

Improper Payments Information Act Reporting Details

The Improper Payments Information Act (IPIA) of 2002, as implemented by OMB Circular A-123, Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments, requires federal agencies to review their programs and activities annually, identify programs that may be susceptible to significant improper payments, perform testing of programs considered high risk, and develop and implement corrective action plans for high risk programs.

The Department's risk assessment for FY 2008 identified one program—the Unemployment Insurance (UI) benefit program—to be at risk of significant improper payments in accordance with OMB criteria (programs with annual improper payments exceeding both \$10 million and 2.5 percent of annual program payments). However, two other programs, the Federal Employees' Compensation Act (FECA) benefit program, and the Workforce Investment Act (WIA) grant program, were classified as high risk in former Section 57 of OMB's Circular A-11 (now A-123, Appendix C), although the Department's risk assessment did not support such a high risk designation.

In FY 2008, the Department performed detailed testing for the UI, FECA and WIA programs, to identify improper payments and their major causes. The Department has corrective actions to address the causes and reduce improper payments in each of these programs and has established improper payment reduction targets in accordance with OMB guidance. Additionally, in FY 2008 a recovery audit was performed to identify FY 2007 improper contractor payments. The recovery audit did not disclose any improper payments.

The Department met its improper payments reduction targets. The table below provides the resulting improper payments error rates based on the detailed testing for the three programs designated as high risk.

Table 1: Estimated Improper Payments Rates for the Department's At Risk Programs

DOL Program	FY 2006	FY 2007	FY 2008
Unemployment Insurance	10.7%	10.3%	10.0%
Federal Employees' Compensation Act	.03%	.01%	0.02%
Workforce Investment Act	.17%	.08%	.07%

I. Risk Assessment

The Department's FY 2008 risk assessment of its various programs included the following:

- Reviewed prior three year's results of IPIA risk assessments and detailed tests. In addition to testing the three programs designated as high risk (UI, FECA, and WIA), DOL performed detailed testing on all its other significant programs in each of last 4 years. These programs included Black Lung Disability Trust Fund, Energy Employees Occupational Illness Compensation Program, State Unemployment Insurance and Employment Service Operations, Payroll Costs and Non Payroll Costs. The results of this detailed testing showed that these programs were low risk.
- Reviewed DOL OIG and Government Accountability Office (GAO) audit reports issued for DOL programs to determine whether the reports indicate that control weaknesses or other issues could potentially impact the amount improper payments for DOL programs.
- Reviewed results of the Department's OMB Circular A-123 internal control assessment to determine whether control weaknesses were identified that could potentially impact the amount of improper payments for DOL programs.
- Reviewed DOL programs' funding levels for FY 2008 for significant changes in program funding that may impact the amount of improper payments.



As noted previously, the risk assessment for FY 2008 identified the Unemployment Insurance benefit program to be at risk of significant improper payments. The Federal Employees' Compensation Act benefit program and the Workforce Investment Act grant program are also classified as high risk because they were designated as high risk in former Section 57 of OMB's Circular A-11 (now A-123, Appendix C).

Table 2: Department of Labor's High Risk Programs

DOL Program	Risk	Reason for High Risk Classification
Unemployment Insurance	High	Exceeds OMB Threshold; Designated High Risk Program by former Section 57
Federal Employees' Compensation Act	High	Designated High Risk Program by former Section 57
Workforce Investment Act	High	Designated High Risk Program by former Section 57

II. Statistical Sampling

The following sampling was performed for the three programs designated as high risk:

Unemployment Insurance

Sampling Methodology: Improper payment rates are obtained from the Benefit Accuracy Measurement (BAM) program. BAM is designed to determine the accuracy of paid and denied claims in the three largest permanently authorized unemployment compensation (UC) programs: State Unemployment Insurance (State UI)², Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Service Members (UCX). The Department reports two overpayment rates, as well as an underpayment rate from the BAM results. The Annual Report Overpayment Rate is a comprehensive estimate of those UI payments that were either paid the wrong amount or were improperly paid based on UI eligibility provisions in state law and policy. The second overpayment rate, the Operational rate, includes only those overpayments that states are most likely to detect and establish for recovery and return to the Unemployment Trust Fund through ordinary improper payment detection and recovery procedures, known as Benefit Payment Control (BPC).

