ETA's review of the ETA 5159 reports was insufficient to ensure the reported

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<sup>16</sup> Alert Memorandum: The 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>

STC payments were eligible for federal reimbursement under Section 2108 of the CARES Act. The ETA 5159 reports do not specify the dates of STC payments so there was no way to determine if the payments were within eligible weeks of unemployment beginning on or after March 27, 2020, and ending on or before September 6, 2021.

ETA oversees the UI system including its internal control system. The Government Accountability Office's *Standards for Internal Control in the Federal Government* states the oversight body's responsibilities for the entity's internal control system<sup>17</sup> include five components:

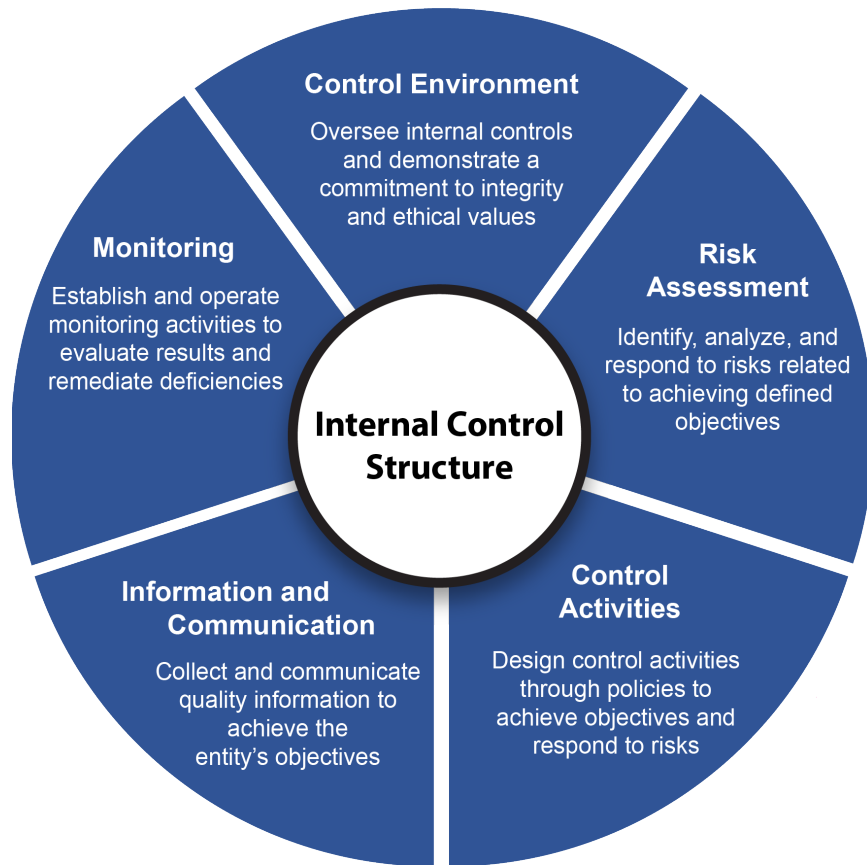
- The **control environment** provides discipline and structure, which affect the overall quality of the internal control system.
- The **risk assessment** provides the basis for developing appropriate risk responses.
- **Control activities** are the policies, procedures, techniques, and mechanisms that enforce management's directives to achieve the entity's objectives and address related risks.
- **Information and communication** involve the use of quality information to achieve an entity's objectives and access to reliable internal and external communication.
- **Monitoring** is the scrutiny of management's activities as well as the evaluation and remediation of identified deficiencies.

See Figure 2 for more details on the five components of internal controls.

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<sup>17</sup> GAO-14-704G, *Standards for Internal Control in the Federal Government* (September 2014)

**Figure 2: Internal Control Structure**



Source: Regis-generated graphic based on the *Standards for Internal Control in the Federal Government* (GAO-14-704G)

None of the 10 states tested indicated that ETA had performed monitoring reviews of their STC programs under the provisions of the CARES Act. In addition, of the 11 SWAs with active STC agreements<sup>18</sup> we surveyed, 6 of 7 responsive SWAs (86 percent) ultimately indicated that ETA did not perform monitoring reviews of their STC programs.

