

TRAINING AND EMPLOYMENT NOTICE	NO. 43-08
	DATE May 11, 2009

TO: STATE WORKFORCE AGENCIES

FROM: CHERYL ATKINSON
 Administrator
 Office of Workforce Security



SUBJECT: Selected Unemployment Insurance (UI) Tax Data from Form ETA 581 (OMB Approval No. 1205-0178), Contribution Operations for the Calendar Year (CY) Ending December 31, 2008

- Purpose.** To provide a summary of selected ETA 581 data with associated charts and tables for CY 2008.
- References.** ET Handbook No. 401, 4th Edition, May 9, 2007, Section II, Chapter 2; ET Handbook No. 407, 4th Edition, November 20, 2003; Unemployment Insurance Program Letter (UIPL) No. 14-05, "Changes to UI Performs"; UIPL No. 14-05, Change 1; Training and Employment Guidance Letter No. 20-07, "Government Performance and Results Act (GPRA) Unemployment Insurance (UI) Program Goals: Fiscal Year (FY) 2007 Performance and Performance Targets for FY 2008 and FY 2009"; Form ETA 581 (OMB Approval No. 1205-0178).
- Background.** UI tax performance data and computed measures (CMs) for CY 2008 are presented in this summary report. The information is derived primarily from the quarterly ETA 581 Contribution Operations report. Although this is a summary of CY 2008 activity, many of the charts in this analysis show quarterly data due to the cyclical nature of tax functions.

State and Regional CM percentages for each of the 19 measures, along with the raw data used for computation of the percentages, are displayed in 13 CM tables that may be viewed on the Employment and Training Administration web site at: http://www.workforcsecurity.doleta.gov/unemploy/nat_sum_tables_2008.asp.

The information included in this Training and Employment Notice and the referenced CM tables are based on data in the database as of April 3, 2009. Due to occasional ETA 581 report adjustments made by states, the attached charts and tables and the referenced CM tables may differ from more current information. Current CM information is available on the web page, although displayed in less detail, at: <http://www.ows.doleta.gov/unemploy/tps.asp>.

- Action Requested.** State Administrators are requested to distribute this advisory to appropriate tax program staff.
- Inquiries.** Inquiries should be directed to the appropriate regional office.

6. **Attachments.**

A-Summary of National UI Tax Performance Data for CY 2008

B-Analysis of ETA 581 Data for CY 2008

Attachment A – Summary of National UI Tax Performance Data

Summary of National UI Tax Performance Data Selected Data from State ETA 581 Reports Calendar Year Ending December 31, 2008

Subject Employers – National Totals

	<u>Contributory Employers</u>	<u>Reimbursing Employers</u>	<u>Total Employers</u>
Totals as of 12/31/2007	7,566,113	99,270	7,665,383
Totals as of 12/31/2008	7,603,129	99,626	7,702,755
Change during CY 2008	37,016	356	37,372

Status Determination Promptness – CMs 1-4 (Detailed on Table 1)

	<u>Determinations</u>	<u>90 Days or Fewer</u>	<u>180 Days or Fewer</u>
New Employers	874,816	84.4%	90.6%
Successor Employers	120,697	62.8%	76.2%

Employer Report Filing - CMs 5-10 (Detailed on Tables 2-3)

	<u>% Filed Timely</u>	<u>% Secured</u>	<u>% Resolved</u>
Contributory Employers	88.8%	92.5%	96.6%
Reimbursing Employers ¹	92.2%	97.4%	98.9%

Collections Activity – CMs 11-16 (Detailed on Tables 4-9)

	<u>% Paid Timely</u>	<u>% of Receivables Declared Uncollectible/Doubtful</u>	<u>% of Amt. Due Remaining Unpaid at Year End</u>
Contributory Employers	91.2%	1.2%	2.5%
Reimbursing Employers	84.7%	1.1%	3.7%

Receivables (Delinquency) (See Tables 6-9)

	<u>Beginning Bal (1/1/08)</u>	<u>Ending Bal (12/31/08)</u>	<u>Removed due to Uncollectible & Age -2008</u>
Contributory Employers ²	\$812,466,285	\$770,842,077	\$332,657,403
Reimbursing Employers	\$72,304,638	\$70,310,153	\$20,014,872
Total Receivables	\$884,770,923	\$841,152,230	\$352,672,275

National Audit Activity CY 2008 (See Audit Tables 10-13)

