U.S. Department of Labor

Office of Inspector General—Office of Audit

REPORT TO THE EMPLOYMENT AND TRAINING ADMINISTRATION

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

This report was prepared by Rocha & Company, PC 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.

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Assistant Inspector General for Audit

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BRIEFLY…

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

September 28, 2023

WHY OIG CONDUCTED 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. The Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week (TFFF) program reimbursed states for UI benefits paid to eligible claimants who did not wait a week to receive regular UI benefits. The Employment and Training Administration (ETA) was responsible for program oversight. We contracted this audit to address concerns about risks associated with the expansion of UI benefits and the disbursement of federal funds to claimants in need during the pandemic.

WHAT OIG DID

We contracted with the independent certified public accounting firm of Rocha & Company, PC (Rocha) to answer the question:

> Did ETA ensure states met TFFF program requirements and used funding according to the statutory intent of the CARES Act and related subsequent legislation?

To answer this question, Rocha assessed ETA's oversight, performed in-depth testing of 6 states, and surveyed an additional 47 state workforce agencies (SWAs or states).

WHAT OIG FOUND

ETA and states did not always meet the requirements or statutory intent of the TFFF program. Specifically, individual claimants waited to receive urgently needed UI benefits, states received TFFF funding when they were not eligible, and states' TFFF accounts have unused fund balances that have not been reconciled, closed out for deobligation, and returned to the U.S. Department of Treasury.

Four states were allowed to access TFFF funding as reimbursements despite not meeting program requirements. For example, 2 states with waiting weeks required by their existing laws did not waive those weeks but were reimbursed for UI benefits paid after making claimants wait for their first week of UI compensation—contrary to the intent of the program. In addition, another 2 states used first-week UI compensation amounts paid outside the scope of the program period as the basis to be reimbursed. As a result, these states were reimbursed $105.1 million of federal funding they were not eligible to receive.

Further, of the $12.5 billion in funding made available to the 53 SWAs through the TFFF program, nearly $5 billion remained unused as of July 31, 2023—more than 22 months after the TFFF benefit eligibility period expired—with no formal plan to reconcile states' accounts and deobligate remaining funds for return to the U.S. Department of Treasury.

These issues occurred because ETA did not have sufficient controls in place to ensure states accessing funds were in fact eligible for reimbursements or that unused TFFF funds were returned to the federal government.

WHAT OIG RECOMMENDED

Rocha made 8 recommendations to improve oversight of TFFF and similar programs. ETA agreed or partially agreed with 5 and disagreed with the remaining 3 recommendations.

READ THE FULL REPORT

https://www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf

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Office of Inspector General
Washington, DC 20210

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 Rocha & Company, PC (Rocha) to conduct a performance audit of the Employment and Training Administration's (ETA) oversight of Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week (TFFF) program, a provision of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

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

Rocha was responsible for the auditors' evaluations and the conclusions expressed in the report while the OIG reviewed Rocha's report and supporting documentation.

PURPOSE

The COVID-19 pandemic was historic in its impact on the UI system. Following the start of the pandemic in the United States in early 2020, unemployment compensation claims rose exponentially to historically unprecedented levels. Prior to the pandemic, the numbers of UI claims were low.

On March 27, 2020, the CARES Act[1] was signed into law with the goal of providing expanded UI benefits to workers who were unable to work due to the COVID-19 pandemic. According to ETA, the CARES Act did not include a program development period prior to implementation that would have provided the Department and states an opportunity to properly sequence guidance and operations of the key program requirements. ETA officials reported that states faced the combined challenges of (1) managing and processing an unprecedented increase in claims volume at an unprecedented pace, (2) making the statutory changes to existing UI programs, and (3) implementing the CARES Act UI programs. In addition, states had to develop new systems in order to implement the new programs.

Section 2105 of the CARES Act authorized the TFFF program, whereby the federal government paid the cost of the first week of an eligible claimant's regular UI compensation for states with no waiting week and for states choosing to waive their waiting week requirements. ETA made approximately $12.5 billion of TFFF funding available in Federal Unemployment Accounts[2] (FUA) for 53 participating state workforce agencies (SWAs or states)[3] to access as reimbursement for first-week regular UI compensation already paid to eligible individuals by the state.

The CARES Act created the TFFF program to arrange for emergency relief, specifying that the FUA would provide to each state that entered into an agreement an amount equal to 100 percent of the total amount of regular compensation paid to eligible individuals by the state for their first week of regular UI benefits. Under the CARES Act, weeks between March 29, 2020, and December 31, 2020, were eligible for reimbursement. On December 27, 2020, the Continued Assistance Act (CAA)[4] extended the TFFF program through March 14, 2021. On March 11, 2021, the American Rescue Plan Act (ARPA) of 2021[5] further extended the TFFF program through September 6, 2021.

Based on the risks associated with expansions of the UI program, we contracted with Rocha to conduct a performance audit to answer the question:

[1] Pub. L. 116–136 (Mar. 27, 2020).
[2] The U.S. Department of Treasury transfers funds from the general fund to the Federal Unemployment Account (FUA) in amounts estimated by ETA to be necessary to reimburse the states for first week regular UI compensation paid. FUA is an account within the federal Unemployment Trust Fund that pays for the costs to administer the UI program, emergency benefits, loans to state trust funds, and program expansions like the CARES Act.
[3] When referring to UI, 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.
[4] Division N, Title II, Subtitle A, Chapter 1, Pub. L. 116–260 (Dec. 27, 2020).
[5] Pub. L. 117–2 (Mar. 11, 2021).

> Did ETA ensure states met TFFF program requirements and used the funding according to the statutory intent of the CARES Act and related subsequent legislation?

To answer this question, Rocha conducted a performance audit that covered the period March 27, 2020, through September 6, 2021. To determine the amount of TFFF funding that remained in the FUA after September 6, 2021, Rocha obtained TFFF account balances from ETA's summary of the U.S. Department of Treasury's FUA transaction statements as of July 31, 2023. The audit included procedures at both the ETA and the state level to determine compliance with program requirements. Rocha performed in-depth testing and analysis for 6 states—Delaware, Iowa, Louisiana, Minnesota, Nevada, and Oregon—selected by the OIG. The OIG selected these 6 states based on the amount of TFFF funding that states received, stratified into the highest, middle, and lowest range and the extent to which states had not been selected for review in previous OIG audits. Rocha also sent surveys to the remaining 47 SWAs to obtain key information and examine documentation.

RESULTS

Rocha found that ETA and states did not always meet the requirements or statutory intent of the TFFF program. Specifically, individual claimants waited to receive urgently needed UI benefits during the pandemic, states received TFFF funding when they were not eligible, and states' TFFF accounts have unused fund balances that have not been reconciled and closed out for deobligation. As a result, Rocha identified $105.1 million in questioned costs.[6] Rocha also identified nearly $5 billion in funds put to better use.[7] These funds remained in states' TFFF accounts after the benefit eligibility period expired[8] and should be returned to the U.S. Department of Treasury.

[6] **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.
[7] **Funds put to better use** estimate funds that could be used more efficiently. Some examples would be reducing spending, deobligating funds, or avoiding unnecessary spending.
[8] TFFF benefit eligibility period, for states without a waiting week provision in their state law, was the week ending April 4, 2020, through the week ending September 6, 2021.

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

Carolyn R. Hantz
Assistant Inspector General for Audit

CONTRACTOR PERFORMANCE AUDIT REPORT

Independent Auditors' Performance Audit Report on the Effectiveness of the Execution of the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week Program and Compliance with the Coronavirus Aid, Relief, and Economic Security Act and Related Subsequent Legislation

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We were engaged by the Office of Inspector General (OIG), U.S. Department of Labor (DOL) to conduct a performance audit of the Department of Labor Employment and Training Administration's (ETA) and states' execution of the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week (TFFF) program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. We conducted the audit to answer the question:

> Did ETA ensure states met TFFF program requirements and used the funding according to the statutory intent of the CARES Act and related subsequent legislation?

To answer this question, we conducted procedures at the ETA and state level to determine compliance with program requirements. For ETA, we submitted questions to UI officials and reviewed their responses and underlying support. For 6 states—Delaware, Iowa, Louisiana, Minnesota, Nevada, and Oregon—we performed in-depth analysis and testing. Five of the 6 states—Delaware, Louisiana, Minnesota, Nevada, and Oregon— had laws that required UI claimants to wait one week before receiving their first benefit payment.[9] The OIG

[9] The state of Iowa did not have a waiting week provision in its state law.

selected these 6 states based on state funding percentages and their selection for analysis in other OIG audits of CARES Act programs. We also sent surveys to the remaining 47 state workforce agencies (SWAs or states) to obtain related information about the program. In addition, we examined state-level executive orders, agreements between ETA and states, correspondence between ETA and the states, individual first-week claims paid by the states, as well as TFFF funding activity between the Federal Unemployment Account (FUA) and the states. Our audit covered the period March 27, 2020, through September 6, 2021, and we obtained information subsequent to that period as needed.

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.

BACKGROUND

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 one such provision—TFFF. The TFFF program reimbursed states 100 percent for first-week UI benefits paid to eligible claimants who did not have to wait a week, provided there was an agreement in place and no waiting week was required (or it was waived) under state law. States with a mandatory waiting week provision in their state law could waive the provision to be eligible. Eligible claimants benefited from the TFFF program because states expedited the delivery of UI benefits to claimants.

