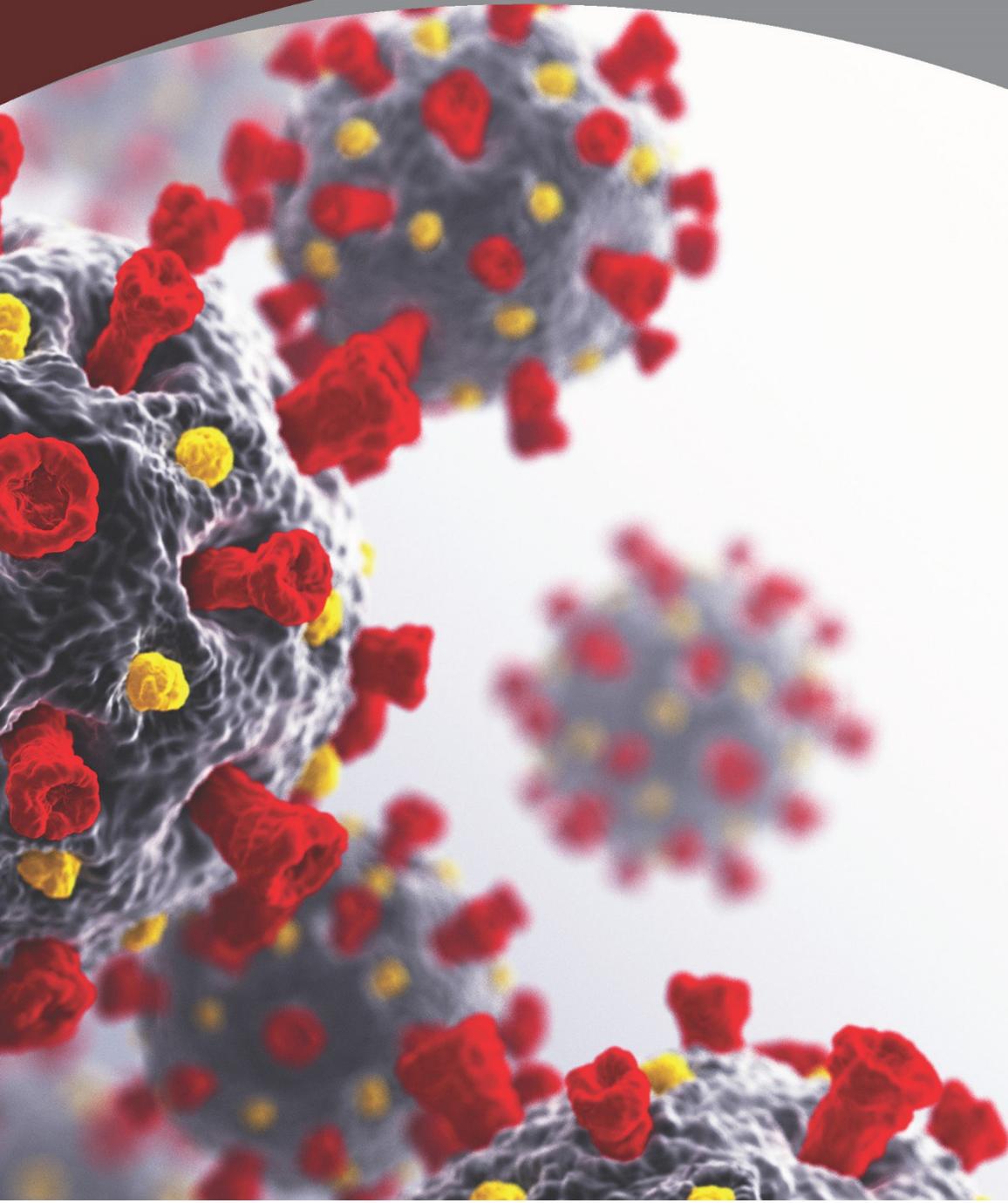




Pandemic Response Oversight Plan

Office of Inspector General for the U.S. Department of Labor

Updated April 27, 2021



U.S. DEPARTMENT OF LABOR OFFICE OF INSPECTOR GENERAL
PANDEMIC RESPONSE OVERSIGHT PLAN

Updated April 27, 2021

BACKGROUND

The U.S. Department of Labor (DOL), Office of Inspector General (OIG), received an appropriation of \$26 million to carry out oversight activities of DOL's response to the coronavirus (COVID-19) pandemic under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This included \$25 million to oversee the unprecedented expansion of Unemployment Insurance (UI) programs that were provisioned by the CARES Act and \$1 million for oversight of DOL activities that were supported with funds appropriated to prepare for and respond to the COVID-19 pandemic. On March 11, 2021, the American Rescue Plan Act (ARP Act) was signed into law, providing the OIG an additional \$12.5 million to conduct further pandemic-focused oversight activities.

UPDATED PANDEMIC OVERSIGHT PLAN

This plan updates the OIG's initial Pandemic Oversight Plan published April 15, 2020. The initial plan focused on the Department's response to the pandemic under the CARES Act and discussed work that would be conducted in four phases. We noted the plan was subject to change as the OIG continued to conduct risk assessments to identify specific areas for review. This updated oversight plan summarizes the OIG work completed during Phases 1 and 2 and details the work that is ongoing and planned for Phases 3 and 4. It includes additional work funded by the ARP Act, through December 31, 2023. See the Appendix for select criteria related to DOL's response to the coronavirus pandemic.

PHASES 1 and 2: SUMMARY OF COMPLETED WORK

Audit Oversight Focus:

During Phases 1 and 2, the OIG addressed DOL's plans and initial implementation of administration and oversight activities. Our primary focus was on the Employment and Training Administration's (ETA) UI programs for which we issued six audit reports. At the start of the pandemic we issued an advisory report identifying initial areas of concern for ETA and the states to consider as they implemented the UI provisions included in the CARES Act. These areas, identified in our prior reports on the UI program, included state preparedness, initial eligibility determinations, benefit amount, return to work, improper payment detection and recovery, and program monitoring.

