

ETA Response to Draft Report

**U.S. Department of Labor**

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



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

FROM: JANE OATES *Jane Oates*  
Assistant Secretary for Employment and Training

SUBJECT: Office of the Inspector General Draft Audit Report No. 04-12-001-03-315 -- *ETA Did Not Use Compatible Data in Its Overpayment Detection Measure Which Overstated the Effectiveness of Its Overpayment Detections*

Thank you for the opportunity to respond to the draft audit report cited above. I would like to reiterate my commitment that the prevention, detection, and recovery of improper payments in the Unemployment Insurance (UI) program are and will remain top priorities for the Employment and Training Administration (ETA). I am pleased to report that as a result of ETA's focus on addressing improper payments, actions to address the findings and recommendations in this report have either already been completed or are well under way.

We will continue to work with the state workforce agencies to support their efforts to reduce improper payments and provide technical support to facilitate their implementation of overpayment prevention, detection, and recovery tools. Additionally, we will continue to work with our Regional Offices to ensure that all UI program monitoring and reporting requirements related to overpayment detection are fully met.

I have attached our responses to the findings and recommendations in the report. If you have questions, please contact Gay Gilbert, Administrator of the Office of Unemployment Insurance, at 202-693-3029.

Attachment

**Employment and Training Administration (ETA) Comments On  
Office of the Inspector General (OIG) Draft Report No. 04-12-001-03-315**

ETA has been working aggressively with states to address the issue of UI improper payments. As a result of that work, actions to address the findings and recommendations in this report have either already been completed or are well under way. Below are ETA's specific responses to the findings and the recommendations in this report.

**Finding 1— ETA did not use compatible data in its overpayment detection measure.**

ETA was aware that Extended Benefits (EB) program data should not be included in the detection component of this measure and began taking steps to make changes to the state data collection instrument, the ETA Overpayment Detection and Recovery Activities report (ETA 227), in January 2011. The new reporting requirements addressing this issue were implemented in January 2012 with the issuance of Unemployment Insurance (UI) Program Letter No. 8-12. We note that in non-recessionary times, the number of EB claims is relatively small and does not substantially skew the measure.

The revised ETA Overpayment Detection and Recovery Activities report enables states to report overpayment detection and recovery data separately for State UI, UCFE/UCX, and EB. States began reporting using the revised format with the March 2012 quarter report. Sufficient data have been reported as of the June 2012 reporting period to allow ETA to separate the State UI and UCFE/UCX portions of state overpayment detections from detections of EB program overpayments.

The report also notes findings from a previous audit related to the fact that ETA includes overpayment estimates for only the State UI and UCFE/UCX programs in the overpayment detection measure and does not include overpayment estimates for the temporary Emergency Unemployment Compensation (EUC) program or the EB program. As you noted in the report, there are significant barriers to the inclusion of the EUC and EB program payments in the Benefit Accuracy Measurement (BAM) survey, from which overpayments are estimated. A complete rewrite of the BAM sample selection and database management software and a substantial increase in state BAM staff are required to conduct the audits of the EB and EUC claims. These changes would be extremely costly and may not have a return on investment that supports the utilization of scarce funds for this purpose, given the temporary nature of the programs.

ETA plans to engage a contractor to conduct a comprehensive review of the BAM methodology that will include a review of the feasibility and cost effectiveness of extending BAM to include EB and temporary emergency compensation programs. This study will be completed within the next year. The findings of this study will serve as the basis for more precisely estimating the staff and information technology (IT) resources that will be required to integrate EB and the temporary federal programs into BAM.

ETA also notes that although temporary and episodic unemployment compensation programs are not included in the overpayment detection measure, State Benefit Payment Control (BPC) operations include EB and EUC payments in their overpayment detection activities such as matching with the National Directory of New Hires (NDNH), state wage record files, Social Security Administration records, and state correctional, worker compensation, and motor vehicle databases. Several state agencies also conduct work search audits to ensure compliance with EB and EUC eligibility requirements. The *Middle Class Tax Relief and Job Creation Act of 2012* requires state work search audits of EUC claims.

Finally, ETA has issued UI Program Letter No. 29-12 on August 21, 2012, to provide guidance to states about their ongoing responsibilities for preventing, detecting and recovering improper payments of the EUC, EB and Federal Additional Compensation programs, and inform states of a new management information measure to capture states' progress in conducting and improving their program integrity activities related to these Federally funded programs.

ETA intends to continue the concentrated effort to maximize the compatibility of data captured in overpayment detection systems to the extent that the expenditure of resources generates a return on investment that merits such prioritization of scarce resources.