On December 27, 2020—in addition to extending the TFFF program through March 14, 2021—the CAA decreased federal funding for TFFF program reimbursements from 100 percent to 50 percent. On March 11, 2021—in addition to extending the TFFF program through September 6, 2021— the ARPA restored federal funding for TFFF program reimbursements to 100 percent and allowed for retroactive application for weeks ending after December 31, 2020. See Figure 1 for a legislative timeline of the TFFF program.

Figure 1. Legislative Timeline for TFFF Program

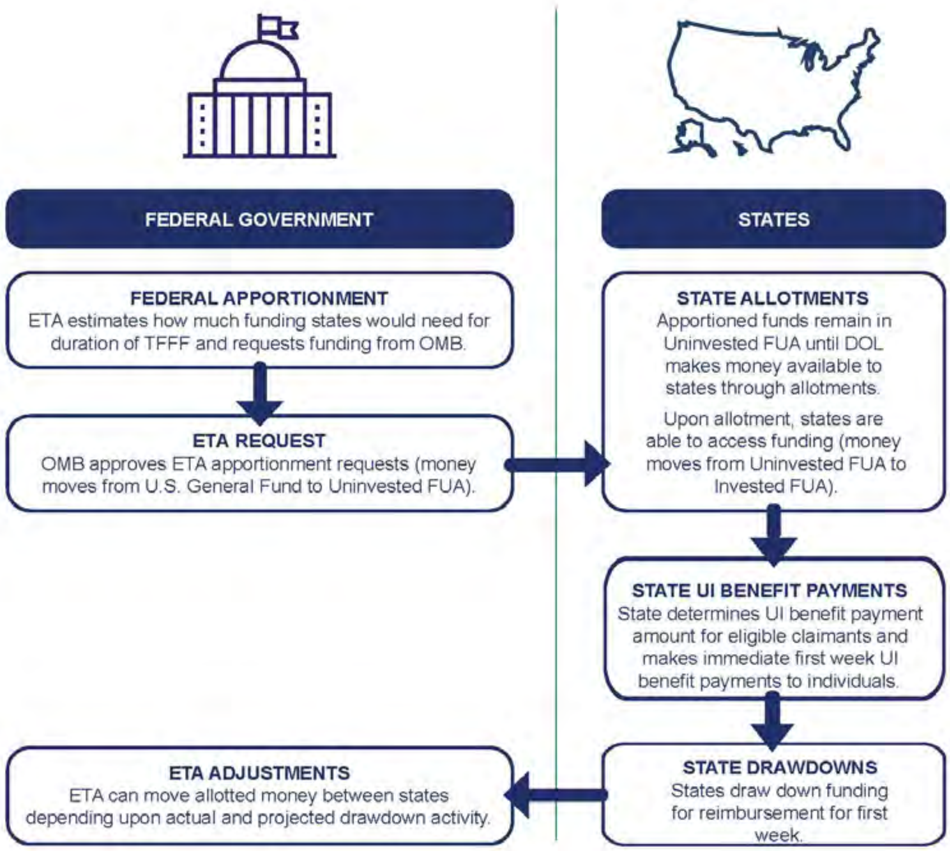
	CARES Act	CAA	ARPA
Date Law Passed	3/27/2020	12/27/2020	3/11/2021
Weeks Impacted	3/27/2020 – 12/31/2020	1/1/2021 – 3/14/2021	1/1/2021 – 9/6/2021
Federal Reimbursement	100%	50%	100%
Retroactive Waiver Application	Not Permitted	Not Permitted	Permitted[a]

Source: UIPL 20-20, UIPL 9-21, UIPL 14-21
[a] Under ARPA, the amount of federal funding for reimbursement was retroactively established at 100 percent for weeks of unemployment ending after December 31, 2020.

To fund the program, ETA estimated how much money participating states needed and requested the funding from the Office of Management and Budget (OMB). Once OMB approved the requests, the funds were disbursed to uninvested FUA until ETA allotted[10] the money to Invested FUA, which states accessed for reimbursement of first-week UI benefits already paid (see Figure 2). ETA is responsible for decreasing or increasing estimated allotments provided to the states based upon actual monthly amounts that should have been paid to the states.

[10] The term “allotted” refers to the act of ETA making the funds available to the states.

Figure 2. TFFF Funding and Reimbursement Process



Source: Rocha graphical representation of TFFF funding process.
*Apportionment is defined as distribution of funds available for obligation.

This report focuses on the performance of ETA and states' TFFF operations during the audit period—March 27, 2020, through September 6, 2021—which coincided with 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 three new significant temporary UI programs (Federal Pandemic Unemployment Compensation, Pandemic Unemployment Assistance and Pandemic Emergency Unemployment Compensation).

RESULTS

We found ETA and states did not always meet the requirements or statutory intent of the TFFF program. Specifically, individual claimants waited to receive urgently needed UI benefits during the pandemic, states received TFFF funding when they were not eligible, and states' TFFF accounts have unused fund balances that have not been reconciled and closed out for deobligation. As a result, we identified $105.1 million in questioned costs.[11] We also identified nearly $5 billion in funds put to better use[12]—in states' TFFF accounts after the benefit eligibility period expired[13]—that should be deobligated and returned to the U.S. Department of Treasury.

ETA allowed 4 states to access TFFF funding as reimbursements despite not meeting program requirements. For example, 2 states with waiting week provisions (Oregon and Louisiana) required by their state laws did not waive those weeks, but were reimbursed for UI benefits paid, after making claimants wait for their first week of UI compensation—contrary to the intent of the program. In addition, 2 states (Delaware and Mississippi) used first-week UI compensation amounts paid outside the scope of the program period as the basis for reimbursement. As a result, states were reimbursed $105.1 million of federal funding they were not eligible to receive.

Furthermore, of the $12.5 billion in funding made available to the 53 SWAs through the TFFF program, nearly $5 billion remained unused as of July 31, 2023—more than 22 months after the benefit eligibility period expired. ETA had no formal plan to reconcile states' accounts and return funds to the U.S. Department of Treasury. These funds could have been put to better use.

These issues occurred because ETA did not have sufficient controls in place to ensure states accessing funds were in fact eligible for reimbursements or that unused TFFF funds were returned to the federal government.

[11] **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.
[12] **Funds put to better use** estimate funds that could be used more efficiently. Some examples would be reducing spending, deobligating funds, or avoiding unnecessary spending.
[13] TFFF benefit eligibility period, for states without a waiting week provision in their state law, was from the week ending April 4, 2020, through the week ending September 6, 2021.

FOUR STATES WERE REIMBURSED $105.1 MILLION IN TFFF FUNDING DESPITE NOT MEETING CARES ACT REQUIREMENTS

We found 4 states accessed $105.1 million in TFFF funding—as reimbursements—without meeting program eligibility requirements. Specifically, waiting week provisions were not appropriately waived or reimbursements accessed by the states were based on first-week UI compensation amounts that were outside the program period. These are deemed to be questioned costs; see Table 4 in Exhibit 1 for this data.

Under the CARES Act, which went into effect on March 27, 2020, the federal government would pay 100 percent of an individual claimant's first week of regular UI compensation to states that entered into an agreement with ETA to participate in the TFFF program. States were eligible to enter into these agreements if state law (including waiver of state law) provided compensation be paid to claimants for their first week of regular unemployment compensation without requiring a waiting week.[14] First week of UI compensation amounts that were eligible for reimbursement applied only to the period from March 29, 2020[15] to September 5, 2021,[16] provided states had agreements in place with ETA.

ETA issued Unemployment Insurance Program Letter (UIPL) 20-20 to offer further guidance to states on TFFF program requirements, including how states would not qualify for TFFF reimbursements for any weeks of claimant unemployment that began before the effective date of a state waiver or change in state law, even if that law was worded to apply retroactively prior to December 31, 2020.[17] According to UIPL 20-20, ETA's agreement with a given state will be terminated immediately upon ETA's determination that the state law (or waiver) does not provide payment to claimants for their first week of regular UI compensation without a waiting week and, pursuant to Section 2105 of the

[14] In total, only 8 of the 53 states did not have a waiting week to waive to participate in the TFFF program.
[15] According to UIPL 20-20, "In states where the week of unemployment ends on a Saturday, the first week for which states may request reimbursement is the week of unemployment ending April 4, 2020. In states where the week of unemployment ends on a Sunday, the first week for which states may request reimbursement is the week of unemployment ending April 5, 2020."
[16] According to UIPL 14-21, "In states where the week of unemployment ends on a Saturday, the last week of unemployment for which reimbursement is available is the week ending on September 4, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which reimbursement is available is the week ending on September 5, 2021."
[17] On March 11, 2021, ARPA allowed for retroactive application for weeks ending after December 31, 2020. This retroactive application effectively removed the controls previously established that ensured claimants received timely benefits.

CARES Act, the state will be required to return any reimbursements made during the period that the state law or waiver was not in effect.

TWO STATES DID NOT WAIVE THEIR WAITING WEEKS, RESULTING IN THE DELAY OF $91.2 MILLION IN NEEDED BENEFITS

We determined that 2 states selected for in-depth analysis—Oregon and Louisiana—accessed a total of $91.2 million in TFFF funding as reimbursements for weeks when the states did not have a waiting week waiver in effect, and claimants waited to receive their first week of regular UI compensation. These states were not eligible to receive reimbursement if state law required a waiting week or if waiting week waivers were not in place, even if such waivers were worded to apply retroactively from March 27, 2020, to December 31, 2020.[18]

Oregon: Oregon signed an agreement with ETA on March 27, 2020, to participate in the TFFF program. Oregon's state law required individuals to serve a waiting week; therefore, Oregon needed to issue a waiver of this provision to be eligible to enter into this agreement.

