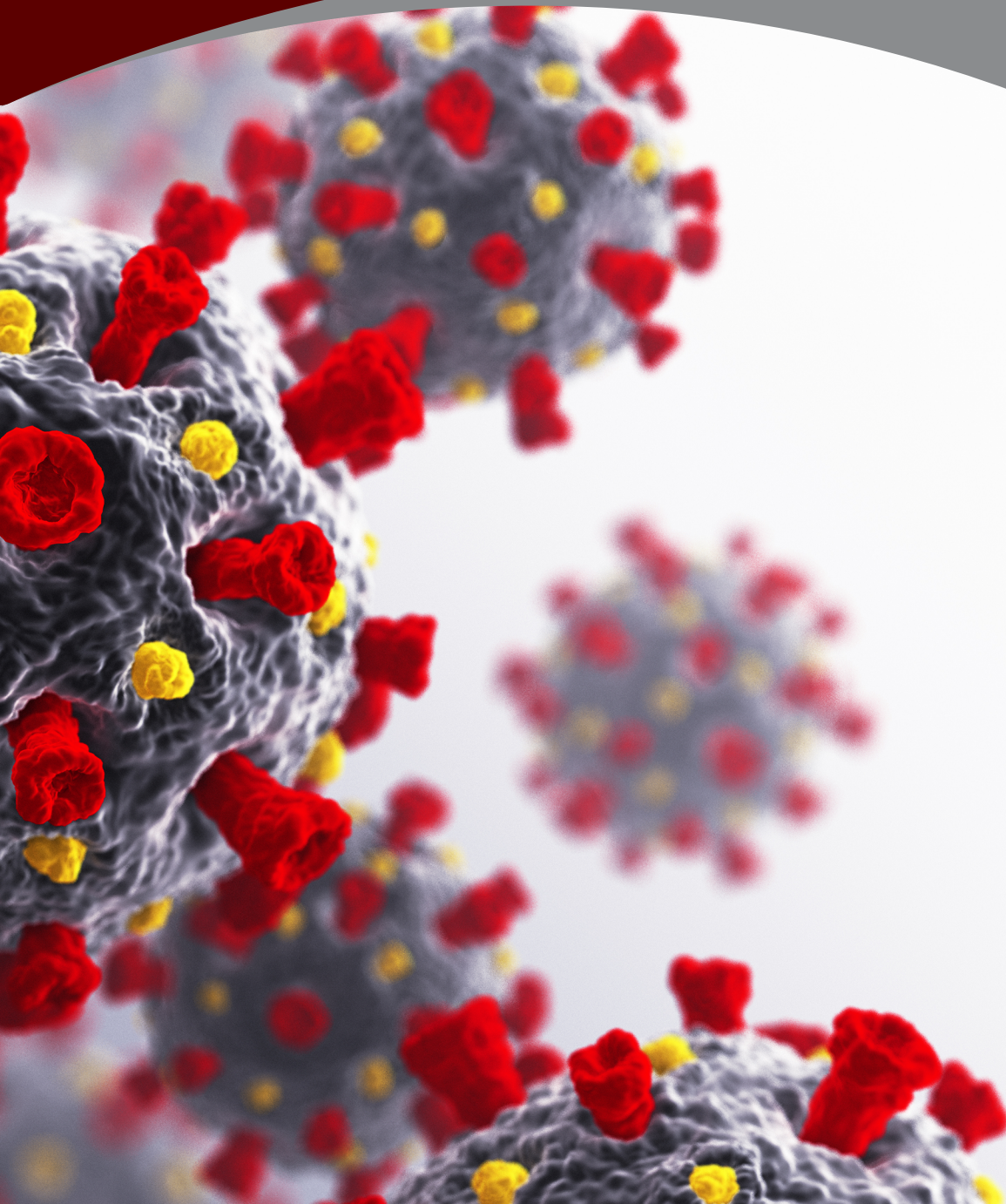




# Pandemic Response Oversight Plan

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

Revised June 30, 2023



## U.S. DEPARTMENT OF LABOR OFFICE OF INSPECTOR GENERAL PANDEMIC RESPONSE OVERSIGHT PLAN Revised June 30, 2023

Since we published our 2022 Pandemic Response Oversight Plan update,<sup>1</sup> the Office of Inspector General (OIG) has had to substantially reduce our planned pandemic response oversight efforts due to budgetary constraints. The degree to which we can continue our oversight work depends on the availability of resources. We will continue to efficiently use our available resources for pandemic-related audit and investigative efforts; however, at current funding levels, [resource limitations](#)<sup>2</sup> have resulted and will continue to result in a reduction of effort in pandemic-related oversight. Moreover, the [statute of limitations for pandemic-related fraud will soon expire](#)<sup>3</sup> and we continue to face [challenges with data access](#).<sup>4</sup>

The OIG greatly appreciates that Congress appropriated a total of \$38.5 million in supplemental funding during the pandemic to fund the OIG's oversight of expanded Department of Labor (DOL or Department) programs and operations. However, most of this funding will be fully expended by the second quarter of Fiscal Year (FY) 2024. In addition, the OIG's FY 2021 and FY 2022 appropriations remained flat and the FY 2023 appropriation was \$11 million less than requested. As a result, the OIG is in the process of significantly reducing its workforce through attrition.

The immense challenges we continue to face have not stopped OIG auditors or investigators from producing impactful pandemic-related oversight work. As of June 9, 2023, the OIG's pandemic response oversight work has resulted in 35 published audit reports with 90 recommendations to reduce programmatic vulnerabilities and \$68.7 billion in funds for better use. Our pandemic-related investigations have resulted in more than 1,350 indictments/initial charges with over 720 convictions, over 13,000 months of incarceration ordered, and monetary results in excess of \$930 million (see Table 1).

**Table 1: Cumulative Results as Reported in Pandemic Response Oversight Plans**

| Results                         | 2022           | 2023           |
|---------------------------------|----------------|----------------|
| Audit Reports                   | 21             | 35             |
| Recommendations                 | 57             | 90             |
| Funds for Better Use            | \$39.2 billion | \$68.7 billion |
| Indictments/Initial Charges     | 800+           | 1,350+         |
| Convictions                     | 230+           | 720+           |
| Months of Incarceration Ordered | 7,800+         | 13,000+        |
| Investigative Monetary Results  | \$830 million+ | \$930 million+ |

<sup>1</sup> Published on March 21, 2022

<sup>2</sup> For further details, please see the section on [Budgetary Impact on Pandemic Response Oversight](#).

<sup>3</sup> For further details, please see the section on the [Statute of Limitations' Expiration](#).

<sup>4</sup> For further details, please see the section on [Data Access](#).

However, there is much more to do. Even though the COVID-19 public health emergency has ended, the OIG continues its work focused on assisting DOL to recover from this unprecedented emergency and prepare for any future emergencies. For example, our investigators continue to be overwhelmed as they work tirelessly to seek recoveries from and indictments for those responsible for pandemic-related fraud. Importantly, the OIG is still reviewing approximately 163,000 open unemployment insurance (UI) fraud complaints received throughout the pandemic and continues to receive between 100 to 300 new UI fraud complaints each week. We are continuing to use the data analytics systems we built and expanded during our early pandemic-related oversight to further detect and deter UI fraud and are examining recoveries including the impact of waivers on UI overpayments and fraud investigations.

As of February 8, 2023, we estimated [at least \\$191 billion in pandemic UI payments could have been improper payments](#),<sup>5</sup> with a significant portion attributable to fraud. For example, as of September 2022, we identified a total of \$45.6 billion<sup>6</sup> in potentially fraudulent UI benefits paid from March 2020 through April 2022 in [four specific high-risk areas, such as to multistate claimants and deceased persons](#).<sup>7</sup> We shared our methodology and underlying data with the Department for further dissemination to the states, and we recommended DOL establish controls to mitigate fraud and other improper payments to ineligible claimants. Our audits to examine the extent to which DOL and states have taken action to follow up on these potentially fraudulent UI claims identified and referred by the OIG are in-progress.

This plan revision provides the following: (1) details of the budgetary impact to investigative and audit work as well as from the President’s recent proposal, including the design of and impact to the status of our work plans; (2) impact of the expiration of the statute of limitations; (3) impact from the data access challenges; (4) a summary description of our results so far; and (5) a list of in-progress and planned work.

## BUDGETARY IMPACT ON PANDEMIC RESPONSE OVERSIGHT

On March 27, 2020, shortly after the onset of the COVID-19 pandemic, the Department and other federal agencies were tasked with rapidly implementing programs in a manner that met the intent of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. An exceptional level of transparency, implementation plans, and oversight controls was critical to ensure the effective and efficient use of the estimated \$2.3 trillion in CARES Act funding, thereby increasing the Inspectors General work to detect and deter fraud, waste, and abuse. Under the CARES Act, the OIG received an

<sup>5</sup> For further details, please see the section on [Reducing Improper Payments](#).

<sup>6</sup> Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to \$45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf>

<sup>7</sup> For further details, please see Figure 4 and context on our [identification of \\$45.6 billion in potential fraud](#).

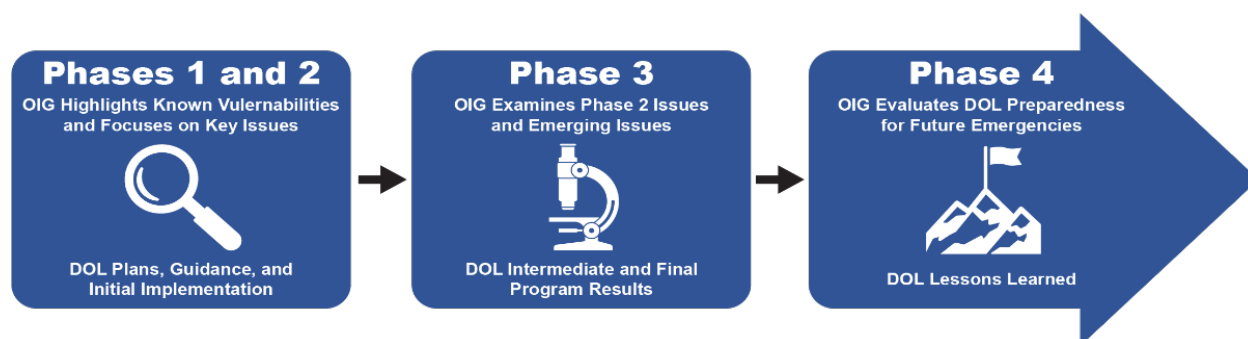
appropriation of \$26 million to oversee DOL’s response to the COVID-19 pandemic, including \$25 million to oversee the unprecedented expansion of UI programs.