ETA provided guidance to its national and regional office staff for performing monitoring reviews and risk assessments for the major CARES Act UI programs, including Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, Pandemic Emergency Unemployment

<sup>18</sup> We surveyed 42 SWAs and 25 responded. Of the 25 responding SWAs, 11 had active STC agreements.

Compensation, and Mixed Earners Unemployment Compensation.<sup>19</sup> However, ETA did not issue any guidance for regional offices to monitor states' administration of the STC program under Section 2108 of the CARES Act.

If ETA regional offices were performing monitoring reviews of states' STC programs, they would have identified the Michigan SWA was in noncompliance when the state did not require employers to certify, in their STC applications, that the employees were not employed by them on a seasonal, temporary, or intermittent basis.

In addition, ETA did not establish adequate procedures to validate whether the STC benefit payments reported by SWAs on the ETA 9130 and ETA 5159 reports and drawn down from the Payment Management System were accurate and reflected the actual STC benefits paid. In some cases, states (Maine, Oregon, and Wisconsin) drew down funds based on faulty systems that reported duplicate or recovered payments or STC payments that included regular UI benefits. Other states' (Connecticut and Iowa) UI systems reported benefit payments for benefit weeks that were outside the scope of the CARES Act.

## CONCLUSION

Congress, through provisions of Section 2110 of the CARES Act, provided states with funding to promote and enroll employers in their STC programs and to implement or improve the administration of STC in their localities. We found ETA sufficiently monitored states' compliance with Section 2110 provisions.

Section 2108 of the CARES Act provided needed relief to employees and employers by delivering UI benefits to make up for reduced wages while sustaining a trained workforce during a national crisis. ETA did not sufficiently monitor states' compliance with the provisions, which resulted in states drawing down \$129.6 million in questionable reimbursements. Without sufficient ETA oversight, states that received federal reimbursement for STC unemployment

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<sup>19</sup> Employment and Training Order (ETO) No. 1-21, provided guidance related to the ETA national and regional office responsibilities in managing, monitoring, and overseeing state grants for the Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, and Pandemic Emergency Unemployment Compensation programs. ETO No. 1-21, Change 1, incorporated provisions enacted by the Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021 and provided specific guidance to ETA staff about their responsibilities for managing, monitoring, and overseeing only the Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, Pandemic Emergency Unemployment Compensation, and Mixed Earners Unemployment Compensation programs.



benefit payments had limited incentives to comply with reimbursement requirements.

## RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training:

1. Establish policies and procedures for monitoring, using lessons learned from the Short-Time Compensation program during the pandemic, that ensure states meet requirements for similar future temporary unemployment insurance programs that provide federal reimbursements to states.
2. Review states' compliance with Short-Time Compensation (STC) eligibility requirements and require all states with STC agreements to return federal funds used for reimbursements of STC benefit payments for weeks of unemployment beginning before March 27, 2020, and ending after September 6, 2021, as well as for reimbursements that exceeded benefits paid.
3. Monitor states administering unemployment insurance programs subsidized with federal funds, including temporary programs such as Short-Time Compensation, to ensure compliance with the 3-year records retention requirements established in the Code of Federal Regulations (2 C.F.R. § 200.334).

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## ANALYSIS OF AGENCY'S COMMENTS

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In response to a draft of this report, ETA generally agreed with our conclusions as well as our three recommendations to improve oversight of STC and similar future temporary UI programs. ETA acknowledged the report correctly highlighted ETA's efforts and several changes beyond the Department's control that impacted ETA's ability to monitor states' use of funds covered by Section 2108 of the CARES Act. ETA stated, in addition to insufficient funding for federal UI administration and oversight, funding for state UI administration is another serious issue for the UI system. ETA asserted the draft report is part of growing evidence to justify the need for Congressional action to increase funding for the UI program.