Field Audits Completed ³	110,956	% Audit Penetration – Objective 2%	1.5%
Large Emp. Audits completed ⁴	3,252	% of Completed Audits that were Large	2.2%
Number of Change Audits	51,164	% of Audits Resulting in Changes	46.1%
Total Wages Audited (pre-audit)	\$56,115,891,942	% of Total Wages Audited - Annualized	1.1%
Total Wages Changed	\$3,628,656,825	% of Total Wages Changed	6.5%
Total Wages Under Reported	\$3,072,609,885	Contributions Under Reported	\$42,447,730
Total Wages Over Reported	\$556,046,940	Contributions Over Reported	\$5,553,108
Total Wages Audited (post-audit)	\$58,632,454,887	Gross Change (contributions)	\$48,000,838
Average Time Per Audit	7.6 Hours	Average Quarters Audited	4.5 Quarters
Employees discovered in audits that had been misclassified as independent contractors			209,109

Footnotes

- 1 Computations exclude Massachusetts (MA), since MA does not report data for this item.
- 2 Mississippi 's receivable balance is excluded from the US total on CM Table 8, but is included in the 2008 ending balance above.
- 3 The Employment Security Manual (ESM) requires states to audit 2% of the count of contributing employers taken on 9/30 of the preceding year. Using this formula, the national objective was 150,430 audits for CY 2008.
- 4 The ESM requires that 1% of the above 2% audit objective qualify as large employer audits, which computes to 1,504 audits.

Attachment B – Analysis of ETA 581 Data

Analysis of ETA 581, Contribution Operations Data for CY 2008

Subject Employers

The number of active employers subject to state unemployment compensation coverage grew to 7,702,755 by the end of December 2008, an increase of 37,372 (.5%) employers for the 2008 CY. The count includes both contributory and reimbursing employers from all 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico.

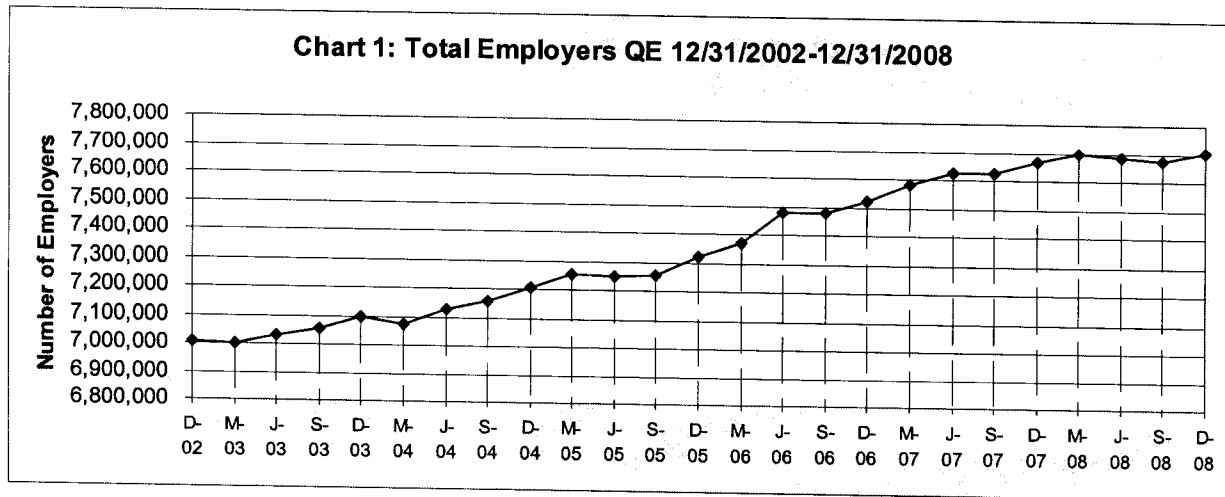


Chart 1 above illustrates the relatively stable quarterly growth of covered employers over the last six years (12/31/2002-12/31/2008). Average annual growth, including both contributory and reimbursing employers, for this six year period has been 116,615 new employers per year. However, growth in 2008 in the amount of 37,372 was smaller than the average growth in the previous five years (132,463). During 2008, the number of covered employers increased in 36 states and decreased in 17 states.