The OIG immediately began our pandemic response oversight work with the issuance of advisory reports based on past programmatic issues to help the Department avoid historical pitfalls and fraud alerts to inform the public who may be exploited by fraudsters. Less than a month after the CARES Act passed, on April 15, 2020, we published our first pandemic response oversight plan, structuring the work in four phases to address known and expected risks for DOL programs resulting from the pandemic. Our work plans drew heavily from our work on DOL’s previous emergency responses, including from the American Recovery and Reinvestment Act of 2009, as well as significant issues we have reported since then.

On April 27, 2021, shortly after the American Rescue Plan Act of 2021 (ARPA) provided the OIG an additional \$12.5 million to further oversee DOL pandemic response, we published an updated plan, including early results. On March 21, 2022, we published a second update. We noted these plans were subject to change and would evolve as the OIG continued to conduct risk assessments to identify specific areas that might significantly impact workers during emergencies. This plan revision is similarly subject to change and evolution, including from the ongoing and any future impacts from resource constraints.

We designed our four-phased plan to provide recommendations to DOL to address current and emerging vulnerabilities with the COVID-19 response and to prevent similar vulnerabilities from hampering preparedness for future emergencies (see Figure 1).

**Figure 1: The OIG’s Four-Phased Design for Pandemic Response Oversight**



During Phases 1 and 2, we reviewed DOL’s plans, guidance, and initial implementation, highlighting significant vulnerabilities. During Phase 3, which is ongoing, we are taking a deep dive into key and emerging issues. Our Phase 4 work plans include reporting on lessons learned for UI, worker safety and health, and employment training and recovery from the overall toll on workers since COVID-19 first appeared in the United States.

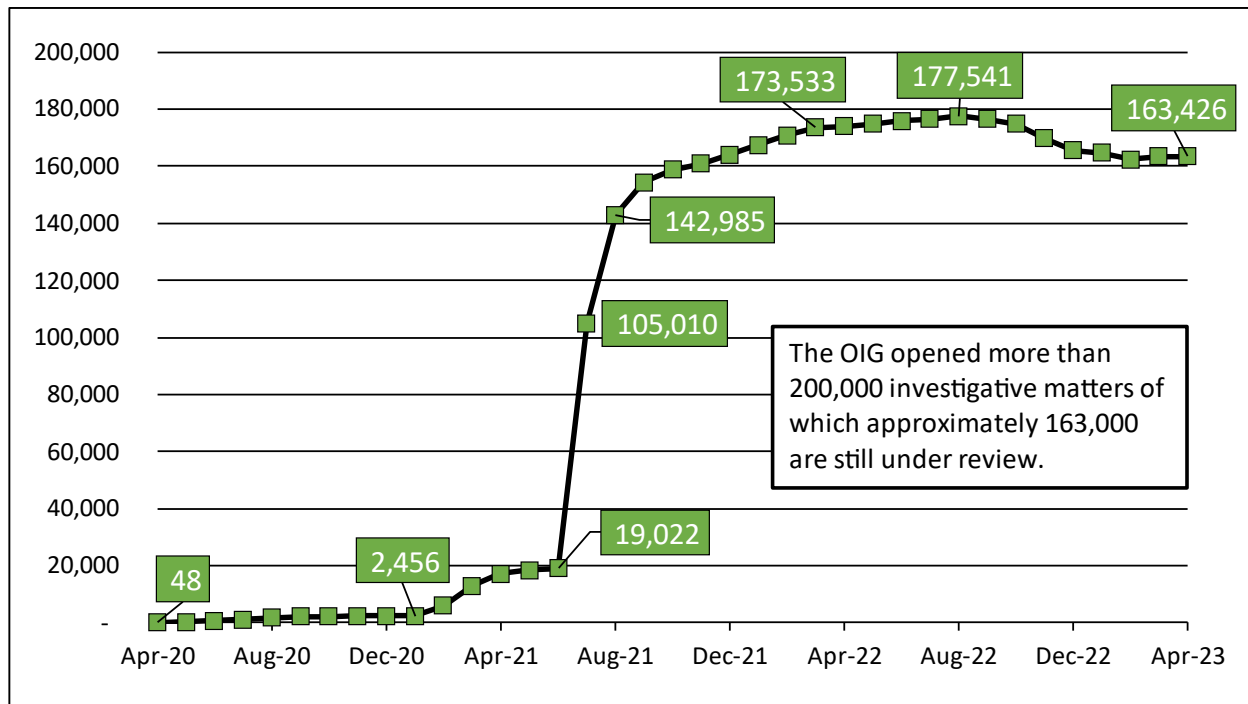
The OIG offers an important investment for U.S. taxpayers, particularly in times of resource constraint. Over the past 10 fiscal years, on average, every dollar invested in

the OIG resulted in a return on investment of nearly 75 dollars to the federal government and American taxpayers. Over this period, the OIG identified more than \$69 billion in monetary results including questioned costs and funds recommended to be put to better use. However, as previously mentioned and detailed in this section, this investigative and audit oversight work will be diminished due to budgetary constraints.

## BUDGETARY IMPACT ON INVESTIGATIVE OVERSIGHT WORK AND PLANS

The OIG's investigative work began by addressing and continues to address the exponential increase of fraud in the UI program that occurred during the pandemic program period. The OIG has opened more than 200,000 investigative matters relating to UI benefits paid under the CARES Act and subsequent legislation. Of the more than 200,000 investigative matters opened, approximately 163,000 are still under review (see Figure 2).

**Figure 2: Extraordinary Increase in and Status of Open Pandemic UI Investigative Matters**



In our 2022 plan, we highlighted that, in response to the extraordinary increase in oversight demands, the OIG: hired additional criminal investigators, increased the caseload of investigators already on-board, deployed federal and contract staff to review DOL and State Workforce Agencies' (SWA) efforts, and strengthened our data analytics program. We also had plans to hire additional investigators to address the increasing number of fraud referrals. We further noted that we would pursue open UI

fraud complaints through at least 2026. However, in many cases, the statute of limitations will expire sooner than that.

Due to budget constraints, we are now in the process of reducing our investigative capacity by approximately 20 percent by the end of FY 2023, with an additional 20 percent reduction expected in FY 2024. As a result, the OIG will not have the investigative capacity to review the 163,000 open UI fraud complaints and to conduct investigations of each instance of suspected fraud before the statute of limitations expires.

As of May 2023, the OIG has just over 100 field agents to investigate the approximately 1,900 investigative matters currently assigned to our field offices, an average of 17 investigative matters per agent. The ideal caseload per agent is between 5 and 10 open investigative matters, which ensures that each matter can proceed efficiently through the investigative and prosecutorial processes. The approximate 1,900 currently assigned matters does not include more than 160,000 open UI fraud complaints being reviewed by our triage team.

Based on past oversight experience of federal UI disaster aid, the OIG expects to be actively investigating UI fraud for years to come. However, investigations will end when the statute of limitations toll—which will currently begin in early 2025 unless Congress acts to extend the statute.

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## **BUDGETARY IMPACT ON AUDIT OVERSIGHT WORK AND PLANS**

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Less than a month after the CARES Act passed, we issued an initial UI advisory report.<sup>8</sup> We advised that, in light of the unprecedented demands on the UI system, more needed to be done to ensure those receiving UI benefits were eligible and received accurate and timely payment and we have continued to advise DOL to strengthen the UI program to better detect and deter fraud and to recover improper payments. We remain particularly concerned about deployment of UI benefits in response to emergencies, including natural disasters and economic downturns.

In total, we have issued 35 pandemic-related reports,<sup>9</sup> including [three Congressional hearing statements from Inspector General Larry D. Turner](#)<sup>10</sup> and eight alert memoranda for urgent concerns. In our 2022 plan, we reported that, based on significant issues identified during the first two phases of our pandemic response oversight plan, continuing risk assessments, and emerging issues, the OIG had

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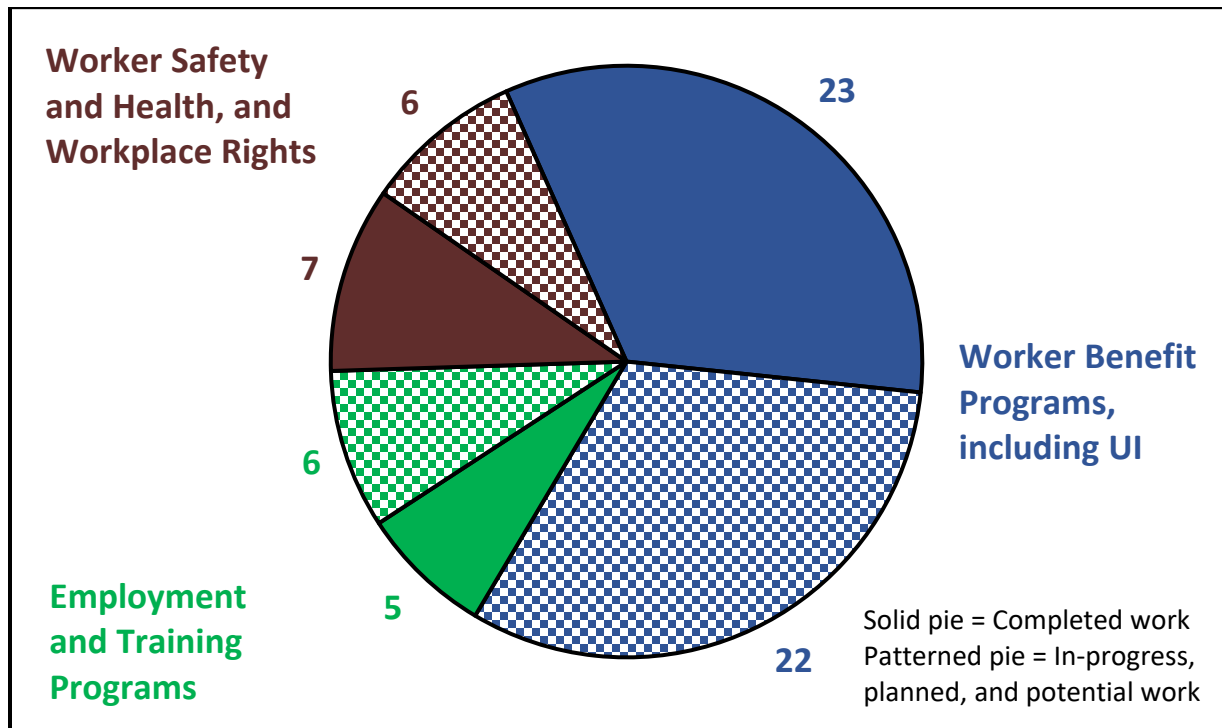
<sup>8</sup> Advisory Report, CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

<sup>9</sup> The 35 reports include 31 reports listed on our Pandemic Response Oversight portal, as well as 4 financial reports that have pandemic-related findings. The portal is available at: [https://www.oig.dol.gov/OIG\\_Pandemic\\_Response\\_Portal.htm](https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm).

