

U.S. Department of Labor

Office of Inspector General  
Washington, D.C. 20210



MAR 26 2004

MEMORANDUM FOR: EMILY STOVER DeROCCO  
Assistant Secretary for Employment  
and Training

*Elliot P. Lewis*

FROM: ELLIOT P. LEWIS  
Assistant Inspector General  
for Audit

SUBJECT: Audit of Florida Disaster Unemployment Assistance  
Grant Number 1359-DR  
Audit Report No. 04-04-004-03-315

The attached subject final report is submitted for your resolution action. We request a response to this report within 60 days.

It is your responsibility to promptly transmit the attached report to program officials for resolution. However, we are providing a courtesy copy directly to the auditee.

If you have any questions concerning this report, please contact Michael Yarbrough, Regional Inspector General for Audit, in Atlanta, GA at (404) 562-2341.

Attachment

# Office of Inspector General

---

U.S. Department of Labor  
Office of Audit

**AUDIT OF FLORIDA  
DISASTER  
UNEMPLOYMENT ASSISTANCE  
GRANT NUMBER 1359-DR  
FEBRUARY 5, 2001 - JULY 30, 2003**

Report Number: 04-04-004-03-315  
Date Issued: March 26, 2004

## TABLE OF CONTENTS

	<u>Page</u>
ACRONYMS .....	iii
EXECUTIVE SUMMARY .....	1
INTRODUCTION .....	3
OBJECTIVE, SCOPE AND METHODOLOGY .....	5
RESULTS OF AUDIT.....	7
Claims Filed Late, Without Good Cause .....	7
Claims Not Disaster Related.....	10
Claims Paid Without Sufficient Documentation or Because of Other Administrative Errors .....	12
CONCLUSION.....	12
RECOMMENDATIONS .....	13
FLORIDA AGENCY FOR WORKFORCE INNOVATION’S RESPONSE.....	13
EXHIBITS	
A. DUA IMPROPERLY PAID FOR SAMPLED PARTICIPANTS	
B. SAMPLING METHODOLOGY AND PROJECTIONS	
C. COMPLETE TEXT OF FLORIDA AGENCY FOR WORKFORCE INNOVATION’S RESPONSE	

## **ACRONYMS**

CFR	Code of Federal Regulations
DUA	Disaster Unemployment Assistance
ETA	Employment and Training Administration
FAWI	Florida Agency for Workforce Innovation
FEMA	The Federal Emergency Management Agency
NOAA	National Oceanic and Atmospheric Administration
OIG	Office of Inspector General
USDOL	The U.S. Department of Labor

## EXECUTIVE SUMMARY

On February 5, 2001, President Bush declared a major disaster in 49 Florida counties, due to damaging effects from freezing weather on agricultural crops, commercial fishing and fish farming. The declaration allowed the Federal Emergency Management Agency (FEMA), Department of Homeland Security to provide Florida with Disaster Unemployment Assistance (DUA). On February 9, 2001, Florida announced that DUA grant number 1359-DR was available to individuals affected by freezing weather that occurred in Florida between December 1, 2000 and January 25, 2001.

At FEMA's request, we completed an audit of \$3.04 million in claims charged to DUA grant number 1359-DR, from the grant's inception through July 30, 2003. Based on a statistical projection of audit sample results, we believe the Florida Agency for Workforce Innovation (FAWI) paid at least \$1.67 million to claimants that was not properly chargeable to the Florida DUA grant.

To determine if filing and eligibility requirements had been properly applied, we randomly selected a sample of 420 claimants who received payments totaling \$667,619. Our sample was chosen from among 1,842 claimants who were paid benefits. (See Exhibit B for a discussion of the sampling methodology.) We performed a comprehensive review of the sampled DUA claimants' data files and all documentation relative to their claims. The review was conducted to determine: (1) if claimants had applied for DUA benefits, in a timely manner, and if not, whether they had good cause for late filing; and (2) if claimants were eligible for each week of DUA they received.

We determined FAWI did not adhere to Federal guidelines for DUA filing and eligibility. Instead, FAWI improperly applied eligibility and filing guidelines resulting in payments to claimants who: (1) did not apply for benefits timely, (2) were not unemployed due to the disaster, or (3) were not required to provide adequate documentation of their continuing eligibility for benefits or were paid because of other administrative errors.

We found that 300 (71 percent) of the 420 sampled claims were improperly paid. Many of the 300 claims were improperly paid for more than one reason. (See Exhibit A.)

Specifically:

- 151 of the 420 claims (36 percent) were filed after the allowable 30-day filing period without a good cause for being late;
- 200 claims (48 percent) were paid for weeks of unemployment that was not caused by the disaster; and
- 153 claims (36 percent) were paid without having obtained sufficient documentation of claimants' continuing eligibility to receive DUA or because of other administrative errors.

There is currently no mechanism, short of terminating the DUA agreement between DOL and the state pursuant to 20 CFR 625.1(d)(3), for sanctioning Florida for policies and decisions that resulted in improper DUA payments. Specifically, neither the statute establishing the DUA program nor the implementing regulations contain a provision providing for the Federal Government to demand that the State make repayment of improperly disbursed benefits, absent collection by the State from the individual recipient. As it was FAWI's policies and stewardship, not the intentional or unintentional fault of claimants, that resulted in improper charges to the grant, we are not questioning costs for recovery from the claimants. However, we are recommending that the Assistant Secretary for Employment and Training ensure that Florida establishes administrative policies and procedures that comply with Federal filing and eligibility guidelines.