ETA asserted, to reach the auditors' conclusion that \$100.1 million in STC reimbursements for Michigan is questioned cost, a huge leap would have to be made to assume nearly all employees who were provided STC benefits in the state were hired on a seasonal, temporary, or intermittent basis. As noted in the report, ETA and the SWA could not provide documentation to support the SWA verified that employers complied with the requirement and STC benefit payments were eligible for reimbursement under Section 2108 of the CARES Act. While all STC benefits may not have been ineligible for reimbursement, without supporting documentation for the benefit payments, there is no way to make that determination. Therefore, all of the \$100.1 million in benefit payments remain questioned costs.

Despite ETA's assertion, ETA stated it will work with the state and determine the validity of the potential questioned costs raised in the draft report. ETA's comments did not result in any changes to our report. Synopses of ETA's responses follow:

- For Recommendation 1, ETA concurred and plans to capture and analyze lessons learned from the implementation of the pandemic-related STC program, which will be used by ETA to provide legislative technical assistance to Congress and develop monitoring and oversight strategies for similar temporary emergency UI programs enacted in the future.
- For Recommendation 2, ETA concurred and noted that work in this area is already underway. ETA acknowledged the draft report raised some issues that warrant further investigation by ETA. However, ETA stated appropriate processes and determinations must first be made before directing states to pay specific amounts.
- For Recommendation 3, ETA concurred and stated Employment and Training Order (ETO) 1-21 established ETA's monitoring priorities for FY 2024, including a description of ETA's methodology for assessing risk and determining which UI programs to monitor each year with available resources. This monitoring includes reviewing a state's record retention policies as described in ETO No. 1-24, as appropriate. ETA stated its regional offices also use the Core Monitoring Guide for its monitoring, which includes reviewing for sufficient record retention, as outlined under 2 C.F.R. § 200.334.

The agency's response to the draft report is included in its entirety in Appendix B. We appreciate the cooperation and courtesies ETA extended us during this audit.

*Regis + Associates, PC*

Regis and Associates, PC  
Washington, DC

June 26, 2024

**EXHIBIT 1: FUNDING MADE AVAILABLE TO 10 STATES UNDER THE CARES ACT, SECTION 2110**

**Table 1: Funding Made Available to 10 States under Section 2110**

<b>State<sup>20</sup></b>	<b>Amount</b>
Connecticut	\$1,187,842
District of Columbia	\$431,513
Illinois	\$4,187,442
Maine	\$382,579
Missouri	\$1,834,214
New York	\$6,458,984
West Virginia	\$438,002
Wyoming	\$177,037
Oregon	\$1,264,460
Washington	\$2,366,077
<b>Total</b>	<b>\$18,728,150</b>

Source: Data provided by ETA

<sup>20</sup> Connecticut, Maine, Missouri, Oregon, and Washington were selected for in-depth testing.

**EXHIBIT 2: FUNDING MADE AVAILABLE TO 26 STATES  
UNDER THE CARES ACT, SECTION 2108**

**Table 2: Funding Made Available to 26 States under Section 2108**

State <sup>21</sup>	Amount
Arizona	\$8,415,114
Arkansas	\$5,967,324
California	\$168,795,333
Colorado	\$15,828,738
Connecticut	\$56,598,435
District of Columbia	\$4,397,504
Florida	\$5,060,693
Iowa	\$10,305,278
Kansas	\$24,826,885
Maine	\$15,735,618
Maryland	\$7,290,210
Massachusetts	\$66,179,555
Michigan	\$105,854,689
Minnesota	\$51,762,532
Missouri	\$29,921,660
Nebraska	\$7,386,433
New Hampshire	\$5,018,747
New Jersey	\$21,762,099
New York	\$180,924,787
Ohio	\$56,578,150
Oregon	\$112,795,897
Pennsylvania	\$10,073,972
Rhode Island	\$23,767,910
Texas	\$108,574,883
Washington	\$136,698,120
Wisconsin	\$94,989,274
<b>Total</b>	<b>\$1,335,509,840</b>

Source: Data provided by ETA

<sup>21</sup> Connecticut, Iowa, Maine, Michigan, Missouri, Nebraska, Oregon, Pennsylvania, Washington, and Wisconsin were the 10 states selected for in-depth testing.