BAM reconstructs the UI claims process for randomly selected weekly samples of paid and denied claims through original fact finding conducted by trained investigators. For claims that were overpaid, underpaid, or improperly denied, BAM determines the amount of benefits the claimant should have received, the cause of and the party responsible for the error, the point in the UI claims process at which the error was detected, and actions taken by the agency and employer prior to the error.

In reconstructing each sampled payment, the BAM program retroactively investigates the accuracy of the UI claim's monetary and separation determination as well as all information relevant to determining weekly eligibility for the sampled payment, including the claimant's efforts to find suitable work, ability and availability for work, and earnings from casual employment or other income sources, such as pensions. Effective January 2008, all paid claims sampled for BAM investigation must be matched with the National Directory of New Hires (NDNH) database to improve the ability to detect overpayments due to individuals who claim benefits after returning to work, the largest single cause of UI overpayments.

Using the same methodology applied to paid claims, BAM Denied Claim Accuracy assesses the accuracy of decisions to deny eligibility for UI that were made at the monetary, separation, and continuing eligibility levels of the claims taking process.

² Included in the UI program are the 50 states and Puerto Rico, US Virgin Islands and the District of Columbia (referred to as states/areas). The US Virgin Islands does not participate in BAM.



Sample Selection: The universe (population) includes paid and denied claims under the State UI, UCFE, and UCX programs, which collectively account for approximately 95 percent of the outlays of the permanent UC programs in an average year. Data on overpayment and underpayment rates for FY 2008 shown in the Improper Payment Reduction Outlook Table are for the period July 1, 2007, to June 30, 2008. Data are shown for this period rather than the Fiscal Year because a higher percentage of BAM investigations have been completed and will, therefore, produce more accurate estimates. Based on historical data, those BAM cases requiring the most time to complete are more likely to have payment errors. The BAM program standard is to complete at least 95 percent of the cases within 90 days. For the period July 1, 2007, to June 30, 2008 state agencies completed audits for over 24,600 paid claims cases, a completion rate of 99.8 percent. For Denied Claims Accuracy (DCA) over the same period, states completed audits for 23,500 denied UI claims, a completion rate of 99.8 percent.

Workforce Investment Act

Sampling Methodology: The Department used a separate methodology to assess the risk of improper payments in the WIA grant program because grant programs are administered differently than benefit programs. Unlike the benefit programs, data are not readily available to allow the Department to directly sample grant payments to develop a statistically valid estimate of improper payments. This is because the grant programs' funding stream makes it very difficult to assess the improper payment rate on payments to final recipients. The Department provides grants to states, cities, counties, private non-profits, and other organizations to operate programs, and relies significantly on Single Audit Act Reports (as required by the Single Audit Act of 1996³) to monitor funding to all grant recipients. Based on a review of the definition of questioned costs in OMB Circular A-133 and OMB's IPIA implementation guidance, the Department determined that questioned costs can be used as a proxy for improper payments. Therefore, these Single Audit Act Reports were utilized to determine the improper payment rate for the WIA grant program.

The Department reviewed FY 2006 Single Audit Act Reports with Department of Labor-related findings from the Federal Audit Clearinghouse (which is the national repository of Single Audit Act Reports) and identified all WIA program questioned costs included in such reports. FY 2006 reports were the most recent reports available for review. As additional evidence that no other audit reports included questioned costs for the DOL grants programs, the Department selected and reviewed random samples of audit reports classified in the Clearinghouse database as not having any questioned costs. To determine an approximate rate of improper payments for the grant programs, the Department divided the amount of questioned costs by the direct program outlays from the FY 2006 Single Audit Act Reports. The resulting improper payment rate (assumed to be representative of the FY 2008 rate) was applied to the WIA program outlays for FY 2008 to determine the estimated improper payment amount for FY 2008.