In response to the draft report, the FAWI disagreed with the report findings on claims filed late without good cause and claims not disaster related. During audit fieldwork, we considered the reasoning FAWI provided for its interpretations of Federal filing and eligibility guidelines. Its response to the draft report, FAWI did not provide new arguments in support of its position. However, with regard to the finding that claimants were paid for weeks before the freeze occurred, FAWI's response did present a different source, the National Oceanic and Atmospheric Administration (NOAA), for freeze data relevant to our finding. To determine when a county experienced a damaging freeze, we used data from the Florida Agricultural Statistics Service.

According to the NOAA data they provided, some counties the Florida Agricultural Statistics Service reported as not having encountered a freeze in December 2000 did have freezing temperatures during the month of December. Subsequent to receiving FAWI's response, we reexamined the relevant sample case files using the NOAA data and found 53 of the 63 claimants would still be shown as claimants paid for weeks before freezing occurred. Therefore, using either criterion, claims were inappropriately paid to claimants whose unemployment was not due to freeze damage.

Despite disagreement with two of the three report findings, FAWI agreed to take action to address recommendations related to these findings. In summary, FAWI's response did not change our conclusions or recommendations. A copy of FAWI's complete response to the draft report is included in this report as Exhibit C.

## **INTRODUCTION**

### **Background**

DUA provides unemployment benefits to individuals who become unemployed as a result of a major disaster, and are not eligible for benefits under a state's regular unemployment program. FEMA of the U.S. Department of Homeland Security funds DUA grants to states. The U.S. Department of Labor (USDOL) administers DUA grants under a delegation of authority from FEMA. Applicants must apply for DUA through State Employment Security Agencies for benefit eligibility determination. The Florida Agency for Workforce Innovation (FAWI) is the State of Florida's Employment Security Agency.

### **Criteria**

Sections 410 and 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act are implemented through the Code of Federal Regulations (CFR) Title 20, Part 625. DUA benefits are payable for the first benefit week (as defined by state law) following the disaster incident that caused an individual to become unemployed, and can extend for no more than 26 weeks after the date of the disaster declaration. Applicants for DUA must apply within 30 days following public announcement of DUA availability. An extension for filing an application may be granted if, as a result of the disaster, an individual was physically prevented from filing a timely application.

To be eligible for DUA, an applicant cannot be eligible for regular unemployment compensation. All weekly payments of DUA paid to an individual must be for unemployment directly caused by the disaster, not for periods that the claimant would normally have been unemployed.

### **Assistance for Florida Unemployed Workers**

On February 5, 2001, President Bush declared a major disaster in 49 Florida counties due to damaging effects from freezing weather on agricultural crops, commercial fishing and fish farming. The declaration allowed FEMA to provide Florida with DUA grant number 1359-DR. The purpose of the DUA grant was to provide unemployment compensation to employees and self-employed persons who had become unemployed as a direct result of the declared disaster. On February 9, 2001, FAWI's announced that DUA was available to individuals affected by freezing weather beginning December 1, 2000, and ending January 25, 2001. Florida residents who lived or worked in the 49 county disaster areas had through Monday, March 12, 2001, to apply for DUA.<sup>1</sup> Applicants who applied in a timely

---

<sup>1</sup> The deadline was extended until March 12<sup>th</sup> because the 30<sup>th</sup> day after the notice was a non-workday.

manner, who were unemployed as a direct result of the freeze and were not eligible for regular state unemployment compensation, could receive DUA benefits for up to 26 weeks from the date of the disaster declaration.

### **ETA Findings**

In July 2002, Atlanta Regional ETA staff performed a review of a sample of DUA claims filed under disaster numbers 1345 and 1359. Among other things, ETA found that in about 25 percent of the combined claims they examined, claimants' unemployment was not directly attributable to the disaster.<sup>2</sup> ETA also found that about 12 percent of the claims were filed late, without good cause. However, ETA did not require Florida to repay misspent grant funds.

### **OIG's Involvement**

Subsequent to ETA's review, the U.S. Department of Homeland Security, Office of Inspector General (OIG) contacted us with concerns that Florida had substantially overcharged DUA grant number 1359-DR for claims paid to ineligible persons.

After further discussions with Atlanta U.S. Department of Homeland Security, OIG and FEMA program officials, we agreed to audit benefits paid under DUA grant number 1359-DR, for compliance with filing and eligibility requirements contained in applicable laws and regulations.

---

<sup>2</sup> A majority of the claims ETA examined were from DUA grant number 1359. However, ETA's monitoring report does not distinguish whether the claims with exceptions involved DUA grant 1345 or 1359.



## **OBJECTIVE, SCOPE AND METHODOLOGY**

### **Objective**

We reviewed claimant history files of individuals who received DUA benefits funded by DUA grant number 1359-DR. Our objective was to determine if DUA grant number 1359-DR administered by FAWI paid DUA benefit payments to claimants who met filing and eligibility requirements in accordance with 20 CFR 625 and ETA Handbook Number 356, 2<sup>nd</sup> Edition. The purpose of DUA is to provide unemployment benefits to individuals who become unemployed as a result of a major disaster and are not eligible for benefits under the State's regular unemployment program.

### **Scope**

We audited payments made by FAWI applicable to 1,842 claimants in the State of Florida who received about \$3,039,600 in benefits funded by DUA grant number 1359-DR, during the period February 2001 through July 2003.

### **Methodology**

To obtain an understanding of the DUA program, we reviewed legislation, monitoring reports, and other material prepared by FEMA and ETA. We also interviewed FEMA, ETA and FAWI personnel and administrators to determine how DUA application and eligibility determination practices and procedures should have been applied.

