

# U.S. Department of Labor

Office of Inspector General—Office of Audit

EMPLOYMENT AND TRAINING  
ADMINISTRATION



## ETA DID NOT USE COMPATIBLE DATA WHICH OVERSTATED THE EFFECTIVENESS OF ITS OVERPAYMENT DETECTIONS

Date Issued: September 28, 2012  
Report Number: 04-12-001-03-315

## **BRIEFLY...**

Highlights of Report Number 04-12-001-03-315, issued to the Assistant Secretary for Employment and Training.

### **WHY READ THE REPORT**

The Office of Inspector General (OIG) conducted a performance audit of the Employment and Training Administration's (ETA) measurement used to determine the effectiveness of Unemployment Insurance (UI) overpayment detection activities for state-funded benefits and Extended Benefits (EB). The UI program is designed to provide benefits to individuals out of work, generally through no fault of their own, for periods between jobs.

Between April 1, 2007, and September 30, 2010, the UI program paid \$174 billion in state-funded benefits and EB to unemployed workers. ETA estimated that \$9.4 billion of this amount represented detectable overpayments. ETA established an overpayment detection measure (measure) which compared actual overpayments detected by the states to the overall estimated detectable overpayments. This measure served as a control for ETA to use to assess the states' overpayment detection activities. ETA expected states to meet the Acceptable Level of Performance (ALP) for the measure, which was 50 percent. ETA also established data validation activities to ensure the reliability of the measure.

We previously reported that ETA did not measure the effectiveness of improper payment detection activities for \$126 billion in federally-funded emergency benefits. Using data provided by ETA, we had determined states detected only \$1.3 billion (19 percent) of the estimated \$6.9 billion in detectable overpayments from federally-funded emergency benefits.

### **WHY OIG CONDUCTED THE AUDIT**

We conducted the audit to determine if ETA appropriately measured the effectiveness of overpayment detections related to state-funded benefits and EB.

### **READ THE FULL REPORT**

To view the report, including the scope, methodology, and full agency response, go to: <http://www.oig.dol.gov/public/reports/oa/2012/04-12-001-03-315.pdf>.

**September 2012**

## **ETA DID NOT USE COMPATIBLE DATA WHICH OVERSTATED THE EFFECTIVENESS OF ITS OVERPAYMENT DETECTIONS**

### **WHAT OIG FOUND**

The OIG found that ETA did not appropriately measure the effectiveness of the states' detection of overpayments for state-funded benefits and EB because the measure did not use compatible data.

Specifically, ETA did not include EB in the estimated detectable overpayments; however, it was included in actual overpayments. ETA reported the states detected 52.6 percent of estimated detectable overpayments but later determined this amount was actually 48.5 percent — short of the ALP of 50 percent. Had ETA's estimates for overpayment detections included EB, the states would have had to detect an additional \$142 million to achieve the ALP. Furthermore, the data ETA used in the measure was not always validated; therefore, ETA could not ensure its reliability.

In addition, ETA was not fully successful in getting states to comply with Unemployment Insurance Public Letter 3-07, which requires states to perform cross matches with the National Directory of New Hires (NDNH). Because the NDNH cross matches were not properly done, the estimate of detectable overpayments may be understated.

### **WHAT OIG RECOMMENDED**

The OIG made six recommendations to the Assistant Secretary for Employment and Training in the areas of implementing an overpayment detection performance measure for EB, updating the reporting system to isolate readily detectable overpayments, and improving data validation.

ETA generally agreed with the recommendations.

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**U.S. Department of Labor**

Office of Inspector General  
Washington, D.C. 20210



September 28, 2012

## **Assistant Inspector General's Report**

Ms. Jane Oates  
Assistant Secretary  
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US Department of Labor  
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The Unemployment Insurance (UI) program is designed to provide benefits to individuals out of work, generally through no fault of their own. In order to be eligible for benefits, jobless workers must show that they were separated from work through no fault of their own, met minimum length of time and wage requirements before they were separated, and must be available for work. The program is administered at the state level, but benefits are funded by both state and federal monies. Although each state designs its UI program within the framework of federal requirements, the Employment and Training Administration (ETA) is responsible for monitoring the states' performance, among other things. For this report, we assessed controls over UI overpayment (overpayment) detection for state-funded benefits and extended benefits (EB).<sup>1</sup> We previously reported that ETA did not measure the effectiveness of improper payment detection activities for \$126 billion in federally-funded emergency benefits.<sup>2</sup> Using data provided by ETA, we had determined states detected only \$1.3 billion (19 percent) of the estimated \$6.9 billion in detectable overpayments from federally-funded emergency benefits.

We performed the audit to answer the following question:

Did ETA appropriately measure the effectiveness of overpayment ' detections for state-funded and extended benefits? '

Between April 1, 2007, and September 30, 2010, the UI program paid \$174 billion in state-funded benefits and EB to unemployed workers. ETA estimated that \$9.4 billion of this amount represented detectable overpayments. ETA established an overpayment detection measure (measure) which compared actual overpayments detected by the states to the overall estimated detectable overpayments. This measure served as a

<sup>1</sup> Since FY 2009, EB has been fully federally funded. Prior to that, EB funding was evenly split between state and federal.

