

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
	CORRESPONDENCE SYMBOL OUI/DL
	DATE August 3, 2021

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 04-17, Change 1

TO: STATE WORKFORCE AGENCIES

FROM: SUZAN G. LEVINE 
Acting Assistant Secretary

SUBJECT: Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or Misconduct to the Department of Labor's (Department) Office of Inspector General's (DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits

1. **Purpose.** This Unemployment Insurance Program Letter (UIPL): (1) advises states that they must refer allegations which they reasonably believe constitute UC fraud, waste, abuse, mismanagement, or misconduct to DOL-OIG; (2) rescinds UIPL No. 29-05; (3) provides revised guidance that supersedes Section 5 of UIPL No. 04-17; and (4) requires states to disclose confidential UC information related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as amended, to the DOL-OIG for the purpose of UC fraud investigations and audits for the entire pandemic relief period.
2. **Action Requested.** The Department's Employment and Training Administration (ETA) requests that State Administrators provide the information in this UIPL to appropriate program and other staff in state workforce agencies involved in the cross-functional integrity task force, Benefit Payment Control, Internal Security (IS), and other integrity-related operations.
3. **Summary and Background.**
 - a. Summary – This UIPL provides a description of state responsibilities for notifying DOL-OIG of allegations which the state reasonably believes constitutes UC fraud, waste, abuse, mismanagement, or misconduct. Attachment I provides a memorandum from DOL-OIG that: i) describes DOL-OIG's process for accepting and reporting fraud, waste, abuse, or misconduct referred by states; ii) describes DOL-OIG's process for notifying states of the DOL-OIG's information requirements; and iii) sets forth states' responsibilities under the Inspector General (IG) Act.

RESCISSIONS UIPL No. 29-05	EXPIRATION DATE Continuing
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This UIPL rescinds and replaces UIPL No. 29-05, *Memorandum of Understanding Regarding Unemployment Insurance Criminal Investigations between the U.S. Department of Labor's Office of Inspector General and the Employment and Training Administration*, issued August 2, 2005.

This UIPL also supersedes Section 5 of UIPL No. 04-17, *Disclosure of Confidential Unemployment Compensation (UC) Information to the Department of Labor's Office of Inspector General (OIG)*, issued on December 16, 2016.

Additionally, Section 5 of this UIPL expands the description of responsibilities in Section 4 of this UIPL to require disclosure of confidential UC information for both UC fraud investigations and audits within the context of the CARES Act, as amended, including administering Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), Mixed Earners Unemployment Compensation (MEUC), and receiving full federal funding for the first week of regular UC for states with no waiting week in accordance with Section 2105 of the CARES Act, as amended. This required disclosure includes all weeks of unemployment covered by the CARES Act programs, which for most states will be weeks of unemployment beginning after January 27, 2020 through weeks of unemployment ending before September 6, 2021. This includes claims for these weeks of unemployment even if states are not able to process them until after September 6, 2021.

- b. Background – As discussed in UIPL No. 04-17, states must disclose confidential UC information to DOL-OIG for the purpose of investigating UI fraud, as a condition for proper and efficient administration of the UC program under Section 303(a)(1) of the Social Security Act (SSA). Furthermore, as ETA Grant Recipients, states are responsible for reporting instances of fraud as described in Training and Employment Guidance Letter (TEGL) No. 02-12, *Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct*.

DOL-OIG has a statutory mandate under the Inspector General Act (Pub. L. 95-452, as amended), other laws, and delegations by the U.S. Attorney General and Secretary of Labor to detect and prevent fraud, waste, and abuse in the Department's programs and operations. To carry out this mandate, DOL-OIG has the authority to conduct audits and investigations to discover fraud, waste, and abuse or inefficiencies, and to refer any findings to the appropriate program manager for action, or to the U.S. Department of Justice, U.S. Attorney, or cognizant prosecutor for criminal or civil prosecution.

ETA and states must continuously assess the UI program's vulnerabilities and seek new ways to ensure its integrity. In 2005, ETA and DOL-OIG executed a Memorandum of Understanding (MOU) to highlight DOL-OIG's role in investigating cases of fraud and other crimes in the UI program. The MOU defined the types of fraud required to be reported to the DOL-OIG and established monetary thresholds for states to refer cases to DOL-OIG. DOL-OIG agreed to assume responsibility for investigating certain fraud

cases that meet the established criteria and, upon request, to assist states in certain other incidences of fraud or abuse.