<sup>10</sup> Congressional testimony is available on our website at: <https://www.oig.dol.gov/testimony.htm>.

expanded our Phase 3 work. For audit activities, we had also identified three main areas of focus: (1) worker benefit programs, including UI and workers' compensation; (2) worker safety and health, including occupational and miner safety and health, and workplace rights; and (3) employment and training programs, including grants and the Job Corps program. Overall, we have issued about half of our audit pandemic response oversight reports (see Figure 3).

**Figure 3: Focus Areas and Status – Audit Pandemic Response Oversight**



However, in our previous pandemic response oversight plan, we had also highlighted our plans to address the increased need for oversight of DOL's programs. To accomplish the planned audit work, the OIG had increased the number of full-time equivalent employees authorized to support the Office of Audit and had awarded multiple contracts to external independent audit firms.

Due to budget constraints, the OIG had to stop hiring efforts and reduce our authorized full-time equivalent employee strength. We also cancelled 10 contracted audits related to pandemic oversight planned for FY 2023. One of those audits was in the area of dislocated worker grants, five in the area of job training, one in the area of worker safety, and three in the area of UI (see Table 2 for more details).

**Table 2: FY 2023 Contract Audits Cancelled Due to Resource Limitations**

| <b>Audit Title</b>                                                                                                                | <b>Audit Purpose</b>                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Employment and Training Administration Dislocated Worker Grant Program Participant<sup>11</sup> Survey</b>                     | Determining participants' satisfaction with grant-funded services for employed participants in positions such as: support services, delivery/logistics, manufacturing, home services for homebound individuals, and intake at medical and satellite quarantine facilities |
| <b>COVID-19: Employment and Training Administration Grantee Sub-Recipients<sup>12</sup> —</b><br>Five contracted audits cancelled | Focusing on how the COVID-19 pandemic had caused many job training programs to cease operation, interrupting the participants' job training and preventing them from getting a job in the areas in which they were trained                                                |
| <b>COVID-19: OSHA Effectiveness of Whistleblower Complaint Corrective Actions<sup>13</sup></b>                                    | Following up on the impact on workers of potential delays—which could leave workers to suffer emotionally and financially—in processing whistleblower complaints received during the pandemic                                                                             |
| <b>National Pandemic UI Claimant Satisfaction Study</b>                                                                           | Capturing the views and experiences of the pandemic-related UI benefit program recipients                                                                                                                                                                                 |
| <b>DOL's Use of ARPA Funding to Invest in the Modernization of State UI Systems</b>                                               | Ensuring the Office of Unemployment Insurance Modernization was adequately leading the effort to develop a centralized information technology solution to UI benefits and incorporating various stakeholder needs while also ensuring support to American workers         |
| <b>COVID-19: Best Practice Benchmark Study</b>                                                                                    | Identifying elements needed for state UI programs to successfully respond to a disaster of a similar magnitude in the future                                                                                                                                              |

The cancellation of these projects will result in fewer audits and recommendations for improvement of pandemic-related programs and operations.

The OIG has less than 100 auditors to oversee DOL programs that cost taxpayers billions of dollars each year. The OIG intended to use its remaining ARPA funds to conduct additional oversight work using contractors and to support that work using contract data analysts and scientists. However, due to lower-than-expected funding levels, the OIG must use the remaining ARPA funds for salaries and benefits of employees brought on board during the pandemic to assist with the oversight of pandemic-related programs and operations.

The reduction in the OIG's audit capacity is particularly of great concern given the detriment to our oversight of DOL's preparedness for future emergencies. For example, we have reported deficiencies in the Occupational Safety and Health Administration's

<sup>11</sup> Participants were to include workers: laid off due to quarantine orders or business closures, unable to go to their regular workplace due to social distancing requirements, and missing work to care for family.

<sup>12</sup> Any audits performed in this area will be conducted by OIG staff.

<sup>13</sup> The OIG planned to perform this audit using contract auditors, but instead decided to prioritize this audit over the National Emphasis Program audit and perform the work using OIG audit staff in FY 2024.

(OSHA) programs that [subjected U.S. workers to greater safety risk](#)<sup>14</sup> despite OSHA's guidance and actions during the pandemic. OSHA received an increased number of safety and health complaints during the pandemic, but decreased the number of inspections and most inspections were not conducted onsite. We have ongoing and, subject to resource availability, planned audits on OSHA, including to assess the actions OSHA has taken to protect supply chain workers—such as those at online retailers' warehouses—and the adequacy of OSHA's plans to prepare for future pandemics.

The OIG also has similar plans to address deficiencies noted within the Employment and Training Administration's (ETA) job training programs and UI, the Mine Safety and Health Administration, and the Veterans Employment and Training Services. Now that the COVID-19 emergency has ended, there is still [much more to do to ensure the Department is prepared for the next emergency](#).<sup>15</sup>

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## **IMPACT OF THE PRESIDENT'S RECENT ANTI-FRAUD PROPOSAL**

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On March 2, 2023, the [White House released the President's pandemic anti-fraud proposal](#)<sup>16</sup> to: (1) provide DOL OIG with an additional \$100 million to hire investigators to pursue fraud in the UI programs; (2) increase the statute of limitations to 10 years for fraud against the pandemic UI programs; and (3) ensure the OIG can easily access multistate UI program data to detect fraud, which would allow the OIG to continue and expand on its efforts to combat fraud in the UI programs.

The OIG would need to have immediate access to these funds to reverse its current course of reducing its anti-fraud efforts in the UI programs due to lack of sufficient resources. If funded, it would take between 6 and 12 months to increase OIG staffing levels and award the necessary contracts.

## **STATUTE OF LIMITATIONS' EXPIRATION**

In addition to the budgetary impact, our pandemic response oversight investigations will be impacted when the statute of limitations expires. Currently, the statute of limitations for many pandemic UI cases will start to expire in early 2025 as the statutes most often used to prosecute UI fraud have 5-year limitations. We are concerned that, unless the

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<sup>14</sup> COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk, Report No. 19-21-003-10-105 (February 25, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-003-10-105.pdf>

<sup>15</sup> For further details, please see the section on [Ongoing and Planned Pandemic Response Oversight Work](#).

<sup>16</sup> The White House, "FACT SHEET: President Biden's Sweeping Pandemic Anti-Fraud Proposal: Going after Systemic Fraud, Taking on Identity Theft, Helping Victims," press release (March 2, 2023), available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/03/02/fact-sheet-president-bidens-sweeping-pandemic-anti-fraud-proposal-going-after-systemic-fraud-taking-on-identity-theft-helping-victims/>

statute of limitations for fraud associated with pandemic-related UI programs is extended, many groups and individuals that have defrauded the UI program may escape justice. Even with the OIG's tireless efforts, the current statute of limitations associated with UI fraud means federal law enforcement may still fall short in fully investigating and prosecuting the most egregious cases of UI fraud, especially given the volume and complexity of UI fraud matters we are tasked to investigate. This issue is further exacerbated by the OIG's limited resources and the resulting decrease in investigative capacity.

Pandemic-related UI fraud referrals that we receive often include complex schemes involving criminal enterprises and bad actors who use sophisticated techniques to maintain their anonymity. For instance, in a recent pandemic-related UI fraud investigation into the theft of over \$4 million in UI benefits from a SWA, conspirators orchestrated a [scheme to file UI claims using stolen identities, which were often associated with elderly citizens](#).<sup>17</sup> The conspirators' scheme included opening bank accounts using the stolen identities, purchasing money orders made out to themselves and to an online vehicle auction company, and laundering the UI funds by using the money orders to purchase salvaged automobiles in the United States and ship them to Nigeria. They also facilitated the transfer of conspiracy proceeds to overseas bank accounts in Nigeria. This complex fraud investigation spanned both domestic and foreign jurisdictions. The defendants have been convicted of conspiracy to commit wire fraud.

Criminal investigations such as the above require significant resources and time. In August 2022, an extension of the statute of limitations was implemented for crimes involving the U.S. Small Business Administration's Paycheck Protection Program and Economic Injury Disaster Loan program.<sup>18</sup> The statute of limitations should also be extended when pandemic-related UI programs are defrauded. The expansion of the statute of limitations would provide investigators and prosecutors time to effectively and efficiently pursue and hold accountable those who defrauded the UI program and victimized the American people during the pandemic.

## DATA ACCESS

The OIG's [lack of ongoing, timely, and complete access to UI claimant data and wage records from SWAs remains a significant challenge](#).<sup>19</sup> This deficiency directly and

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<sup>17</sup> DOJ, U.S. Attorney's Office, Northern District of Alabama, "Georgia Resident Pleads Guilty to COVID-19 Unemployment Fraud Targeting Several States," press release (June 8, 2022), available at: <https://www.justice.gov/usao-ndal/pr/georgia-resident-pleads-guilty-covid-19-unemployment-fraud-targeting-several-states>

<sup>18</sup> The White House, "Bills Signed: H.R. 7334 and H.R. 7352," (August 5, 2022), available at: <https://www.whitehouse.gov/briefing-room/legislation/2022/08/05/bills-signed-h-r-7334-and-h-r-7352/>

<sup>19</sup> Semiannual Report to Congress, Office of Inspector General for the U.S. Department of Labor, Volume 89 (October 1, 2022-March 31, 2023), available at: <https://www.oig.dol.gov/public/semiannuals/89.pdf>

adversely impedes the OIG’s ability to provide independent oversight and combat fraud, waste, and abuse to help DOL reduce future improper payments in its programs, including regular and temporary UI programs. The power and use of data and predictive analytics enables the OIG to continuously monitor DOL programs and operations to detect and investigate fraud. Continuous monitoring serves as a deterrent to fraud, allows the OIG to promptly discover areas of weakness, and assists DOL management to timely correct problems. However, the OIG’s ability to proactively detect UI fraud through our audit and investigative activities continues to be impacted by the data access concerns detailed in our March 2023 Congressional testimony.<sup>20</sup>

To effectively address the challenges posed by the pandemic, we took a proactive stance, employing data analytics at both national and state levels to identify high-risk areas within the UI program. During the early stages of the pandemic, DOL asserted it lacked the authority to require SWAs to provide UI data to the OIG for audits and investigations, with limited exceptions. In response to this challenge, we took the unprecedented step of issuing Inspector General subpoenas to SWAs, compelling them to provide the necessary claims data.