<sup>2</sup> Report Number 18-12-001-03-315, Recovery Act: ETA is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits, issued January 31, 2012

control for ETA to use to assess the states' overpayment detection activities. ETA expected states to meet the Acceptable Level of Performance (ALP) for the measure, which is 50 percent. ETA also established data validation activities to ensure the reliability of the measure.

The audit covered overpayments for state-funded benefits and EB reported between fiscal years (FY) 2008-2010. Our work included tests of controls over both actual and estimated detectable overpayment data reported by ETA and the states, and statistical tests of this data for two states — Arkansas and Mississippi. We also sent survey questionnaires to the remaining states regarding data validation and ETA oversight. Our objective, scope, methodology, and criteria are detailed in Appendix B.

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 finding and conclusions based on our audit objective.

## **RESULTS IN BRIEF**

We found that ETA did not appropriately measure the effectiveness of the states' detection of overpayments for state-funded benefits and EB because the measure did not use compatible data. ETA reported the states detected 52.6 percent of estimated detectable overpayments. However, ETA later determined that this amount was actually 48.5 percent — short of the ALP of 50 percent. Furthermore, the data used in the measure was not always validated; therefore, ETA could not ensure its reliability.

The overstatement of the states' performance resulted when they reported EB in actual overpayments detected and ETA did not include EB in the estimated detectable overpayments. By excluding EB in the estimated detectable overpayments, ETA compared data that was not compatible. Between April 1, 2007, and September 30, 2010, EB payments increased significantly — from \$23 thousand to \$7.4 billion.<sup>3</sup> Had ETA's estimates for overpayment detections included EB, the states would have had to detect an additional \$142 million to achieve the ALP of 50 percent. Subsequent to our fieldwork, ETA modified its Overpayment Detection and Recovery Activities report (ETA 227) to distinguish EB overpayments from State UI, Unemployment Compensation for Federal Employees (UCFE) and Ex-Servicemen (UCX) overpayments, and it plans to develop a separate management information measure for EB.

We also noted that ETA was not fully successful in getting states to comply with Unemployment Insurance Public Letter (UIPL) 3-07, which requires states to perform cross matches with the National Directory of New Hires (NDNH). As of May 2012, ETA reported that seven states either had not performed the cross match or had minor

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<sup>3</sup> EB payments increased to \$11.9 billion in FY 2011.

technical issues. Because the NDNH cross match were not properly done, the estimate of detectable overpayments may be understated.

Finally, in each of the three fiscal years we reviewed, at least 71 percent of states did not validate actual overpayment data, and ETA officials stated ETA regional offices completed mandatory reviews of state's BAM surveys, they did not always close these reviews in the UI database.<sup>4</sup> ETA officials acknowledged the data validation issues we identified, but said that the required changes to the BAM sample selection and database management software, and states reported Information Technology (IT) resource constraints are the most significant barriers. Without making improvements in these areas, ETA cannot ensure the reliability of states' reported overpayment data. Subsequent to our fieldwork, ETA issued additional guidance to regional offices for conducting data validation reviews for actual overpayment data.

We made six recommendations to the Assistant Secretary for Employment and Training in the areas of implementing an overpayment detection performance measure for EB, updating the reporting system to isolate readily detectable overpayments, and improving data validation.

ETA generally agreed with the recommendations and stated it has been working aggressively with states to address the issue of UI improper payments. ETA officials also stated that actions to address findings and recommendations in the report have either already been completed or are well underway. ETA's response is included in its entirety in Appendix D.

## RESULTS AND FINDINGS

### **Objective — Did ETA appropriately measure the effectiveness of overpayment detections for state-funded and extended benefits?**

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*ETA did not appropriately measure the effectiveness of the states' overpayment detections for state-funded and extended benefits.*

ETA did not appropriately measure the effectiveness of the states' detection of overpayments for state-funded benefits and EB because the data used for the overpayment detection measure was not compatible, ETA did not ensure states performed required cross matches with the NDNH to determine estimated detectable overpayments, and data used in the measure was not always validated.

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<sup>4</sup> The states' BAM surveys estimate the rate and amount of overpayments in the UI program.

**Finding 1— ETA did not use compatible data in its overpayment detection measure.**

ETA’s overpayment detection measure (measure) which compares actual overpayments detected by the states to the overall estimated detectable overpayments for ETA to assess the states’ overpayment detection activities, was flawed. Specifically, ETA did not include EB in its estimated detectable overpayments. Consequently, ETA missed opportunities for detecting \$142 million in overpayments.

As illustrated below, ETA established a measure that compared actual overpayments detected by the states to the overall estimated detectable overpayments as a control for ETA to assess the states’ overpayment detection.

<i>Overpayment Detection Measure</i>	$\frac{\text{Actual Overpayments Detected}}{\text{Estimated Detectable Overpayments}} \times 100$
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However, states reported EB in actual overpayments detected and ETA did not include EB in the estimated detectable overpayments. In times of low unemployment, EB are generally negligible in relation to total benefits paid and will likely have little effect on the measure. Unfortunately, with the significant upward spike in unemployment since April 2007, EB increased considerably, from only \$23 thousand to more than \$7.4 billion by September 30, 2010<sup>5</sup>.