FAWI provided us with data files related to 1,842 DUA claimants who were paid under grant number 1359-DR. The data files included employment, DUA, and regular unemployment compensation histories for each DUA claimant.

To determine if filing and eligibility requirements had been properly applied, we randomly selected a sample of 420 claimants from among the 1,842 DUA claimants paid from grant number 1359-DR. Our sample was designed to provide estimates at a 90 percent confidence level.

We performed a comprehensive review of the sampled claimants' data files and related documentation all of which we obtained from FAWI. We determined (1) if claimants had applied for DUA benefits in a timely manner, and if not, whether they had good cause for late filing; and (2) if claimants were eligible for each week of DUA they received.

We did not evaluate FAWI's internal controls over DUA funded payments; our examination was limited to obtaining a general understanding of internal controls over unemployment

compensation payments. Our audit was made for the sole purpose of determining if Federal guidelines for DUA filing and eligibility requirements had been satisfied.

Our audit was conducted in accordance with *Government Auditing Standards*, and included such tests as we considered necessary to satisfy the objective of our audit. Fieldwork began in May 2003 and continued to December 2003 at FAWI's central office in Tallahassee, Florida.

## RESULTS OF AUDIT

FAWI paid at least \$1.67 million to claimants that was not properly chargeable to DUA grant number 1359-DR. FAWI did not adhere to Federal guidelines for DUA filing and eligibility. Instead FAWI improperly applied eligibility and filing guidelines resulting in payments to claimants who: (1) did not apply for benefits timely, (2) were not unemployed due to the disaster, or (3) were not required to provide adequate documentation of their continuing eligibility for benefits or were paid because of other administrative errors.

Our review of 420 sampled claimants indicated that 300, or about 71 percent, received \$413,325 in DUA payments that should not have been charged to grant number 1359-DR.

We found:

- 151 of the 420 claims (36 percent) were filed after the allowable 30-day filing period without a good cause for being late;
- 200 claims (48 percent) were paid for weeks of unemployment that was not caused by the disaster; and
- 153 claims (36 percent) were improperly paid because of agency administrative errors, such as missing documentation.<sup>3</sup>

When the results of our review are projected to all 1,842 claimants who received DUA, at least \$1.67 million of benefit payments were improperly charged to the grant. (See Exhibit B.)

<p><b><i>Claims Filed Late, Without Good Cause</i></b></p>
--

FAWI provided DUA funded benefits to individuals who, without good cause, failed to apply for assistance within the allowable 30-day filing period.

20 CFR 625.8 provides:

. . . an initial application for DUA shall be filed by an individual . . . within 30 days after the announcement date of the major disaster as the result of which the individual became unemployed. . . . An initial application filed later than 30 days after the announcement date of the major disaster shall be

---

<sup>3</sup> As previously mentioned, the sum of the improperly paid claims total more than the 420 claimants included in our sample, because some claims were improperly paid for more than one reason.

accepted as timely . . . if the applicant had good cause for the late filing . . . .  
(c) . . . all applications for DUA, including initial applications, shall be filed in person.

Specifically, we identified 151 of 420 sampled claimants (36 percent) that filed after the March 12, 2001 deadline, without good cause. The median filing date for the 151 claims was 60 days after the time limit had expired. Claimants, who filed late without what we consider as good cause, generally fell within two categories:

### **Fishermen**

Of the 151 sampled claimants who filed late, 27 were fishermen.<sup>4</sup> (See Exhibit A). FAWI officials indicated Florida's justifications for accepting claims after the deadline included (1) failure to return some applicants' telephone calls until after the filing deadline, (2) claimants were provided inaccurate eligibility information prior to the deadline, and (3) FAWI failed to communicate the deadline for filing to fishermen.

However, FAWI did not have evidence that miscommunication justified acceptance of applications that were filed after the deadline. Rather, correspondence dated March 13, 2001, to a representative of the Organized Fishermen of Florida from an FAWI official indicated:

. . . If you provide me the names and phone numbers of any constituent shrimpers who may need to file DUA claims, I will make sure they are on record as having contacted us by the deadline.

If a fisherman's name was included on a list that the Organized Fishermen of Florida provided to FAWI, sometime on or after March 13, 2001, that fisherman's application was accepted as having demonstrated good cause for filing late.

We found no basis for affording disparate treatment to late filing fishermen. Florida's public announcement of DUA availability on February 9, 2001, clearly stated:

. . . individuals who have lost jobs or businesses . . . due to the damaging effects from freezing weather on agricultural crops, *commercial fishing*, and *fish farming* [emphasis added] . . . may be entitled to . . . DUA benefits.

---

<sup>4</sup> We use the term "fishermen," as it was applied by FAWI, to include individuals who were engaged in commercial fishing, fish farming or any other fish-related occupation.

The notice included detailed instructions on how and where to apply, and a filing deadline of March 11, 2001.<sup>5</sup> Therefore, members of the fishing association were afforded the same notice and filing instructions as all other potential claimants. Additionally, considering individuals to have filed timely because they were on a list of members of a particular group is inconsistent with 20 CFR 625.8, which requires not only that applications be filed timely, but also that they must be filed “in person,” unless there is good cause for not doing so.

### **Short Season**

FAWI accepted 114 of the 151 claims that were filed late because the claimants were working during the 30-day filing period. (See Exhibit A.) FAWI’s policy was to accept late claims from agricultural workers, although their unemployment did not begin until after the DUA filing deadline had passed.