Our five subsequent reports identified continued programmatic weaknesses in each of these same areas. Foremost among these was our reporting on improper payment and fraud vulnerabilities due to state reliance on self-certifications alone to ensure eligibility for the Pandemic Unemployment Assistance (PUA) program; and our identification of more than \$5.4 billion of potentially fraudulent UI benefits paid in four high-risk areas: to individuals with social security numbers filed in multiple states, to individuals with social

security numbers of deceased persons and federal inmates, and to individuals with social security numbers used to file for UI claims with suspicious email accounts. The potentially fraudulent UI payments we identified occurred during a limited time period and covered only the four noted high risk areas. We estimated the potential UI fraud occurring throughout the nation could easily range into the tens of billions of dollars. ETA agreed with most of the recommendations in our UI program audit reports and said they will collaborate with Congress and the states on developing and implementing corrective action.

Our pandemic oversight under Phases 1 and 2 also covered other DOL agencies and programs including the Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), Wage and Hour Division (WHD), Office of Workers' Compensation Programs (OWCP), ETA training programs and the Office of Job Corps. We issued seven reports covering these agencies and made recommendations to address weaknesses relating to worker safety and program effectiveness. In some instances, in response to significant issues identified during initial audit work, we expanded coverage of agency activities to include areas originally planned for Phase 3. For example, our report on OSHA's efforts to protect the safety of the nation's workforce included assessing the impact the pandemic had on operations including the number and types of inspections and the agency's alternative approaches to safeguard its own workers, such as virtual inspections conducted by telephone or email.

This OSHA audit found that increased complaints, reduced inspections, and the degree of remote inspections conducted subjected the nation's workforce to greater safety risk. Further, OSHA had not issued an enforceable emergency temporary standard that may have better protected the health and safety of the workforce during the pandemic. As a result of our audit, OSHA is improving its inspection strategy by prioritizing high-risk employers for COVID-19 related onsite inspections and conducting further analysis to determine whether establishing an infectious disease specific emergency temporary standard is needed to help control the spread of COVID-19.