ETA expected states to meet the ALP of 50 percent for the measure. Although ETA initially reported the states’ detection rate was 52.6 percent, had EB overpayments been included in the estimated detectable overpayments, the rate would have been 48.5 percent.

Similarly, in a previous audit<sup>6</sup> we found that ETA did not include overpayments related to \$126 billion in Emergency Unemployment Compensation (EUC) and Federal Additional Compensation (FAC) in its measure. In that instance, we used data provided by ETA to determine that states detected only \$1.3 billion (19 percent) of the estimated \$6.9 billion in detectable overpayments from federally-funded emergency benefits. When EUC and FAC overpayments were added to the measure, the rate dropped even lower, to 34 percent.

The UI administrator stated the most significant barrier to the inclusion of EB into the estimated detectable overpayments is the required changes to the BAM program, which would require a complete rewrite of the system. Furthermore, ETA would have to increase state BAM staff to conduct the audits of the EB claims and EUC claims. EB is a permanent episodic program that triggers on and off in states, depending on a formula

<sup>5</sup> EB payments increased to \$11.9 billion in FY 2011.

<sup>6</sup> Report Number 18-12-001-03-315, Recovery Act: ETA is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits, issued January 31, 2012



based on the state's unemployment rate. However, to accomplish this, it would take approximately 6 years and cost \$950,000. Unfortunately, by excluding EB from the measure, ETA compared data that was not compatible and ETA missed opportunities for detecting \$142 million in overpayments during the three year period FYs 2008-2010, assuming states met the ALP of 50 percent.

Subsequent to completing our fieldwork, ETA modified its ETA Overpayment Detection and Recovery Activities report (ETA 227) to distinguish EB overpayments from State UI, UCFE, and UCX overpayments, which will allow ETA to assess integrity activities related solely to EB. By excluding actual EB overpayments from the existing measure, ETA's measure should more accurately represent states' performances. Similarly, ETA officials said they are developing an overpayment detection management information measure to determine how well states are detecting EB overpayments.

**Finding 2 — ETA's efforts to ensure states' compliance with NDNH cross-match requirements have not been fully successful.**

ETA requires that states conduct a statistical survey known as BAM to estimate the rate and amount of overpayments in the UI program. Estimated detectable overpayments are determined using the results of the state's BAM surveys. State benefits are cross matched with NDNH, a nationwide system where employers report new hiring of employees. Using NDNH cross matching helps BAM identify the largest cause of UI improper payments — claimants who have returned to work and continue to claim UI benefits — to incorporate in the estimated detectable overpayments. We found ETA was not fully successful in getting states to perform required cross matches with NDNH. UIPL 3-07 requires all states' BAM surveys to be cross matched with NDNH beginning the first calendar week in January, 2008. It also mandates that states ensure certain parameters are adhered to with the cross matches, (e.g. submitting cross matches within unique date ranges for each case, ensuring cross matches with in-state NDNH take place, and documenting that NDNH cross matches took place).

As of May 2012, ETA reported that seven states either had not performed the cross match or had minor technical issues. One of these states, California, which accounted for 16 percent of total benefits paid during FYs 2008-2010, did not perform the NDNH cross match. The six remaining states had to resolve minor technical issues with respect to the date of employer-submitted new hires records against which the BAM cases are matched. If NDNH cross matches are not properly completed and BAM investigators are not able to identify benefit year employment through other investigative tools, BAM surveys may not identify all potential overpayments that are reasonably detectable and estimated detectable overpayments by state agencies may be understated.

ETA officials stated they have issued UIPL No. 19-11, which provides guidance to states regarding the recommended operating procedures for effectively using NDNH for Benefit Payment Control operations and offered two supplemental funding opportunities

for states to implement the NDNH recommended operating procedures which is one of the conditions for states to receive any additional supplemental funding. ETA officials also stated that ETA has consistently monitored state progress in meeting the NDNH matching requirements. ETA’s ROs conduct Methods and Procedures reviews of the states’ BAM programs biennially. This formal biennial review and ongoing monitoring is used to determine if the state agency’s BAM operations are being administered in compliance with BAM organizational and methodological requirements in the BAM State Operations Handbook (ET Handbook 395), including the NDNH requirements.

According to ETA officials, the regional offices performed required monitoring of the states’ BAM programs. In addition, ETA’s National Office and Regional Offices are working with these states to resolve minor technical IT issues and achieve full compliance.

**Finding 3 — ETA did not always ensure data used in the measure was validated.**

ETA could not ensure that actual and estimated overpayment data used in the measure was validated. Establishing a methodology to ensure the validity of data used in the measure is a control ETA uses for assessing how well states are doing in detecting overpayments. ETA reported that in each of the three fiscal years we reviewed, at least 37 states (71 percent) did not validate actual overpayment data. In addition, ETA did not ensure the reliability of estimated detectable overpayments because regional offices did not always close mandatory reviews of states’ BAM surveys. With no assurance of data validity, ETA cannot rely on its measure to determine which states were not meeting the ALP, and cannot know what technical assistance to the states is needed to increase their overpayments detections.