### EXHIBIT 3: SECTION 2108 STC BENEFIT PAYMENTS AND FEDERAL FUNDS DRAWDOWN FOR 10 STATES

**Table 3: STC Benefit Payments, Drawdowns, and Excessive Reimbursements**

State	STC Benefit Payments for CARES Act Eligible Benefit Weeks	STC 2108 Drawdowns (Reimbursements)	Excessive Reimbursements of STC 2108 Funds
Oregon	\$94,646,155	\$110,420,125	\$15,773,970
Maine	\$7,672,989	\$15,491,561	\$7,818,572
Wisconsin	\$17,651,163	\$20,916,348	\$3,265,185
Connecticut	\$55,087,996	\$55,862,076	\$774,080
Iowa	\$9,644,253	\$10,092,536	\$448,283
Michigan	\$100,061,317	\$100,107,844	\$46,527
<b>Total</b>			<b>\$28,126,617</b>

Source: Regis analysis based on data provided by selected states

**Table 4: STC Benefit Payments, Drawdowns, and Unreimbursed Payments**

State	STC Benefit Payments for CARES Act Eligible Benefit Weeks	STC 2108 Drawdowns (Reimbursements)	Unreimbursed STC Benefit Payments
Washington <sup>22</sup>	\$140,662,472	\$136,694,365	\$3,968,107
Pennsylvania	\$9,768,771	\$9,349,557	\$419,214
Missouri	\$30,105,961	\$29,921,660	\$184,301
Nebraska	\$7,187,422	\$7,187,080	\$342
<b>Total</b>			<b>\$4,571,964</b>

Source: Regis analysis based on data provided by selected states

<sup>22</sup> Washington did not draw down approximately \$4 million in federal funds due to ongoing technical issues with its Unemployment Tax and Benefits system, which underreported STC benefits paid on the ETA 5159 reports from April 2020 through September 2021. According to the Washington SWA officials, the SWA notified ETA of the technical problems but was unable to update its ETA 5159 reports before the expiration of the reimbursement funds on June 30, 2022. According to ETA officials, Washington had not resolved its technical issue and submitted a revised ETA 5159 report before the closeout period ended on January 1, 2023.

**EXHIBIT 4: QUESTIONED COSTS****Table 5: Questioned Costs<sup>23</sup> for the Seven States Tested**

<b>States in STC Noncompliance</b>	<b>Amount<sup>24</sup></b>
Michigan	\$100,107,844
Maine	\$7,818,572
Wisconsin	\$3,265,185
Oregon	\$15,773,970
Pennsylvania <sup>25</sup>	\$1,377,647
Connecticut	\$774,080
Iowa	\$448,283
<b>Total Questioned Costs</b>	<b>\$129,565,581</b>

Source: Regis analysis of state claimant data

<sup>23</sup> Questioned costs identify costs: (A) resulting from an alleged violation of a law, regulation, contract, grant, or other document or agreement governing the use of federal funds; (B) that are not supported by adequate documentation (also known as an unsupported cost); or (C) that appear unnecessary or unreasonable.

<sup>24</sup> As a result of the audit, Maine, Wisconsin, and Iowa returned 100 percent of these questioned costs to ETA. Therefore, ETA does not need to recover these states' questioned costs. In addition, Michigan returned \$46,546 of the \$100,107,844 in questioned costs to ETA. ETA needs to evaluate the remaining \$100,061,298 in questioned costs from Michigan.

<sup>25</sup> We estimated \$1.4 million in questioned costs for Pennsylvania based on the results of in-depth testing that found the state was unable to provide employer biweekly certifications of hours worked or the reduction of hours for 11 of 78 claimants who were paid STC benefits totaling \$1,890.

## **APPENDIX A: SCOPE AND METHODOLOGY**

### **SCOPE**

The audit covered ETA's efforts to ensure states met STC program reimbursement requirements and used STC funds in accordance with the provisions of the CARES Act and related subsequent legislation for weeks of unemployment beginning on or after March 27, 2020, through weeks of unemployment ending on or before September 6, 2021.

### **METHODOLOGY**

We conducted this 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.

We reviewed federal and state regulations, policies, and procedures; conducted state walk-throughs; and interviewed key management and staff at the ETA national office and state workforce agencies.