Although Oregon's intent was to implement the TFFF program timely and waive the waiting week, legacy software issues created obstacles causing delays in UI benefit delivery. Specifically, Oregon's computer systems were built on technology from 1993 using outdated programming. When Oregon initially researched removing the waiting week, it estimated it would take the state approximately 4,000 labor hours to complete the effort, and thus was uncertain that waiting week compensation could be paid to individual claimants by the end of the 2020 calendar year.

Oregon communicated to ETA these challenges, along with its concerns of how the delays could impact the availability of federal funding. On October 8, 2020, ETA communicated its position to Oregon that "[f]ailure to implement the waiting week benefit by December 31, 2020, will result in the Department terminating the agreement as it relates to reimbursement for payment of waiting week benefits under Section 2105 of the CARES Act." However, according to Section 2105 of the CARES Act, the agreement did not meet the TFFF eligibility requirements because Oregon was not able to implement a waiver of the waiting week provision.

[18] § 4.c UIPL 20-20.

According to ETA's UIPL 20-20:

> …the Department reserves the right to terminate this Agreement if it determines that the state does not have an adequate system for administering the section 2105 program…

ETA elected not to terminate the agreement with Oregon despite the evidence that the state's system was not able to pay first-week UI compensation until November 23, 2020—approximately 8 months into the TFFF program. Oregon did not access any TFFF federal funding as reimbursements during this 8-month period. Nevertheless, ETA did not conclude Oregon breached its contractual terms and terminate the agreement—despite Oregon not having an adequate system to administer TFFF.

According to an Oregon Employment Department official, the waiting week was waived on March 8, 2020, when Oregon's Governor issued Executive Order 20-03, declaring a state of emergency. The Oregon official cited Oregon Revised Statute 401.186 which states:

> If the Governor by proclamation has declared a state of emergency under ORS 401.165, the Governor may waive the one-week waiting period required by ORS 657.155 for persons making a claim for unemployment benefits who reside within the geographical area subject to the proclamation and specified by the Governor.

The Executive Order made no mention of waiving the waiting week for UI programs, and under Oregon law, the Governor's authority to waive the waiting week is discretionary and not automatic upon the declaration of a state of emergency. Nonetheless ETA agreed with the Oregon official's interpretation of Oregon's state law. According to ETA officials, their practice is to defer to the states to interpret state laws. ETA is responsible for federal oversight of state administration of UI programs, including ensuring that states did not have a waiting week provision in their state laws or the waiting week provision was waived for the TFFF program. ETA did not exhibit proper oversight when they deferred to Oregon's interpretation of the Governor's state of emergency declaration as the waiting week waiver.

We determined that Oregon did not waive its waiting week until November 23, 2020—when the state began issuing first-week regular UI compensation. On December 30, 2020, Oregon's Governor directed the state's Employment Department (in writing) to retroactively waive the waiting weeks for the period March 8, 2020, through the week ending March 13, 2021. However, UIPL 20-20 expressly prohibited retroactive waivers of the waiting week during the initial TFFF program period under the CARES Act. Oregon's waiver of the waiting week was therefore only effective from the date of the waiver—on November 23, 2020—going forward.

As a result of the waiting week waiver delay, 254,427 Oregon claimants had to wait for first-week regular UI compensation from March 8, 2020, through November 22, 2020. Therefore, Oregon was not eligible to participate in the TFFF program and not entitled to the $90.5 million in TFFF funds it drew down as reimbursement for first-week regular UI compensation paid for unemployment weeks prior to November 29, 2020, the first week after Oregon's waiver was in effect.[19]

Louisiana: The Governor of Louisiana signed an agreement with ETA on March 28, 2020, to participate in the TFFF program. The Governor issued a series of intermittent short-term waivers for first-week regular UI compensation periods. Two of these short-term waiting week waivers resulted in gap periods when a waiting week waiver was not in effect and individual claimants had to wait to receive first-week regular UI compensation. Specifically, the Governor issued a waiting week waiver on December 4, 2020, that covered the period beginning on December 6, 2020, and ending on December 26, 2020.[20] The second short-term waiting week waiver occurred on March 16, 2021, when the Governor reinstated the waiver and made it retroactively effective January 3, 2021, with an ending date of March 31, 2021. As a result, no waiver was in effect from December 27, 2020, through January 2, 2021, meaning the weeks ending January 2, 2021, and January 9, 2021, were not covered by a waiver.[21] However,

[19] UIPL 20-20 explains that "[f]or states without a waiting week, reimbursement for the first week of regular UC is available for weeks of unemployment beginning *after* the date on which the state enters into an agreement with the Department… The agreement is valid only if the state law (including a waiver of state law) making the first week compensable is in effect." (emphasis added). Oregon issued the first waiting week waiver on Monday, November 23, 2020. Oregon's unemployment benefit weeks begin Sunday and end on Saturday. Since the first waiver was issued on Monday, any UI payments made during the week of November 22-28, 2020, were not eligible for reimbursement under the TFFF program. Therefore, November 29, 2020, was the first week Oregon was eligible for reimbursement.

[20] The Governor's proclamation declared that the waiver covered the period beginning Saturday, December 5, 2020, and ending Wednesday, December 23, 2020. However, Louisiana's unemployment compensation week begins on Sunday and ends on Saturday. Therefore, the waiver covered the period beginning Sunday, December 6, 2020, and ending Saturday, December 26, 2020.

[21] Louisiana's first short-term waiting week waiver expired on December 26, 2020, making the agreement invalid on December 27, 2020. Louisiana issued the second short-term waiting week waiver on Sunday, January 3, 2021, which validated the agreement again. Reimbursement for the first week of regular UC is available for weeks of unemployment beginning *after* the date on which the state enters into an agreement with the Department. Louisiana's unemployment benefit weeks begin Sunday and end on Saturday. Since the second waiver was effective on Sunday, UI payments made during the week of January 3-9, 2021, were not eligible for reimbursement under the TFFF program. Therefore, the week ending January 16, 2021, was the first week Louisiana was eligible for reimbursement.

Louisiana drew down approximately $735,000 in TFFF funds to reimburse their first-week benefit expenses paid to 4,254 individual claimants during these 2 weeks for which it was not eligible.

Retroactive Waivers Permitted Under ARPA Had Unintended Consequences: On December 27, 2020, the CAA decreased federal funding for TFFF program reimbursements from 100 percent to 50 percent. These changes unintentionally discouraged some states from participating in the TFFF program and issuing waiting week waivers that would have allowed claimants to receive the urgent relief the program was originally intended to provide in a timely manner. We noted CAA's reimbursement reduction to 50 percent influenced the decisions of Louisiana (1 of the 6 states) and Washington (a surveyed state) to opt out of the TFFF program and allow the waiting week waivers to expire. On March 11, 2021, ARPA restored federal funding for TFFF program reimbursements to 100 percent and allowed for retroactive application[22] for weeks ending after December 31, 2020.

Louisiana. Louisiana decided not to renew its waiver, which expired on December 26, 2020, in anticipation that the enactment of CAA (December 27, 2020) would reduce federal reimbursements from 100 to 50 percent. On March 16, 2021, after the enactment of ARPA and restoration of federal reimbursements to 100 percent, Louisiana retroactively waived the waiting week and subsequently paid claimants. However, for the weeks ending January 16, 2021, to March 13, 2021, there were 13,780 claimants who had to wait to receive retroactive first-week regular UI compensation that totaled approximately $2.4 million because of Louisiana's information technology programming needs. Of the 13,780 claimants that had to wait, 13,491 claimants had to wait 4 months or longer to receive payments totaling approximately $2.3 million.

Washington. On March 11, 2021, when ARPA was passed, Washington state law automatically waived the first waiting week moving forward. However, payments were delayed as the state determined if it could apply state laws to retroactively waive the waiting week. Further, Washington then needed to build an information technology infrastructure to retroactively waive the waiting week. The infrastructure required to pay claimants for the first week of regular UI compensation related to weeks ending after December 31, 2020, was not

[22] In this report "retroactive application" refers to ARPA permitting states to waive waiting weeks and establish an effective date prior to the date of the waiver. For example, states could issue waivers on or after March 11, 2021, i.e., the date when ARPA went into effect, while making the effective date retroactive to January 4, 2021, and then qualify to receive reimbursements under the TFFF program for weeks beginning after January 4, 2021. Retroactive application was not permitted prior to the enactment of ARPA.

operational until May 7, 2021, approximately 2 months after the waiting week provision was waived. The total amount of first-week regular UI compensation delayed due to these factors was approximately $29.8 million.

Although claimants in Louisiana and Washington waited at least a week to receive first-week regular UI benefit payments, ARPA allowed the states to draw down federal funds as reimbursement of those delayed payments.