DOL-OIG plays an essential role in working collaboratively with states to investigate fraud in state UI programs. Over the years, joint investigations between DOL-OIG and states have led to successful prosecutions and monetary recoveries. Many of these investigations include successfully pursued sophisticated multi-state fraud schemes by organized criminal groups involving millions of dollars in fraudulent claims.

Additionally, the CARES Act (Pub. L. 116-136), enacted on March 27, 2020, provides, among other things, for states to enter into an agreement with the Secretary to administer the PUA, FPUC, and PEUC programs. States without a waiting week may also enter into an agreement with the Secretary to receive full federal funding of the first week of compensable regular UC. Section 2115 of the CARES Act included an appropriation to DOL-OIG to carry out audits, investigations, and other oversight activities related to the UI provisions of the CARES Act. Section 2116 of the CARES Act provides authority for ETA to issue operating instructions or other guidance necessary to carry out the UI-related provisions of the CARES Act. *See* UIPL No. 14-20. The Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act), set forth at Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), extended the dates for states to administer these programs and provided for states to also enter into an agreement with the Secretary to administer the MEUC program. *See* UIPL No. 09-21. The American Rescue Plan Act of 2021 (ARPA) (Pub. L. 117-2) further extended the dates for states to receive federal funding for the first compensable waiting week for regular UC and to administer the PUA, FPUC, PEUC, and MEUC programs through September 6, 2021. *See* UIPL No. 14-21.

4. **Guidance.** States must maintain a steadfast focus on UI program integrity broadly, and the prevention and detection of fraud and improper payments across all UI programs. States must adhere to federal laws and guidance establishing program eligibility requirements and the fundamental processes that ensure accurate benefit payments. UIPL No. 29-05 is now rescinded.
 - a. **State Responsibilities.** States are required to comply with the reporting and UC information disclosure processes outlined in the attached DOL-OIG memorandum. These reporting processes apply to all new and existing allegations which the state reasonably believes constitute fraud, waste, abuse, mismanagement, or misconduct.

This section supersedes Section 5 of UIPL No. 04-17. There is no federal requirement that state UI agencies must enter into an agreement with DOL-OIG before any disclosures of confidential UC information are made for the purposes of investigating UC fraud, including in 20 C.F.R. Part 603. In addition, if a state makes a permissive disclosure of confidential UC information under 20 C.F.R. Part 603.5(i) for audits of UC programs, there is also no federal requirement for an agreement.

States also have a responsibility to report without delay any suspected cases of fraud or abuse to their own state investigative agencies as required by state laws or regulations.

- b. **Payment of Costs for Disclosure of Information.** Reimbursement for the costs of states providing the information to DOL-OIG is not required, as disclosure of this information for the purpose of investigating UC fraud is necessary for the proper and efficient administration of the UC program. In addition, if a state makes a permissive disclosure of confidential UC information under 20 C.F.R. 603.5(i) for audits, reimbursement for the costs of states providing the information to DOL-OIG is not required. See 20 C.F.R. 603.8.
- c. **Rediscovery Parameters.** The DOL-OIG memorandum provided in Attachment I provides that DOL-OIG will “rediscover data and information only when necessary for purposes consistent with the IG Act, Privacy Act, and other applicable federal laws and regulations”. For purposes of UC programs, this includes the regulations set forth at 20 C.F.R. 603.9(c).

5. **Guidance Specific to Administration of the CARES Act UC Programs.** Within the context of administering PUA, FPUC, PEUC, MEUC, and full federal funding of the first week of regular UC for states with no waiting week that is reimbursed in accordance with Section 2105 of the CARES Act, as amended, states must disclose all information to DOL-OIG for the purposes of investigating UC fraud and for audits of UC programs. Within this context, states must adhere to the guidance provided in Section 4 of this UIPL.

States must also disclose all confidential UC information, including for the regular UC program, for audits for weeks covered by the CARES Act programs, which for most states will be weeks of unemployment beginning after January 27, 2020 through weeks of unemployment ending before September 6, 2021. This includes claims for these weeks of unemployment that states are not able to process until after September 6, 2021.

Further, there is no federal requirement that state UI agencies must enter into an agreement with DOL-OIG before any disclosures of confidential UC information are made for the purposes of investigating UC fraud and for audits of UC programs, including in 20 C.F.R. Part 603.