The 13 reports we issued during Phases 1 and 2 of our pandemic oversight plan are available at our Pandemic Response Portal:

https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

Investigative Oversight Focus:

During Phases 1 and 2, our special agents focused heavily on increasing investigative and analytical resources to identify and investigate those areas with the greatest potential impact on the Department's programs, with a significant focus on large-scale identity theft related UI fraud. When investigations or data analytics identified programmatic vulnerabilities, our special agents coordinated with audit staff to ensure that weaknesses were addressed when appropriate.

The OIG has opened over 15,000 investigative matters related to the pandemic. The vast majority of these matters involve identify theft related UI fraud. In response to this

unprecedented amount of potential UI fraud, the OIG hired 22 additional special agents, a 20 percent increase in field investigative staff. In addition, our special agents prioritized their case inventory so that 75 percent of the investigative workload was focused on UI fraud. Prior to the pandemic, UI fraud made up approximately 10 percent of the investigative workload. The OIG's investigative efforts have directly resulted in the identification and recovery of over \$100 million in fraud involving the UI program. In addition, OIG special agents assisted in the identification and recovery of over \$565 million in fraudulent UI benefits.

The scope of UI fraud in pandemic related programs is unprecedented. With its limited resources, the OIG expanded its reach by partnering with the U.S. Department of Justice to create the National UI Fraud Task Force. The Task Force consists of DOL-OIG, Federal Bureau of Investigation, U.S. Secret Service, U.S. Postal Inspection Service, Homeland Security Investigations, Internal Revenue Service-Criminal Investigation Division, Social Security Administration OIG, and the Department of Homeland Security OIG. The Task Force continues to focus on intelligence sharing, deconfliction, joint national messaging, and effective use of investigative and prosecutorial resources.

Our special agents also used data analytics extensively on a national and state level to proactively identify those areas that pose the greatest risk to the UI program. Our data analytics program identified numerous fraud schemes plaguing the UI program nationwide, allowing our special agents and Task Force partners to focus their efforts on investigative matters that involve the greatest loss of funds to the UI program. It has further allowed us to share information with ETA so that they can better assist state workforce agencies detect fraud sooner and implement safeguards to avoid paying fraudulent claims.

The OIG also crafted and coordinated the release of various public and law enforcement sensitive messages to alert and aid stakeholders in detecting and preventing fraud. These messages included a UI Fraud Consumer Protection Guide, UI Fraud Investigations Guide, fraud alerts for state/local law enforcement organizations, multi-lingual alerts regarding UI fraud, phishing and identity theft and a joint OIG / US Secret Service alert on the detection and mitigation of UI Fraud for financial institutions. The OIG has also done extensive outreach to educate and raise awareness regarding fraud trends, best practices, red flags, and more. Our special agents conveyed critical information on UI fraud investigations and data analytics to many organizations during the pandemic including the National Association of Attorney's General, the Pandemic Response Accountability Committee; the Council of Inspectors General on Integrity and Efficiency, the American Bankers Association, the Independent Community Bankers of America, the Federal Bureau of Investigation, DOL's Office of Unemployment Insurance and the 54 state workforce agencies.

More information concerning our pandemic-focused UI work can be found on our website at: <https://www.oig.dol.gov/doloiquioversightwork.htm>.

PHASE 3: ONGOING AND PLANNED WORK

(Estimated completion by October 20, 2022)

Our Phase 3 audit activities are focusing on significant issues the OIG identified during Phase 2, lessons learned, impacts on normal operations at both the national and state levels and agency activities not previously covered during Phases 1 and 2. In addition, audit work assessing DOL's actions in response to new COVID-19 related legislation will be conducted in both Phase 3 and Phase 4. Our investigative activities will continue to focus on criminal investigations and coordinating with auditors to identify systemic program weaknesses or fraud vulnerabilities.