We designed procedures to test the states' grant expenditures compliance with Section 2110 of the CARES Act and related program requirements outlined in the grant agreements and ETA's monitoring of the grants. In addition, we designed audit procedures to test ETA's and states' efforts for implementing the STC program under Section 2108 of the CARES Act, Continued Assistance for Unemployed Workers Act of 2020, and the American Rescue Plan Act of 2021. We tested and analyzed program implementation and administration, eligibility determination, benefit payments, monitoring, and reporting.

### ***SELECTION OF STATES***

To perform our audit, we conducted an in-depth examination of 10 states that signed STC agreements under Section 2108 of the CARES Act: Connecticut, Iowa, Maine, Michigan, Missouri, Nebraska, Oregon, Pennsylvania, Washington, and Wisconsin. Of these 10 states, 5 states (Connecticut, Maine, Missouri, Oregon, and Washington) also signed agreements with DOL to receive STC grants under Section 2110 of CARES Act.



The OIG judgmentally<sup>26</sup> selected the states based on the quantity of initial STC claims stratified into the highest, middle, and lowest ranges; and the extent to which the states had not been selected in previous OIG audits. In addition, we sent surveys to 42 SWAs<sup>27</sup> to determine which states participated in the STC program and their experiences with implementation, administration, compliance, and ETA oversight.

### *INTERNAL CONTROLS*

We obtained an understanding of ETA's and states' internal controls, including information technology and information systems, that were considered significant to the audit objective and in planning and designing procedures to perform the audit. We did not provide assurance on their internal controls. Therefore, we did not express an opinion on ETA's or states' internal controls. Our consideration of internal controls for compliance with the STC program reimbursement requirements would not necessarily disclose all matters that might be significant deficiencies.

### *SAMPLING*

We used sampling in this audit to evaluate the states' compliance with the requirements of the CARES Act and related subsequent legislation. We applied non-statistical sampling using an approach as prescribed in *Government Auditing Standards* to select a sample judgmentally from grant expenditures and reports submitted to ETA. We used this sample to verify compliance with Section 2110 of the CARES Act.

We verified whether the STC grant expenditures were allowable under Section 2110 of the CARES Act as well as other program requirements; necessary and reasonable; consistent with policies and procedures; treated consistently; and documented adequately. Finally, we verified whether the states submitted the required reports to ETA.

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<sup>26</sup> Judgmental sampling is a non-probability sampling technique in which the sample members are chosen based on the auditor's knowledge and judgment.

<sup>27</sup> There were 43 remaining SWAs. However, we inadvertently omitted Colorado from the survey, resulting in 42 SWAs being surveyed. Of the 42 surveyed SWAs, 25 SWAs responded. We identified 11 of 25 responsive SWAs had active STC grant agreements and received funding. Therefore, we excluded the responses from 14 SWAs that did not have active STC grant agreements.

To verify compliance with Section 2108 of the CARES Act, when possible,<sup>28</sup> we applied statistical sampling that included a sampling risk of 5 percent (which equates to a 95 percent confidence level) and a tolerable rate of deviation between 3 and 5 percent to select sample transactions from the claimant benefit payments population for each of the 10 selected states using the Monetary Unit Sampling process. The methodology factored the confidence level, tolerable rate of deviation, and expected population deviation rate.

Testing involved re-calculating weekly STC benefits paid, then comparing them to the actual benefit payments made to claimants.

To assess compliance with Section 2108 of the CARES Act, we also verified:

- states appropriately approved plans submitted by employers, and the employers appropriately certified the eligibility of the employees in their plans;
- whether either the employers or the employees certified weekly or biweekly benefits, after initial enrollment;
- claimants were paid no more than 26 weeks of benefits; and
- whether the state submitted the required reports to ETA for selected states.