Sample Selection: The universe consisted of all FY 2006 Single Audit Act Reports covering DOL's grants from the Census Bureau's Federal Audit Clearinghouse. The Department stratified this universe of audit reports into four strata or categories based on criteria contained in the Clearinghouse database. The four strata were:

- Stratum #1: Audit reports in which the WIA grant program was audited as a major program and the report identified questioned costs for one or more federal programs (not necessarily the WIA grant program).
- Stratum #2: Audit reports in which the WIA grant program was audited as major program and the report identified a reportable condition but no questioned costs for one or more federal programs (not necessarily the WIA grant program).

³ The Single Audit Act of 1996 provides for consolidated financial and single audits of state, local, non-profit entities, and Indian tribes administering programs with Federal funds. Since 1997, all non-Federal entities that expend over \$300,000 (\$500,000 for fiscal years after December 31, 2003) or more of Federal awards in a year are subject to a consolidated financial single audit; any non-Federal entities that do not meet this threshold are not required to have a single audit. All non-Federal entities are required to submit all single audit reports to a Federal Audit Clearinghouse (Clearinghouse) that is administered by the Census Bureau.



- Stratum #3: Audit reports in which the WIA grant program was audited as major program and the report identified no questioned costs or reportable conditions for any federal program, including the WIA grant program.
- Stratum #4: Audit reports in which the grants programs were audited as a non-major program.

For strata #1, the Department reviewed *100 percent* of the audit reports from the Clearinghouse database to determine whether the WIA grant program was among those reported to have questioned costs. For strata #2, #3 and #4, the Department reviewed *random samples* of the audit reports from the Clearinghouse database.

Federal Employees' Compensation Act

Sampling Methodology: A Monetary Unit Sampling approach was applied to estimate improper payments for both medical bill payments and compensation payments. For medical payments, sampling was designed to test payment issues such as duplicate payments, appropriate receipts, consistency with regional allowances, payments made for appropriate procedures, and eligibility at date of service. The compensation payment sampling was designed to test payment issues such as consistency with identified injury, current medical evidence supporting continued compensation payments, eligibility requirements, and calculations of compensation amounts.

Sample Selection: The population of the FECA compensation and medical payments from which the sample was selected included payments made during the period July 1, 2007 through June 30, 2008. The population was stratified for compensation payments and medical payments. A sample of 264 items was selected and tested.

III. Corrective Actions

Unemployment Insurance

The Department's analytical studies indicate that earlier detection of recoverable overpayments is the most cost-effective way to address improper payments. The leading cause of overpayments is claimants who have returned to work and continue to claim UI benefits. Early detection of these overpayments -- which represented over 30 percent of all overpayments in FY 2008 -- allows agencies to stop payments sooner and to recover these overpayments more readily. Matching the Social Security Numbers (SSNs) of UI claimants with the National Directory of New Hires (NDNH) database is the most effective tool in identifying these improper payments. All states/areas were required to use NDNH crossmatches as part of their BAM programs by January 1, 2008. As of September 30, 2008, 48 states/areas have implemented NDNH matching, and three others have signed the computer-matching agreement with the Department of Health and Human Services (HHS), which maintains the NDNH database and are in the process of completing the work required to connect with the NDNH. The Department has requested that the remaining two state agencies complete their computer-matching agreements and provide a plan of action to meet the NDNH matching requirements. The Department estimates that the 48 states/areas matching UI beneficiaries with the NDNH, together with the four states/areas matching with their State Directory of New Hires (SDNH), prevented approximately \$93 million of overpayments in the current fiscal year.