The Tax Performance System (TPS) Review and Computed Measures (CM)

An important element of the TPS review is the calculation and evaluation of the nineteen CMs. CM percentages are based on aggregate information taken from the quarterly ETA 581 reports, the monthly ETA 2112 reports (OMB Approval No. 1205-0154), and the quarterly ES 202 program. CMs indicate the timeliness and completeness with which basic and essential unemployment insurance tax transactions occur.

Aggregate national CMs provide a basis for comparing individual state performance with national performance. Please note that national CMs are aggregate percentages rather than an average of individual state scores. Therefore, large states and small

states each affect the national scores in direct proportion to the volume of transactions reported.

Status Determinations: New Employers

Timely discovery of liable employers and the prompt establishment of new accounts are tax functions vital to the successful operation of a state UI tax program. For example, the functions affect the timely processing of UI claims and payment of benefits to eligible recipients. Computed measures 1- 4, as shown on Attachment A, concern the timeliness in which states determine liability and establish accounts for new and successor employers. These measures indicate successful state UI tax program management. For a complete listing of the CMs for CY 2008 for new and successor determinations, see CM Table 1 at:

http://www.workforcesecurity.doleta.gov/unemploy/nat_sum_tables_2008.asp.

Due to the importance placed on New Status Determinations, UI Performs includes a core measure that sets a minimum level of performance for timely discovery and establishment of new employers. The expected minimum level of performance for this measure for CY 2008 was to establish 70% of new accounts within 90 days from the last day of the quarter in which the new entities first became liable. For CY 2008, 49 of the 53 reporting states achieved the 70% or greater acceptable level of performance. Arizona (67.9%), Kansas (67.0%), Puerto Rico (52.8%) and Wisconsin (69.5%), did not meet the timely determinations measure for the CY. Nationally, 84.4% of new status determinations were made within 90 days for CY 2008. Table 1, which appears at the end of the next section "Status Determinations: Successor Employers", provides a summary of the performance over the last six CYs for both new employer determinations and successor employer determinations.

The Office of Workforce Security (OWS) also established a Government Performance and Results Act (GPRA) goal for New Determinations. The GPRA goal, in contrast to the 70% UI Performs minimum acceptable level of performance, was set higher at 84.9% for FY 2008 (10/1/2007 – 9/30/2008). Nationally, OWS met the FY 2008 goal with a new employer timely status determination percentage of 84.9%. The national GPRA goal for FY 2009 (10/1/2008 – 9/30/2009) is 88.7%.

The number of new employer status determinations declined during CY 2008. States reported making 874,816 new employer liability status determinations in CY 2008 compared to 924,378 reported for CY 2007, a decrease of 49,562 determinations. The count of new status determinations, as reported in item 14 on the ETA 581 report, includes all determinations of liability made within the ETA 581 report quarter of employers who have actually met a state threshold of liability, plus determinations that reactivated inactive accounts.

Chart 2 below displays graphically the typical surge in the number of new status determinations that occurs during the January – March quarters, contrasted with the lower count of determinations during the quarters ending in December.

