

ETA's RESPONSE

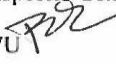
U.S. Department of Labor

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



**MAR 23 2016**

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

FROM: PORTIA WU   
Assistant Secretary

SUBJECT: Response to the Office of Inspector General (OIG) Audit of the  
Unemployment Compensation for Federal Employees and  
Unemployment Compensation for Ex-Servicemembers Programs –  
Draft Report No. 04-16-001-03-315

Thank you for the opportunity to respond to the subject report. The Employment and Training Administration (ETA) continues to work aggressively with states to improve program operations for Federal unemployment compensation programs, including Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX).

ETA appreciates the acknowledgement on page two of the report that you found no issues with the controls for the UCX program. ETA worked closely with state agencies and the Department of Defense (DOD) to implement an effective data exchange between the states and DOD for UCX claims processing.

With regard to the UCFE program, we note that ETA provides Federal agencies with an online handbook to support their roles in the program. The handbook can be found at <http://oui.doleta.gov/unemploy/unemcomp.asp>, (see *UCFE Instructions for Federal Agencies*, located at the bottom of the page).

Below are the three recommendations made by the OIG related to the UCFE program as provided in the draft report and ETA's responses to the recommendations:

1. **Develop and implement procedures for federal agencies to provide separated employees with a completed copy of ETA-931 at the time of their separation.**

**ETA Response:** The Form ETA-931, *Request for Wage and Separation Information - UCFE*, serves as an important internal control for the Unemployment Insurance (UI) system and for UCFE purposes. For due process and integrity-related reasons, states are required to contact employers directly to provide notice of all UI claims filed and to obtain necessary information related to separation issues. The employer response is considered an attestation of the accuracy of the facts. Generally, the state uses the employer responses to establish the claim and determine if the claimant lost his/her employment through no fault of his/her own. In most states, if the employer response is received timely, then the employer is considered to be an interested party and, therefore,

receives a copy of any separation-related decisions, along with any appeal instructions. Filing an appeal is the only way to challenge a state's decision and protect an employer's rights under the state's UI law. Providing separated employees with a copy of the ETA-931 would not negate the state's responsibility to obtain and verify the separation information directly with the employer, particularly since each state must adjudicate the separation issue under its own UI law.

For the reasons stated above, ETA does not view the recommendation as one that will address the identified problem. States still need to contact employers and attempt to verify separation information with the employer. As an alternative to this recommendation, ETA suggests and is committed to providing additional training and outreach to Federal agencies to educate them on the importance of completing the ETA-931 and returning it timely to the state UI agency.

**2. Develop and disseminate a uniform list of reasons for separation to assist federal agencies in completing ETA-931.**

**ETA Response:** ETA appreciates the findings by the OIG concerning the UCX program and understands why the OIG is encouraging ETA to create similar processes in the UCFE program as are set out in the UCX program. However, the UCFE program has requirements that are significantly different from the UCX program. Military separations are not adjudicated in accordance with state laws for UCX purposes. Instead, the Department of Labor (Department) develops and issues a list of "acceptable narrative reasons" for purposes of allowing military service to be considered "federal service" that can be used to establish eligibility for UCX benefits. The Department develops the list based on a finite number of reasons that DOD uses for military discharges. If a claimant wishes to protest the reason for discharge listed on the military's DD-214, *Certificate of Release or Discharge from Active Duty*, such protest is addressed by the appropriate military branch of service – not the state UI agency.

Unlike the UCX program, UCFE separations are adjudicated in the same manner as separations under the regular state UI program and both monetary and nonmonetary determinations are made under the applicable state UI law. For UCFE claims, it is not possible to create an exhaustive list of reasons for separation from Federal employment that could be designated as "acceptable reasons." Each state, according to its own UI law, has different definitions and eligibility provisions for separation issues. Separations involving a voluntary quit or a discharge require fact finding and judgment on the part of state UI adjudicators to make determinations of eligibility based on state law. UCFE claimants that disagree with determinations made by the state may appeal such determinations under the state UI law.

For the reasons discussed above, ETA does not view this recommendation as an approach that is workable or applicable to the UCFE program. ETA suggests an alternative approach. We are committed to providing additional training and outreach to Federal agencies regarding the type of information states need to adjudicate eligibility issues during the fact-finding process.

**3. Complete its planned implementation of an electronic data exchange system for the UCFE program.**

**ETA Response:** There is considerable interest at both the Federal and state levels to automate UCFE. ETA is in the early stages of developing a plan for this effort. Steps taken to date include engagement with the Office of Personnel Management to help champion UCFE automation with Federal agencies and identifying the most efficient technology solution using existing technology platforms that are used for other UI purposes. Similar to the UCX automation initiative, ETA will convene a workgroup with representatives from ETA, other Federal agencies, and states to develop business requirements for the project and to support testing and rollout once the technology solution is developed. ETA expects to move this project forward in Fiscal Year 2016, but is unable to project a completion date at this time.

Again, we appreciate the opportunity to respond to your draft report and its recommendations. If you have questions, please contact Gay M. Gilbert, Administrator, Office of Unemployment Insurance, at (202) 693-3029.