TWO STATES WERE REIMBURSED $13.9 MILLION IN TFFF FUNDS FOR PAYMENTS OUTSIDE THE ALLOWABLE PERIOD

According to ETA guidance, states were eligible to receive reimbursement for the weeks ending April 4, 2020, through September 6, 2021, provided a TFFF agreement was in place and there was no waiting week provision in their state law (including waiver of state law).[23] We identified 2 states, Delaware (1 of the 6 states) and Mississippi (a surveyed state), that accessed $13.9 million in TFFF funds as reimbursement for payment of first-week UI compensation that was outside of the allowable time period (weeks ending April 4, 2020, through September 6, 2021).

Delaware: On March 28, 2020, Delaware entered into an agreement with ETA to participate in the TFFF program. In June 2020, Delaware drew down $4.1 million in TFFF funding for reimbursement of first-week UI compensation payments related to claim weeks that were prior to the TFFF program's earliest eligible week ending April 4, 2020. Specifically, Delaware drew down $74,706 in reimbursement for first-week UI compensation payments for the weeks ending January 11, 2020, through February 29, 2020, and $4,045,569 for the weeks ending March 21, 2020, and March 28, 2020. According to Delaware officials, they were unsure as to why the state would have drawn down these amounts for periods that did not qualify, and indicated it was possibly due to confusion when the pandemic first occurred.

Delaware continued to draw down TFFF funds after the benefit eligibility period expired. According to UIPL 14-21, the last week Delaware was eligible to receive

[23] According to UIPL 20-20, in states where the week of unemployment ends on a Saturday, the first week of which states may request reimbursement is the week of unemployment ending April 4, 2020, provided an agreement was in place no later than March 28, 2020. According to UIPL 14-21, for states without a waiting week provision in their state law, 100 percent reimbursement of the first week of regular UI compensation is available through weeks of unemployment ending on or before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which reimbursement is available is the week ending on September 4, 2021.

reimbursement for first-week UI compensation payments was for weeks of unemployment ending on or before September 6, 2021. However, Delaware continued to draw down TFFF funding after September 6, 2021. Specifically, Delaware drew down approximately $1.4 million during a 41-week period from September 13, 2021, through June 21, 2022. These weeks were not eligible for reimbursement under the TFFF program. Delaware officials indicated that the state's program did not account for the first-week regular UI benefit payments made after the benefit eligibility period expired. See Exhibit 2 for details of these drawdowns.

Mississippi: On March 28, 2020, Mississippi entered into an agreement with ETA to participate in the TFFF program. Mississippi waived its waiting week provision through its governor's executive order effective March 8, 2020. Mississippi used March 8, 2020, as the effective date for the administration of CARES Act UI programs to provide a common reference point for identifying filed claims related to the COVID-19 pandemic and for consistency of program changes. However, UIPL 20-20 established that the earliest week states could be eligible to receive reimbursement for first-week UI compensation payments was the week ending April 4, 2020. Nonetheless, Mississippi drew down $8.4 million in TFFF reimbursement for ineligible weeks ending March 14, 2020, through March 28, 2020.

PRIMARY CAUSES THAT ALLOWED STATES TO ACCESS TFFF FUNDING AS REIMBURSEMENTS WITHOUT MEETING CARES ACT REQUIREMENTS

States were able to access TFFF funding as reimbursements without meeting CARES Act requirements primarily because ETA did not: (1) implement sufficient controls to ensure waivers were in place and thus, accepted retroactive waivers not permitted under the program; and (2) validate TFFF reimbursements drawn down by states.

ETA RELIED ON INSUFFICIENT CONTROLS REGARDING WAITING WEEK WAIVERS

ETA indicated their state conformity and compliance team routinely reviewed legislation, regulations, and executive orders related to the unemployment compensation system for conformity. As part of this process, ETA developed a tracker that documented states' policy changes regarding waivers for states with a waiting week law. ETA's fiscal and actuarial services team used the tracker as a compliance control tool to initiate or stop allotments to the states. Our examination of the tracker identified deficiencies with Oregon, Louisiana, and Washington.

Oregon: ETA noted that Oregon had a waiting week, with a waiver effective date of March 8, 2020, and an expiration date of September 4, 2021. According to comments within the tracker, Oregon confirmed that prior to December 31, 2020, the states information technology system was programmed to waive the waiting week in accordance with state law. The tracker did not indicate the retroactive application was used by Oregon or its impact on eligible reimbursements.

Louisiana: ETA noted that Louisiana had a waiting week, with a waiver effective date of March 11, 2020, and an expiration date of September 29, 2021. The tracker did not document the 2 short-term waivers, or the gap period that was not covered by the waiver.

Washington: On December 28, 2020, Washington’s waiting week waiver expired, and the state was no longer eligible to participate in the TFFF program. Washington continued to pay claimants (despite state law indicating such payments were not permitted) and drew down approximately $4 million in TFFF funding for reimbursement. If ETA’s tracker was operating appropriately, ETA could have prevented Washington from drawing down these funds, which they were not eligible to receive at the time.[24]

ETA DID NOT REQUIRE STATES TO SUPPORT TFFF DRAWDOWN AMOUNTS

ETA did not require states to provide supporting schedules or monthly certifications for TFFF drawdowns. Of the 6 states selected for in-depth analysis, all 6 indicated they did not submit documentation to validate the amounts being drawn down. We originally surveyed 47 states; however, only 32 states responded. We issued a second survey to the 32 responding states. The second survey included a question asking whether ETA required the state to submit schedules or other details to support that the funds being drawn down from the TFFF account were for reimbursement of eligible first-week regular UI claims. Of the 32 states, 15 states indicated that such schedules were not provided to ETA.

[24] The subsequent passage of ARPA on March 11, 2021, provided states the option to retroactively waive waiting weeks and receive reimbursement for weeks ending after December 31, 2020. As such, the state was ultimately eligible for reimbursement but could not have foreseen this option on December 28, 2020.

22 MONTHS AFTER THE TFFF BENEFIT ELIGIBILITY PERIOD EXPIRED, NEARLY $5 BILLION REMAINED IN FUA

ETA provided the 53 participating SWAs with $12.5 billion in TFFF funding through 2 allotments. States were entitled to receive estimated allotments that were to be decreased or increased based upon the actual prior monthly amounts that should have been provided to the states. As ETA was more focused on initial funding than subsequent adjustments, ETA made a minimal number of adjustments even though its internal controls were not sufficient to verify the reasonableness of allotted amounts. Although states accessed $7.5 billion of TFFF funding as reimbursements, nearly $5 billion remained in FUA for states to access more than 22 months after the benefit eligibility period expired (see Exhibit 3). With no formal plan to reconcile state accounts and return unused TFFF funds, these remaining balances are vulnerable to fraud, waste, and abuse. Further, the remaining funds could have been put to better use (see Table 5 in Exhibit 1).

ETA provided $12.5 billion in TFFF funding, which comprised 2 separate allotments. The first allotment of $10.6 billion was made available in May 2020, and the second allotment of $1.9 billion was made available in August 2021. From July 24, 2020, through January 31, 2022, ETA made adjustments on 7 occasions involving a series of transfers between 26 of the 53 SWAs' TFFF accounts totaling $1.2 billion.[25] States were to draw down these funds as reimbursement[26] to cover the cost of compensation paid to individuals for their first week of regular unemployment without a waiting week.[27] Overall, the 53 SWAs drew down $7.5 billion of the $12.5 billion made available, leaving nearly $5 billion (40 percent) unused as of July 31, 2023 (more than 22 months after the TFFF benefit eligibility period expired on September 6, 2021).

For the 6 states we sampled for in-depth testing (Delaware, Iowa, Louisiana, Minnesota, Nevada, and Oregon), ETA made $932.1 million available through allotments of $709.8 million and another $222.3 million through transfers of funds previously provided to other states. The three ETA initiated transfers that were

[25] These transfers occurred between state accounts with no net change in overall allotments or funding. The last allotment adjustment was January 31, 2022.

[26] States could also be advanced TFFF program funds. On December 27, 2020, the CAA decreased federal funding for TFFF program reimbursements from 100 percent to 50 percent. On March 11, 2021, ARPA restored federal funding for TFFF program reimbursements to 100 percent.

[27] States could also receive payment for any additional TFFF program related administrative expenses incurred through the Unemployment Trust Fund's Employment Security Administration account.

made to 3 of the 6 states (Delaware, Nevada, and Oregon) were each lump sum amounts occurring during the period November 25, 2020, through January 31, 2022. The 6 states drew down a total of $689 million with $243.1 million (26 percent) remaining as of July 31, 2023; see Table 1 for details.

Table 1: Transactions and Remaining Balances for the Six Sampled States through July 31, 2023

State	Allotments[1]	Transfers[2]	Drawdowns[3]	Ending Balance	Percent of Funding Remaining
DE	$23,295,000	$5,000,000	($21,503,729)	$6,791,271	24%
IA	$126,676,000	0	($89,090,770)	$37,585,230	30%
LA	$115,749,000	0	($76,858,660)	$38,890,340	34%
MN	$236,969,000	0	($177,948,019)	$59,020,981	25%
NV	$147,471,000	$70,000,000	($194,596,384)	$22,874,616	11%
OR	$59,620,000	$147,342,000	($129,003,622)	$77,958,378	38%
Total	**$709,780,000**	**$222,342,000**	**($689,001,183)**	**$243,120,817**	**26%**

Source: ETA allotment and drawdown reports provided to the OIG.
[1] "Allotments" refers to amount of funds ETA made available in the FUA to the states.
[2] "Transfers" refers to allotment adjustments made between states' accounts to increase or decrease state balances.
[3] "Drawdowns" refers to the amount of federal funds the states accessed from FUA for reimbursement of first-week regular UI compensation paid out by the states directly to claimants.