FAWI interpreted 20 CFR 625.1(b), to allow “good cause” for filing late to be liberally defined, “according to state law and policy.” FAWI also indicated Florida has historically accepted claimants working during the 30-day filing period as good cause for late filing. FAWI reasoned that seasonal workers were laid off after the March 12, 2001 deadline had passed, because their normal seasonal employment period had been shortened by a substantial reduction in the amount of crops available for harvest. We found no basis for FAWI’s reasoning.

According to data compiled by the Florida Agricultural Statistics Service, there was very little reduction in crop yield during the winter season of 2000/2001 compared to the winters before 1999/2000 or after 2001/2002, when there were no freezes. In fact, oranges, the principal citrus crop, experienced only a 2 percent decline in yield in 2000/2001 from that of 1999/2000, and were the same as 2001/2002 yields.

Additionally, as will be subsequently discussed, in many cases where FAWI paid DUA to late filers based on a “short season”, we found that the claimants’ work season was not any shorter than normal seasons. Therefore, we concluded that their unemployment was not a direct result of the disaster.

According to ETA, the 30-day filing period for DUA is an absolute requirement, unless there is a reason the claimant could not physically file by the deadline, such as an injury or environmental damage that would prevent a person from either calling or going to a filing location. We found no provision in 20 CFR 625 or ETA Handbook No. 356, 2<sup>nd</sup> Edition, Disaster Unemployment Assistance, that allows late filing because of delayed unemployment.

---

<sup>5</sup> 20 CFR 625.8a provides “If the 30<sup>th</sup> day falls on a Saturday, Sunday, or a legal holiday, the 30-day time limit shall be extended to the next business day.” Therefore, the actual last filing date was Monday, March 12, 2001.

We could not identify a cause for the 10 remaining claims in our sample that were filed late. FAWI had not requested authority to extend the period for filing past the March 12, 2001 deadline, and we found no evidence to support its justifications for accepting late claims in any of the cases we have discussed.

***Claims Not  
Disaster Related***

We found that 200 of 420 sampled claimants (48 percent) were paid DUA for weeks of unemployment that was not the result of freezing weather.

Improper payments involved claimants who were paid for weeks of unemployment that preceded the freezing weather or for unemployment that occurred after claimants' normal winter working season had ended.

**DUA Paid Prior to the Disaster**

In our sample, 63 claimants were paid for weeks of unemployment that preceded any freezing weather in their area. (See Exhibit A.) Since the Disaster Declaration "Incident Period" was December 1, 2000 to January 25, 2001, FAWI paid DUA for unemployment in December 2000 regardless of when freezing weather actually first occurred in the area where claimants lived and worked.

Data compiled by the Florida Agricultural Statistics Service indicates there was no freeze damage in those counties located below a line extending roughly from Spring Hill through Orlando to Port St. John, Florida, until December 31, 2000. Yet, we found that 63 claimants who lived and worked in areas not affected by freezing weather until January 2001, were paid for up to 4 weeks of DUA, for December 2000.

FAWI indicated the disaster declaration did not provide specific dates that the disaster impacted each county and there were no provisions to deny benefits to individuals who worked in the disaster areas under these conditions.

We disagree. It is Florida's responsibility to ensure the fundamental purpose of DUA is preserved. That is, to assist individuals impacted by a disaster, not to supplement unrelated unemployment.

**DUA Payments Made Past the Normal Season**

FAWI paid 103 claimants for weeks of unemployment that occurred past the end of their normal working season. (See Exhibit A.)

ETA Handbook No. 356 (DUA), 2<sup>nd</sup> Edition, provides, in part:

Because of the seasonal aspect of their employment, seasonal workers may be paid DUA only for those weeks that they would have been employed except for the fact that a major disaster intervened.

Our review of sampled claimants revealed that 103 seasonal agricultural workers received DUA beyond the end of the seasons they normally would have worked, had a disaster not been declared. FAWI did not establish DUA termination dates that were based on each claimant's seasonal work history, as was appropriate and reasonable. Instead, FAWI stated it used a survey with agricultural and other industry representatives to define claimants' normal seasonal period of employment. FAWI added that automated flags were used to stop DUA payments when a claimants' normal season ended.

However, we found that once DUA payments began, a claimant received payments until the earliest of the following dates: (1) the end of the disaster period; (2) the beginning of a new benefit year, at which time the claimant became eligible for regular state unemployment compensation; or (3) until the claimant began working again, typically, at the beginning of the summer work season.

Employment histories included in claimants' files indicated their winter seasonal work ended much earlier in years prior to 2001, the year in which DUA benefits were available. To illustrate, a sampled claimant's ending work dates for the preceding four winter seasons were:

- 1999/2000 - June 1, 2000
- 1998/1999 - May 20, 1999
- 1997/1998 - May 11, 1998
- 1996/1997 - June 13, 1997

As shown above, the latest date the claimant worked in any prior winter season was June 13<sup>th</sup>. Therefore, all DUA payments made to the claimant after June 13, 2001, were not justified. This claimant was paid \$156 each week for 6 weeks beyond his normal work season. Consequently, a total of \$936 in improper DUA payments for weeks ending June 23 through July 28, 2001, occurred.

FAWI stated that physical review of claims histories is not a reliable means for determining a claimant's normal seasonal work period. FAWI also indicated it used a survey with agricultural and other representatives to define the normal seasonal period. We believe claims histories are first hand information provided by claimants on their claims applications. This information is more appropriate than generalizations for an industry as a whole by industry representatives who are not familiar with individuals' customary employment

cycles. Also, data from the Florida Agricultural Statistics Service indicates the growing season was not shortened, as we previously discussed.

