U.S. Department of Labor

Office of the Chief Financial Officer
Washington, D.C. 20210

DECEMBER 13, 2022

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

FROM: KEVIN L. BROWN
Deputy Chief Financial Officer

SUBJECT: FY 2022 Independent Auditors' on DOL's Consolidated Financial Statements Draft Report #22-23-002-13-001

Please find the attached management's response to FY 2022 Independent Auditors' on DOL's Consolidated Financial Statements Draft Report #22-23-002-13-001.

We appreciate the opportunity to provide input and look forward to continued collaboration with the OIG audit team.

Please contact me if you have any questions.

cc: Brent Parton, Principal Deputy Assistant Secretary, Employment and Training Administration

Jim Garner, Director, Unemployment Insurance

Management's Response
Fiscal Year 2022 Independent Auditors' Report

1. **Improvements Needed in Controls Over Estimates Related to Unemployment Trust Fund (UTF) Balances and Activity**

The temporary, emergency unemployment insurance programs created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act expired on September 6, 2021. As has been thoroughly documented in numerous OIG and Government Accountability Office (GAO) reports, these programs, and the COVID-19 pandemic overall, put an enormous and unprecedented strain on the unemployment insurance (UI) system. Due to the challenges associated with these new programs and especially concerning the unique Pandemic Unemployment Assistance (PUA) program in particular, state UI agencies experienced an abnormally high amount of ongoing activity well beyond the expiration date of these programs. At this time, many states continue to process adjudication backlogs, address the Employment and Training Administration's (ETA) monitoring review findings, many of which may have impacted claimant eligibility, and detect and recover overpayments, among other ongoing activities.

We agree with the finding and that improvements are needed to the Department of Labor's (the Department) controls over estimates related to the UTF balances and activities. The Department offers the following in response to the three key areas identified in this finding:

1. Obligation of COVID-19 funding:

    The Department and the Office of Management and Budget (OMB) agree that under the special, temporary UI programs authorized under Title II of Division A of the CARES Act (PL 116-136), the obligation to pay benefits to claimants arose no later than the applicable weeks of unemployment for which the benefits were payable prior to the expiration of the programs on September 6, 2021. Under the Department's and OMB's interpretation, all budget authority and obligations for the expired programs' benefits occurred in FY 2021 at the latest, and any reimbursements to States for benefit payments in FY 2022 or beyond are considered outlays against those obligations. This treatment of funds is warranted by the fact that the claimants' entitlement (and the Department's corresponding liability) arose from the weeks of unemployment in FY 2021 for which the claimants were eligible for benefits. The expiration of these UI programs on September 6, 2021, makes recording obligations in FY 2021 appropriate, since agencies generally cannot incur new obligations, whose authorizations have lapsed.

    In response to a similar Independent Audit finding for the Department's FY 2021 Agency Financial Report (AFR), the Department noted that additional insight and information was required from states to properly support the volume of ongoing activity in these programs, particularly activity related to the ongoing outlays. As promised in its response to the FY 2021 independent audit finding, the Department worked with Regional Offices in an effort to gather information on states' outstanding backlogs and quickly determined that ongoing activity would be incurred beyond known claims awaiting adjudication. States simply were not in a position at that time to know or provide sufficient information to the Department. Throughout the year, ETA's Regional Offices completed the CARES Act program reviews and identified numerous areas with significant potential to expand eligibility and broaden the pool of backdated benefit claims, and payments, for these programs.

Based on this additional information and the yet to be determined magnitude of these claimant impacts, the Department was forced to abandon the initial approach identified in its response to the finding in its FY 2021 AFR. Instead, the Department developed an alternative approach and a new estimate based on the best data and information available even as it recognized that additional data would still be necessary once states were able to determine the scope and impact of entitlement changes due to issues identified by the Regional Office Reviews. Given that this additional data was unavailable to meet the need in FY 2022, the Department developed a thorough and consistent estimation methodology relying on ongoing draw down activity in the 12 months following the expiration of the programs. Unfortunately, this approach was not deemed sufficient during the independent audit based on the potential for further volatility in future draws beyond the scope of the revised methodology.

To ensure more effective controls over the unexpended obligation estimate in support of the FY 2023 AFR, the Department has engaged a contract firm to facilitate coordination and communication between the National Office, Regional Offices, and all 53 states and territories. This effort is underway to determine how best to gather from the states and territories the full scope of information required to more effectively estimate the unexpended obligation. Once the full requirements have been determined, the group will initiate tailored correspondence with each of the 53 states and territories to gather the necessary data and information. The resulting data will be used to develop a new estimate of the Department's unexpended obligation relative to these CARES Act UI programs. ETA anticipates completion of the data collection efforts in time for the results to be analyzed and consolidated for inclusion in the FY 2023 financial reports.

2. UTF COVID-19 Benefit Overpayment Accounts Receivables:

   The Department recognizes the unique challenges that the State Workforce Agencies (SWA) faced in implementing and reporting the COVID-19 pandemic unemployment insurance programs. In FY 2022, the Department reported the data the states and territories submitted for the pandemic programs. However, due to the lack of reporting by multiple states and territories, including several states with possibly significant overpayments, the Department developed an estimation methodology for the UTF benefit overpayments accounts receivable based on the data that was available at the time. Unfortunately, this estimation methodology was not deemed sufficient during the independent audit based on the lack of support documentation over the assumptions used in the model.

   To ensure more effective controls over the benefit overpayment accounts receivable in support of the FY 2023 AFR, the Department has engaged a contract firm to facilitate coordination and communication between the National Office, Regional Offices, and all 53 states and territories. This effort is underway to determine how best to gather from the states and territories the full scope of information required to calculate the benefit overpayment accounts receivable more effectively. Once the full requirements have been determined, the group will initiate tailored correspondence with each of the 53 states and territories to gather the necessary data and information. The resulting data will be used to develop the calculation of the Department's benefit overpayments accounts receivable relative to these CARES Act UI programs. ETA anticipates completion of the data collection efforts in time for the results to be analyzed and consolidated for inclusion in the FY 2023 financial reports.

3. UTF Expense:

   The Department utilizes an estimation approach which relies on the funding drawn by states from the relevant Treasury-managed unemployment trust fund accounts as a measure of the amount of benefits disbursed in a state. Due to the unprecedented nature of the COVID-19 pandemic, the large number of new programs, funding mechanisms, new reporting requirements, and extensive level of fraud impacting the UI system and the PUA program in particular, the relationship of monthly draws and benefit disbursements has been less consistent than experienced prior to the pandemic. As a primary example of the change experienced, large returns of recovered benefits since the expiration of the CARES Act programs have caused unusually large fluctuations in the relationships between draws and disbursements. In response to this finding, the Department will monitor unusual fluctuations in the monthly draws. Monthly draws which indicate unusual fluctuations will be investigated through the review of daily activity which will be adjusted where necessary. The Department will continue to work with states to identify and understand these fluctuations and ensure states are accurately reporting both disbursements and recoveries in the underlying monthly financial transaction summary report. The Department will document these procedures in an updated UTF disbursement estimation methodology standard operating procedure.