Potential Audit Oversight Focus:

ETA - Office of Unemployment Insurance

- ETA efforts to ensure UI program integrity
- State efforts to ensure claimant eligibility
- State utilization of administrative and benefits funding
- ETA and state efforts to detect and recover overpayments
- Adequacy of state information technology resources
- Adequacy of state staffing resources
- Effectiveness of programs for nontraditional claimants
- Effectiveness of the Temporary Full Federal Funding program
- Effectiveness of the Short-Time Compensation program
- Effectiveness of the Mixed Earners Unemployment
- Effectiveness of the Lost Wages Assistance program
- Effectiveness of the Emergency Unemployment Relief for Governmental Entities and Non-Profit Organizations program

ETA – Job Training Programs

- Effectiveness of efforts to address jobs lost as a result of the pandemic
- Effectiveness of Job Corps training during the pandemic
- ETA administration of grant funds provided under the CARES Act and subsequent legislation
- ETA job training performance during the pandemic

Occupational Safety and Health Administration

- Effectiveness of oversight of high risk industries
- Effectiveness of corrective actions taken in response to our initial report on OSHA's handling of whistleblower complaints
- Adequacy of plans and use of funds provided under the ARP Act
- OSHA adequacy of plans to prepare for future pandemics
- OSHA's collaboration with other federal agencies to help safeguard the American worker
- OSHA effectiveness of the National Emphasis Program for COVID-19

- Impact complaints and referrals on OSHA's operations and the adequacy and timeliness of abatement actions taken by employers

Mine Safety and Health Administration

- Impact of COVID-19 on mandatory inspections

Veterans Employment and Training Services

- Effectiveness of reintegration and training programs

Office of Workers' Compensation

- Effectiveness of process design and oversight for COVID-19 related claims submitted under the Federal Employees' Compensation Act (FECA) program

Potential Investigative Oversight Focus:

- Continue to coordinate with the OIG's Office of Audit on any systemic weaknesses or fraud vulnerabilities identified during COVID-19 investigations to reduce the long-term impact of fraud on DOL programs
- Highlight successful COVID-19 investigations by issuing DOL/DOJ press releases in coordination with investigative partners
- Advise DOL regulatory agencies/program experts of investigative findings and possible weaknesses in various programs to prevent future fraud
- Hire additional special agents and analysts to investigate large-scale organized UI fraud
- Continue to seek real-time direct access to UI and wage data which is vital to ensuring that the OIG can quickly identify fraud and share emerging fraud trends with our state workforce partners and prevent fraud before it occurs

PHASE 4: PLANNED WORK

(Estimated completion by December 31, 2022)

The OIG will continue to monitor and assess DOL's actions relating to COVID-19 in response to any new legislation enacted by Congress. This phase will also include after-the-fact assessments of program results during the pandemic, including the impact on agency operations and the lessons learned. Our investigative efforts will focus on evaluating ongoing, long-term, complex criminal UI fraud schemes. Many of these investigations will extend beyond our estimated completion date for Phase 4.

Potential Audit Oversight Focus

- Roll-up: Assessment of UI program results during the pandemic
- Roll-up: Assessment of OSHA program results during the pandemic
- Roll-up: Assessment of ETA/Job Corps job training program results during the pandemic
- Roll-up: Assessment of other DOL program results during the pandemic

Potential Investigative Oversight Focus:

- OIG will continue to evaluate ongoing, long-term, complex criminal investigations with an emphasis on UI fraud schemes
 - o Resources will be allocated to high-impact multi-state fraud schemes
 - o OIG will prioritize the most significant investigations and dedicate appropriate resources and expertise to those investigations
 - o OIG will determine if new fraud schemes emerged as a result of additional COVID-19 funding and will notify DOL program agencies about those new schemes

- Upon the conclusion of high-impact investigations, OIG will:
 - o Relay significant concerns, programmatic weaknesses, and lessons learned via investigative notices to the Department
 - o Make legislative recommendations related to vulnerabilities discovered during investigations as a result of the COVID-19 funding
 - o Evaluate the initial investigative response, case results and final outcomes
 - o Identify significant challenges encountered and determine future initiatives based on investigative findings
 - o Consider establishing new policies and procedures or revising existing policies to more efficiently meet the agency's investigative mission