6. **Inquiries.** Please direct inquiries to the appropriate ETA Regional Office.

7. **References.**

- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136);

- Section 303(a)(1), SSA (42 U.S.C. 503(a)(1));
- Inspector General Act of 1978, Pub. L. 95-452, as amended;
- 20 C.F.R. Part 603 – *Federal-State Unemployment Compensation (UC) Program; Confidentiality and Disclosure of State UC Information*;
- UIPL No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5669;
- UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) - Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831;
- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390;
- UIPL No. 04-17, *Disclosure of Confidential Unemployment Compensation (UC) Information to the Department of Labor’s Office of Inspector General (OIG)*, issued December 16, 2016, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7523;
- TEGP No. 02-12, *Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct*, issued July 12, 2012, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9222;
- UIPL No. 29-05, *Memorandum of Understanding Regarding Unemployment Insurance Criminal Investigations Between the U.S. Department of Labor’s Office of Inspector General and the Employment and Training Administration*, issued August 2, 2005, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2104; and
- UIPL No. 04-01, *Payment of Compensation and Timeliness of Determinations during a Continued Claim Series*, issued October 27, 2000, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=1746.

8. Attachment(s).

- Attachment I: DOL-OIG Memorandum dated July 30, 2021, “Referral of Suspected Unemployment Insurance Fraud, Abuse, and Other Misconduct to the U.S. Department of Labor, Office of Inspector General, and Notification of Requirement for State Unemployment Insurance Information”



July 30, 2021

MEMORANDUM FOR: SUZAN G. LEVINE
Acting Assistant Secretary
Employment and Training Administration

FROM: MICHAEL C. MIKULKA *Michael T. Mikulka*
Assistant Inspector General
U.S. Department of Labor, Office of Inspector General
Office of Investigations-Labor Racketeering & Fraud

SUBJECT: Referral of Suspected Unemployment Insurance
Fraud, Abuse, and Other Misconduct to the U.S.
Department of Labor, Office of Inspector General, and
Notification of Requirement for State Unemployment
Insurance Information

The U.S. Department of Labor, Office of Inspector General (DOL-OIG) has a statutory mandate under the Inspector General Act (IG Act),¹ other federal laws, and delegations by the U.S. Attorney General and Secretary of Labor to detect and prevent fraud, waste, and abuse in DOL programs and operations. To carry out this mandate, the DOL-OIG is authorized to conduct audits and investigations and refer any findings to the appropriate program manager for action, or to the Department of Justice, U.S. Attorney, or cognizant prosecutor for criminal or civil prosecution. The purpose of this memorandum is to inform SWAs of the DOL-OIG's intake, processing, and investigation of UI matters referred by SWAs. This memorandum also informs SWAs of the DOL-OIG's notification process for UI information/data requirements.

I. SWA Notification to the DOL-OIG

State workforce agencies (SWAs) are obligated to report alleged or suspected unemployment insurance (UI) fraud, misfeasance, malfeasance, nonfeasance, waste and program abuse, mismanagement, misconduct, and other criminal activities to the DOL-OIG, to the Employment and Training Administration (ETA), or both. SWAs must also cooperate with the DOL-OIG during its engagements, in accordance with the IG Act.

When reporting alleged or suspected fraud, misfeasance, malfeasance, nonfeasance, waste and program abuse, mismanagement, or misconduct and other criminal activities to the DOL-OIG, SWA Administrators or their designees

¹ Pub. L. 95-452, 92 Stat. 1101, as amended.

should be cognizant of the DOL-OIG's criteria specified below. Allegations and suspicions should be promptly reported to the DOL-OIG through the DOL-OIG's regional Special Agent-in-Charge (SAC) with responsibility over the geographic area that encompasses the cognizant SWA.

When reporting to the DOL-OIG any allegations or suspicions that fit the criteria below, the SWA Administrator or designee will initiate contact by sending an e-mail to the responsible DOL-OIG SAC.