Furthermore, of the nearly $5 billion in total TFFF funding that was unused, $1.1 billion (approximately 22 percent) represented TFFF funds that 7 of the 53 SWAs never accessed even though ETA allocated those funds to their accounts (see Table 2).

Table 2: States That Did Not Draw Down TFFF Funds Through July 31, 2023

State	Funding Provided
Illinois	$584,351,000
Kansas	$181,068,000
Arizona	$129,063,000
Alabama	$104,885,000
Vermont	$31,203,000
Alaska	$24,593,000
Wyoming	$15,217,000
Total	**$1,070,380,000**

Source: ETA provided allotment and drawdown reports to the OIG.

ETA'S EMERGENCY RESPONSE FOCUSED MORE ON INITIAL TFFF FUNDING THAN SUBSEQUENT ADJUSTMENTS

According to Section 2105(c)(2) of the CARES Act, the TFFF program would provide states payment either through an advance or reimbursement, as determined by the Secretary. Estimated amounts provided to the states would be decreased or increased, as the case may be, by the amount the estimated allotments deviated from actual amounts the state should have been paid in the prior calendar months. ETA guidance provided through UIPL 20-20, emphasizes this CARES Act language, specifically: "[a]s a state's drawdown of allotments is monitored, monthly amounts will be adjusted as needed." This same section of the CARES Act also explains that estimates may be made on the basis of such statistical, sampling or other method as may be agreed upon by the Secretary and the state workforce agency of the state involved.

ETA prioritized getting relief funding to states as quickly as possible during the pandemic, and instead of allotting funds on a monthly basis, two estimated allotments for the anticipated duration of the program were provided. ETA did not reach out to states to coordinate estimates for initial program funding. ETA officials stated the following:

> "ETA recognized the importance and intended CARES Act goals of getting funding to claimants quickly in the early days of the pandemic and the structure of the TFFF funding mechanism was set up with this in mind. ETA also recognized that states were not in a position to

> respond to quick turn-around requests for TFFF program estimates while processing these massive claims loads and as such did not attempt to require this information from states before providing access to funding."

ETA adjusted amounts allotted to the states on 7 occasions[28] during the period of March 27, 2020, through June 30, 2022, with the majority of ETA's adjustments impacting a minimal number of states. For example, of the 7 total adjustments, 4 adjustments reallocated allotments between 2 states on each occurrence. Twenty-seven of the states did not have any adjustments to their allotments during that period.

Throughout the duration of the program, ETA did not coordinate or analyze allotment adjustments with the states. Specifically, ETA did not consult the states with regards to 1) the need for additional allotments, or 2) the existing allotments being in excess of anticipated needs. The absence of ETA's consultation with states regarding their needs for the program limited ETA's ability to effectively estimate allotments and then make well-informed adjustments.

None of the 6 states indicated ETA had consulted with them regarding the initial allotment, subsequent adjustments, or sufficiency of prior allotments. Further, ETA did not communicate with the states regarding adjustments ETA made to their available allotments. This includes 4 of the 6 states that received allotments totaling $109.4 million[29] less than a month before the TFFF benefit eligibility period expired. For the 47 states we surveyed, we received 32 responses. Of those 32 responses, 28 (88 percent) stated that ETA did not conduct a state review related to the TFFF program. The responses for the other 4 states did not specifically mention that a TFFF review was performed.

According to ETA officials, ETA did not receive additional funding to support the oversight of the TFFF program until the enactment of ARPA. Despite the expansion of pandemic-related UI programs, ETA staffing resources remained at similar levels before the pandemic. ETA officials further stated the following:

> "ETA notes that it was not provided any additional funding to support this program. The same staff had to support the operation of this and the other new pandemic-related programs, in addition to the regular UI program. In fact, no additional funding for ETA operations was provided until the enactment of ARPA in

[28] Allotment adjustments were made 7/24/2020 (10 states impacted), 7/31/2020 (2 states impacted), 11/25/2020 (2 states impacted), 3/11/2021 (9 states impacted), 6/30/2021 (11 states impacted), 10/13/2021 (2 states impacted), 1/31/2022 (2 states impacted)

[29] On August 18, 2021, the states receiving additional allotments included: Delaware ($3.6 million), Iowa ($21.2 million), Nevada ($25.0 million), and Oregon ($59.6 million).

> March 2021. This information is not provided as an excuse, but as realistic context of the challenges facing the operations of these programs."

Although the pandemic presented ETA and states with unprecedented challenges, ETA should have coordinated with states to determine funding needs for initial allotments and subsequent adjustments.

ETA'S INTERNAL CONTROLS WERE NOT SUFFICIENT TO VERIFY REASONABLENESS OF AMOUNTS ALLOTTED OR ENSURE CLOSEOUT OF UNUSED TFFF BALANCES

According to the U.S. Government Accountability Office (GAO's) Standards for Internal Control in the Federal Government, documentation is a necessary part of an effective internal control system, and written policies and procedures provide the foundation for effective internal controls. ETA did not have adequate procedures established for:

- Retaining documentation for review of the initial allotments or subsequent adjustments; and
- Monitoring remaining balances and ensuring unused amounts were returned to the federal government.

UIPL 20-20 required states to maintain records during the administration of the TFFF program and make all records available for inspection, examination, and audit by such federal officials, employees as the Department may designate, or as may be required by law. Further, the guidance requires that records created during the administration of TFFF be retained for 3 years after final action (including appeals or court action) on the payments. [30] However, ETA did not document or maintain a record of calculations and related underlying data used to estimate TFFF initial allotments and base decisions for subsequent adjustments. Upon our request, ETA was unable to produce supporting information for their calculations of initial allotments or subsequent adjustments; written policies and procedures for preparing or reviewing allotments and adjustments; or procedures for reconciling remaining balances and closing out allotments. ETA asserted the initial allotment estimates were developed from UI claims and advance claims data. However, the calculations and datasets used to determine the states' initial TFFF allotments (as well as subsequent adjustments)

[30] According to UIPL 20-20, records may be retained for less than 3 years if copied by microphotocopy or by electronic imaging method.

were not maintained by ETA. Therefore, we could not analyze and determine the validity of ETA's estimates or adjustments.

ETA officials stated that ETA did maintain the calculations and general data but continued to update the estimate file as additional data became available, overwriting much of the original data utilized for the initial estimates. Further, ETA officials indicated that on an ongoing basis, it monitored the actual drawdowns from the initially allotted amounts and made adjustments based upon drawdown activity, disbursement figures, and UI first payment reports submitted by states. ETA indicated its staff accessed state drawdown data on a daily basis and compiled a spreadsheet reflecting the daily activity. This daily spreadsheet was used to track drawdowns instead of using ETA 2112[31] reporting since daily transactions were timelier.

Of the 6 states selected for in-depth analysis, none of those states had completed a final closeout for their unused balances of TFFF funds in FUA. ETA officials stated the following:

> ETA will continue to work with Treasury and state partners to reconcile TFFF funding and will return any excess funding to the general fund in coordination with the Bureau of the Fiscal Service once reconciliation for TFFF has been completed. ETA anticipates that a substantive amount of the remaining $5 billion will still be drawn by states (including 8 states that still had not drawn any of their allotted funds as of July 29, 2022) as ongoing reconciliation efforts are completed.

However, updated TFFF account balances obtained from ETA through July 31, 2023, showed that only $56.4 million had been drawn down among the 53 states within the 7 months from January 1, 2023, to July 31, 2023, and 35 states did not have additional drawdowns during that period. For 5 of the 6 states on which we performed in-depth procedures, we noted that a substantial amount of time (approximately 405-789 days) had passed between the states' last drawdown and July 31, 2023 (see Table 3).

[31] ETA 2112 is a monthly summary of transactions in a state unemployment fund which consists of the Clearing Account, Unemployment Trust Fund Account, and Benefit Payment Account. UIPL 20-20, Section 4.e required SWAs to report the receipt and disbursement of federal funds for the first week of regular UI.

Table 3: Total Number of Months between 6 States' Last Drawdown and July 31, 2023

State	Amount of Last Drawdown	Date of Last Drawdown	Number of Days Between Last Drawdown and July 31, 2023
DE	$26,639	June 21, 2022	405 days
IA	$2,148,083	December 6, 2021	602 days
LA	$2,387,282	October 5, 2021	664 days
MN	$358,916	June 2, 2021	789 days
NV	$3,533,067	February 1, 2022	545 days
OR	$5,306	July 12, 2023	19 days

Viewed collectively, the minimal dollar amount of drawdowns across 53 states and the time lapse since the last drawdowns for 5 of the 6 in-depth states allows us to conclude that most of the remaining almost $5 billion will not be drawn down for eligible benefit reimbursement.

ETA had not issued formal guidance to states on how to reconcile and close out funds, and the agency was not aware of any states completing the necessary reconciliations to close out the program and return unused funds. ETA stated they will provide UIPL guidance to states on the reconciliation requirements and anticipated most of the reconciliations would be conducted once the guidance is provided.

RECOMMENDATIONS

We recommend the Principal Deputy Assistant Secretary for Employment and Training:

1. Work with Oregon, Louisiana, Delaware, and Mississippi to ensure the appropriate return of approximately $105.1 million in TFFF reimbursements for first-week regular UI compensation paid that were associated with ineligible weeks.