*ETA did not always ensure data validation was conducted for actual overpayments reported.*

For FYs 2008-2010, ETA reported \$4.5 billion of actual overpayments for state-funded benefits and EB. However, the reliability of this amount was uncertain because ETA did not ensure that states always performed data validation for the actual overpayments they reported. According to ETA Handbook 361, the actual overpayment data is held to a plus/minus 1 percent tolerance level and must be validated annually. In each of the three fiscal years we reviewed, at least 37 states did not validate actual overpayment data.

<b>Table 1: Data Validation for Actual Reported Overpayments</b>			
<b>Outcome of the Data Validation</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Pass	15	13	13
Not Validated	37	39	39

ETA officials said states have reported various barriers to the completion of DV requirements, including IT resource constraints to develop the required DV extract files

and administrative decisions to place a higher priority on other UI program requirements, such as the programming required for the implementation and/or extension of temporary and episodic federal programs.

States used ETA's Data Validation program software to ensure their results were valid. In addition, states selected random samples to verify that these samples have been correctly classified in the state database. However, when reviewing their verification process we found states were using screens shots and not reviewing proper supporting documentation. While ETA's handbook requires states to use supporting documentation to validate data, the handbook shows database screens as an example of how to validate data. However, ETA officials confirmed that states should be reviewing case files, not database screens. ETA acknowledged the need to revise the Data Validation Handbook to emphasize the requirement to use case files as supporting documentation.

Additionally, ETA's national office did not provide guidance to the regional offices on monitoring the states' data validation process and results, which would have helped to identify these issues. ETA incorrectly assumed the states that passed the data validation had conducted it correctly. Because states did not conduct data validation correctly, ETA cannot ensure the reliability of the reported \$4.5 billion in actual overpayments. ETA officials stated they developed a Monitoring Guide for the regional offices to use in conducting data validation reviews for states who reported passing data validation populations and modules. The Monitoring Guide was issued in February 2012, subsequent to our fieldwork.

*ETA regional offices did not always close mandatory reviews of states' BAM surveys.*

ETA regional offices did not always close mandatory reviews of states' BAM surveys of UI benefits. ETA Handbook 396 mandates the regional offices conduct reviews of states' BAM surveys to ensure that accurate data is collected and recorded for analytical purposes, and to determine the adequacy of state BAM survey cases. The regional offices conduct these reviews by first selecting a sample of each state's BAM surveys of UI benefits to review. The regional office then discusses any issues found during the review with the state, and the review is entered into a pending status. Once the state addresses the problem and the regional office verifies the issue has been resolved, the regional office lists the review as closed. For calendar year (CY) 2008, we found that 282 regional reviews were not properly closed, 280 of which pertained to two regional offices. For example, one regional office could not provide supporting documentation for any of the 120 reviews it conducted. This regional office did not update its 2010 review results until after we performed a site visit. Furthermore, the ETA national office did not ensure regional offices had properly closed almost 30 percent (642 of 2,160) of reviews initiated in CYs 2008-2010. Table 2 below shows the status of regional office reviews for CYs 2008-2010:

**Table 2: Status of Regional Office Reviews**

<b>Calendar Year</b>	<b>Total Reviews</b>	<b>Reviews Properly Closed</b>	<b>Reviews Not Properly Closed</b>	<b>Percentage of Reviews Not Properly Closed</b>
2008	891	609	282	32%
2009	170	82	88	52%
2010	1099	827	272	25%
<b>Total</b>	<b>2160</b>	<b>1518</b>	<b>642</b>	<b>30%</b>

We determined that ETA did not have clear guidance on timeliness requirements for the regional offices to close their reviews. Also, ETA officials at the national level were aware of the pending regional reviews, but did not notify the respective regional administrators to take corrective action. ETA officials indicated that guidance provided to the regions and states was generally adequate. However, as we previously noted, ETA issued additional guidance subsequent to our fieldwork related to reporting EB and conducting data validation. Furthermore, ETA officials stated that regional offices completed reviews of BAM surveys, although some of these reviews were not closed in the UI database, in some cases due to software issues that were subsequently corrected. If reviews are not being properly completed and closed, ETA cannot ensure the reliability of the estimated detectable overpayments.

## RECOMMENDATIONS

We recommend that the Assistant Secretary for Employment and Training continue efforts to:

1. Ensure the overpayment detection management information measure for EB is implemented and accurately report detectable overpayment activities.
2. Ensure that states properly cross match BAM samples to NDNH.
3. Develop and implement clear guidance for states on properly conducting data validation.
4. Ensure all states conduct data validation for actual overpayment data as required by ETA Handbook 361.
5. Ensure regional offices perform effective monitoring of states' efforts for conducting data validation properly.
6. Ensure regional offices timely close reviews of the states' sampled BAM survey cases used in their estimates of detectable overpayments.

We appreciate the cooperation and courtesies that ETA personnel and state officials extended to the Office of Inspector General during this audit. Office of Inspector General personnel who made major contributions to this report are listed in Appendix E.