II. Criteria for Reporting to DOL-OIG

SWA Administrators or their designees report the following to the DOL-OIG:

- A. Suspected or alleged illegal or fraudulent activity with a loss in excess of \$10,000 from the following categories will be reported to the DOL-OIG, but with the understanding that upon mutual agreement between the regional DOL-OIG SAC and SWA Administrator the dollar threshold for reporting may be adjusted on a State-by-State or Regional basis for the following programs:
 - Unemployment Compensation for Federal Employees (UCFE);
 - Unemployment Compensation for Ex-Service Members (UCX);
 - Federal-State Extended Benefits (EB);
 - Disaster Unemployment Assistance (DUA); and
 - Any temporary UC program enacted by Congress.

- B. Suspected or alleged illegal or fraudulent activity in any amount from the following categories:
 - Internal and external thefts and embezzlements of UI administrative funds;
 - Any matter involving alleged misconduct by a U.S. DOL employee;
 - Fictitious/fraudulent employer schemes, potentially involving multiple states and/or international boundaries;
 - Schemes involving claims or taxes in multiple states and/or international boundaries;
 - Multi-claimant or multi-state schemes involving identity theft; and
 - Schemes involving counterfeit benefit checks or multi-victim forgery cases such as forged UI weekly certifications and forged UI check cashing.

- C. For allegations or suspicions related to the UI program that do not meet the criteria above, or when there is uncertainty on whether a suspicion or allegation should be reported, the SWA Administrator or designee should report the activity as outlined in Section I above, to the DOL-OIG to determine if further action is necessary.

- D. Nothing in this memorandum should be construed to limit the SWAs' ability to also report suspected fraud or other matters related to a U.S. DOL program or employee.

III. DOL-OIG Notifications of Investigations and Reporting

When a suspected fraud matter is referred to the DOL-OIG by an SWA, the DOL-OIG will inform the SWA Administrator or designee and ETA Regional Administrator in writing whether the DOL-OIG will initiate an action, including an investigation, based on the SWA's report. This notification will generally take place within 30 days of a referral being received by the DOL-OIG. If an investigation is initiated, the SAC will provide the SWA Administrator and ETA Regional Administrator with a DOL-OIG case number for the matter.

In instances where, in the opinion of the DOL-OIG, a DOL-OIG action or investigation will be furthered by the continuation of payment of benefits, the DOL-OIG will notify the SWA Administrator and provide justification for the request. In all instances involving regular State-UI funds, the decision to continue to pay benefits or not rests with the SWA Administrator.

At its discretion, the DOL-OIG may accept an invitation from a SWA or a law enforcement agency to initiate an investigation or conduct joint investigations involving regular state benefits in a single state. When feasible and mutually agreed upon, the DOL-OIG will coordinate investigative efforts with the appropriate SWA personnel. DOL-OIG may provide periodic status updates to the SWA Administrator and ETA Regional Administrator as appropriate, and when such updates would not interfere with an investigation.

When DOL-OIG initiates an investigation as a result of information received from sources other than an SWA, the DOL-OIG may, as appropriate, notify the SWA Administrator or ETA Regional Administrator of the initiation of the investigation and provide periodic updates regarding the investigation, so long as such notifications do not interfere with an investigation.

SWA and ETA personnel are not authorized to redisclose information received from DOL-OIG regarding ongoing investigations, unless the DOL-OIG SAC gives prior written approval.

Following completion of an investigation of a suspected fraud matter referred by an SWA, the SAC will notify the SWA Administrator and ETA Regional Administrator of the investigation's outcome. In cases involving state employee fraud, program weakness, or other issues significant to state-UI program management, DOL-OIG may provide a memorandum or report to the SWA Administrator and ETA Administrator detailing the results. DOL-OIG may issue a memorandum or report to the responsible U.S. DOL management official in

cases involving U.S. DOL employee misconduct. Further, if a DOL-OIG investigation, audit, or other oversight activity discloses any systemic weakness, DOL-OIG may provide recommendations for solutions to identified weaknesses.

When appropriate in its communications to stakeholders, DOL-OIG will acknowledge the contributions of the states and ETA in UI investigations.

IV. Notification of DOL-OIG Requirement for SWA Electronic Information

The DOL-OIG needs SWA information, including electronic data, for the performance of its responsibilities pursuant to the IG Act. The DOL-OIG only accesses such data and information when necessary for a purpose authorized by the IG Act and other applicable laws and delegations. SWAs must cooperate with the DOL-OIG.