Chart 2: Volume of New Status Determinations by Quarter

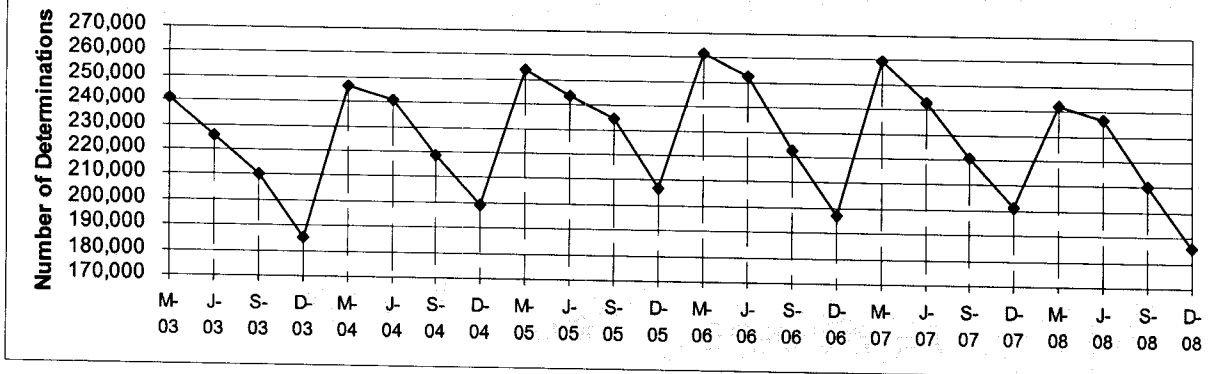
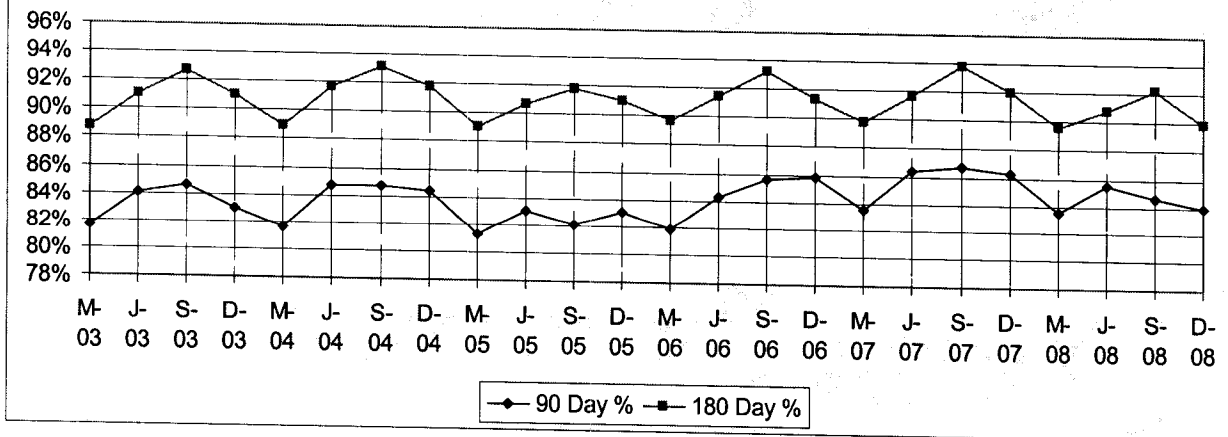


Chart 3 below graphs the percentages for new employer determinations completed within 90 and 180 days. Normally, the percentages for determinations completed within 180 days parallel the 90 day percentages in a regular quarterly cycle. Also, the quarterly percentage of determinations completed within 90 days declines in the first quarter of the CY and peaks in the third quarter. Chart 3 shows that performance in calendar years 2005 and 2008 differed from the norm. The quarterly fluctuations show why it is more meaningful to analyze computed measures for status determinations on a CY or FY basis.

Chart 3: New Employer Determinations % Completed Within 90 & 180 Days



Status Determinations: Successor Employers

Similar to status determinations for new employers, the largest volume of status determinations for successor employers occurred in the first and second quarters of each calendar year. Chart 4 below shows graphically the quarterly fluctuations of status determinations for successor employers.