The second largest cause of overpayments is errors in handling separation issues, which represented nearly 25 percent of all overpayments in FY 2008. To reduce improper payments due to separation issues, the Department has two efforts underway. First, the Department is working closely with a five-state consortium and its contractor to facilitate the design and implementation of the Separation Information Data Exchange System (SIDES) -- an automated employer response system to standardize the collection of information on employee separations from employers and third-party administrators (TPAs) to improve the accuracy of claimant eligibility determinations. Currently, system development is underway and is scheduled for testing in mid-FY 2009. Second, funding has been provided to states to support the training of approximately 400 state adjudicators. These training sessions are designed to improve claimant eligibility determinations and thus reduce improper payments that result from



nonmonetary determination errors. Through the third quarter of FY 2008, 360 staff have been trained, and an additional 40 staff will be trained at the session to be conducted before the end of calendar year 2008.

Most of the improper UI payments not caused by benefit year earnings or separation errors are due to the claimant not meeting one or more of the continued eligibility requirements, including conducting an active work search, registering with the state employment service, and being able and available for work. In FY 2005, the Department began providing states funds to conduct Reemployment and Eligibility Assessment (REAs) with UI beneficiaries to reduce improper payments both by speeding claimants' return to work and by detecting and preventing eligibility violations. For FY 2008, the original 19 participating states received REA grants, funded at the previous fiscal year level. Because additional funds requested were not appropriated, the number of states receiving REA grants could not be expanded.

Federal Employees' Compensation Act

The FECA program continues its progress in improving medical bill processing using an outsourced bill processing service. Significant attributes of the service include the ability to better match treatments, including pharmaceuticals, to work related injury or illness and more sophisticated bill editing techniques. The bill processing service uses automated front-end editing operations to check for provider and claimant eligibility, accepted condition and treatment type, billing form and content, and duplications. The service uses proprietary software to screen professional medical and outpatient hospital bills to check for certain improper billing practices. Furthermore, on-site process audits resulted in clearer instructions and corrective action plans.

Additional causes of improper payments for FECA include: (1) incorrect or incomplete information submitted for the claims record (such as pay rate, night differential rate, retirement plan, etc.); (2) Office of Workers' Compensation Programs (OWCP)⁴ errors including mistakes in judgment or interpretation in making decisions; (3) miscalculations in making payments; and (4) claimant fraud or misrepresentation. OWCP's integrity initiatives to address these issues are as follows:

- Medical bill processing performance is reviewed as a routine function of National Office oversight of the central bill processing contract and is used to score against performance requirements specified in the contract.
- Samples of medical payments are audited monthly by FECA district office staff for both financial and procedural errors.
- Compensation payment performance is reviewed by FECA district office managers, line supervisors, and fiscal operations staff; frequency of review varies according to need (e.g., supervisors and fiscal staff look at performance almost on a per-transaction basis; whereas, summary performance is reviewed daily, weekly, or quarterly by supervisors and managers). Results are monitored in the National Office and used to design procedural revisions or corrective action plans for the District Offices. The National Office also conducts formal biennial accountability reviews to rate each District Office for quality and accuracy. System reports used to analyze payment information include the Report on Receivables Due from the Public (Schedule 9), Accounts Receivable Aging Schedule and Performance reports. Regular matching of death records is done to reduce improper payments.
- Case management techniques are used to monitor ongoing entitlement to benefits and payment accuracy. For example, FECA's Periodic Roll Management (PRM) units monitor cases receiving long-term disability benefits. Changes in medical condition or ability to return to work are identified by regular ongoing PRM review of the cases, and compensation benefits may be reduced or terminated. Benefit reductions also result from new information reported about changes in status, such as the death of a claimant. The key outcome measure for PRM is the annual amount of benefit savings generated from these case actions. Benefits savings can also be compared directly to PRM administrative costs.

⁴ OWCP oversees the administration of the Federal Employees' Compensation program.