Elliot P. Lewis  
Assistant Inspector General  
for Audit

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# Appendices

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**Appendix A****Background**

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Title III of the Social Security Act requires the Department of Labor to oversee and monitor the UI program to ensure the states operate it effectively and efficiently. The UI program provides benefits to individuals out of work, generally through no fault of their own. In order to be eligible for benefits, jobless workers must show that they were separated from work through no fault of their own, met minimum length of time and wage requirements before they were separated, and must be available for work. The program is administered at the state level, but benefits are funded by both state and federal monies. Although each state designs its UI program within the framework of federal requirements, ETA is responsible for monitoring the states' performance, among other things. The UI program represents one of the largest benefit payment programs in the United States.

Between April 1, 2007, and September 30, 2010, the UI program paid \$174 billion in state UI benefits and EB<sup>7</sup> to unemployed workers. ETA estimated that \$9.4 billion of this amount represented detectable overpayments. ETA UI national and regional offices have responsibility for providing oversight of UI program operations. ETA established an overpayment detection measure (measure) which compared actual overpayments detected by the states to the overall estimated detectable overpayments as a control for ETA to assess the states' overpayment detection activities. Estimated detectable overpayments are figured using results of the BAM survey, which is based on samples of state-funded benefits only that ETA expects states to meet the ALP for the measure, which is 50 percent. In FY 2008, ETA required that states not meeting the ALP must take action to develop and submit a Corrective Action Plan (CAP). ETA also mandated that states perform data validation activities to ensure the reliability of the measure.

On January 31, 2012, we issued a report concerning the UI overpayment detection process for federally-funded benefits. The report showed that ETA had not effectively applied key controls it has over the state-funded overpayment detection process to the federally-funded UI emergency benefits.<sup>8</sup> The benefits we audited were valued at \$126 billion for FYs 2008-2010. The report discussed how ETA had neither developed a valid way to estimate overpayments in the federally-funded emergency benefits program nor effectively measured and monitored how well states did in detecting overpayments related to federally-funded benefits.

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<sup>7</sup> Since FY 2009, EB has been fully federally funded. Prior to that, EB funding was evenly split between state and federal.

<sup>8</sup> These emergency benefits comprise EUC, which has provided potentially 53 weeks of additional benefits to claimants since 2008; and FAC, which has added \$25 in weekly benefit payments to UI claimants since 2009.

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**Appendix B****Objective, Scope, Methodology, and Criteria**

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**Objective**

Did ETA appropriately measure the effectiveness of overpayment detections for state-funded and extended benefits?

**Scope and Methodology**

To accomplish our audit objective, we analyzed ETA's written policies and procedures over the regional offices' responsibilities, controls over the overpayment detection measure for state-funded benefits and EB, CAPs, BAM Case Reviews, actual overpayment data, estimated overpayment data and Data Validation. We also conducted interviews and analyzed the oversight and processing of CAPs, BAM, actual and estimated overpayment data, and actual overpayment detection activities at the ETA national office in Washington DC; ETA regional offices in Atlanta, GA and Dallas, TX; and state offices in Little Rock, AR and Jackson, MS. Once we established potential issues, we sent a questionnaire to the remaining regional offices and states.

The audit covered overpayments for state-funded benefits and EB reported between FYs 2008-2010.

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 finding and conclusions based on our audit objective.

We conducted a risk analysis using the overpayment detection core measure to determine which states fell below the ALP in FYs 2008-2010.

We also reviewed ETA national office's data validation reports for validation years 2008-2010 to identify the results of each state's data validation of actual state-funded benefits and EB overpayments.

For our analysis of completed regional reviews of states' BAM surveys, we obtained paid-claim workload status reports from the ETA national UI office for CYs 2008-2010. We reviewed the reports to determine if all 6 regional offices properly completed their reviews.

We performed statistical and non-statistical tests of estimated and actual overpayment data that Arkansas and Mississippi reported to the ETA national office to determine data reliability. For the estimated overpayments, we pulled statistical random samples of 36 completed BAM surveys reported from October 1, 2006, to September 30, 2009, which

were extracted from universes of 1,401 and 1,427, respectively. To determine if the data were reliable, we judgmentally selected 15 data collection instruments concerning established overpayments from each investigation to test and ensure the data used to estimate overpayments could be supported by state files. For the actual overpayments, we pulled statistical random samples of 57 overpayments reported from April 1, 2007, to March 31, 2010, which were extracted from universes of 35,649 and 57,727, respectively. To determine if the data were reliable, we compared the type, cause, detection method, and the amount of the overpayment to supporting documentation, such as an employer response to the wage audit. Based on these tests and assessments, we conclude the data are sufficiently reliable to be used in meeting the objective.