Chart 4: Number of Successor Determinations by Quarter

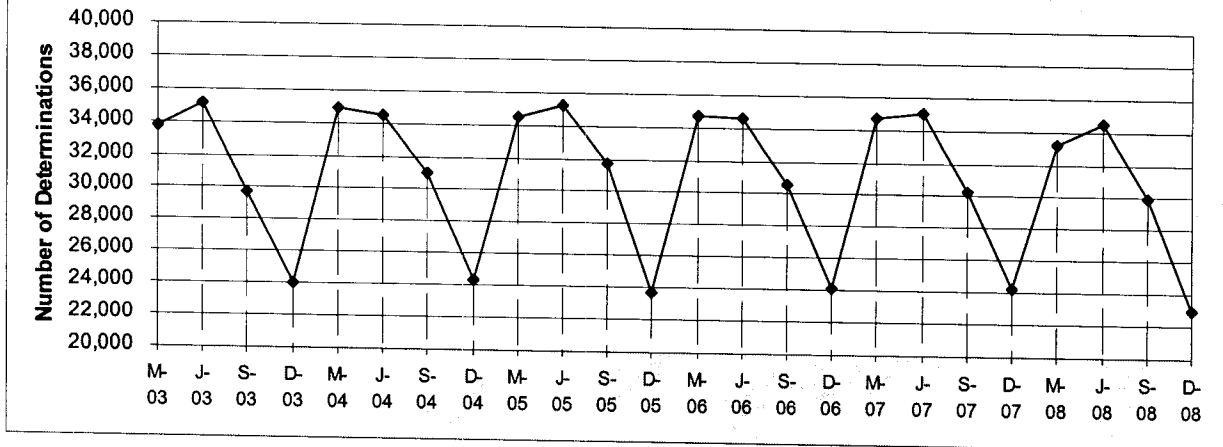
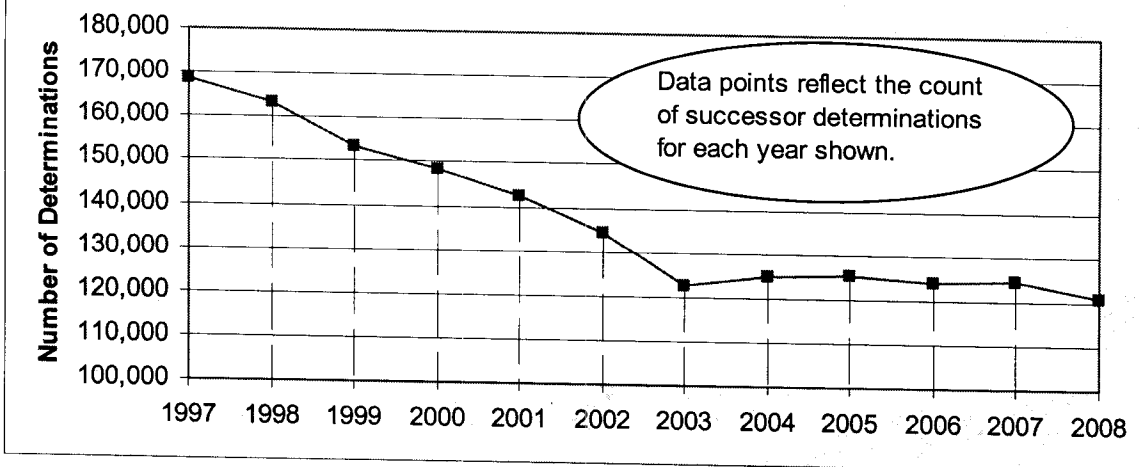


Chart 5 below summarizes the trend of successor determinations made by states since 1997. From 1997 through 2003, total successor determinations decreased each year. From 2003 through 2007 yearly successor determinations remained fairly constant. In 2008, total successor determinations decreased by 3,514 from the number of successors determined in 2007.

Chart 5: Number of Successor Determinations by CY 1997-2008



There was no change to the tendency for successor determinations to take longer than new liability determinations in 2008. This is illustrated in Table 1 below by comparing the percentages in the New within 90 Days column with the Successor within 90 Days column. The percentage of timely successor determinations is lower than new liability determinations for all six of the calendar years shown below. Moreover, the time needed to complete successor determinations has increased each year since 2004.

Table 1: New and Successor Status Determinations						
Year	New Determinations	New within 90 Days	New within 180 Days	Successor Determinations	Successor within 90 Days	Successor within 180 Days
2003	861,661	83.3%	90.8%	122,628	70.7%	83.1%
2004	904,784	83.8%	91.3%	124,819	71.2%	83.1%
2005	938,927	82.3%	90.6%	125,276	69.1%	81.6%
2006	933,982	84.2%	91.4%	124,122	68.8%	81.5%
2007	924,378	85.7%	91.7%	124,211	66.6%	79.6%
2008	874,816	84.4%	90.6%	120,697	62.8%	76.2%

Timely, Secured and Resolved Filing of Contribution Reports

Six computed measures show the promptness with which employers file quarterly contribution and wage reports with the states. Three CMs measure contributory employers and three similar CMs measure reimbursing employers. The measures for report filing follow:

- 1) The percentage of timely contribution reports received by the states - This CM measures reports for the quarter immediately preceding the ETA 581 report quarter that were filed prior to the delinquency date during the ETA 581 report quarter.
- 2) The percentage of secured delinquent contribution reports obtained by the state during the ETA 581 report quarter - This CM measures reports from the quarter immediately preceding the ETA 581 report quarter that are either secured by state staff or voluntarily filed between the date on which the reports first became delinquent and the end of the ETA 581 report quarter. Since the secured report count (items 7 and 10 on the ETA 581 report) includes all of the timely reports, the number of secured reports must always be equal to or greater than the number of timely reports reported in items 6 and 9 on the ETA 581 report.
- 3) The percentage of delinquent reports that are resolved by the end of the report quarter - This CM measures delinquent reports from the second quarter preceding the ETA 581 report quarter that are resolved by the end of the report quarter. States may count a delinquent report as resolved by: a) determining that the report is no longer due, inactivating the account, or closing the account; b) establishing a judgment or assessment that is legally due and collectable for the estimated amount of tax due; or c) by receipt of the report through some other means such as voluntarily filing, field auditor contacts, subpoenaing records, etc. Because resolved reports (items 8 and 11 on the ETA 581 report) include all of the secured reports reported for the second tax report quarter prior to the ETA 581 report quarter, the number of resolved reports reported in item 11 on the ETA 581 report must be equal to or greater than the number of secured reports reported in items 7 and 10 on the previous ETA 581 report.