Collaboratively, the OIG’s audit and investigative activities have identified [\\$45.6 billion of potential fraud](#) paid from March 2020 through April 2022 in four specific high-risk areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file UI claims with suspicious email accounts (see Figure 4).<sup>21</sup>

**Figure 4: Four High-Risk Areas for Potential UI Fraud**



We shared our methodology and underlying data with the Department for further dissemination to the states. We are currently examining whether states took effective measures to address the potential fraud.

As part of our recommendations regarding these high-risk areas, we recommended ETA in collaboration with the states establish effective controls to mitigate fraud and

<sup>20</sup> “Waste, Fraud, and Abuse Go Viral: Inspectors General on Curing the Disease,” Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; House Committee on Oversight and Accountability, Subcommittee on Government Operations and the Federal Workforce (March 9, 2023), available at: <https://www.oig.dol.gov/public/testimony/03092023.pdf>

<sup>21</sup> During the initial phases, we identified more than \$5.4 billion in these four high-risk areas. This total increased to \$45.6 billion in the same areas. This increased identification was reported in Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High Risk Areas Increased to \$45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf>.

other improper payments to ineligible claimants. We also recommended ETA implement immediate measures to ensure ongoing OIG access to UI claims data for audit and investigative purposes and expedite regulatory updates to require ongoing disclosures of UI information to the OIG for audits and investigations of federal programs.

Our special agents used data analytics extensively on the 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 typologies 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. Data analytics further allowed us to share information with ETA so that it could better assist SWAs in detecting fraud sooner and implementing safeguards to avoid paying fraudulent claims. When investigations or data analytics identified programmatic vulnerabilities, our special agents coordinated with audit staff to ensure that weaknesses were addressed by the Department.

In response to our recommendations, ETA has taken some actions to support the OIG having access to UI data consistent with the Inspector General Act of 1978, as amended. It is also in process of taking additional action to revise its regulations. However, until the Department implements a permanent solution ensuring the OIG's complete and timely access to UI program data and information, the Department's current regulations will renew impediments to the OIG's access to data as was experienced prior to and during the pandemic and may necessitate additional subpoenas. The historic levels of improper payments that the OIG has identified, including potential fraud, supports the conclusion that the OIG's continued access to state UI data is imperative.

To aid in resolving this issue, we previously requested that Congress consider legislative action to authorize DOL and the OIG to have unfettered access to state UI claim data and wage records for our oversight responsibilities. Unfettered access to states' UI claimant data and wage records systems would further enable the OIG to quickly identify large-scale fraud and expand its current efforts to share emerging fraud trends with ETA and SWAs to strengthen the UI program and deter fraud. In addition, conducting data analytics from such access would further enable our auditors to identify program weaknesses and recommend corrective actions that could improve the timeliness of UI benefit payments and the integrity of the UI program.

The access to state UI claim data and data analytics has expanded the scope of our oversight work, enabling us to leverage powerful tools to detect and address fraudulent activities. For example, data analytics empowered our auditors to perform high-level analysis and investigators to focus their investigative efforts on cases involving substantial financial losses. Furthermore, access to states' claims data was crucial for the OIG, enabling us to continue to process over 200,000 UI complaints and perform the necessary fraud analysis.

## **RESULTS FROM PANDEMIC RESPONSE OVERSIGHT WORK: CRITICAL NEED FOR DOL PREPAREDNESS**

As previously mentioned, as of June 9, 2023, the OIG's pandemic response oversight work has resulted in 35 published audit reports with 90 recommendations to reduce programmatic vulnerabilities and \$68.7 billion in funds for better use. Our pandemic-related investigations have resulted in more than 1,350 indictments/initial charges with over 720 convictions, over 13,000 months of incarceration ordered, and monetary results in excess of \$930 million. Much of our work has had to focus on unemployment insurance, including impactful collaboration between our auditors, investigators, and data scientists; in several program areas, our pandemic-related reporting has demonstrated the critical need for DOL preparedness.

The following section, summarizing our results so far, is ordered as follows:

- Worker Benefits: UI
- Worker Benefits: Workers' Compensation
- Worker Safety and Health and Workplace Rights
- Employment and Training
- Status of Audit Recommendations

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### **WORKER BENEFIT PROGRAMS: UI**

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#### **A PERFECT STORM**

At the start of the pandemic, we had significant concerns regarding the UI programs, based on both previous OIG work regarding emergency response and on the high-risk nature of the programs. The pandemic period represented the largest increase in UI claims since the Department began tracking data in 1967. Prior to the pandemic, numbers of UI claims were low; within 2 to 3 weeks, initial UI claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle.<sup>22</sup>

Our initial UI advisory report identified six initial areas of concern<sup>23</sup> for ETA and the states to consider while implementing CARES Act UI provisions: (1) state preparedness (including staffing and systems), (2) initial eligibility determination, (3) benefit amount, (4) return to work, (5) improper payment detection and recovery, and (6) program monitoring. Our identification of these areas represents years of work relating to DOL's UI program, including the use of prior stimulus funds and response to past disasters.

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<sup>22</sup> 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>

<sup>23</sup> Advisory Report: CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

Our concerns included high risks of improper payments from the Pandemic Unemployment Assistance (PUA) program's reliance solely on self-certification. Our May 26, 2020, alert memorandum estimated the PUA program's cost at nearly \$110 billion with a [significant risk of improper payments, including fraud](#).<sup>24</sup> We advised ETA that states needed to implement measures, such as requiring claimants to document earnings to substantiate the initial determination and warned that, without additional tools, the PUA program was at substantial risk of losing millions of taxpayer dollars. In December 2020, Congress addressed the self-certification issue under the Continued Assistance for Unemployed Workers Act of 2020, requiring individuals receiving PUA to substantiate their employment.

However, as we reported in September 2022, in the first 6 months after the CARES Act passed, four states paid \$1 in \$5 in initial PUA benefits to likely fraudsters.<sup>25</sup> We also found that, in the first year after the CARES Act passed, [more than six million American workers waited at least a month for pandemic-related UI benefits](#).<sup>26</sup>

Further, our work found that states had been slow to modernize their legacy information technology (IT) systems in the more than 10 years between the Great Recession and the COVID-19 pandemic. The OIG expressed its concern that legacy IT systems—coupled with states' staffing—would continue to impede the management and oversight of UI benefits. Our subsequent reports identified continued programmatic weaknesses in each of these same areas. These weaknesses led to workers unemployed through no fault of their own suffering lengthy delays for basic subsistence funds—likely increasing bad outcomes such as food scarcity and homelessness—while a substantial amount of benefits were left vulnerable to fraud, waste, and abuse.

Our initial report also advised that identity thieves and organized criminal groups had found ways to exploit program weaknesses. Over the past 3 years, our reporting has identified continuing program weaknesses in internal controls, reporting, and program monitoring. Because some states were not prepared to process the volume of new claims under new UI programs, some internal fraud controls were not initially implemented. During his March 2022 Congressional testimony,

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<sup>24</sup> Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report No. 19-20-002-03-315 (May 26, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf>

<sup>25</sup> Of the 4 states we tested, from March 28, 2020, through September 30, 2020, we estimated \$30.4 billion of the \$71.7 billion in PUA and Federal Pandemic Unemployment Compensation benefits were paid improperly (42.4 percent). We estimated \$9.9 billion of that was paid to likely fraudsters (13.8 percent).

<sup>26</sup> COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>

Inspector General Larry D. Turner reported that the unprecedented infusion of federal funds into the UI program provided a [high-value target to exploit](#).<sup>27</sup>

Combined with easily attainable stolen personally identifiable information and continuing UI program weaknesses, the infusion of funds allowed the perfect storm for criminals to defraud the system. For example, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card. In fact, in an audit, we found 1 claim that was filed from a 3-bedroom house shared the same physical address as 90 other claims and used the same email address as 145 other claims.<sup>28</sup> In total, the likely fraudster(s) received more than \$1.5 million in unemployment benefits.

Our investigators have identified crimes related to UI fraud both throughout the United States and by foreign bad actors, and our investigative work has resulted in the conviction of over 720 criminals, including:

- two members of the Robles Park criminal organization—whose members and associates engaged in acts involving murder, assault, narcotics trafficking, identity theft, and other crimes;
- a massive and sophisticated criminal enterprise targeting Maryland’s UI system for more than \$500 million;
- former employees of more than one state or federal agency who targeted more than \$5 million;
- individuals using sham companies to obtain \$1.1 million;
- federal and state inmates who targeted more than \$2 million;
- a Nigerian national sentenced for both UI and elder fraud schemes; and even
- a YouTube rapper who was sentenced to 77 months in prison and ordered to pay more than \$700,000 in restitution after bragging about his efforts to defraud a state UI agency.

As we reported, ETA and states made significant efforts under extreme circumstances; however, the efforts were not sufficient to protect pandemic-related UI funds from historic levels of improper payments. ETA’s oversight was not timely enough, it allowed states to suspend a primary oversight tool for the first 3 months of the CARES Act UI programs, and it has yet to report either improper payment data from those months or the improper payment rate estimate for the PUA program.

We remain significantly concerned about the expeditious and effective deployment of UI benefits, especially in response to natural disasters and emergencies. Further, our most

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<sup>27</sup> “Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight,” Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; Senate Committee on Homeland Security and Governmental Affairs (March 17, 2022), available at: <https://www.oig.dol.gov/public/testimony/20220317.pdf>

<sup>28</sup> COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>

recent UI alert memorandum shared our concerns about gender and racial inequality in UI benefit payments as well as the need for protection of claimants' biometric data.

The following section, while detailing impactful results, also describes our overall significant concern and related elements as follows: reducing improper payments and combatting large-scale fraud.