The remaining 34 non-disaster related claims that we identified were improperly paid for various reasons, such as; voluntary terminations, or terminations that occurred at the end of a normal season, rather than as a result of the disaster. (See Exhibit A.)

***Claims Paid Without Sufficient Documentation or Because of Other Administrative Errors***

In addition to the previous issues discussed, we identified 153 of the 420 claimants sampled (36 percent) who were paid without adequate documentation of claimants' eligibility to receive weekly DUA payments or because of other administrative errors.

20 CFR 625.4 provides in part:

An individual shall be eligible to receive . . . DUA . . . if . . . [c] The individual is an unemployed worker or an unemployed self-employed individual . . . (e) The individual has filed a timely initial application for DUA and . . . a timely application for a payment of DUA with respect to that week . . . (f) That week is a week of unemployment for the individual.

The above criteria for DUA eligibility must not only be met, it must be documented.

ETA Handbook No. 356, 2<sup>nd</sup> Edition, Chapter I, section 12.a. (1) requires that DUA records include:

. . . initial application and continued claims for DUA, . . . and other related documents, records and correspondence.

However, we found that 58 claimants' files were missing proof of employment, and 55 claimant files were missing weekly certifications that the claimants were unemployed.

Another 40 claimants improperly received DUA payments as a result of administrative errors that included payments to individuals: (1) who were reemployed during weeks they received DUA; (2) whose applications were either missing or unsigned; or (3) who were eligible for regular state unemployment compensation instead of DUA.

***Conclusion***

The purpose of DUA is to provide unemployment benefits to individuals who become unemployed as a result of a major disaster and are not eligible for benefits under the state's regular



unemployment program. It is not intended to supplement seasonal workers' incomes and preferential treatment should not be given to specific groups, as FAWI has done.

There is currently no mechanism, short of terminating the DUA agreement between DOL and the state pursuant to 20 CFR 625.1(d)(3), for sanctioning Florida for policies and decisions that resulted in improper DUA payments. Specifically, neither the statute establishing the DUA program nor the implementing regulations contain a provision providing for the Federal Government to demand that the State make repayment of improperly disbursed benefits, absent collection by the State from the individual recipient. As it was FAWI's policies and stewardship, not the intentional or unintentional fault of claimants, that resulted in improper charges to the grant, we are not questioning costs for recovery from the claimants. However, we are recommending that the Assistant Secretary for Employment and Training ensure that Florida establishes administrative policies and procedures that comply with Federal filing and eligibility guidelines.

**Recommendations**

We recommend that the Assistant Secretary for Employment and Training ensure that Florida:

- Allows late filing of DUA claims only when justified by the circumstances supporting individual claims, not on a group basis;
- Pays DUA only for weeks of unemployment that are a direct result of a disaster and take place after the disaster occurred in their area;
- Establishes procedures to determine DUA termination dates based on prior employment seasons at the time payments are initially authorized for each claimant; and
- Emphasizes to claims staff that proper and complete documentation of eligibility must be obtained before payment of DUA is authorized.

**FAWI Response to the Draft  
Audit Report and Auditors'  
Conclusion**

In response to the draft report, the FAWI disagreed with the report findings on claims filed late without good cause and claims not disaster related. During audit fieldwork, we considered the reasoning FAWI provided for its interpretations of Federal filing and eligibility guidelines. Its response to the draft report did not provide new arguments in support of its position. However, with regard to the finding that claimants were paid for weeks before the freeze occurred, FAWI's response did present a different source, the National Oceanic and Atmospheric Administration (NOAA),

for freeze data relevant to our finding. To determine when a county experienced a damaging freeze, we used data from the Florida Agricultural Statistics Service.

According to the NOAA data they provided, some counties the Florida Agricultural Statistics Service reported as not having encountered a freeze in December 2000 did have freezing temperatures during the month of December. Subsequent to receiving FAWI's response, we reexamined the relevant sample case files using the NOAA data and found 53 of the 63 claimants would still be shown as claimants paid for weeks before freezing occurred. Therefore, using either criterion, claims were inappropriately paid to claimants whose unemployment was not due to freeze damage.

Despite disagreement with two of the three report findings, FAWI agreed to take action to address recommendations related to these findings. In summary, FAWI's response did not change our conclusions or recommendations. A copy of FAWI's complete response to the draft report is included in this report as Exhibit C.

DUA IMPROPERLY PAID FOR SAMPLED PARTICIPANTS

	Unvrs No.	Improper Payments	Not Timely Filed			Not Disaster Related			Administrative Errors		
			Fish Related	Short Season	Other	Before Freeze	Season Over	Other	Missing Support	Missing Certs	Misc Reasons
1	2	\$1,311						X	X		
2	7	1,100				X					
3	10	456		X			X				
4	18	308								X	
5	62	1,080				X			X		
6	64	1,638		X			X			X	
7	69	559				X			X		
8	70	972								X	X
9	72	1,730			X		X			X	
10	75	1,743					X				X
11	81	1,430									X
12	87	156				X					
13	89	411								X	
14	100	2,769		X			X				
15	111	1,100					X		X		
16	115	657		X						X	
17	116	1,154		X					X	X	
18	126	3,575		X			X				
19	129	1,012						X			
20	139	1,925		X			X			X	
21	143	770							X	X	
22	155	1,053				X			X	X	
23	159	1,740		X				X			
24	160	798					X				
25	164	660						X			X
26	169	1,392		X			X				
27	170	1,041						X			
28	178	652		X						X	
29	186	3,888	X			X					
30	187	805						X	X		
31	202	2,171									X
32	209	2,190		X						X	
33	211	518		X			X				
34	214	5,849	X						X		
35	221	2,700				X	X				X
36	226	330		X							
37	231	1,375						X		X	
38	237	3,570									X
39	242	2,750		X			X			X	
40	244	4,400		X	X						
41	249	1,242		X			X				
42	259	440					X				
43	263	1,375		X			X				
44	285	2,140				X					X
45	288	1,824					X		X		
46	291	373	X						X		
47	296	440								X	
48	317	1,200					X			X	
49	318	2,964				X	X				
50	321	2,322		X				X			