#### *DATA RELIABILITY*

We conducted tests to determine the reliability of STC claimant and grant data provided to us for review under Section 2110 and Section 2108 of the CARES Act, respectively. To assess the reliability of the data, we performed procedures to test for completeness, accuracy, consistency, and validity by performing the following:

- For Section 2110 of the CARES Act grant funds, we matched the funds received to the specific grant agreements. Grant expenditures were corroborated to detailed general ledger reports

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<sup>28</sup> We identified issues with the population of STC claims for some states, which prevented statistical sample testing. For example, some states provided populations of STC claims that also included regular UI claims or claims associated with benefit weeks that were outside the CARES Act eligible benefit weeks beginning on or after March 27, 2020, or ending on or before September 6, 2021.

and back-up documentation, as well as states' STC Grant Quarterly Progress Reports.

- For Section 2108 of the CARES Act benefit payments, we compared claimant payment data provided (by state) to ETA reports, which included ETA 5159 Claims and Payment Activities Reports and ETA 9130 Quarterly Financial Reports. These reports recorded quarterly drawdowns. We further corroborated the amounts on the ETA 9130 reports to the amounts recorded in the Payment Management System.

### *CRITERIA*

- Federal Unemployment Tax Act as amended by the Middle Class Tax Relief and Job Creation Act of 2012, including Title II, Subtitle D, Short-Time Compensation Program, Public Law 112-96 (February 22, 2012)
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020)
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (December 27, 2020)
- American Rescue Plan Act of 2021, including Title IX, Subtitle A, Crisis Support for Unemployed Workers, Public Law 117-2 (March 11, 2021)
- 2 C.F.R. § 200.334, Retention Requirements for Records GAO-14-704G, Standards for Internal Control in the Federal Government (September 2014)
- Unemployment Insurance Program Letter No. 21-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments (May 3, 2020)
- Unemployment Insurance Program Letter No. 22-20, Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Grants (May 10, 2020)
- Unemployment Insurance Program Letter No. 22-20, Change 1, New End Date of the Application Period for Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 Short-Time Compensation (STC) Program Grants (July 19, 2023)

*PRIOR RELEVANT COVERAGE*

During the last 4 years, the OIG has issued five reports of significant relevance to the subject of this report. Those reports include the following:

1. CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-15 (April 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>;
2. 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>;
3. 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>;
4. Alert Memorandum: The 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: <http://www.oig.dol.gov/public/reports/oa/2022/19-22-004-03-315.pdf>; and
5. COVID-19: ETA Needs a Plan to Reconcile and Return to the U.S. Treasury Nearly \$5 Billion Unused by States for a Temporary Unemployment Insurance Program, Report No. 19-23-015-03-315 (September 28, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf>.

**APPENDIX B: AGENCY'S RESPONSE TO THE REPORT**

**U.S. Department of Labor**

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



June 14, 2024

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

FROM: JOSÉ JAVIER RODRÍGUEZ *JJR*  
Assistant Secretary

SUBJECT: Response to Draft Report – *COVID-19: ETA's Oversight of Short-Time Compensation Did Not Detect \$129.6 Million in Questioned Costs*,  
Report No. 19-24-XXX-03-315

The U.S. Department of Labor's (Department) Employment and Training Administration (ETA) appreciates the opportunity to respond to the above-referenced draft report from the Office of Inspector General (OIG). Below are ETA's observations on the draft report, followed by responses to the draft report's recommendations.

**Acknowledgement of ETA's Oversight of the Short-Time Compensation (STC) Program**

The Department takes oversight of federally funded programs very seriously. The draft report states that "ETA sufficiently monitored states' compliance with Section 2110" of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The draft report further states that "no compliance exceptions" were found regarding the Section 2110 funds. ETA appreciates the acknowledgement in the draft report that oversight of STC funds occurred.

The draft report also notes that with respect to Section 2108 of the CARES Act, "ETA relied on the review of ETA 5159 reports.... ETA used these reports to conduct its oversight of the STC program and as its method to ensure the reimbursement amount the states received aligned with the STC benefit payments the states reported." The key concern in the draft report is that ETA did not sufficiently conduct oversight of the funds covered by Section 2108. However, the draft report correctly highlights ETA's efforts and several challenges beyond the Department's control that impacted ETA's ability to monitor states' use of funds covered by Section 2108.