## **DEPLOYING UI BENEFITS EXPEDITIOUSLY AND EFFICIENTLY**

In our CARES Act UI report issued May 28, 2021, we found [DOL's guidance and oversight was lacking](#).<sup>29</sup> DOL did not ensure the states: implemented the programs and paid benefits promptly; performed required and recommended improper payment detection and recovery activities; and reported accurate and complete program activities. This occurred primarily because states' IT systems were not modernized, staffing resources were insufficient to manage the increased number of new claims, and, according to state officials, guidance from ETA was untimely and unclear. Thus, the significant weaknesses in state preparedness continued to hamper pandemic response.

During Phase 3, we began to evaluate the causes of states' struggles to implement the CARES Act UI programs. ETA officials reported states faced the combined challenges of (1) managing and processing an unprecedented increase in claims at an unprecedented pace, (2) making the statutory changes to existing UI programs, and (3) implementing the three key CARES Act UI programs. In addition, states had to develop new systems to implement the new programs that resulted in backlogs in processing claims for weeks, and, in some cases, months.

In our September 2022 report, we found [ETA and states did not ensure pandemic-related UI funds were paid only to eligible individuals promptly](#).<sup>30</sup> Highlighting the importance of proper planning and oversight, four states paid more improperly than the total amount typically paid for the entire UI program. We estimated that, in the initial 6 months after the CARES Act passed, 4 states paid \$30.4 billion in PUA and Federal Pandemic Unemployment Compensation benefits improperly, including \$9.9 billion paid to likely fraudsters.

We found that ETA gave states guidance on improper payments for pandemic-related UI programs in May 2020. However, ETA and states need to be better prepared ahead of unexpected events. ETA stated that it typically takes up to 4 years to launch new UI programs, but [emergency situations require quicker action](#).<sup>31</sup> ETA and states need to

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<sup>29</sup> 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>

<sup>30</sup> COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>

<sup>31</sup> Semiannual Report to Congress, Volume 87, October 1, 2021-March 31, 2021, available at: <https://www.oig.dol.gov/public/semiannuals/87.pdf>

include risk planning to create new programs quickly and prevent improper payments. This planning should include developing guidance and an oversight framework to ensure states' eligibility procedures and Benefit Payment Control operations continue to function during emergencies.

## REDUCING IMPROPER PAYMENTS

For over 20 years, the OIG has reported on the Department's limited ability to measure, report, and reduce improper payments in the UI program, which has experienced some of the highest improper payment rates across the federal government.<sup>32</sup> The reported improper payment rate estimate for the regular UI program has been above 10 percent for 16 of the last 19 years.<sup>33</sup> For 2021 and 2022, ETA has estimated an improper payment rate of 18.71 percent and 21.52 percent, respectively.

Our recommendations have specifically included the need for the Department to estimate improper payments within federally funded temporary emergency programs. In August 2020, we recommended ETA [estimate the improper payment rate](#)<sup>34</sup> for pandemic-related UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate estimate that ETA applied to two of three key pandemic UI programs, Pandemic Emergency Unemployment Compensation and Federal Pandemic Unemployment Compensation. Additionally, in December 2022, ETA reported an improper payment rate estimate of 21.52 percent, which it also applied to Pandemic Emergency Unemployment Compensation and Federal Pandemic Unemployment Compensation.<sup>35</sup>

### WHAT IS AN IMPROPER PAYMENT?

A payment is improper if it should not have been made or was to the wrong recipient.

Examples include overpayments and underpayments.

An improper payment can be unintentional or intentional.

Intentional improper payments are more commonly referred to as financial fraud.

<sup>32</sup> Fraud is a type of improper payment. The Office of Management and Budget explains that, at a high level, a payment is "improper" if made in an incorrect amount or to the wrong recipient. Improper payments can result in a money loss that was either unintentional (accidental) or intentional (fraud). Office of Management and Budget, "Transmittal of Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement," Memorandum (March 5, 2021), last accessed September 27, 2022, available at: <https://www.whitehouse.gov/wp-content/uploads/2021/03/M-21-19.pdf>

<sup>33</sup> UI improper payments data for FY 2004 through FY 2022 as reported on PaymentAccuracy.gov

<sup>34</sup> COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation under the CARES Act, Report No. 19-20-008-03-315 (August 07, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf>

<sup>35</sup> In FY 2022, the Department found the PUA, Pandemic Emergency Unemployment Compensation, and Federal Pandemic Unemployment Compensation programs to be susceptible to significant improper payments. The Office of Management and Budget Memorandum M-21-19 requires the Department to produce an improper payment and unknown payment rate in the fiscal year following the fiscal year in which the risk assessment determination was made. In the Agency Financial Report, the Department stated FY 2022 is anticipated to be the last year reporting on these programs as they expired on September 6, 2021. ETA's reported improper payment rate estimate of 21.52 percent does not include the PUA program. However, it is the most current improper payment rate from ETA and PUA had significant control weaknesses that indicate the program will have a comparable or greater improper payment rate.

In Congressional testimony in February 2023,<sup>36</sup> we reported updated information based on two primary changes: (1) ETA released its annual improper payment rate estimate for FY 2022 and (2) ETA has recently provided a total for pandemic UI spending.<sup>37</sup> While that expenditure information is likely to be updated, these changes enabled us to report on actual expenditures rather than on estimated funding. With those updates, more than \$888 billion in total federal and state UI benefits were paid for benefit weeks during the UI pandemic period.<sup>38</sup>

Applying the estimated 21.52 percent improper payment rate to the approximate \$888 billion in pandemic UI expenditures, at least \$191 billion in pandemic UI payments could have been improper payments, with a significant portion attributable to fraud. Further, for Program Year 2021, ETA estimated a fraud rate of 8.57 percent,<sup>39</sup> which indicates over \$76 billion was likely paid to fraudsters. Based on our audit and investigative work, the improper payment rate for pandemic-related UI payments was likely higher than 21.52 percent.

For example, ETA's reported improper payment rate estimates have not included the PUA program. ETA stated it would report the estimated improper payment rate for PUA in 2022. However, after reviewing DOL's sampling and estimation methodology plan, the Office of Management and Budget requested DOL conduct further analysis of the outcomes before producing an estimate of improper payments. As of June 9, 2023, the Department has not yet reported the PUA improper payment rate.

Estimating the improper payment rate for all emergency UI programs is critical for the efficient operation of the program. ETA and the states, under their program operating responsibilities, must determine the improper payment rate, including the fraud rate, for pandemic UI programs.

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<sup>36</sup> "The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; House Committee on Ways and Means (February 8, 2023), available at: <https://www.oig.dol.gov/public/testimony/02082023.pdf>

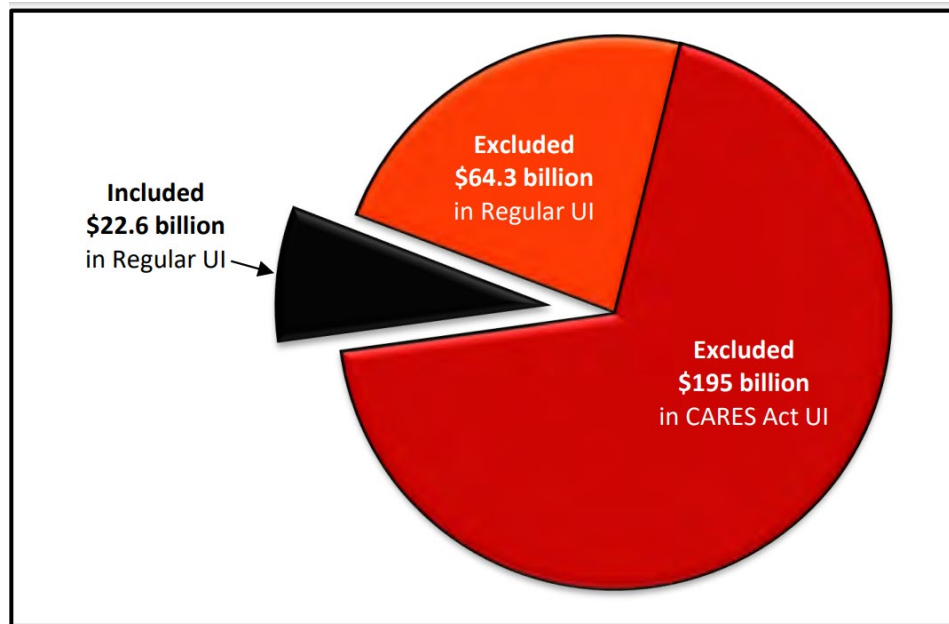
<sup>37</sup> According to ETA, the data provided reflects CARES Act UI program activity through January 23, 2023, with the exception of the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week program, which is through December 31, 2022; data provided regarding the regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-Servicemembers programs reflect the monthly totals from April 2020 through September 2021.

<sup>38</sup> With the exception of PUA, for which claims could be backdated to January 27, 2020, we define the UI pandemic period as March 27, 2020, through September 6, 2021. We also note that, according to ETA, it cannot provide final total costs of the programs because states are still processing claims that were for weeks of unemployment prior to expiration of the programs.

<sup>39</sup> ETA estimated the fraud rate as part of their Benefit Accuracy Measurement system reporting for the program year July 1, 2020, through June 30, 2021. The Benefit Accuracy Measurement system is designed to determine the accuracy of paid and denied claims in three major UI programs: regular State UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-Servicemembers. The fraud rate for 2022 will likely be published in October 2023.

We have also identified issues with the UI program through our financial reporting. We reported in August 2021 that, while DOL had complied with the Payment Integrity Information Act of 2019<sup>40</sup> for FY 2020, it reported UI information for only 8 percent of total program year expenses.<sup>41</sup> ETA received approval from the Office of Management and Budget to exclude the fourth quarter as well as CARES Act expenditures. However, this exclusion of about \$259 billion (\$195 billion in CARES Act UI and \$64.3 billion in regular UI) meant that ETA's reported estimated improper payment rate of 9.17 percent was not reflective of total program year expenses but only of \$22.6 billion or 8 percent of \$281.9 billion (see Figure 5).

**Figure 5: UI Benefits Included and Excluded from 2020 Improper Payment Rate**



Further, in July 2022, we reported that DOL did not meet requirements for compliance with the Payment Integrity Information Act of 2019 for FY 2021. While DOL met three of the six compliance requirements for UI programs, we found DOL did not meet the other three requirements: it did not publish all improper payment estimates, did not demonstrate improvement from the improper target rate published in FY 2020, and did not report an improper payment rate of less than 10 percent. The OIG has [long](#)

<sup>40</sup> The Payment Integrity Information Act of 2019 requires federal agencies to identify programs susceptible to significant improper payments, estimate the improper payments for those programs, and report on actions to reduce the improper payments in those programs.