- Improvements continue in documentation quality and faster transmission of notice of injury and claims for compensation from the agencies to OWCP. Progress in submitting these forms more quickly yields faster and more accurate adjudication and payment and fewer customer service problems. More than a quarter of new claims are now received via Electronic Data Interchange. That percentage is expected to grow in the future. To improve the quality of the claims record which is the basis for payment calculation, employing agency access to claims information was enhanced so they can access the details of a payment on-line and discover any flaws in the data they submitted.
- The FECA program samples compensation and medical payments during biennial accountability reviews to minimize erroneous payments and identify potential program weaknesses. Regular reviews of the accounts receivable system are conducted to ensure that debt collection efforts are maximized. Medical bill payment reports and reviews of the utilization of high-cost/high-incidence medical services for appropriateness are conducted by the program. The program also makes use of the Periodic Entitlement Review (PER) system in iFECS to review and track long-term disability cases.
- The FECA program is pursuing improved safeguards against improper payments with ongoing enhancements to its IT system, iFECS. The program has instituted advanced edit checks and certification processes in the Compensation and Case Management applications that will minimize the FECA program's improper payments. Beginning in FY 2008, a new quarterly performance measure was established to track timely debt identification and processing and elevated the review of district office overpayment performance to the FECA National Office.
- The program continues to develop and promote technology adoption by the employing agencies to improve and speed data sharing that will help reduce the incidence of improper payments when claimants return to work. The program is in the process of developing a number of new data sharing ventures that will help agencies verify payment information to ensure accuracy of those payments. The program continues to pursue expanded statutory authority for employment and benefit data matching arrangements.
- The program is developing new training capacities to reduce and minimize the impact of improper payments by improving claims adjudication and compensation payment performance across the program, as well as providing claims examiner training that targets improved improper payment identification, processing and collection.

Workforce Investment Act

The improper payment rate estimate work indicated that the major types of errors found in the WIA program are non-compliance with WIA regulations and internal control weaknesses. The grant management and monitoring processes focus on both of these items. ETA currently uses a multi-step approach to ensure proper administration and effective program performance of WIA grants. First, ETA starts its review/oversight process by conducting a structured risk assessment of all new grants and grantees. Risk assessments are periodically revised as new information about a grant and grantee becomes available through desk reviews, onsite reviews or other sources of information. Second, ETA Federal Project Officers (FPOs) conduct quarterly desk reviews of the financial and program performance of each grant. The results of these activities are contained in the Grants e-Management Solution (GEMS), an electronic tracking and grant management system. This serves as an early warning system to detect potential financial management and/or programmatic performance issues and allows ETA to target technical assistance more effectively. Finally, ETA staff (FPOs, financial management and others) conduct periodic onsite reviews of grantees. ETA attempts to conduct an onsite review of each grantee at least once every three years, but actual review schedules are based on the results of the risk assessments and desk reviews. Onsite reviews are conducted using ETA's Core Monitoring Guide as well as program specific and technical guide supplements designed to provide a more detailed review of program requirements and financial activities. Results of the onsite monitoring activities are also cataloged in the GEMS system. For grantees with large numbers of sub-recipients (e.g., WIA formula grantees), the onsite review conducted using the formula program supplement to the Core Guide includes an assessment of the grantee's sub-recipient monitoring activities. In addition, ETA conducts onsite review of local areas as part of its review of the state grantee. The results of the onsite monitoring are also



catalogued in the GEMS system. ETA now has the capability to review trends or issues that arise in a more comprehensive and consistent manner. Whenever deficiencies or problems are identified as a result of a desk review, onsite review, or an independent audit, ETA immediately begins working with the grantee to obtain appropriate corrective actions. Corrective actions undertaken by the grantee are tracked by ETA and follow-up technical assistance and reviews are scheduled as needed.

The ETA Division of Policy Review and Resolution processes each grant at closeout, reviewing final grantee reports, the grant closeout package, FPO recommendations, and other documents available to them to determine whether the objectives of the grant were accomplished and that all funds were expended as authorized. Any expenditures which are questioned are resolved through the normal determination process and disallowed costs are forwarded for collection. The Audit Resolution staff receives grantee A-133 audit reports which report questioned costs and/or administrative weaknesses in need of correction. These items are followed up using the same determination process noted above, disallowed costs are forwarded for collection, and resolution reported back to the OIG. In addition, these units participate in special grantee reviews and provide fiscal policy training for grantee and federal staff.