**Criteria**

ETA Handbook 396

Unemployment Insurance Program Letter 3-07

ETA Handbook 361

Title III of the Social Security Act

**Appendix C****Acronyms**

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ALP	Acceptable Level of Performance
BAM	Benefit Accuracy Measurement
CAP	Corrective Action Plan
CY	Calendar Year
EB	Extended Benefits
ETA	Employment and Training Administration
EUC	Emergency Unemployment Compensation
FAC	Federal Additional Compensation
FY	Fiscal Year
IT	Information Technology
Measure	Overpayment Detection Measure
NDNH	National Directory of New Hires
UCFE	Unemployment Compensation for Federal Employees
UCX	Unemployment Compensation for Ex-Servicemen
UI	Unemployment Insurance
UIPL	Unemployment Insurance Program Letter

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ETA Response to Draft Report

**U.S. Department of Labor**

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



SEP 19 2012

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

FROM: JANE OATES *Jane Oates*  
Assistant Secretary for Employment and Training

SUBJECT: Office of the Inspector General Draft Audit Report No. 04-12-001-03-315 -- *ETA Did Not Use Compatible Data in Its Overpayment Detection Measure Which Overstated the Effectiveness of Its Overpayment Detections*

Thank you for the opportunity to respond to the draft audit report cited above. I would like to reiterate my commitment that the prevention, detection, and recovery of improper payments in the Unemployment Insurance (UI) program are and will remain top priorities for the Employment and Training Administration (ETA). I am pleased to report that as a result of ETA's focus on addressing improper payments, actions to address the findings and recommendations in this report have either already been completed or are well under way.

We will continue to work with the state workforce agencies to support their efforts to reduce improper payments and provide technical support to facilitate their implementation of overpayment prevention, detection, and recovery tools. Additionally, we will continue to work with our Regional Offices to ensure that all UI program monitoring and reporting requirements related to overpayment detection are fully met.

I have attached our responses to the findings and recommendations in the report. If you have questions, please contact Gay Gilbert, Administrator of the Office of Unemployment Insurance, at 202-693-3029.

Attachment

**Employment and Training Administration (ETA) Comments On  
Office of the Inspector General (OIG) Draft Report No. 04-12-001-03-315**

ETA has been working aggressively with states to address the issue of UI improper payments. As a result of that work, actions to address the findings and recommendations in this report have either already been completed or are well under way. Below are ETA's specific responses to the findings and the recommendations in this report.

**Finding 1— ETA did not use compatible data in its overpayment detection measure.**

ETA was aware that Extended Benefits (EB) program data should not be included in the detection component of this measure and began taking steps to make changes to the state data collection instrument, the ETA Overpayment Detection and Recovery Activities report (ETA 227), in January 2011. The new reporting requirements addressing this issue were implemented in January 2012 with the issuance of Unemployment Insurance (UI) Program Letter No. 8-12. We note that in non-recessionary times, the number of EB claims is relatively small and does not substantially skew the measure.

The revised ETA Overpayment Detection and Recovery Activities report enables states to report overpayment detection and recovery data separately for State UI, UCFE/UCX, and EB. States began reporting using the revised format with the March 2012 quarter report. Sufficient data have been reported as of the June 2012 reporting period to allow ETA to separate the State UI and UCFE/UCX portions of state overpayment detections from detections of EB program overpayments.

The report also notes findings from a previous audit related to the fact that ETA includes overpayment estimates for only the State UI and UCFE/UCX programs in the overpayment detection measure and does not include overpayment estimates for the temporary Emergency Unemployment Compensation (EUC) program or the EB program. As you noted in the report, there are significant barriers to the inclusion of the EUC and EB program payments in the Benefit Accuracy Measurement (BAM) survey, from which overpayments are estimated. A complete rewrite of the BAM sample selection and database management software and a substantial increase in state BAM staff are required to conduct the audits of the EB and EUC claims. These changes would be extremely costly and may not have a return on investment that supports the utilization of scarce funds for this purpose, given the temporary nature of the programs.

ETA plans to engage a contractor to conduct a comprehensive review of the BAM methodology that will include a review of the feasibility and cost effectiveness of extending BAM to include EB and temporary emergency compensation programs. This study will be completed within the next year. The findings of this study will serve as the basis for more precisely estimating the staff and information technology (IT) resources that will be required to integrate EB and the temporary federal programs into BAM.



ETA also notes that although temporary and episodic unemployment compensation programs are not included in the overpayment detection measure, State Benefit Payment Control (BPC) operations include EB and EUC payments in their overpayment detection activities such as matching with the National Directory of New Hires (NDNH), state wage record files, Social Security Administration records, and state correctional, worker compensation, and motor vehicle databases. Several state agencies also conduct work search audits to ensure compliance with EB and EUC eligibility requirements. The *Middle Class Tax Relief and Job Creation Act of 2012* requires state work search audits of EUC claims.

Finally, ETA has issued UI Program Letter No. 29-12 on August 21, 2012, to provide guidance to states about their ongoing responsibilities for preventing, detecting and recovering improper payments of the EUC, EB and Federal Additional Compensation programs, and inform states of a new management information measure to capture states' progress in conducting and improving their program integrity activities related to these Federally funded programs.

ETA intends to continue the concentrated effort to maximize the compatibility of data captured in overpayment detection systems to the extent that the expenditure of resources generates a return on investment that merits such prioritization of scarce resources.