<sup>41</sup> The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, But Reported Unemployment Insurance Information Did Not Represent Total Program Year Expenses, Report No. 22-21-007-13-001 (August 6, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/22-21-007-13-001.pdf>

recommended<sup>42</sup> ETA develop and implement a valid and reliable method for estimating the improper payment rate for federally-funded emergency programs, including temporary programs.

Again, in June 2023, we reported<sup>43</sup> that DOL did not meet requirements for compliance with the Payment Integrity Information Act of 2019 for FY 2022. While DOL met four of the six compliance requirements for UI excluding PUA, it did not meet the other two: it did not demonstrate improvement from the improper target rate published in FY 2021, and it did not report an improper payment rate of less than 10 percent. For PUA, we reported DOL did not meet four of the six compliance requirements for the PUA program: it did not publish improper payment estimates, programmatic corrective action plans, reduction targets, and an improper payment rate.

We also identified incomplete reporting and incomplete UI program information, which resulted in a second consecutive qualified opinion on DOL's financial statements. In August 2022, we issued an alert memorandum<sup>44</sup> about deficient reporting by states regarding the CARES Act UI program. Our examination of required reports identified that some states did not submit reports to ETA or reported zero activity. For instance, seven states reported zero overpayments for the PUA program. This lack of accurate state performance information hinders Congress and ETA's ability to: assess state activities, mitigate overpayment risks, identify program weaknesses, and improve future temporary programs.

In December 2022, for the second straight year, we issued<sup>45</sup> the Department a qualified opinion on its consolidated financial statements and reported one material weakness related to pandemic-related UI funding. There were two primary causes for this issue: (1) the Department was unable to support \$7.9 billion it estimated in remaining pandemic-related UI claims in appeal or unprocessed as of September 30, 2022, and (2) the Department was unable to support the \$3.5 billion it estimated in remaining pandemic-related UI benefit overpayment receivables.

## **COMBATTING LARGE-SCALE UI FRAUD**

During the first two phases, the OIG focused our resources to identify and investigate fraud either against or within Department programs that had the greatest vulnerability

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<sup>42</sup> For example, see: Recovery Act: ETA Is Missing Opportunities to Detect and Collect Billions of Dollars in Overpayments Pertaining to Federally-Funded Emergency Benefits, Report No. 18-12-001-03-315 (January 31, 2012), available at: <https://www.oig.dol.gov/public/reports/oa/2012/18-12-001-03-315.pdf>

<sup>43</sup> The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2022, Report No. 22-23-006-13-001 (June 9, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/22-23-006-13-001.pdf>

<sup>44</sup> Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs, Report No. 19-22-004-03-315 (August 2, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-004-03-315.pdf>

<sup>45</sup> FY 2022 Independent Auditor's Report on the DOL Financial Statements, Report No. 22-23-002-13-001 (December 13, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2023/22-23-002-13-001.pdf>

for abuse, with a significant focus on large-scale identity theft-related unemployment insurance fraud.

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

We also collaborated with DOJ on the strategic assignment of 12 term-appointed Assistant United States Attorneys assigned solely to prosecute UI fraud; helped establish a multi-disciplinary Pandemic Rapid Response team within the OIG; appointed a national UI fraud coordinator to manage our national investigative response to UI fraud; and appointed seven regional UI fraud coordinators to partner with the SWAs and federal, state, and local law enforcement on UI fraud matters in their geographic areas of responsibility.

Further, we created 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](#),<sup>46</sup> UI Fraud Investigations Guide, fraud alerts for state/local law enforcement organizations, [bilingual alerts regarding UI fraud, phishing, and identity theft](#),<sup>47</sup> and a joint OIG / U.S. 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.<sup>48</sup>

In several alert memoranda, we highlighted additional urgent program vulnerabilities to the Department. In an alert memorandum on June 16, 2021, we outlined how disclosure

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<sup>46</sup> DOJ, National Unemployment Insurance Fraud Task Force, Unemployment Insurance Fraud Consumer Protection Guide (September 21, 2020), available at: <https://www.oig.dol.gov/public/Unemployment%20Insurance%20Fraud%20Consumer%20Protection%20Guide%2C%20Final.pdf>

<sup>47</sup> Our Pandemic Response Portal features bilingual fraud alerts and much more and is available at: [https://www.oig.dol.gov/OIG\\_Pandemic\\_Response\\_Portal.htm](https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm).

<sup>48</sup> 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 SWAs

limitations regarding UI data<sup>49</sup> contradicted [the Inspector General Act of 1978, as amended](#).<sup>50</sup> To obtain access to UI data, the OIG had to issue two separate sets of Inspector General subpoenas. The resulting delays equated to the lack of detection and prevention of billions of dollars in potentially fraudulent claims at the earliest opportunity. ETA has required sharing of state UI data as a condition of the fraud prevention grants offered under ARPA, which would provide such access through 2025. However, all states would need to receive such grants to provide the necessary access.

In a July 2021 alert memorandum, we reported ETA did not require the National Association of State Workforce Agencies (NASWA) to [share suspected UI fraud data with ETA or with the OIG](#)<sup>51</sup> as required by the Department. We noted that NASWA reporting flagged UI data as required would assist the OIG to effectively and efficiently detect and investigate large-scale fraud and identify and share fraud trends with ETA and the SWAs. NASWA started providing the OIG with flagged data in early 2023.

Finally, in March 2023, we issued an alert memorandum<sup>52</sup> about the identity verification service contractors that states hired to [combat imposter claims](#) being filed with stolen or synthetic<sup>53</sup> identities. Approximately 45 percent of states hired contractors that used facial recognition technology, which has a demonstrated racial and gender bias. Furthermore, some states did not implement necessary privacy security measures to protect UI claimant's biometric data, based on recommendations by the National Strategy for Trusted Identities in Cyberspace. Less than a month after our report issued, ETA provided additional guidance to states regarding biometrics and facial recognition.

As of April 2023, the OIG has opened over 200,000 investigative matters related to the pandemic. The vast majority of these matters involve identify theft-related UI fraud. We have leveraged technology to automate the processing of complaints from DOJ's National Center for Disaster Fraud so that they are directly ingested into our case management system. This process allows us to provide victim resource information to potential victims while also allowing for deconfliction with other federal law enforcement agencies to avoid duplication of efforts.

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<sup>49</sup> Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf>

<sup>50</sup> Public Law 95-452—October 12, 1978, 92 Stat. 1101, as amended; text of the Inspector General Act of 1978, as amended, is available at: [https://www.ignet.gov/sites/default/files/files/igactasof1010\(1\).pdf](https://www.ignet.gov/sites/default/files/files/igactasof1010(1).pdf)

<sup>51</sup> Alert Memorandum: The Employment and Training Administration Does Not Require the National Association of State Workforce Agencies to Report Suspected Unemployment Insurance Fraud Data to the Office of Inspector General or the Employment and Training Administration, Report No. 19-21-006-03-315 (July 1, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-006-03-315.pdf>

<sup>52</sup> Alert Memorandum: ETA and States Need to Ensure the Use of Identity Verification Service Contractors Results in Equitable Access to UI Benefits and Secure Biometric Data, Report No. 19-23-005-03-315 (March 31, 2023), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-005-03-315.pdf>

<sup>53</sup> A synthetic identity is a false identity created from a combination of real and fake information.

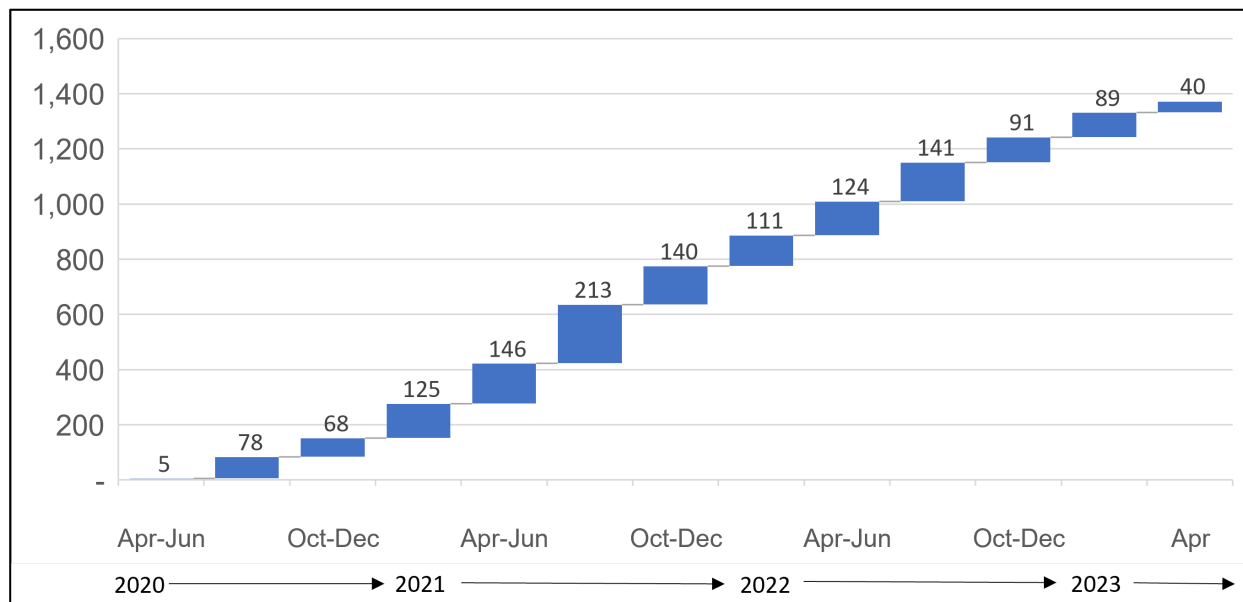
We have significantly expanded the size of our hotline staff to process both hotline and National Center for Disaster Fraud complaints. Matters that meet guidelines for federal prosecution are referred to our field offices or to our federal law enforcement partners for further investigation. Matters that do not meet federal prosecution guidelines are referred back to SWAs for action. However, subject to resource availability, this hotline staff expansion may need to be eliminated.

In addition, our special agents prioritized their case inventory so that approximately 96 percent of the investigative workload was focused on UI fraud. Prior to the pandemic, UI fraud made up approximately 11 percent of the investigative workload.