**Funding for Program Administration is a Critical Issue Requiring Congressional Action**

*Insufficient Funding for Federal Unemployment Insurance (UI) Administration.* ETA appreciates the language in the draft report acknowledging the lack of adequate and timely funding for federal UI administration of the CARES Act. Specifically, the draft report notes:

“for much of the pandemic and the life of these new programs, Congress did not provide any new funding for ETA staffing. When the American Rescue Plan Act of 2021 was enacted in March 2021, it extended the temporary programs through September 6, 2021, and provided some temporary funding for additional staffing in ETA. However, this funding came a year after the onset of the pandemic and after the most critical time of administering new temporary programs while states struggled to process the highest level of claims in the history of the UI program.”

The draft report also reflects the long-term decline in program administration to support ETA’s administration and oversight of the UI program, stating that:

“the enacted levels of funding for program administration in workforce security, which funds UI program staff in the Department’s national and regional offices, declined significantly between Fiscal Year (FY) 2006 and FY 2021, resulting in a reduction in staff. Specifically, in FY 2006, the UI program had 419 staff, far higher than the 169 staff employed by the program during the pandemic in FY 2021. It was in this environment that ETA had the immense responsibility of overseeing the many new, temporary UI programs while continuing its oversight of prior existing responsibilities.”

The funding situation has not improved since the end of the pandemic. As indicated in the Department’s FY 2025 Budget Request,<sup>1</sup> “With rescissions and limitations on annual funding implemented through the Fiscal Responsibility Act, ETA anticipates limited hiring in FY 2024 to fill only the most strategically critical positions and a general reduction in staffing levels...”

***Insufficient Funding for State UI Administration.*** In addition to insufficient funding for federal UI administration and oversight, funding for state UI administration is another serious issue for the UI system. In April 2024, the Department published a document titled, *Building Resilience: A plan for transforming unemployment insurance.*<sup>2</sup> This UI Transformation Plan represents a more complete accounting of activities and strategies underway and being pursued by the Department, along with recommendations for necessary legislative action. The Department’s first identified Action Area is adequately funding UI administration. In particular, the plan states that “The federal underfunding of UI administration poses significant and far-reaching challenges to the fair and efficient operations of the UI system...In real terms, administrative funding declined by 23 percent between 1989 (on the eve of the 1990 recession) and 2019.” The current administrative funding framework is predominately based on a state’s workload (defined as the volume of unemployment claims), leading to steep drops in funding when the economy improves, and leaving states poorly positioned to respond to downturns, let alone an economic collapse of the magnitude experienced in spring 2020.

The draft report is part of growing evidence to justify the need for Congressional action to increase funding for the UI program. Without sustainable resources in the future, the

<sup>1</sup> U.S. Department of Labor, FY 2025 Congressional Budget Justification, Employment and Training Administration, Program Administration: <https://www.dol.gov/sites/dolgov/files/general/budget/2025/CBJ-2025-V1-09.pdf>

<sup>2</sup> U.S. Department of Labor, *Building Resilience: A plan for transforming unemployment insurance*, published April 2024, [https://oui.doleta.gov/unemploy/transformation\\_plan.asp](https://oui.doleta.gov/unemploy/transformation_plan.asp)

Department will continue to experience notable challenges related to staffing and program oversight, and states will continue to struggle in effectively operating the program.

#### **Findings Related to Michigan**

The draft report identifies \$129.6 million in questioned costs (reimbursements) to states for STC benefit payments. Of this amount, \$100.1 million relates to the review of one state's (Michigan) reimbursements for STC benefits. A requirement for reimbursement for STC benefits under the CARES Act is that the individuals receiving STC benefits were not temporary or seasonal workers. The auditors found that Michigan did not ask employers participating in STC to certify that the individuals receiving benefits were not temporary or seasonal workers. To reach a conclusion that \$100.1 million should be treated as questioned costs, one has to make a huge leap in assuming that nearly all employees who were provided STC benefits in the State were seasonal, temporary, or intermittent. There are no data or facts to justify this conclusion. In fact, it is worth noting that the Michigan Job Vacancy Survey report in 2021 indicates that only nine percent of job vacancies in the State were for temporary or seasonal positions.<sup>3</sup> This conclusion also ignores the fact that the prohibition on using the STC program to pay benefits to seasonal, temporary, and intermittent employees is a requirement for Michigan STC and the State has been very clear in sharing information about this requirement with employers.<sup>4</sup> ETA will work with the State and make a determination on the validity of the potential questioned costs raised in the draft report. However, it is highly unlikely that the amount will be near the \$100.1 million noted in the draft report.