DUA IMPROPERLY PAID FOR SAMPLED PARTICIPANTS

	Unvrs No.	Improper Payments	Not Timely Filed			Not Disaster Related			Administrative Errors		
			Fish Related	Short Season	Other	Before Freeze	Season Over	Other	Missing Support	Missing Certs	Misc Reasons
101	620	1,320									X
102	625	1,449				X			X		X
103	633	368				X					
104	639	1,650		X			X				
105	641	1,560					X			X	
106	644	1,533		X			X				
107	650	3,250					X				
108	651	440		X						X	
109	654	432				X					
110	666	162		X							
111	668	3,480	X			X			X		
112	669	972							X		
113	672	476		X							
114	677	1,640					X			X	
115	679	2,352		X			X				
116	681	324					X				
117	682	990						X			
118	685	452					X				
119	704	770					X				
120	712	990						X			X
121	719	1,404	X						X		
122	753	820		X						X	
123	754	2,464				X	X				
124	765	531		X			X				
125	767	1,080						X			
126	773	889							X	X	
127	777	1,085								X	
128	780	2,310					X		X		
129	784	1,116									X
130	790	3,456						X			
131	801	1,210		X				X			
132	806	3,488	X						X		
133	808	1,197			X					X	
134	819	432				X					
135	821	972				X					
136	826	648						X			
137	833	3,211	X								
138	837	1,993					X				
139	855	1,008					X				
140	861	110						X			X
141	869	1,645		X			X				
142	870	498							X		
143	873	185				X					
144	874	3,105	X								
145	880	1,404	X			X		X			
146	888	1,836				X		X			
147	897	3,405			X	X	X				
148	900	3,024	X								
149	903	157				X					
150	913	369		X			X				

DUA IMPROPERLY PAID FOR SAMPLED PARTICIPANTS

	Unvrs Nbr	Improper Payments	Not Timely Filed			Not Disaster Related			Administrative Errors		
			Fish Related	Short Season	Other	Before Freeze	Season Over	Other	Missing Support	Missing Certs	Misc Reasons
151	921	2,831					X				
152	934	92				X					
153	935	2,640			X						
154	939	2,584						X			
155	948	206									X
156	951	372		X			X				
157	952	1,650		X			X				
158	954	766					X				
159	958	1,356		X					X		
160	959	550		X			X				
161	961	2,272				X	X				X
162	969	972				X					X
163	991	540					X		X		
164	992	3,132	X			X			X		
165	995	2,010	X								
166	1000	216				X					
167	1006	3,888	X			X			X		
168	1008	750						X			
169	1011	1,080					X			X	
170	1012	976					X			X	
171	1017	398								X	
172	1020	990		X							
173	1021	650				X					X
174	1023	426				X					
175	1026	1,210		X				X			
176	1039	702		X					X		X
177	1045	1,890			X		X				
178	1046	2,320	X								
179	1048	1,441					X			X	
180	1056	826		X			X			X	
181	1057	880								X	
182	1063	3,888	X			X			X		
183	1064	648		X							
184	1066	1,989		X			X			X	
185	1069	4,519	X						X		
186	1072	1,925							X		
187	1076	880		X			X				X
188	1084	3,160				X			X		
189	1085	540					X				
190	1086	2,376	X								
191	1087	500		X							
192	1088	488		X							
193	1089	1,610	X					X	X		
194	1091	1,336				X			X		
195	1092	5,820		X			X				
196	1105	3,575						X		X	
197	1109	990		X			X				
198	1114	1,080				X			X		
199	1117	725		X							
200	1119	1,326		X			X		X		X

DUA IMPROPERLY PAID FOR SAMPLED PARTICIPANTS

	Unvrs Nbr	Improper Paymens	Not Timely Filed			Not Disaster Related			Administrative Errors		
			Fish Related	Short Season	Other	Before Freeze	Season Over	Other	Missing Support	Missing Certs	Misc Reasons
201	1136	610					X				
202	1148	237		X			X				
203	1158	550		X						X	
204	1160	1,296		X			X				
205	1161	3,300						X			
206	1176	216				X					
207	1186	220		X			X				
208	1190	2,115		X			X				
209	1196	1,376		X							
210	1218	1,161						X			
211	1222	1,728				X					X
212	1229	1,179				X				X	
213	1237	762		X			X				
214	1251	994									X
215	1255	570		X							
216	1262	1,146		X			X				
217	1263	496		X				X			
218	1269	1,442		X			X				
219	1271	3,297				X		X			
220	1272	1,611					X				
221	1283	1,210	X				X	X			
222	1296	550		X			X				
223	1298	432				X					
224	1324	1,928				X		X			
225	1326	550		X			X				
226	1335	1,210		X				X			
227	1338	220						X			
228	1346	2,475		X						X	
229	1347	1,296	X					X			
230	1350	3,300						X			
231	1352	484				X					
232	1370	2,070		X							
233	1373	320		X							
234	1374	2,270		X						X	
235	1383	909			X			X			
236	1384	1,925		X			X				
237	1388	1,413				X					
238	1401	783		X			X				
239	1422	822		X			X				
240	1442	980		X			X				
241	1471	1,170		X			X			X	
242	1479	312				X					
243	1482	1,500		X			X			X	
244	1484	1,100		X			X			X	
245	1486	880		X			X				
246	1492	1,932				X	X				
247	1495	216				X					
248	1496	1,796									X
249	1504	966		X						X	
250	1507	549		X			X				