**Finding 2 — ETA's efforts to ensure states' compliance with NDNH cross-match requirements have not been fully successful.**

The NDNH, as well as the individual state directories of new hires, are critical tools to support estimation of the UI improper payment rate through the BAM survey and to prevent and detect UI improper payments. ETA has consistently monitored state progress in meeting the NDNH matching requirements. As noted in the draft OIG report, ETA's Regional Offices conduct Methods and Procedures reviews of the states' BAM programs biennially. These formal biennial reviews and ongoing monitoring are used to determine if the state agency's BAM operations are being administered in compliance with BAM organizational and methodological requirements in the BAM State Operations Handbook (ET Handbook 395), including the NDNH matching requirements.

The National Office provides technical support to the Regional Offices to ensure that the states' BAM NDNH crossmatch requirements are in compliance and also provides technical assistance to facilitate state compliance with the requirements. As noted in the draft OIG report, California is the only state not currently matching with NDNH, although it is matching with its state directory of new hires. According to California's Corrective Action Plan (CAP), the state has completed the IT tasks needed to match with the NDNH and has indicated it will begin to submit test files in September 2012. Currently, Regional and National Office reviews have identified six states (Connecticut, Kentucky, Minnesota, New Mexico, Ohio, and Puerto Rico) that are matching with NDNH but have minor technical issues, such as the date parameters that they request for the match.

As noted in your report, ETA issued UI Program Letter No. 19-11 providing guidance to states regarding the recommended operating procedures for effectively using NDNH for BPC operations to support the prevention and detection of improper payments. In fiscal year (FY)

2011 and FY 2012, ETA has offered supplemental funding opportunities for states to implement the recommended operating procedures for NDNH, which is one of the conditions for states to receive any additional supplemental funding. In FY 2011, ETA awarded approximately \$25 million for state activities related to preventing overpayments due to claimants who continue to claim UI benefits after they return to work, including the use of NDNH matching. FY 2012 supplemental funding will be awarded in September. Thus far, 43 states have adopted the recommended operating procedures for NDNH matching.

ETA intends to continue to provide all available assistance to states to ensure that states maximize cross-matching capabilities with NDNH.

**Finding 3 — ETA did not always ensure data used in the measure was validated.**

ETA is pleased to see that the report acknowledges the significant actions ETA has already taken to ensure that UI data used in the overpayment detection measure were validated. With the issuance of the UI Data Validation (DV) Monitoring Guide (ET Handbook 412) on February 22, 2012, ETA has established a vigorous monitoring program to ensure the validity of DV results. Field Memorandum (FM) No. 1-12 instructed the Regional Offices to begin monitoring state DV operations immediately and provided an implementation schedule. This monitoring will ensure that states that have reported passing DV populations are following the prescribed DV methodology and that their reported results are valid.

With respect to state completion of UI DV requirements, states have reported various barriers to the completion of DV requirements, including IT resource constraints to develop the required DV extract files and administrative decisions to place a higher priority on other UI program requirements, such as the programming required for the implementation and/or extension of temporary and episodic federal programs.

ETA has recently contracted with the National Association of State Workforce Agencies (NASWA)'s Information Technology Support Center (ITSC) to conduct a comprehensive assessment of state implementation of the UI DV program and provide training and technical assistance to selected states. Details concerning this technical assistance contract are discussed in our response to Recommendations 3 and 4, below. ETA will continue to require states that fail to submit required populations for UI DV to address these deficiencies in a CAP submitted through the State Quality Service Plan (SQSP).

With respect to Regional Office completion of mandatory reviews of BAM cases, the Federal Monitoring Handbook for BAM (ET Handbook No. 396), which has been in place since shortly after the beginning of the mandatory BAM program in 1988, includes detailed instructions on the requirements of Regional Office monitoring. The handbook includes specific dates and guidance for all monitoring requirements in chapter VIII, "Review Documentation and Regional Office Reporting." The Regional and National Offices, both at the staff and management levels, are in nearly daily communications concerning program requirements. Any issues involving the completion of required tasks and reports are discussed and resolved.

ETA notes that in a few instances, a technical issue with the Regional monitoring software prevented Regional monitors from closing the cases. These instances were reported to the National Office, which manually closed the cases. The National Office has subsequently corrected the software issue.

ETA remains committed to working closely with the Regional Offices to ensure the comprehensive and timely review of BAM cases.

## **RECOMMENDATIONS**

As stated previously, ETA has been working aggressively with states to address the issue of UI improper payments. As a result of that work, actions to address the findings and recommendations in this report have either already been completed or are well under way.

### **1. Ensure the overpayment detection management information measure for EB is implemented and accurately report detectable overpayment activities.**

States have begun reporting the revised ETA Overpayment Detection and Recovery Activities report (ETA 227 report) to support the separate reporting of State UI, UCFE/UCX, and EB program overpayment and recovery data. As noted above, ETA has issued UIPL No. 29-12 to disseminate management information measure results to the states. ETA plans to publish overpayment detection and recovery management information on the Office of Unemployment Insurance (OUI) Web site (<http://oui.doleta.gov/unemploy/>) beginning with the 2012 Payment Recapture Activities Report, required by the Improper Payments Elimination and Recovery Act, which will be published in November 2012.