2. Establish a deadline by which states are required to perform a timely review of past drawdowns and provide evidence that drawdowns were for

reimbursement of eligible first-week regular UI compensation paid by the state for claim weeks that fell within the TFFF program period.

3. Reassess the eligibility of all states with waiting week provisions according to their state laws to ensure that the waiting week was not in effect when states accessed TFFF funds prior to December 31, 2020.

4. Ensure that any state drawdowns of the remaining almost $5 billion in TFFF funds are only for the reimbursement of first-week regular UI compensation paid by the state that fall within the TFFF program period (March 27, 2020, through September 6, 2021).

5. Establish a deadline for states to reconcile and close out TFFF accounts so ETA can facilitate deobligation of the funding.

6. Establish written procedures and deadlines for the timely return of funding for TFFF and future similar programs and consult with OMB and Treasury officials to execute the proper return of unused funds that remain within states' accounts.

7. Capture lessons learned from the TFFF program and use the information to develop effective internal control procedures to ensure states meet program requirements, including eligibility, and have sufficient infrastructure in place to pay claimants' UI benefits without delay for similar temporary emergency UI programs that may be established in the future.

8. Capture lessons learned from the TFFF program and use the information to develop and implement controls to ensure the methodology and procedures are documented and maintained for estimating allotments and subsequent adjustments for similar temporary emergency UI programs that may be established in the future.

ANALYSIS OF MANAGEMENT'S COMMENTS

ETA expressed several concerns regarding the findings of our report. However, the agency's concerns did not result in any changes to our reported results or conclusions. Synopses of ETA's concerns and our corresponding response to each are detailed below.

a. ETA stated that the draft report incorrectly indicates in a number of places that the TFFF provisions had ended on September 6, 2021, given states may have to work through backlogs, appeals, fraud investigations, overpayment establishments, and recoveries after the program's technical end date. We acknowledge that such activities will occur after the end of the program, and it was not our intention to indicate otherwise. Given ETA's confusion over this report language, we revised the report to clarify what was intended as it relates to the end of the TFFF program.

b. ETA stated that the report inaccurately portrays certain states (Oregon and Louisiana) as not meeting TFFF eligibility requirements. We disagree with ETA on this matter based upon audit evidence obtained.

c. ETA expressed concern regarding our conclusions that Delaware and Mississippi accessed TFFF funds that were outside of the allowable period. As part of the reconciliation process, ETA plans to review the payments and determine if payments for the weeks of eligibility were within or outside the allowable timeframe. Our audit evidence supports that the period of first-week regular UI benefit payments were outside the eligible period.

d. ETA expressed concern regarding our conclusion that Washington continued to draw down funds for first-week regular UI benefit payments that occurred after the waiting week period expired. Our audit evidence supports the finding as stated.

e. ETA stated that our report incorrectly implies that remaining TFFF balances are vulnerable to fraud, waste and abuse, and that remaining funds could have been put to better use. We disagree with ETA's position on this matter. As evidenced by Delaware, the state was able to draw down funds that did not meet eligibility requirements provided through legislation. The drawdowns by Delaware ended shortly after our inquiries with the state. While we did not identify fraud, waste, or abuse in Delaware's drawdowns, the ability for states to access ineligible funds without ETA's knowledge is a risk for fraud, waste, and abuse.

> This is particularly relevant when approximately $5 billion of funds remain accessible by the states without any ETA controls to prevent improper drawdowns. In addition, ETA asserted that TFFF funds cannot be used for anything else and to infer that funds could be used elsewhere is incorrect. We also disagree with ETA's assertion. While the TFFF provision limits DOL's use of the funds to the TFFF program, our recommendation for ETA to deobligate and return the unused TFFF funds to the U.S. Department of Treasury would allow the funds to be put to better use within the federal government.

ETA agreed or partially agreed with five of the eight recommendations (Recommendations 2, 3, 4, 5, and 6) and outlined ETA's corrective plan of action. However, ETA did not agree with Recommendations 1, 7, and 8, and partially disagreed with 6.

ETA disagreed with Recommendation 1 and stated that ETA provided information indicating Oregon and Louisiana met the eligibility requirement to participate in TFFF. In addition, ETA requested that OIG revise the recommendation to, "Conduct appropriate reviews and make any necessary determinations to appropriately address costs associated with identified issues in Oregon, Louisiana, Delaware, and Mississippi related to $105.1 million in TFFF reimbursements for first-week regular UI compensation." We disagree with ETA that the recommendation should be revised. Our audit evidence showed that Oregon, Louisiana, Delaware, and Mississippi received at least $105.1 million in TFFF funds for the first-week regular UI benefit payments that were ineligible for reimbursement.

ETA did not agree with part of Recommendation 6, which applies to future programs. ETA stated that they are unable to develop written procedures for future programs because they will not know specific requirements for future legislation. However, ETA's Office of Unemployment Insurance will formulate general guidelines in anticipation of bottlenecks in accounting and reconciliation procedures and processes that may be helpful for future programs. We disagree with ETA's assertion that procedures cannot be developed for future programs. ETA should have controls in place to establish a timeframe to deobligate and return unused funds, regardless of the program.

ETA disagreed with Recommendations 7 and 8. Specifically, ETA stated that it is extremely challenging to develop controls for a program that does not currently exist and for which the requirements are unknown. However, ETA stated that ETA's Office of Unemployment Insurance will capture lessons learned to help inform actions for similar future programs. Therefore, ETA recommended that Recommendations 7 and 8 be consolidated and revised to: "Develop a document that captures lessons learned from the operation of the TFFF program and use this information to inform technical assistance and operating guidance for similar temporary emergency UI programs that may be established in the future." We partially agree with ETA. Although the exact requirements of future programs may be unknown, lessons learned from similar programs should provide sufficient knowledge to develop controls that are likely to address future programs. Therefore, we revised Recommendations 7 and 8.

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

Rocha & Company, PC

Rocha & Company, PC
Gaithersburg, MD
September 28, 2023

EXHIBIT 1: FUNDS PUT TO BETTER USE AND QUESTIONED COSTS

Table 4: Questioned Costs for Ineligible States' Drawdowns of TFFF Allotments

Description	Amount
➢ Funding accessed for periods when waiting week was not waived	$ 91.2 million
➢ Funding accessed for periods prior to the period Federal guidance allowed	$ 12.5 million
➢ Funding accessed for periods after the period Federal guidance allowed	$ 1.4 million
Total Questioned Costs[32]	$ 105.1 million

Source: OIG-generated based on Rocha analysis

Table 5: Funds Put to Better Use for Allotments that Remain Unused

Description	Amount
➢ Allotments provided by ETA for the TFFF program that remain unused as of July 31, 2023	$ 4.9 billion
Total Funds Put to Better Use[33]	$ 4.9 billion

Source: OIG-generated based on Rocha analysis

[32] **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.
[33] **Funds put to better use** estimate funds that could be used more efficiently. Some examples would be reducing spending, deobligating funds, or avoiding unnecessary spending.

EXHIBIT 2: DELAWARE DRAWDOWN OF INELIGIBLE WEEKS AFTER SEPTEMBER 6, 2021

Applied Date	Subsequent Drawdowns
09/13/2021	29,053
09/20/2021	43,553
09/27/2021	29,150
10/04/2021	32,462
10/12/2021	39,110
10/18/2021	35,678
10/26/2021	32,295
11/01/2021	29,855
11/08/2021	32,229
11/15/2021	25,977
11/22/2021	39,542
12/01/2021	33,615
12/06/2021	29,149
12/13/2021	27,427
12/20/2021	34,508
12/27/2021	36,470
01/04/2022	23,852
01/10/2022	26,576
01/18/2022	43,593
01/24/2022	34,875
01/31/2022	41,831
Subtotal	**$700,800**

Applied Date	Subsequent Drawdowns
02/07/2022	$35,251
02/14/2022	45,729
02/22/2022	41,055
02/28/2022	44,962
03/07/2022	38,732
03/14/2022	20,104
03/21/2022	46,147
03/28/2022	45,455
04/04/2022	40,968
04/11/2022	41,512
04/18/2022	32,983
04/25/2022	41,227
05/02/2022	34,588
05/09/2022	27,333
05/16/2022	25,823
05/23/2022	25,283
05/31/2022	28,655
06/02/2022	16,575
06/07/2022	25,544
06/13/2022	29,928
06/21/2022	26,639
Subtotal	**$714,493**