#### **Responses to the Recommendations**

Please find below each of the recommendations contained in the draft report, followed by ETA's proposed corrective actions to address the recommendations.

**Recommendation 1: Establish policies and procedures for monitoring, using lessons learned from the Short-Time Compensation program during the pandemic, that ensure states meet requirements for similar future temporary unemployment insurance programs that provide federal reimbursements to states.**

ETA Response: ETA agrees with this recommendation. ETA will capture and analyze lessons learned from the implementation of the pandemic-related STC program, which will be used by ETA to provide legislative technical assistance to Congress and develop monitoring and

<sup>3</sup> See Michigan Labor Market News March 2021, pages 10 and 14 at: [https://milmi.org/docs/publications/News/LMN/LMN\\_0321.pdf](https://milmi.org/docs/publications/News/LMN/LMN_0321.pdf).

<sup>4</sup> See bullet points under Work Share Requirements on Michigan's website: <https://www.michigan.gov/leo/bureaus-agencies/uia/employers/panel-resources/programs/workshare-program>; Michigan's Employer Guide Sheet: <https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/UIA/Publications/UIA-Work-Share-Employee-Guide-Sheet-2022.pdf?rev=ad58964373c8425cadc4d59b15cfa53&hash=9391064BE78765294BF1E99AC706D459>; and pages 3 and 30 of Michigan's Toolkit for Shared Work: [https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/UIA/Publications/Work\\_Share\\_Toolkit.pdf?rev=5bd6ec6df03c46b1b10b2c8bb3b910af&hash=FCC90F2419E392D39721E11173BC50F8](https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/UIA/Publications/Work_Share_Toolkit.pdf?rev=5bd6ec6df03c46b1b10b2c8bb3b910af&hash=FCC90F2419E392D39721E11173BC50F8).

oversight strategies for similar temporary emergency UI programs enacted in the future. ETA expects this process to be completed by the end of FY 2025. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

**Recommendation 2: Review states' compliance with Short-Time Compensation (STC) eligibility requirements and require all states with STC agreements to return federal funds used for reimbursements of STC benefit payments for weeks of unemployment beginning before March 27, 2020, and ending after September 6, 2021, as well as for reimbursements that exceeded benefits paid.**

ETA Response: ETA agrees with this recommendation and notes that work in this area is already underway. As indicated in the draft report, three states have already returned \$11.5 million to ETA, and the draft report raises some issues that warrant further investigation by ETA. Appropriate processes and determinations must first be made before directing states to pay specific amounts. ETA will conduct an appropriate review and expects the process to be completed by the end of FY 2026. The Administrator for the Office of Unemployment Insurance and the Administrator for the Office of Grants Management are responsible for this recommendation.

**Recommendation 3: Monitor states administering unemployment insurance programs subsidized with federal funds, including temporary programs such as Short-Time Compensation, to ensure compliance with the 3-year records retention requirements established in the Code of Federal Regulations (2 C.F.R. § 200.334).**

ETA Response: ETA agrees with this recommendation. Employment and Training Order (ETO) No. 1-20, Change 2, *National Office (NO) and Regional Office (RO) Roles in Managing and Monitoring the Unemployment Insurance (UI) Program Reviews as part of Grant Management beginning in Fiscal Year (FY) 2024* establishes ETA's monitoring priorities for FY 2024, including a description of ETA's methodology for assessing risk and determining which UI programs to monitor each year with available resources. This monitoring includes reviewing a state's record retention policies as described in ETO No. 1-24, *Grants Management Policies and Responsibilities*, as appropriate. ETA's Regional Offices also use the Core Monitoring Guide, which was updated in FY 2024, for its monitoring, and which includes reviewing for sufficient record retention, as outlined under 2 CFR 200.334. The Director for the Office of Regional Management is responsible for this recommendation.



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