The DOL-OIG will notify SWAs when the DOL-OIG requires ongoing, recurring, or regularly-scheduled access to SWA electronic information or data. The DOL-OIG will use DOL-OIG Form 202, *Notification of DOL-OIG Requirement for State Workforce Agency Electronic Information*, to notify SWA Administrators of specific access requirements. Using DOL-OIG Form 202, the DOL-OIG will describe the needed electronic information, DOL-OIG user access, or both.

This process does not affect the DOL-OIG's ability to obtain information using other established means, including DOL-OIG's ad hoc, single requirements to access information systems or obtain data. The DOL-OIG's access to a SWA's electronic information does not change its ownership status. SWA information remains the property of the SWA.

In obtaining and handling the information, the DOL-OIG will:

1. Comply with federal system and data security safeguards, including Privacy Act, FISMA, NIST, applicable Executive Orders and OMB guidelines.
2. Only access such data and information when necessary for a purpose authorized by the IG Act and other applicable laws and delegations, and comply with DOL-OIG internal procedures and directives regarding necessary approvals for, access to, and handling and securing of electronic information.
3. Redisclose data and information only when necessary for purposes consistent with the IG Act, Privacy Act, and other applicable federal laws and regulations as they relate to executive branch agencies in the disclosure of confidential or sensitive information.
4. When required, provide SWAs with DOL-OIG's Interconnection Security Standards to ensure secure data access or transfer.
5. Not take any action to compromise system or user operation and performance or create cybersecurity risks to information systems; and

- promptly cease access to at-risk systems and notify the system owner when DOL-OIG becomes aware of any such compromise or risk.
6. Complete appropriate training or obtain SWA guidance to understand information in their information systems for user accounts; and to the greatest extent possible, use the program agency system documentation.
 7. Erase/destroy copied data, records, and information when the DOL-OIG no longer needs it, in accordance with applicable federal laws and guidelines.
 8. Promptly notify SWA system owners when DOL-OIG user account holders can be removed.

**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF INSPECTOR GENERAL**



**NOTIFICATION OF DOL-OIG
REQUIREMENT FOR STATE WORKFORCE
AGENCY (SWA) INFORMATION**

1. TO:

The SWA Administrator may forward this Notification to the appropriate Information System point of contact.

The Office of the Inspector General, U.S. Department of Labor (DOL-OIG) needs the SWA electronic information described below for the performance of Inspector General responsibilities in accordance with the Inspector General Act of 1978. SWAs must cooperate with the DOL-OIG on UI-related audits and investigations.

2. Description of Electronic Information or System: (The DOL-OIG may attach additional information on required data elements, recurrence of data transfers, or interconnection security standards.)

3. Obtain/Transfer Method:

4. DOL-OIG Main Point of Contact:

5. Name(s) and Title(s) of DOL-OIG Personnel for System Accounts, if applicable:

6. Information/System Due by (date):

The DOL-OIG will:

- Comply with federal system and data security safeguards, including Privacy Act, FISMA, NIST, applicable Executive Orders and OMB guidelines.
- Only access such data and information when necessary for a purpose authorized by the Inspector General Act and other applicable laws and delegations, and comply with OIG internal procedures and directives regarding necessary approvals for, access to, and handling and securing of electronic information.
- Redisclose data and information only when necessary for purposes consistent with the IG Act, Privacy Act, and other applicable federal laws and regulations as they relate to executive branch agencies in the disclosure of confidential or sensitive information.
- When required, provide SWAs with DOL-OIG’s Interconnection Security Standards to ensure secure data access or transfer.
- Not take any action to compromise system or user operation and performance or create cybersecurity risks to information systems; and promptly cease access to at-risk systems and notify the system owner when OIG becomes aware of any such compromise or risk.
- Complete appropriate training or obtain SWA guidance to understand information in their information systems for user accounts; and to the greatest extent possible, use the program agency system documentation.
- Erase/destroy copied data, records, and information when the DOL-OIG no longer needs it in accordance with applicable federal laws and guidelines.
- Promptly notify SWA system owners when DOL-OIG user account holders can be removed.

7. Issued By:

8. TO BE COMPLETED BY STATE ADMINISTRATOR OR DESIGNEE. RETURN THIS TO DOL-OIG.

The specified information, data, or system access was provided to _____, on _____.

I certify that the information provided to the DOL-OIG is accurate, complete, and true to the best of my belief and knowledge.

Signature

Name of State Administrator or Designee