TOTAL SUBSEQUENT DRAWDOWNS:	**$1,415,293**

EXHIBIT 3: SUMMARY OF TFFF TRANSACTIONS AND ENDING BALANCES THROUGH JULY 31, 2023

State	1st Allotment	Transfers	2nd Allotment	Drawdowns	Ending Balance	Percent of Funding Remaining
AK	$23,213,000	$0	$1,380,000.00	$0	$24,593,000	100%
AL	95,135,000	0	9,750,000	0	104,885,000	100%
AR	48,434,000	0	1,740,000	(14,550,628)	35,623,372	71%
AZ	119,393,000	(20,000,000)	29,670,000	0	129,063,000	100%
CA	1,221,909,000	432,267,000	291,290,000	(1,639,369,833)	306,096,167	16%
CO	160,679,000	110,363,000	3,040,000	(267,519,097)	6,562,903	2%
CT^	137,394,000	30,000,000	0	(151,519,083)	15,874,917	9%
DC	26,903,000	14,465,000	8,880,000	(30,067,851)	20,180,149	40%
DE	19,695,000	5,000,000	3,600,000	(21,503,729)	6,791,271	24%
FL	880,226,000	(415,000,000)	0	(440,248,411)	24,977,589	5%
GA^	643,306,000	(334,426,000)	0	(241,244,429)	67,635,571	22%
HI	103,496,000	0	0	(59,789,017)	43,706,983	42%
IA^	105,456,000	0	21,220,000	(89,090,770)	37,585,230	30%
ID	32,751,000	0	0	(10,829,100)	21,921,900	67%
IL	322,621,000	0	261,730,000	0	584,351,000	100%
IN	157,374,000	23,570,000	11,110,000	(152,683,858)	39,370,142	20%
KS	74,838,000	0	106,230,000	0	181,068,000	100%
KY	268,383,000	(110,400,000)	0	(102,958,422)	55,024,578	35%
LA	115,749,000	0	0	(76,858,660)	38,890,340	34%
MA	323,962,000	0	180,520,000	(241,773,910)	262,708,090	52%
MD^	185,338,000	0	0	(93,182,238)	92,155,762	50%
ME	44,566,000	0	2,930,000	(1,711,001)	45,784,999	96%
MI^	360,198,000	0	115,590,000	(226,870,915)	248,917,085	52%
MN	236,969,000	0	0	(177,948,019)	59,020,981	25%
MO	132,257,000	0	0	(47,519,587)	84,737,413	64%
MS	53,702,000	3,527,000	0	(46,630,503)	10,598,497	19%
MT	25,550,000	0	0	(19,602,232)	5,947,768	23%
NC	218,215,000	(50,000,000)	23,270,000	(104,993,701)	86,491,299	45%
ND	25,884,000	0	9,280,000	(28,808,094)	6,355,906	18%
NE	29,899,000	0	2,380,000	(18,609,007)	13,669,993	42%
NH	47,885,000	0	0	(35,957,959)	11,927,042	25%
NJ^	417,152,000	0	0	(299,273,220)	117,878,781	28%
NM	47,580,000	0	12,330,000	(41,878,303)	18,031,697	30%
NV	122,471,000	70,000,000	25,000,000	(194,596,384)	22,874,616	11%
NY	697,563,000	(3,500,000)	305,780,000	(362,638,182)	637,204,818	64%
OH	302,912,000	0	59,220,000	(224,440,916)	137,691,084	38%
OK	193,020,000	(10,000,000)	0	(118,993,112)	64,026,888	35%

EXHIBIT 3: SUMMARY OF TFFF TRANSACTIONS AND ENDING BALANCES THROUGH JULY 31, 2023 (CONTINUED)

State	1st Allotment	Transfers	2nd Allotment	Drawdowns	Ending Balance	Percent of Funding Remaining
OR	0	147,342,000[34]	59,620,000	(129,003,622)	77,958,378	38%
PA	467,177,000	0	96,900,000	(293,696,357)	270,380,643	48%
PR	0	81,503,000[35]	4,170,000	(9,876,426)	75,796,574	88%
RI	42,167,000	35,000,000	22,480,000	(65,083,597)	34,563,403	35%
SC	130,027,000	(10,000,000)	0	(88,692,717)	31,334,283	26%
SD	13,719,000	0	0	(8,930,500)	4,788,500	35%
TN	103,905,000	30,000,000	31,780,000	(104,861,534)	60,823,466	37%
TX	882,344,000	(167,342,000)	137,680,000	(616,760,796)	235,921,204	28%
UT	51,279,000	0	11,990,000	(25,145,976)	38,123,024	60%
VA	202,375,000	134,178,000	42,560,000	(158,579,692)	220,533,308	58%
VI	86,000	3,500,000	0	(2,641,660)	944,340	26%
VT^	0	24,953,000[36]	6,250,000	0	31,203,000	100%
WA	460,857,000	0	0	(335,173,424)	125,683,576	27%
WI	137,652,000	(30,000,000)	15,880,000	(73,215,525)	50,316,475	41%
WV	49,818,000	5,000,000	0	(49,818,000)	5,000,000	9%
WY^	10,797,000	0	4,420,000	0	15,217,000	100%
TOTAL	**$10,574,281,000**	**$0**	**$1,919,670,000**	**($7,545,139,994)**	**$4,948,811,006**	**40%**

^ Indicates a state with no waiting week in its existing state law. In total, only 8 of the 53 states did not have a waiting week to waive to participate in the TFFF program.

[34] This transfer was made on 11/25/2020 and represents the first funding made available to the Oregon SWA.
[35] This transfer was made on 7/24/2020 and represents the first funding made available to the Puerto Rico SWA.
[36] This transfer was made on 7/24/2020 and represents the first funding made available to the Vermont SWA.

APPENDIX A: SCOPE AND METHODOLOGY

SCOPE

The audit of TFFF covered the period of March 27, 2020, to September 6, 2021. To determine the amount of TFFF allotments that remained accessible to states following the end of the program (September 6, 2021), we obtained reports from ETA that identified total allotments (including adjustments) made to the states, amounts accessed, remaining balances as of July 31, 2023, ETA internal reports utilized to monitor the program, and surveys.

The objective of the audit was to determine if ETA ensured states met TFFF program requirements and used funding according to the statutory intent of the CARES Act and its related subsequent legislation.

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.

This performance audit was conducted remotely and covered 6 states judgmentally selected by the OIG for in-depth testing. In addition, we sent surveys to an additional 47 states. To answer our audit objective, we reviewed the CARES Act and related subsequent legislation, ETA guidance, ETA program monitoring reports, state agreements and executive orders, program funding, and states' financial reports.

Furthermore, we analyzed datasets used by the states to draw down funds and tested those databases at the individual payment level to verify that those amounts were first-week compensation amounts eligible for reimbursement under the program.

SELECTION OF SIX STATES

To perform our audit, the OIG judgmentally selected 6 states—Delaware, Iowa, Louisiana, Minnesota, Nevada, and Oregon—for in-depth analysis based on:

- the amount of TFFF funds that states received from March 27, 2020, through July 31, 2021, stratified into the highest, middle, and lowest ranges; and
- the extent to which the states had not been selected for review in previous OIG audits.

Our sampling plan was designed under the assumption of Moderate to High Risk. This called for a design with 95 percent confidence and 7 percent relative precision of estimate. We used multi-stage sampling comprising 3 levels from which simple random samples were selected. When the testing was complete, our statistician projected differences to the population using appropriate statistical estimation formulas, unless differences were clearly inconsequential.

STATES SURVEYED

We sent surveys to the remaining 47 states to verify which states participated in the program, the level of oversight and support provided by ETA to those states, allotment amounts made available, funding accessed by states, remaining balances, and any challenges with implementing the program or instances of non-compliance (including assessing retroactive implementation) states may have experienced.

DATA RELIABILITY

Methods of determining data reliability were dependent upon availability of information at the state level. However, the primary method of ensuring data reliability involved reconciliations of first-week compensation datasets to the amounts drawn down from the TFFF account as identified in the states' Automated Standard Application for Payments (ASAP) system. Key reports received from ETA were compared to source documents received at the state level, as well as to survey responses.

INTERNAL CONTROLS

A performance audit includes an understanding of internal controls considered significant to the audit objective and testing compliance with significant laws, regulations, and other requirements. In planning and performing our audit, we considered whether internal controls significant to the audit objective were properly designed and placed in operation. This included reviewing policies and procedures. We confirmed our understanding of these controls and procedures through interviews and the review and analysis of documentation. The objective of our audit was not to provide assurance on internal controls; therefore, we did not express an opinion on ETA's internal controls. Our consideration of internal controls for administering key CARES Act UI programs would not necessarily disclose all matters that might be significant deficiencies. Because of the inherent limitations on internal controls, or misstatements, noncompliance may occur and not be detected.

CRITERIA

- Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020)
- Consolidated Appropriations Act, 2021, Division N, Title II, Subtitle A, Chapter 1, the Continued Assistance for Unemployed Workers Act of 2020, Public Law 116-260 (December 27, 2020)
- American Rescue Plan Act of 2021, Public Law 117-2 (March 11, 2021)
- GAO-14-704G: Standards for Internal Control in the Federal Government (September 2014)
- Unemployment Insurance Program Letter 14-20: CARES Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility
- Unemployment Insurance Program Letter 20-20: CARES Act of 2020 – Operating, Financial, and Reporting Instructions for Section 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week, of the CARES Act of 2020
- Unemployment Insurance Program Letter 9-21: Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) – Summary of Key Unemployment Insurance (UI) Provisions
- Unemployment Insurance Program Letter 14-21: American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance Provisions

PRIOR RELEVANT COVERAGE

During the last 4 years, the OIG has issued 3 reports of significant relevance to the subject of this report. Those reports are the following:

1. Advisory Report — 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; and

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.

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor

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

September 21, 2023

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

FROM: BRENT PARTON
Principal Deputy Assistant Secretary

SUBJECT: Response to Draft Report: *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-XXX-03-315

The 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 the Inspector General (OIG) with respect to the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week (TFFF) program, which was created in Section 2105 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.