We have also further developed our partnerships. We are an integral member of DOJ's COVID-19 Fraud Enforcement Task Force, which seeks to use every available federal tool—including criminal, civil, and administrative actions—to combat and prevent COVID-19 related fraud. We have also dedicated full-time staff to serve on DOJ's COVID-19 Fraud Strike Force teams, which are located across the country. These teams use data analytics to turn raw data into actionable leads to prosecute organized criminal groups and networks of overseas fraudsters who stole pandemic UI benefits.

From April 1, 2020, through April 30, 2023, the OIG's investigative efforts have resulted in over 1,350 UI indictments/initial charges with over 720 convictions and monetary results in excess of \$930 million (see Figure 6).

**Figure 6: UI Indictments/Initial Charges through April 30, 2023**



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## **WORKER BENEFIT PROGRAMS: WORKERS' COMPENSATION**

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Preparedness and a focus on the future is also vital when it comes to healthcare. As part of our Phase 3 work, we supported a Pandemic Response Accountability Committee effort by examining the [use of telehealth during the pandemic](#).<sup>54</sup> Specifically, we evaluated telehealth services provided by three workers' compensation programs, including the Federal Employees' Compensation Act program. As a result of the pandemic, these three programs instituted new policies that expanded access to telehealth for injured workers by allowing routine medical care to be provided through telehealth by certain types of medical care practitioners.<sup>55</sup>

All three workers' compensation programs experienced dramatic increases in the use of telehealth during the first year of the pandemic compared to the prior year—with the Office of Workers' Compensation Programs paying more than \$7 million for 34 times more telehealth services. Claimants in the Federal Employees' Compensation Act program used approximately 95 percent of these services. The Office of Workers' Compensation Programs identified several program integrity risks, such as providers billing for services that were not rendered or were unnecessary. While expansion of telehealth can be used to provide care when in-person care is not readily accessible, programs must ensure appropriate safeguards to protect against fraud, waste, and abuse.

### **ADDITIONAL FINDING RELATED TO WORKERS' COMPENSATION**

- The [pandemic caused delays](#) in processing Federal Employees' Compensation Act claims, resulting in a decrease of 15 percent in timely claims' adjudications.<sup>56</sup>

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## **WORKER SAFETY AND HEALTH AND WORKPLACE RIGHTS**

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Safeguarding mission critical U.S. workers is vital during emergencies. For example, our initial report on OSHA's efforts to protect the safety of the nation's workforce addressed 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

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<sup>54</sup> Insights on Telehealth Use and Program Integrity Risks in DOL Workers' Compensation Programs during the Pandemic, Report No. 19-23-002-04-001 (December 13, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-002-04-001.pdf>

<sup>55</sup> Prior to the pandemic, only the Federal Employees' Compensation Act program allowed telehealth. Although telehealth was not specifically authorized prior to the pandemic, the energy program paid for the services if appropriate for the medical condition. The black lung benefits program did not provide telehealth as an allowable service.

<sup>56</sup> COVID-19: Pandemic Causes Delays in FECA Claims Adjudication, Report No. 19-21-007-04-431 (September 23, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-007-04-431.pdf>

as remote 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 increased safety risks](#).<sup>57</sup> As a result of our audit, and per President Biden's January 21, 2021, Executive Order on Protecting Worker Health and Safety, OSHA improved its inspection strategy by prioritizing high-risk employers for COVID-19-related onsite inspections through issuance of: a National Emphasis Program, tracking onsite versus remote inspections; and a healthcare Emergency Temporary Standard.

In our Phase 3 work, we found that, to better protect workers, OSHA could leverage inspection collaboration opportunities with external federal agencies. From the onset of the pandemic, OSHA received a sudden influx of complaints. However, to reduce person-to-person contact and to prevent the spread of COVID-19, the agency decreased the number of its inspections, particularly those conducted onsite. Despite receiving 15 percent more complaints in 2020 than in 2019, OSHA conducted 50 percent fewer inspections. This meant leaving employees vulnerable to COVID-19 as a workplace hazard. OSHA engaged with some federal agencies. However, by not identifying federal partners in a position to assist during a large-scale safety and health crisis and by not having or creating collaborative agreements with those partners, [OSHA lost a valuable opportunity to better protect U.S. workers](#).<sup>58</sup>

Similarly, we found OSHA lacks complete information on COVID-19 infection rates at worksites. OSHA only requires employers to report a work-related fatality, inpatient hospitalization, amputation, or loss of an eye. It is up to employers to determine if an injury or illness is work-related, which is generally far simpler in an amputation case than in the case of an airborne illness. However, [COVID-19 is spreadable regardless of the origin of infections](#);<sup>59</sup> no matter where an employee contracted the virus, COVID-19 cases in the worksite endanger workers. Requiring employers to notify all employees of positive cases at the worksite is necessary to ensure safe and healthful working conditions. OSHA stated that fixing this issue will require significant regulatory changes and investment in public and occupational health infrastructure, as well as better data collection and analysis capabilities across a range of other government agencies.

We also found OSHA closed inspections without ensuring it received and reviewed all items requested from employers to demonstrate alleged COVID-19 health hazards had been mitigated. Due to the lack of citations, incomplete information on infection rates at worksites, and insufficient evidence of hazard mitigation, there was a heightened risk that workers suffered unnecessary exposure to the virus.

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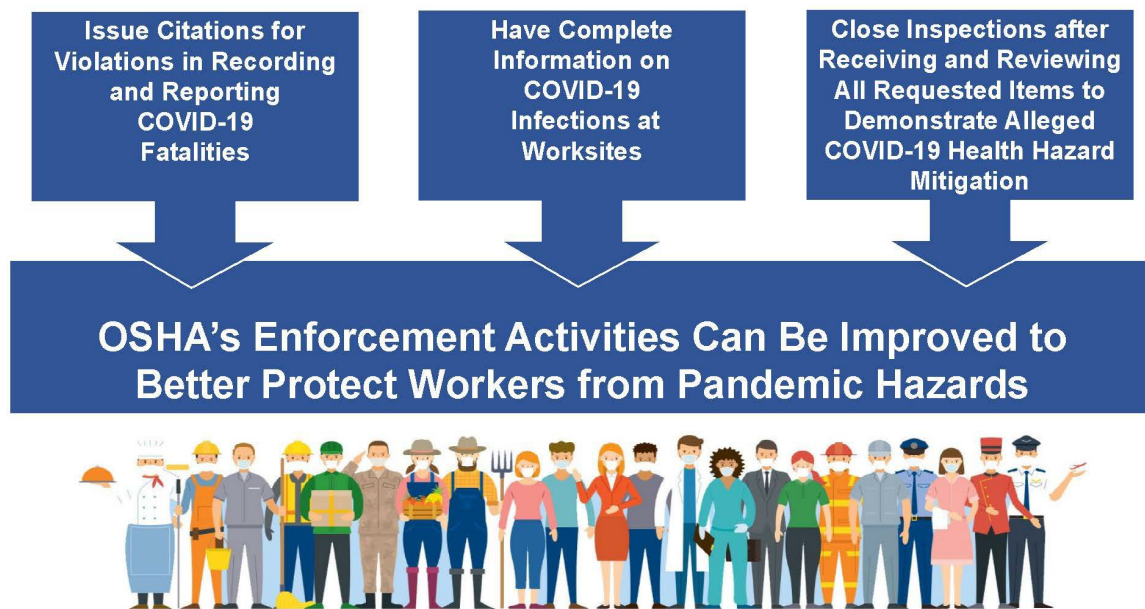
<sup>57</sup> COVID-19: Increased Worksite Complaints and Reduced OSHA Inspections Leave U.S. Workers' Safety at Increased Risk, Report No. 19-21-003-10-105 (February 25, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-003-10-105.pdf>

<sup>58</sup> COVID-19: To Protect Mission Critical Workers, OSHA Could Leverage Inspection Collaboration Opportunities with External Federal Agencies, Report No. 19-22-003-10-105 (March 31, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-003-10-105.pdf>

<sup>59</sup> COVID-19: OSHA's Enforcement Activities Did Not Sufficiently Protect Workers from Pandemic Health Hazards, Report No. 19-23-001-10-105 (October 31, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2023/19-23-001-10-105.pdf>

To protect workers from pandemic health hazards, OSHA's enforcement activities can be improved (see Figure 7).

**Figure 7: OSHA's Enforcement Activities Can Be Improved**



#### **ADDITIONAL FINDINGS RELATED TO WORKER SAFETY AND HEALTH AND WORKPLACE RIGHTS**

- The [pandemic significantly increased the number of whistleblower complaints](#) that OSHA received.<sup>60</sup>
- The Mine Safety and Health Administration faced challenges and needed to [do more to ensure the safety of its workforce and the mining industry](#).<sup>61</sup>
- The Wage and Hour Division [acted quickly](#)<sup>62</sup> after Families First Coronavirus Response Act passage but had [continued enforcement challenges](#).<sup>63</sup>

<sup>60</sup> COVID-19: OSHA Needs to Improve Its Handling of Whistleblower Complaints during the Pandemic, Report No. 19-20-010-10-105 (August 14, 2020), available at:

<https://www.oig.dol.gov/public/reports/oa/2020/19-20-010-10-105.pdf>

<sup>61</sup> COVID-19: MSHA Faces Multiple Challenges in Responding to the Pandemic, Report No. 19-20-006-06-001 (July 24, 2020), available at:

<https://www.oig.dol.gov/public/reports/oa/2020/19-20-006-06-001.pdf>

<sup>62</sup> COVID-19: WHD Needs to Closely Monitor the Pandemic Impact on Its Operations, Report No. 19-20-009-15-001 (August 7, 2020), available at:

<https://www.oig.dol.gov/public/reports/oa/2020/19-20-009-15-001.pdf>

<sup>63</sup> COVID-19: The Pandemic Highlighted the Need to Strengthen Wage and Hour Division's Enforcement Controls, Report No. 19-21-008-15-001 (September 30, 2021), available at:

<https://www.oig.dol.gov/public/reports/oa/2021/19-21-008-15-001.pdf>

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## EMPLOYMENT AND TRAINING

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Emergency preparedness and response is vital when it comes to participants engaged in employment and training programs. Our Phase 1 work assessed what actions Job Corps had taken in response to challenges posed by the pandemic, including suspension of operations from March to May 2020 and the [subsequent transition to remote learning](#).<sup>64</sup> We made recommendations focused on protecting the health of students and staff currently at centers, ensuring both centers and remote students have the necessary resources to engage in a virtual learning environment, and ensuring centers have the proper controls in place to adhere to national safety guidance prior to reopening their campuses. In November 2021, we reported [the pandemic had a significant impact on Job Corps' efforts](#)<sup>65</sup> to develop and implement protocols to safely resume on-campus operations and provide effective remote instruction.