DUA IMPROPERLY PAID FOR SAMPLED PARTICIPANTS

	Unvrs No.	Improper Payments	Not Timely Filed			Not Disaster Related			Administrative Errors		
			Fish Related	Short Season	Other	Before Freeze	Season Over	Other	Missing Support	Missing Certs	Misc Reasons
251	1509	715		X			X				
252	1519	986		X			X				
253	1528	790		X			X				
254	1530	940				X					X
255	1531	1,358		X			X				
256	1542	1,320	X								
257	1545	1,375							X	X	X
258	1548	716				X					
259	1550	471				X					
260	1553	99		X							X
261	1558	1,616					X				
262	1562	864				X					
263	1566	990		X							
264	1581	152					X				
265	1584	1,816		X			X				
266	1593	864							X		
267	1597	1,782		X			X				
268	1598	220		X					X		X
269	1609	496		X				X		X	
270	1616	3,990				X					
271	1628	1,296		X			X				
272	1633	2,133		X			X			X	
273	1634	876							X		
274	1637	592						X	X		X
275	1645	550				X					
276	1659	2,750							X		
277	1663	113				X					
278	1676	852		X							
279	1677	1,760		X				X			
280	1699	864				X					
281	1711	2,360					X				
282	1727	557				X					
283	1745	990		X							X
284	1750	990		X					X		
285	1757	668		X						X	
286	1765	3,712				X					
287	1768	429				X					
288	1774	1,890				X					
289	1780	1,908		X			X				
290	1788	396				X				X	
291	1794	3,704				X					X
292	1795	1,491				X					
293	1797	732		X							
294	1801	1,099					X				
295	1803	110						X			
296	1814	984		X							
297	1818	1,296		X			X				
298	1832	1,080									X
299	1837	1,800		X						X	
300	1841	468		X			X				
<b>TOTALS</b>		\$413,325	27	114	10	63	103	34	58	55	40



**SAMPLING METHODOLOGY AND PROJECTIONS  
FLORIDA DUA GRANT NO. 1359-DR**

Pertinent sampling information is as follows:

**SAMPLING DATA**

Universe Size	1,842
Sample Size	420
Improperly Paid	300
Universe Value	\$3,039,611
Sample Value	\$667,619
Improperly Paid	\$413,325

**PROJECTIONS**

**90 Percent Confidence Limit**

Lower Limit	\$1,674,037
Point Estimate	\$1,812,725
Upper Limit	\$1,951,413
Sampling Error	\$84,053

**ESTIMATION METHODOLOGY:** The mathematical formulas for simple random sampling have been used to determine the point estimate and its standard errors.

**REFERENCE:** Richard L. Scheaffer, William Mendenhall III, and R. Lyman Ott, *Elementary Survey Sampling*, Belmont, CA: 1996: Duxbury Press.

**EXHIBIT C**



**Jeb Bush**  
*Governor*  
**Susan Pareigis**  
*Director*

---

January 16, 2004

Mr. Robert R. Wallace  
Regional Inspector General for Audit  
United States Department of Labor – OIG  
61 Forsyth Street, S.W., Room 6T20  
Atlanta, Georgia 30303-3104

Dear Mr. Wallace:

The Florida Agency for Workforce Innovation's has carefully reviewed your draft audit report on Florida's use of Disaster Unemployment Assistance Grant number 1359-DR. You assigned tracking number 04-04-004-09-315 to this document.

We believe your report findings and recommendations will assist our Agency in improving program performance. After reviewing our response and proposed corrective actions, if you have any questions, please contact our Inspector General, Mr. James F. Mathews, at 850-245-7141.

Sincerely,

Susan Pareigis

SP/iaw

Enclosure

cc: Ms. Barbara Griffin  
Mr. Tom Clendenning  
Mr. James F. Mathews

**Florida Agency for Workforce Innovation  
Response to USDOL OIG Draft Report  
On the Audit of Florida Disaster Unemployment Assistance Grant No. 1359-DR  
January 16, 2004**

---

The audit found that the Florida Agency for Workforce Innovation (FAWI) failed to follow Federal guidelines for filing Disaster Unemployment Assistance (DUA) claims, resulting in improperly paid benefits.

FAWI began operations as a new Agency on October 1, 2000, which was only two months prior to the freeze. The new agency was undergoing a massive reorganization at the time this particular disaster declaration was issued. This reorganization and accompanying personnel changes had some negative impacts on the administration of this grant. However, we believe that certain report findings are based on an overly narrow interpretation of the Federal rules. We offer the following specific responses to the individual programmatic issues discussed in the report.

**I. Claims Filed Late, Without Good Cause:** Title 20, Chapter V, Section 625.8, Code of Federal Regulations, provides in pertinent part "...An initial application filed later than 30 days after the announcement date of the major disaster shall be accepted as timely by the State agency if the **applicant had good cause** for the late filing, but in no event shall an initial application be accepted by the State agency if it is filed after the expiration of the Disaster Assistance period."