Additional information about the computed measures for report filing data can be found at: <http://www.ows.doleta.gov/unemploy/tps.asp>.

Filing Reports – Contributing Employers

Table 2 below provides a comparison of the national computed measures for contributory employers for the last six years.

Calendar Year	% Timely	% Secured	% Resolved
2003	88.2	92.5	97.0
2004	88.2	93.1	97.1
2005	88.3	93.1	97.4
2006	88.5	92.8	97.8
2007	88.3	92.3	97.0
2008	88.8	92.5	96.6

Filing Reports: Reimbursing Employers

Fifty-two of 53 states are now reporting their counts of timely, secured and resolved reimbursing employer contribution reports that are received and processed during the ETA 581 report quarters. Massachusetts is not yet reporting this data but is expected to begin receiving and reporting reimbursing employer report data soon. The performance percentages shown in Table 3 below for calendar years 2003 through 2006 include approximately 2,850 Massachusetts reimbursing employers. Because Massachusetts did not report a count of the timely, secured and resolved reports from reimbursing employers, including them in the employer count lowered the national aggregate percentages for those years. However, reimbursing employers for Massachusetts were excluded from performance percentages for 2007 and 2008. Consequently, the national aggregate percentages for 2007 and 2008 are higher than previous years.

Calendar Year	% Timely	% Secured	% Resolved
2003	80.4	86.4	88.3
2004	81.7	86.8	88.1
2005	83.7	88.2	88.8
2006	86.3	92.0	93.7
2007	90.2	95.7	97.0
2008	92.2	97.4	98.9

Receivables – Contributory and Reimbursing Combined

Chart 6 below tracks the amount of receivables past due as of the end of each quarter for calendar years 2003 to 2008. The amounts were reported by states on quarterly ETA 581 reports. Chart 6 includes receivables past due from contributory and reimbursing employers.

Although the trend line on Chart 6 shows that past due receivables have generally increased over the years, the ending balances at the end of 2007 and 2008 have decreased from their respective prior years. Table 4 below shows the actual amount of past due receivables as of the end of each calendar year and the changes between years.