### **2. Ensure that states properly cross match BAM samples to NDNH.**

As noted above, all states except California are matching BAM cases with the NDNH. ETA will continue to work with the states that are not fully compliant with the NDNH technical match parameters and provide technical assistance to ensure that all states are following the prescribed procedures for BAM NDNH matching. By September 30, 2012, ETA will announce additional resource grants through the Supplemental Budget Request process to support state integrity activities, including meeting the NDNH matching requirements.

### **3. Develop and implement clear guidance for states on properly conducting data validation.**

ETA has developed ET Handbook 361 for DV Benefits (published in November 2009, revised in July 2011) and Tax (published in May 2011) and ET Handbook 411, the DV Operations Guide (published in October 2010), which explains how to navigate the Benefits and Tax applications of the DV State Web Software. ETA has also issued supplemental guidance on specific DV topics, such as Module 3 (documentation of state UI rules), Module 4 (validation of Benefit Timeliness and Quality, Appeals, and Tax Performance System), and specific UI reports that are validated. These are all available to states on the OUI DV Web site, <http://workforcesecurity.doleta.gov/dv/>.

overpayments established, recovered, and reconciled that states reported on the ETA 227 report. A contractor was selected by ITSC in June 2012 to perform this assessment. The contractor will complete three tasks. First, in consultation with the National Office, the contractor will develop an assessment plan. Next, the contractor will thoroughly assess each state's validation status and operation, identifying the reasons for each state's success or lack of success in implementing the DV system and establishing the validity of its reports data. Information on reasons for success will be disseminated to all states as best-practice guidance. In Task 3 of the project, the contractor will develop a Technical Assistance Plan, which will include its recommended approach for delivering training and technical assistance to all states, and specifically ensure that at least five states are trained on DV methodology and 10 states are provided technical assistance in conducting DV tasks. The Technical Assistance Plan will identify specific state needs, including grouping the states by common conditions that can be addressed collectively. The plan will identify recognized system-wide problems and develop solutions.

**4. Ensure all states conduct data validation for actual overpayment data as required by ETA Handbook 361.**

States validate the overpayment detection and recovery data reported on the ETA 227 report by creating files from their management information databases (referred to in DV as populations), and comparing the record counts of these files with the reported data. Samples of these records are also examined to validate that they are properly defined and classified (for example, that a reported fraud overpayment is in fact properly classified as fraud). ETA has completed modification of the DV software to reflect changes in the ETA 227 report, including the addition of a new DV population to verify section B of the report -- Overpayments Established - Methods of Detection. OUI conducted a webinar in September 2011 on DV Report Validation (validation of the reported counts) and plans to conduct a webinar on the validation of changes to the ETA 227 report on September 19, 2012.

ETA will continue to monitor state compliance with all DV requirements, including those directly related to the validation of overpayment detection and recovery data. States that have failed to submit required DV populations must address this deficiency in a CAP as part of their SQSP, which includes milestones by which the state plans to be in compliance. States must address populations that fail DV in their SQSP narrative by including measures that they will take to ensure that these populations pass validation. The Regional Offices monitor state progress in meeting the outcomes included in these CAPs and narratives and coordinate with the National Office if technical assistance or other remedial measures are required.

As discussed in our response to Finding 3 and Recommendation 3, ETA has recently engaged contractor support to conduct a comprehensive assessment of state implementation of the UI DV program and provide training and technical assistance to selected states. The contractor will conduct on-site assessments in up to nine states and will review all state DV CAPs and narratives. The National Office has also requested that Regional Office DV coordinators work with their states to complete DV tracking tables that the National Office has developed to assess the degree to which states are meeting their DV requirements. This information will be shared with the contractor. After the data collection and assessment phase, the contract will identify

with the contractor. After the data collection and assessment phase, the contract will identify barriers that are preventing states from fully complying with DV requirements and develop recommendations to promote state compliance.

**5. Ensure regional offices perform effective monitoring of states' efforts for conducting data validation properly.**

As discussed in our response to Finding 3, ETA has issued instructions to the Regional Offices on required monitoring of state DV operations (FM No. 1-12). The National Office will work closely with Regional Offices to address any challenges in implementing the monitoring instructions, and to assist in meeting the requirements of FM No. 1-12 and the ET Handbook No. 412 DV Monitoring Guide. National Office staff will also join Regional Office staff in joint data validation reviews as feasible.

**6. Ensure regional offices close reviews of the states' sampled BAM survey cases used in their estimates of detectable overpayments.**

OUI will continue to work cooperatively with our Regional leadership to ensure that monitoring of BAM cases fully meets the requirements of ET Handbook 396. We have initiated discussions with the Regional Office UI program managers to ensure that BAM monitoring is integrated into a comprehensive Regional monitoring plan, which includes all benefits, tax, and appeals UI program activities. OUI will also ensure that any technical issues associated with the BAM monitoring software are promptly addressed by the IT support staff to ensure that Regional staff is able to close cases.

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**Appendix E**

**Acknowledgements**

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Key contributors to this report were Michael Yarbrough and Anthony Grice (Audit Directors), Robert Richardson and Dwight Gates (Audit Managers), Melissa Young (Auditor-in-Charge), Laura Brockway, Dorothy Dorsey, Cory Grode, Ronald Larry, Sarah Pentecost, and Aaron Talbert.

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