As of July 2021, Job Corps brought students and staff back to 112 centers, but reviewed less than half of them for compliance with select safety requirements, such as masking and physical barriers. In addition, more than 68 percent of Job Corps' students needed basic tools, including computers and internet access, for remote learning during the pandemic. Partly as a result of these implementation issues, Job Corps' student enrollment fell 56 percent from March 2020 to April 2021, trades training completion dropped to zero in the year leading to April 2021, and the average length of time it took students to complete the program more than doubled from approximately 8 months to 18 months. Our Phase 3 work for employment and training programs continues.

### ADDITIONAL FINDINGS RELATED TO EMPLOYMENT AND TRAINING

- ETA [needed to improve its communication](#) with grant recipients regarding the time-limited flexibilities in Office of Management and Budget Memorandum M-20-17.<sup>66</sup>
- ETA had a significant delay in the length of time for Disaster Dislocated Worker program grantees to provide [disaster relief employment and training](#).<sup>67</sup>

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<sup>64</sup> COVID-19: ETA Should Continue to Closely Monitor Impact on Job Corps Program, Report No. 19-20-007-03-370 (July 28, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-007-03-370.pdf>

<sup>65</sup> COVID-19: Safety and Remote Learning Challenges Continue for Job Corps, Report No. 19-22-001-03-370 (November 12, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-001-03-370.pdf>

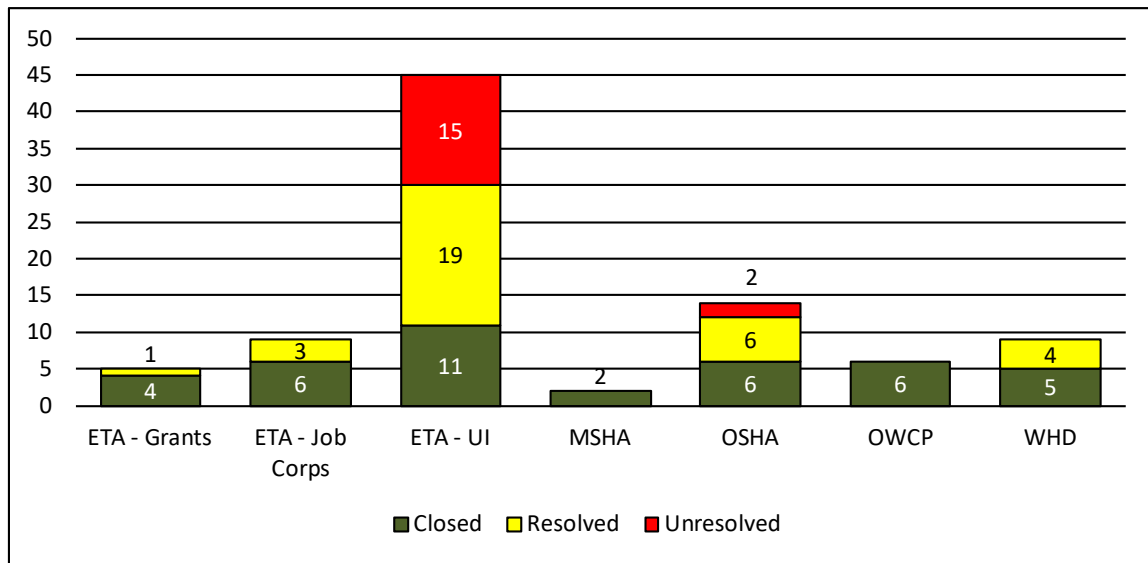
<sup>66</sup> Alert Memorandum: ETA Needs to Improve Its Plans for Providing Administrative, Financial Management, and Audit Requirements Relief to Grant Recipients Impacted by the Novel Coronavirus (COVID-19), Report No. 19-20-003-03-001 (May 19, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-003-03-001.pdf>

<sup>67</sup> COVID-19: Delays in Providing Disaster Relief Jeopardize \$366 Million Disaster Worker Grant Program, Report No. 19-22-002-03-391 (January 28, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-002-03-391.pdf>

## STATUS OF AUDIT RECOMMENDATIONS

Our pandemic-related audit reports have included 90 recommendations to the Department. Recommendations are considered resolved when agency management and the OIG agree on the required corrective actions. After the agreed-upon corrective actions have been completed, the recommendations are considered closed. The Department has addressed 81 percent of our recommendations: 33 are resolved and 40 are closed. However, 17 recommendations remain unresolved (see Figure 8).

**Figure 8: Status of 90 COVID-19-Related Recommendations, as of June 9, 2023**



More information on the status of OIG recommendations can be found at our [Recommendation Dashboard](#).<sup>68</sup>

## ONGOING AND PLANNED PANDEMIC RESPONSE OVERSIGHT WORK

### PHASE 3: ONGOING AND PLANNED WORK

As we are completing our Phase 3 oversight work, the OIG has 24 ongoing and 10 planned audits focused on UI, job training, OSHA, the Mine Safety and Health Administration, and Veterans Employment and Training Service programs. We also are planning to complete as many UI fraud investigations as possible with the time remaining on the statute of limitations.

Our Office of Audit Phase 3 work is listed as follows, with in-progress audits marked with an asterisk (\*).

<sup>68</sup> Available at: <https://www.oig.dol.gov/recommendationdashboard.htm>

### **ETA - Office of Unemployment Insurance:**

1. ETA efforts to ensure UI program integrity\*
2. DOL's oversight of emergency UI administrative grants to states\*
3. ETA and state efforts to detect and recover overpayments\*
4. Adequacy of state IT resources\*
5. Adequacy of state staffing resources\*
6. Effectiveness of programs for nontraditional claimants\*
7. Effectiveness of the Temporary Full Federal Funding program\*
8. Effectiveness of the Short-Time Compensation program\*
9. Effectiveness of the Mixed Earners Unemployment Compensation program\*
10. Effectiveness of the Emergency Unemployment Relief for State and Local Governmental Entities, Certain Non-Profit Organizations, and Federally Recognized Indian Tribes program\*
11. Pandemic Response Accountability Committee Case Study Project on federal pandemic response funds in select geographic areas\*
12. ETA and states' efforts to address multistate claimants\*
13. ETA and states' efforts to address claimants using deceased persons' social security numbers\*
14. ETA and states' efforts to address claimants using prisoners' social security numbers\*
15. ETA and states' efforts to address claimants with suspicious email accounts\*
16. Concerns over data warehousing and analytics to prevent UI fraud\*
17. Impact of waivers on UI overpayments, fraud investigations, and recoveries\*
18. Joint review with U.S. Small Business Administration-OIG\*
19. Mandatory audit of DOL's FY 2023 Compliance with the Payment Integrity Information Act of 2019<sup>69</sup>
20. DOL and states' oversight of UI claimants return to work
21. ARPA Equity Grants
22. Office of UI Modernization's efforts to improve SWAs' UI IT systems

### **ETA - Job Training Programs:**

1. COVID-19: Employment and training grantees and sub-recipients (New Jersey)\*
2. COVID-19: Employment and training grantees and sub-recipients (Texas)\*
3. COVID-19: Employment and training grantees and sub-recipients (other states may be selected)
4. Job Corps: Ensuring funds were properly and efficiently used during COVID-19 pandemic

### **Occupational Safety and Health Administration:**

1. Adequacy of plans and use of funds provided under ARPA\*

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<sup>69</sup> A large portion of this annual audit focuses on UI.

2. Review of actions taken to address increasing and severe injury at online retailers' warehouses\*
3. Effectiveness of corrective actions taken in response to our initial report on OSHA's handling of whistleblower complaints
4. Adequacy of plans to prepare for future pandemics

**Mine Safety and Health Administration:**

1. Impact of COVID-19 on mandatory inspections\*
2. Impact on the Mine Safety and Health Administration's miner training

**Veterans Employment and Training Services:**

1. Effectiveness of homeless veterans' reintegration and training programs
2. Impact of Veterans Employment and Training Services jobs for veterans' state grants training program

Our Office of Investigation work includes:

1. Continuing to coordinate with the OIG's Office of Audit on any systemic weaknesses or fraud vulnerabilities identified during COVID-19 audits and investigations to reduce the long-term impact of fraud on DOL programs;
2. Continuing to process and evaluate UI fraud complaints to identify large-scale fraud matters for further investigation;
3. Highlighting successful COVID-19 investigations by issuing DOL/DOJ press releases in coordination with investigative partners;
4. Advising DOL regulatory agencies/program experts of audit and investigative findings and possible weaknesses in the various programs to prevent future fraud; and
5. Continuing 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.

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**PHASE 4: PLANNED WORK**

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Subject to resource limitations, we plan to begin our Phase 4 work as we are wrapping up our Phase 3 work. We estimate our audit work completing by September 2025 and our investigative work continuing to at least September 2026. For audit, our Phase 4 work plans include reporting on lessons learned for UI, worker safety and health, and employment training and recovery from the overall toll on workers since COVID-19 first appeared in the United States. This phase will also include after-the-fact assessments of pandemic program results, including for other DOL programs. As we focus on the future in Phase 4, our oversight will include these lessons learned to assist DOL in improving its programs and operations for future emergencies.

Our Office of Investigations plans include:

1. OIG will continue to evaluate ongoing, long-term, complex criminal investigations with an emphasis on UI fraud schemes:
  - Allocate resources to high-impact multistate fraud schemes;
  - Prioritize the most significant investigations and dedicate appropriate resources and expertise to those investigations; and
  - Determine if new fraud schemes emerged as a result of additional COVID-19 funding and will notify DOL program agencies about those new schemes.
2. Upon the conclusion of high-impact investigations, OIG will:
  - Relay significant concerns, programmatic weaknesses, and lessons learned via investigative notices to the Department;
  - Make legislative recommendations related to vulnerabilities discovered during investigations as a result of the COVID-19 funding;
  - Evaluate the initial investigative response, case results, and final outcomes;
  - Identify significant OIG and program challenges encountered and determine future initiatives based on investigative findings; and
  - Consider establishing new policies and procedures or revising existing policies to more efficiently meet the OIG investigative mission.

More information concerning our pandemic-focused UI work can be found [at the UI oversight section of our website](#).<sup>70</sup>

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<sup>70</sup> For specific information on our oversight of the unemployment insurance program, please visit that section of our website, available at: <https://www.oig.dol.gov/doloiguioversightwork.htm>.