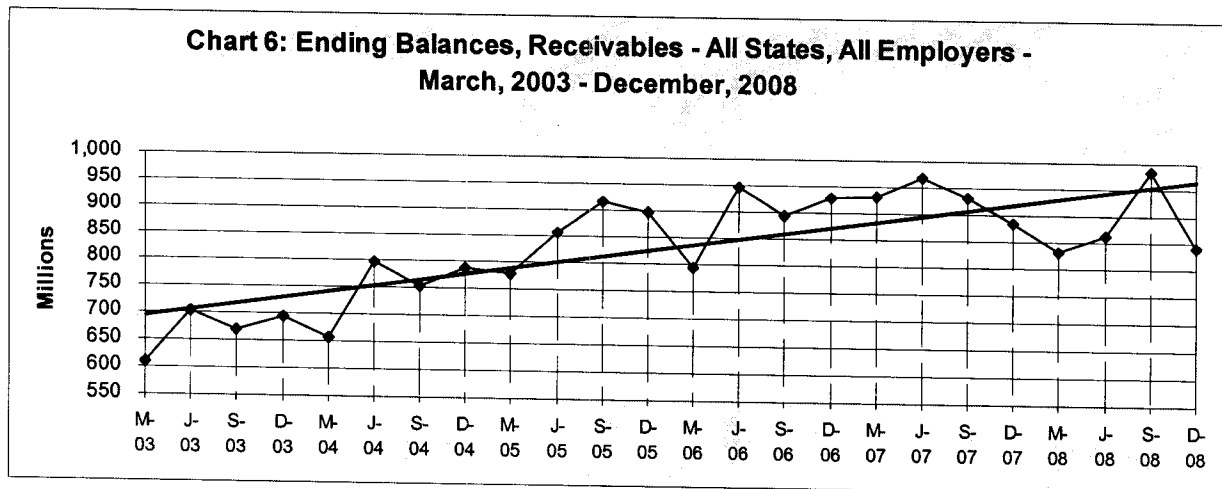


Table 4: Receivable Balances - All Employers - All States

Year	CY Ending Balance for Contributory Employers	CY Ending Balance for Reimbursing Employers	Total Past Due Receivables at End of CY	Change in Dollars from Previous CY	Percentage Change from Previous CY
2003	601,726,827	93,638,818	695,365,645	\$31,422,320	4.7%
2004	699,471,080	87,540,250	787,011,330	\$91,645,685	13.2%
2005	820,906,453	75,708,553	896,615,006	\$109,603,676	13.9%
2006	852,437,577	76,673,915	929,111,492	\$32,496,486	3.6%
2007	812,466,285	72,304,638	884,770,923	(\$44,340,569)	-4.8%
2008	770,842,077	70,310,153	841,152,230	(\$43,618,693)	-4.9%

Audit Activity

The OWS measures three state audit functions: 1) the percent of total wage changes resulting from audit adjustments, 2) the percent of contributory employers audited, and 3) the percent of total wages audited (annualized). Although not a computed measure, the number of employees misclassified as independent contractors were counted and reported by the states when discovered in audits, beginning in the first quarter of 2000.

As set out in the Employment Security Manual (ESM), states are expected to audit 2% of their contributory employers each year. The ESM also requires that 1% of the 2% requirement qualify as large employers. The ESM defines "large employer" as an employer with at least 100 employees during the current or preceding CY or with at least one million dollars in taxable wages for the CY preceding the first quarter being audited. To compute the number of audits required per year, states should multiply

2.0% times the number of contributory employers counted at the end of the third quarter of the preceding CY.

Table 5 below shows national totals for each of the three audit computed measures plus additional audit information.

Year	Audits Complete	Change Audits	% of Contributory Employers Audited	% of Audits Qualified as Large Audits	% of Pre-audit Total Wages Changed	% of Total Wages Audited (annualized)	Employees Misclassified as Independent Contractors
2003	116,281	49,114	1.7%	2.2%	4.9%	1.3%	123,044
2004	120,243	50,998	1.7%	2.3%	5.1%	1.3%	139,554
2005	116,124	50,088	1.6%	2.3%	5.2%	1.2%	132,965
2006	116,463	50,437	1.6%	2.5%	5.3%	1.2%	160,000
2007	117,486	50,032	1.6%	2.3%	12.2%	1.7%	151,039
2008	110,956	51,164	1.5%	2.2%	6.5%	1.1%	209,109

For CY 2008 states completed 110,956 audits, which result in a national penetration rate of 1.5% of the contributory employers reported by states as of September 30, 2007. Discrepancies were found in 51,164 (46%) of the audits, and auditors discovered 209,109 employees that employers had misclassified as independent contractors. CM Table 13, may be viewed at:

http://www.workforcesecurity.doleta.gov/unemploy/nat_sum_tables_2008.asp. It shows that 26 states were successful in meeting the 2% penetration objective for CY 2008.

As shown in Table 5 above, the percentage of "Pre-audit Total Wages Changed" was 12.2% in 2007. The percentage of 12.2% for 2007 is correct. The percentage is larger than normal because the State of New York discovered a large amount of underreported wages as a result of auditing a high number of large employers. This is reflected in Table 6 below for 2007.

Year	Underreported Total Wages	Overreported Total Wages
2003	\$2,022,483,640	\$577,708,747
2004	\$2,242,798,141	\$604,335,021
2005	\$2,235,658,270	\$387,940,990
2006	\$2,570,351,349	\$494,602,132
2007	\$9,290,360,049	\$412,040,928
2008	\$3,072,609,885	\$556,046,940

Chart 7 below provides a quarterly comparison of audits to the number of misclassified employees that were discovered and reported on the quarterly ETA 581. The number of misclassified employees discovered by states increased in 2008 from prior years. The State of New York accounts for a large portion of the increase. New York discovered 46,450 more misclassified employees in 2008 than in 2007.