Appendix

Select Criteria for DOL’s Response to the Coronavirus Pandemic

Employment and Training Administration – Office of Unemployment Insurance

Coronavirus Aid, Relief, and Economic Security Act

- Sec. 2102 – Coverage of workers not traditionally eligible for unemployment
- Sec. 2103 - 50% reimbursement for nonprofits, government agencies, and Indian tribes
- Sec. 2104 – Federal Pandemic Unemployment Compensation, \$600 additional weekly benefit amount
- Sec. 2105 – Waiver of waiting week
- Sec. 2106 – Temporary staffing for states
- Sec. 2107 – Pandemic Emergency Unemployment Compensation, additional 13 weeks
- Secs. 2109-11 – Short-term compensation programs

Continued Assistance for Unemployed Workers Act of 2020

- Sec. 201(a) – Extension of Pandemic Unemployment Assistance
- Sec. 201(b) – Additional Weeks Available for PUA Benefits
- Sec. 202 – Extension of Federal Funding Period, Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations
- Sec. 203 – Reauthorization of Federal Pandemic Unemployment Compensation Program, Modification of Weekly Benefit Amount, \$300
- Sec. 204 – Extension of Federal Funding Period, Full Federal Funding of the First Week of Compensable Regular UC
- Sec. 205 – Emergency state staffing flexibilities
- Sec. 206(a) – Extension of Pandemic Emergency Unemployment Compensation Program
- Sec. 206(b) – Additional Weeks Available for Pandemic Emergency Unemployment Compensation Benefits
- Secs. 207, 208 – Temporary financing of Short-Time Compensation payments
- Sec. 221 – Temporary assistance for states with advances
- Sec. 241 – Requirement for Individuals to Submit Documentation Substantiating Employment or Self-Employment
- Sec. 242 – Requirement for States to Verify Identity of Applicants for Pandemic Unemployment Assistance
- Sec. 222 – Full federal funding of Extended Benefits
- Sec. 251 – Return to Work Reporting Requirement
- Sec. 261 – Provision for Mixed Earners
- Sec. 262 – Waiver of overpayments under the Lost Wages Assistance program
- Sec. 263 – Requirement for Individuals to Recertify Eligibility Every Week in Statute
- Sec. 265 – Commonwealth Only Transitional Workers

Sec. 266 – Extended Benefits (EB) period, disregard of 13-week mandatory “off” period

American Rescue Plan Act of 2021

Sec. 9011 – Extension of Pandemic Unemployment Assistance.

Sec. 9012 – Extension of emergency unemployment relief for governmental entities and nonprofit organizations.

Sec. 9013 – Extension of Federal Pandemic Unemployment Compensation.

Sec. 9014 – Extension of full Federal funding of the first week of compensable regular unemployment for States with no waiting week.

Sec. 9015 – Extension of emergency State staffing flexibility.

Sec. 9016 – Extension of Pandemic Emergency Unemployment Compensation.

Sec. 9017 – Extension of temporary financing of short-time compensation payments in States with programs in law.

Sec. 9018 – Extension of temporary financing of short-time compensation agreements for States without programs in law.

Occupational Safety and Health Administration

29 CFR 1910.1030 – Bloodborne Pathogens standard

29 CFR 1910.132 – Personal Protective Equipment standard

29 CFR 1910.134 – Respiratory Protection standard

Wage and Hour Division

Families First Coronavirus Response Act (FFCRA)

Division C – Emergency family and medical leave expansion

Division E, Secs. 3601, 3602, 3604, 3605 – Changes to paid leave

Employee Benefits Security Administration

Coronavirus Aid, Relief, and Economic Security Act

Sec. 3607 – Postponement of certain ERISA filing deadlines

Sec. 3608 – Changes to single-employer plan funding rules

Grants Management

OMB Memo M-20-17, *Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by the Novel Coronavirus (COVID-19) due to Loss of Operations*