



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),<sup>1</sup> 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

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<sup>1</sup> 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:**

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**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