The regulation does not define "good cause." The Employment and Training Administration intentionally left it to the states to determine what constitutes good cause based on their knowledge of local labor market conditions. The Unemployment Compensation (UC) program is based on a state/federal partnership, which requires the states to operate the program within the framework of the federal requirements. The objective of the UC program as enacted by the Congress is to provide a substitute for wages lost during a period of unemployment not the fault of the employees. In this partnership, the states are responsible for determining methods of operation and directly administering the program, including taking claims from individuals, determining eligibility and ensuring timely payment of benefits. The audit findings, however, narrowly interpreted the regulation and found that Florida did not have the authority to determine what constitutes "good cause" for late filing.

State staff incorrectly advised a group of potentially eligible workers (fishermen) that they were not covered by the disaster declaration. These workers were indeed covered by the declaration and should have filed claims. The auditor found these individuals were afforded the same notice as all other potential claimants and the state should not have accepted their claims after the 30-day filing period. We disagree. The state did not extend the filing period but made a fair and impartial decision to rectify the situation. These individuals were legitimate victims of the disaster and should not have been denied the opportunity to file a claim due to an improper decision by state staff. It is reasonable to believe these individuals relied upon the incorrect information provided by the state officials, who were perceived as authoritative. Fishermen typically have little or no

**Florida Agency for Workforce Innovation  
Response to USDOL OIG Draft Report  
On the Audit of Florida Disaster Unemployment Assistance Grant No. 1359-DR  
January 16, 2004**

---

interaction with the UC program because they are self-employed and generally exempt from UC taxes.

Because Florida's fragile winter crops are so vulnerable, the state has had a long history of crop-damaging freezes. It has been our experience that farmers attempt to salvage undamaged crops immediately after the freeze and, if the freeze occurred early in the season, plant new crops. Generally, there is salvage work available immediately following the disaster. Once the undamaged crops are harvested and/or new crops planted, there is no work available. The normal crop harvesting cycle is thus altered. The question then becomes: why are these workers unemployed? Clearly, the workers are unemployed as a direct result of the natural disaster (freezing weather). The audit characterized these circumstances as a "short season." We disagree. Historically, farm workers in Florida are fully employed from mid-November through late May. The rationale for allowing workers to file after the 30-day filing period is that they were engaged in salvage operations. We believe the report's narrow interpretation of the Federal regulations is counter to the intent of the Stafford Act.

**Proposed Corrective Action:** Although FAWI does not agree with the finding, we will no longer accept working during the filing period as "good cause" for late filing without prior consultation and agreement with the Employment and Training Administration.

**II. Claims not Disaster Related:** The audit found some claimants were paid for weeks of unemployment that were not the result of the freezing weather. The audit further indicates these weeks of unemployment preceded the freezing weather and that there was no freeze damage in counties located below an imaginary line extending roughly from Spring Hill (Hernando county) east to Port St. John (Brevard county) until December 31, 2000. We disagree. The map shown as Attachment 1 shows counties that sustained crop damage between December 6 - 31, 2000. This information was obtained from the National Oceanic and Atmospheric Administration (NOAA) and is summarized in Attachment 2. Clearly, many counties below that line sustained significant damage according to the NOAA.

The FAWI recognizes some claimants were paid for weeks beyond the traditional season.

**Proposed Corrective Action:** The FAWI will establish procedures for determining the DUA termination date for each claimant who is a seasonal worker at the time the claim is filed.

## EXHIBIT C

**Florida Agency for Workforce Innovation  
Response to USDOL OIG Draft Report  
On the Audit of Florida Disaster Unemployment Assistance Grant No. 1359-DR  
January 16, 2004**

---

**III. Claims Paid Without Sufficient Documentation or Because of Other**

**Administrative Errors:** The FAWI recognizes that errors occurred during this disaster because the agency was undergoing a legislated reorganization. The need for additional training is also recognized.

**Proposed Corrective Action:** The FAWI will provide additional training and implement tighter quality control to ensure DUA claims are properly documented and claims are paid in accordance with federal guidelines.

# EXHIBIT C

Attachment 1



## EXHIBIT C

### Attachment 2

Chronology of Freezing Temperatures in Florida December 2000 - January 2001  
Based on the National Oceanic and Atmospheric Administration Climate Database

Date	County
12/6/2000	Citrus
	Hernando
	Levy
	Sumter
12/18/2000	Citrus
	Hernando
	Levy
	Sumter
12/20/2000	Citrus
	Hardee
	Hernando
	Highlands
	Hillsborough
	Levy
	Pasco
	Polk
12/21/200	Sumter
	Charlotte
	Citrus
	DeSoto
	Hardee
	Hillsborough
	Levy
	Manatee
	Pasco
	Polk
12/23/2000	Sarasota
	Sumter
	Citrus
12/23/2000	Levy
	Sumter
12/30/2000	Charlotte
	Citrus
	DeSoto
	Hardee
	Hernando
	Highlands
	Hillsborough
	Lee
	Levy
	Manatee
	Pasco
	Pinellas
	Polk
	Sarasota
Sumter	
12/31/2000	Collier

**EXHIBIT C**

Dade  
Glades  
Hendry  
Palm Beach  
Citrus  
Hernando  
Levy  
Pasco  
Sumter  
1/1/2001 Collier  
Dade  
Glades  
Hendry  
Palm Beach  
Charlotte  
Citrus  
DeSoto  
Hardee  
Hernando  
Highlands  
Hillsborough  
Lee  
Levy  
Manatee  
Pasco  
Polk  
Sarasota  
Sumter