Areas of Concern with the OIG's Draft Report

As described below, ETA is fully committed to reconciling the funds provided under Section 2105 of the CARES Act, that provided for temporary full federal funding of the first week of regular unemployment compensation for states with no waiting week. Section 2105 was modified by the Consolidated Appropriations Act, 2021, and by the American Rescue Plan Act of 2021 (ARPA), the latter of which extended Section 2105 to weeks of unemployment ending on or before September 6, 2021. A vital component of this reconciliation process is providing direction and instructions to states on associated requirements to reconcile funding under Section 2105. Previously, ETA expressed several concerns, including the OIG's portrayal of states as not meeting the eligibility provisions to participate in the TFFF reimbursements. Unfortunately, many of the concerns ETA shared with the OIG are not reflected in the draft report. As a result, ETA restates the following concerns and inaccuracies in the draft report:

- *The draft report incorrectly indicates in a number of places that the TFFF provisions have ended.* These statements are inaccurate. As with previous temporary or episodic programs, states will continue to have activities that may impact TFFF funding as states work through backlogs, appeals, fraud investigations, overpayment establishments, and recoveries. Although the CARES Act programs and provision eligibility period expired September 6, 2021, this does not mean that the TFFF provisions or reconciliation activities have concluded. The September 6, 2021 expiration date addresses the period within which benefit payments are covered by the provisions. However, states continue to administer and pay benefits for the period within which TFFF reimbursements are covered. The TFFF reimbursements continue to apply to benefits paid for these covered periods.

- *The draft report inaccurately portrays certain states as not meeting TFFF eligibility requirements.*

    - *The State of Oregon met TFFF eligibility requirements.* The Governor of Oregon issued Executive Order (EO) 20-03 on March 8, 2020, which declared a state of emergency due to COVID-19 and authorized state agencies to take actions, including waiving the first waiting week, upon further direction from the Governor or her office. On June 26, 2020, the Acting Director of the Oregon Employment Department (OED) advised ETA that the Governor has already exercised her statutory authority to waive the waiting week. On December 29, 2021, OED reiterated that the waiting week was waived starting on March 8, 2020. Due to technological challenges, the State was not able to immediately implement the programming that waived the waiting week until November 2020. Although the waiting week was waived as of March 8, 2020, Oregon and the Department are in agreement that reimbursement was not available for weeks waived prior to the week ending April 4, 2020.

    - *The State of Louisiana met TFFF eligibility requirements.* Louisiana had gap weeks in waiving their waiting period requirements. However, ARPA permitted states to reenter the waiting week agreement with the Secretary under CARES Act Section 2105, if necessary, retroactively pay for the waiting week, and receive full reimbursement for weeks of unemployment that ended after December 31, 2020. On March 17, 2021, ETA was advised by the Deputy Secretary of the Louisiana Workforce Commission that the State interprets State of Louisiana Proclamation No. 58 JBE 2021 to allow retroactive payment of the waiting week for all initial claims filed on or after December 27, 2020. This applied to all gap weeks affected. Documentation was provided to the OIG explaining this in July 2023.

- *There is concern about the OIG's declarations that the States of Delaware and Mississippi accessed TFFF funds that were outside of the allowable period.* ETA was not made aware of the OIG's concerns about these states until the discussion draft report for exit was shared with ETA in July 2023. As part of the reconciliation process, ETA will need to review the payments and determine if they were in fact payments paid for weeks of eligibility within the allowable timeframe or outside of that timeframe.

- *There is concern about the OIG's declaration that the State of Washington continued to pay claimants and drew down TFFF funding after the waiting week waiver expired.* Washington's drawdown activity reflects the State's payment catch up of claims that fall within the period of eligibility. This is typical at the end of programs or provisions when states reconcile issues, work on backlogs affecting the requirements of the provisions, and issue retroactive payments, as appropriate, along with other close out activities. As

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part of the reconciliation process, ETA will review these payments and determine if they were allowable or not.

- *The draft report incorrectly implies that the remaining TFFF balances are vulnerable to fraud, waste, and abuse and that the remaining funds could have been put to better use*. Pursuant to CARES Act Section 2105(c), TFFF funds can only be used for temporary full federal funding of the first week of regular unemployment compensation (UC) for states with no waiting week. They cannot be used for anything else, and to infer that these funds could be used elsewhere is incorrect. It is also unclear how the remaining TFFF balances are vulnerable to fraud, waste, and abuse when states are subject to their agreement with the Department, which subjects states to using the money for the purpose for which it was paid to the state, account for the funds used and return any remaining balances. Furthermore, ETA plans to publish upcoming guidance to states on reconciling funds under Section 2105, which will include instructions on how to return unused funds.

Responses to the OIG Recommendations

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

Recommendation 1: Work with Oregon, Louisiana, Delaware, and Mississippi to ensure the appropriate return of approximately $105.1 million in TFFF reimbursements for first-week regular UI compensation paid that were associated with ineligible weeks.

ETA Response: ETA disagrees with this recommendation. During the exit conference with the OIG, ETA requested the OIG to rephrase this recommendation (see revised language shown below).

> ***Revised Recommendation**: Conduct appropriate reviews and make any necessary determinations to appropriately address costs associated with identified issues in Oregon, Louisiana, Delaware, and Mississippi related to $105.1 million in TFFF reimbursements for first-week regular UI compensation.*

As mentioned to the OIG during the exit conference, appropriate processes and determinations must first be made before directing states to pay specific amounts. The OIG is raising some issues in this draft report that warrant further investigation. ETA provided information indicating that Oregon and Louisiana met the eligibility requirements to participate in TFFF. ETA was not previously made aware of the OIG's concerns with Delaware and Mississippi and is reviewing the information provided in this draft report. ETA will conduct an appropriate review. ETA expects the reconciliation process to be completed by the end of Fiscal Year (FY) 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

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Recommendation 2: Establish a deadline by which states are required to perform a timely review of past drawdowns and provide evidence that drawdowns were for reimbursement of eligible first week regular UI compensation paid by the state for claim weeks that fell within the TFFF program period.

ETA Response: ETA concurs with this recommendation. ETA is in the process of developing specific guidance that will address this recommendation. ETA expects this process to be completed by the end of FY 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

Recommendation 3: Reassess the eligibility of all states with waiting week provisions according to their state laws to ensure that the waiting week was not in effect when states accessed TFFF funds prior to December 31, 2020.

ETA Response: ETA concurs with this recommendation. ETA is in the process of developing specific guidance that will address this recommendation. ETA expects this process to be completed by the end of FY 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

Recommendation 4: Ensure that any state drawdowns of the remaining almost $5 billion in TFFF funds are only for the reimbursement of first week regular UI compensation paid by the state that fall within the TFFF program period (March 27, 2020 through September 6, 2021).

ETA Response: ETA concurs with this recommendation. ETA is in the process of developing specific guidance that will address this recommendation. ETA expects this process to be completed by the end of FY 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

Recommendation 5: Establish a deadline for states to reconcile and close out TFFF accounts so ETA can facilitate deobligation of the funding.

ETA Response: ETA concurs with this recommendation. ETA is in the process of developing specific guidance that will address this recommendation. ETA expects this process to be completed by the end of FY 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

Recommendation 6: Establish written procedures and deadlines for the timely return of funding for TFFF and future similar programs and consult with [the Office of Management and Budget] OMB and Treasury officials to execute the proper return of unused funds that remain within states' accounts.

ETA Response: ETA agrees with part of this recommendation. ETA is in the process of developing specific guidance that will address written procedures and deadlines for the timely return of funding. ETA expects this process to be completed by the end of FY 2024. The

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Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

ETA does not agree with the part of the recommendation that makes reference to future programs. ETA is unable to develop written procedures for programs created by a future Congress in response to future mass layoff events. Although ETA will not know specific requirements for future enactments, ETA's Office of Unemployment Insurance will formulate general guidelines in anticipation of bottlenecks in accounting and reconciliation procedures and processes that may be helpful for future programs.

Recommendation 7: Develop effective internal control procedures to ensure states meet program requirements, including eligibility, and have sufficient infrastructure in place to pay claimants' UI benefits without delay for similar temporary emergency UI programs that may be established in the future.

ETA Response: ETA disagrees with this recommendation. However, ETA proposes an alternative approach to address the essence of this recommendation. During the exit conference with the OIG, ETA requested the OIG to rephrase and consolidate Recommendations 7 and 8 (see revised language shown below).

> ***Revised Recommendation**: Develop a document that captures lessons learned from the operation of the TFFF program and use this information to inform technical assistance and operating guidance for similar temporary emergency UI programs that may be established in the future.*

It is extremely challenging to develop controls for a program that does not exist and for which ETA does not know the requirements. Although ETA will not know specific requirements of a future enactment, ETA's Office of Unemployment Insurance will capture lessons learned to help inform actions for similar future programs. This approach is more meaningful, especially since ETA cannot speculate when Congress will authorize and appropriate funding for a similar future program.

ETA expects this process of capturing lessons learned to be completed by the end of FY 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

Recommendation 8: Develop and implement controls to ensure the methodology and procedures are documented and maintained for estimating allotments and subsequent adjustments for similar temporary emergency UI programs that may be established in the future.

ETA Response: ETA disagrees with this recommendation for the reasons outlined in ETA's response to Recommendation 7 above, and respectfully requests that this recommendation be removed. ETA proposes an alternative approach, which incorporates the intent of this recommendation and is outlined in the response to Recommendation 7 above.

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