**Finding 2 — ETA's efforts to ensure states' compliance with NDNH cross-match requirements have not been fully successful.**

The NDNH, as well as the individual state directories of new hires, are critical tools to support estimation of the UI improper payment rate through the BAM survey and to prevent and detect UI improper payments. ETA has consistently monitored state progress in meeting the NDNH matching requirements. As noted in the draft OIG report, ETA's Regional Offices conduct Methods and Procedures reviews of the states' BAM programs biennially. These formal biennial reviews and ongoing monitoring are used to determine if the state agency's BAM operations are being administered in compliance with BAM organizational and methodological requirements in the BAM State Operations Handbook (ET Handbook 395), including the NDNH matching requirements.

The National Office provides technical support to the Regional Offices to ensure that the states' BAM NDNH crossmatch requirements are in compliance and also provides technical assistance to facilitate state compliance with the requirements. As noted in the draft OIG report, California is the only state not currently matching with NDNH, although it is matching with its state directory of new hires. According to California's Corrective Action Plan (CAP), the state has completed the IT tasks needed to match with the NDNH and has indicated it will begin to submit test files in September 2012. Currently, Regional and National Office reviews have identified six states (Connecticut, Kentucky, Minnesota, New Mexico, Ohio, and Puerto Rico) that are matching with NDNH but have minor technical issues, such as the date parameters that they request for the match.

As noted in your report, ETA issued UI Program Letter No. 19-11 providing guidance to states regarding the recommended operating procedures for effectively using NDNH for BPC operations to support the prevention and detection of improper payments. In fiscal year (FY)

2011 and FY 2012, ETA has offered supplemental funding opportunities for states to implement the recommended operating procedures for NDNH, which is one of the conditions for states to receive any additional supplemental funding. In FY 2011, ETA awarded approximately \$25 million for state activities related to preventing overpayments due to claimants who continue to claim UI benefits after they return to work, including the use of NDNH matching. FY 2012 supplemental funding will be awarded in September. Thus far, 43 states have adopted the recommended operating procedures for NDNH matching.

ETA intends to continue to provide all available assistance to states to ensure that states maximize cross-matching capabilities with NDNH.

**Finding 3 — ETA did not always ensure data used in the measure was validated.**

ETA is pleased to see that the report acknowledges the significant actions ETA has already taken to ensure that UI data used in the overpayment detection measure were validated. With the issuance of the UI Data Validation (DV) Monitoring Guide (ET Handbook 412) on February 22, 2012, ETA has established a vigorous monitoring program to ensure the validity of DV results. Field Memorandum (FM) No. 1-12 instructed the Regional Offices to begin monitoring state DV operations immediately and provided an implementation schedule. This monitoring will ensure that states that have reported passing DV populations are following the prescribed DV methodology and that their reported results are valid.

With respect to state completion of UI DV requirements, states have reported various barriers to the completion of DV requirements, including IT resource constraints to develop the required DV extract files and administrative decisions to place a higher priority on other UI program requirements, such as the programming required for the implementation and/or extension of temporary and episodic federal programs.

ETA has recently contracted with the National Association of State Workforce Agencies (NASWA)'s Information Technology Support Center (ITSC) to conduct a comprehensive assessment of state implementation of the UI DV program and provide training and technical assistance to selected states. Details concerning this technical assistance contract are discussed in our response to Recommendations 3 and 4, below. ETA will continue to require states that fail to submit required populations for UI DV to address these deficiencies in a CAP submitted through the State Quality Service Plan (SQSP).

With respect to Regional Office completion of mandatory reviews of BAM cases, the Federal Monitoring Handbook for BAM (ET Handbook No. 396), which has been in place since shortly after the beginning of the mandatory BAM program in 1988, includes detailed instructions on the requirements of Regional Office monitoring. The handbook includes specific dates and guidance for all monitoring requirements in chapter VIII, "Review Documentation and Regional Office Reporting." The Regional and National Offices, both at the staff and management levels, are in nearly daily communications concerning program requirements. Any issues involving the completion of required tasks and reports are discussed and resolved.

ETA notes that in a few instances, a technical issue with the Regional monitoring software prevented Regional monitors from closing the cases. These instances were reported to the National Office, which manually closed the cases. The National Office has subsequently corrected the software issue.

ETA remains committed to working closely with the Regional Offices to ensure the comprehensive and timely review of BAM cases.

## **RECOMMENDATIONS**

As stated previously, ETA has been working aggressively with states to address the issue of UI improper payments. As a result of that work, actions to address the findings and recommendations in this report have either already been completed or are well under way.

### **1. Ensure the overpayment detection management information measure for EB is implemented and accurately report detectable overpayment activities.**

States have begun reporting the revised ETA Overpayment Detection and Recovery Activities report (ETA 227 report) to support the separate reporting of State UI, UCFE/UCX, and EB program overpayment and recovery data. As noted above, ETA has issued UIPL No. 29-12 to disseminate management information measure results to the states. ETA plans to publish overpayment detection and recovery management information on the Office of Unemployment Insurance (OUI) Web site (<http://oui.doleta.gov/unemploy/>) beginning with the 2012 Payment Recapture Activities Report, required by the Improper Payments Elimination and Recovery Act, which will be published in November 2012.

### **2. Ensure that states properly cross match BAM samples to NDNH.**

As noted above, all states except California are matching BAM cases with the NDNH. ETA will continue to work with the states that are not fully compliant with the NDNH technical match parameters and provide technical assistance to ensure that all states are following the prescribed procedures for BAM NDNH matching. By September 30, 2012, ETA will announce additional resource grants through the Supplemental Budget Request process to support state integrity activities, including meeting the NDNH matching requirements.

### **3. Develop and implement clear guidance for states on properly conducting data validation.**

ETA has developed ET Handbook 361 for DV Benefits (published in November 2009, revised in July 2011) and Tax (published in May 2011) and ET Handbook 411, the DV Operations Guide (published in October 2010), which explains how to navigate the Benefits and Tax applications of the DV State Web Software. ETA has also issued supplemental guidance on specific DV topics, such as Module 3 (documentation of state UI rules), Module 4 (validation of Benefit Timeliness and Quality, Appeals, and Tax Performance System), and specific UI reports that are validated. These are all available to states on the OUI DV Web site, <http://workforcesecurity.doleta.gov/dv/>.

overpayments established, recovered, and reconciled that states reported on the ETA 227 report. A contractor was selected by ITSC in June 2012 to perform this assessment. The contractor will complete three tasks. First, in consultation with the National Office, the contractor will develop an assessment plan. Next, the contractor will thoroughly assess each state's validation status and operation, identifying the reasons for each state's success or lack of success in implementing the DV system and establishing the validity of its reports data. Information on reasons for success will be disseminated to all states as best-practice guidance. In Task 3 of the project, the contractor will develop a Technical Assistance Plan, which will include its recommended approach for delivering training and technical assistance to all states, and specifically ensure that at least five states are trained on DV methodology and 10 states are provided technical assistance in conducting DV tasks. The Technical Assistance Plan will identify specific state needs, including grouping the states by common conditions that can be addressed collectively. The plan will identify recognized system-wide problems and develop solutions.

**4. Ensure all states conduct data validation for actual overpayment data as required by ETA Handbook 361.**

States validate the overpayment detection and recovery data reported on the ETA 227 report by creating files from their management information databases (referred to in DV as populations), and comparing the record counts of these files with the reported data. Samples of these records are also examined to validate that they are properly defined and classified (for example, that a reported fraud overpayment is in fact properly classified as fraud). ETA has completed modification of the DV software to reflect changes in the ETA 227 report, including the addition of a new DV population to verify section B of the report -- Overpayments Established - Methods of Detection. OUI conducted a webinar in September 2011 on DV Report Validation (validation of the reported counts) and plans to conduct a webinar on the validation of changes to the ETA 227 report on September 19, 2012.

ETA will continue to monitor state compliance with all DV requirements, including those directly related to the validation of overpayment detection and recovery data. States that have failed to submit required DV populations must address this deficiency in a CAP as part of their SQSP, which includes milestones by which the state plans to be in compliance. States must address populations that fail DV in their SQSP narrative by including measures that they will take to ensure that these populations pass validation. The Regional Offices monitor state progress in meeting the outcomes included in these CAPs and narratives and coordinate with the National Office if technical assistance or other remedial measures are required.

As discussed in our response to Finding 3 and Recommendation 3, ETA has recently engaged contractor support to conduct a comprehensive assessment of state implementation of the UI DV program and provide training and technical assistance to selected states. The contractor will conduct on-site assessments in up to nine states and will review all state DV CAPs and narratives. The National Office has also requested that Regional Office DV coordinators work with their states to complete DV tracking tables that the National Office has developed to assess the degree to which states are meeting their DV requirements. This information will be shared with the contractor. After the data collection and assessment phase, the contract will identify

with the contractor. After the data collection and assessment phase, the contract will identify barriers that are preventing states from fully complying with DV requirements and develop recommendations to promote state compliance.

**5. Ensure regional offices perform effective monitoring of states' efforts for conducting data validation properly.**

As discussed in our response to Finding 3, ETA has issued instructions to the Regional Offices on required monitoring of state DV operations (FM No. 1-12). The National Office will work closely with Regional Offices to address any challenges in implementing the monitoring instructions, and to assist in meeting the requirements of FM No. 1-12 and the ET Handbook No. 412 DV Monitoring Guide. National Office staff will also join Regional Office staff in joint data validation reviews as feasible.

**6. Ensure regional offices close reviews of the states' sampled BAM survey cases used in their estimates of detectable overpayments.**

OUI will continue to work cooperatively with our Regional leadership to ensure that monitoring of BAM cases fully meets the requirements of ET Handbook 396. We have initiated discussions with the Regional Office UI program managers to ensure that BAM monitoring is integrated into a comprehensive Regional monitoring plan, which includes all benefits, tax, and appeals UI program activities. OUI will also ensure that any technical issues associated with the BAM monitoring software are promptly addressed by the IT support staff to ensure that Regional staff is able to close cases.