IV. Improper Payment Reduction Outlook FY 2007– FY 2011 (\$ in millions)

Program	FY 2007			FY 2008			FY 2009			FY 2010			FY 2011		
	Outlays	%	\$	Outlays	%	\$	Est Outlays	%	\$	Est Outlays	%	\$	Est Outlays	%	\$
Unemployment Insurance	\$31,530			\$39,123			\$45,508			\$44,374			\$43,686		
Operational Rate		5.95%	\$1,876		5.49%	\$2,148		5.5%	\$2,503		5.4%	\$2,396		5.3%	\$2,315
Annual Report Rate Over- payment		9.71%	\$3,062		9.25%	\$3,619		9.25%	\$4,209		9.15%	\$4,060		9.05%	\$3,954
Underpayment		0.59%	\$186		0.71%	\$278		0.71%	\$323		0.71%	\$315		0.71%	\$310
Federal Employees Compensation Act	\$2,654	0.1%	\$2.6	\$2,737	0.02%	\$0.5	\$2,732	0.02%	\$0.5	\$2,792	0.02%	\$0.6	\$2,854	0.02%	\$0.6
Workforce Investment Act	\$3,606	0.08%	\$2.9	\$3,547	0.07%	\$2.5	\$3,551	0.07%	\$2.5	\$3,017	0.07%	\$2.1	\$2,954	0.07%	\$2.1

Note: The rates were determined as described in the preceding pages and applied to the outlays for the fiscal year.

Recovery of Improper Payments

State Benefit Payment Control operations identify UI overpayments for recovery through such methods as crossmatching claimant SSNs with State and National Directories of New Hires, wage record files submitted each quarter by employers, matches with other databases, such as Workers Compensation and State Corrections, and other sources such as appeals, reversals and tips and leads. States collect overpaid claims through offsets of UI benefits, state income tax offsets, and direct cash reimbursement from the claimant. The FECA program identifies overpayments for recovery through such methods as crossmatching claimant SSNs with Social Security Administration databases, beneficiary or survivor reporting, and internal reviews of payments. The identification of overpayments for recovery for the WIA program is primarily done through the Single Audit Act reports and Office of Inspector General (OIG) and Government Accountability Office (GAO) program audits. From FY 2004 through FY 2008 approximately \$2,627 million has been recovered.



V. Recovery Auditing

Recovery auditing is a control technique to identify improper contractor payments and initiate recovery actions where appropriate. Recovery auditing involves data analysis and detailed reviews of the documentation supporting contract payments, including purchase orders, invoices, vendor statements/correspondence, procurement records, contracts, contract modifications, payment transaction records, etc.

Prior to FY 2008 the Department performed statistical sampling of non-payroll costs consisting of department expenses, including contract payments, related to the operation and administration of programs' and headquarters' activities. Such testing found no improper payments among the contract payments. In FY 2008, the department performed a recovery audit of the contract payments made during FY 2007. The work was performed by an independent contractor under a contingency fee arrangement. The contract auditor performed an analysis of the payment database and reviewed supporting documentation for various selected payments. The contract auditor examined over 80,000 payments covering approximately \$1.75 billion. Excluded from the contractors review were payments to other Federal departments and payments for travel reimbursements to and on behalf of employees. The contract auditor did not identify any improper payments. The auditor made several suggestions regarding future recovery audits which management will evaluate.

(in millions)

Agency	Amount Subject to Review	Actual Amount Reviewed	Amounts Identified for Recovery	Amounts Recovered
DOL	\$1,751	\$1,751	\$0	\$0

VI. Management Accountability

Existing control processes and the implementation of the revised OMB Circular A-123 requirements continue to ensure that the Department's internal controls over financial reporting and systems are well documented, sufficiently tested, and properly assessed. In turn, improved internal controls enhance safeguards against improper payments, fraud, waste, and abuse and better ensure that the Department's resources continue to be used effectively and efficiently to meet the intended program objectives. Furthermore, this Department-wide effort supports the Secretary of Labor's annual certification of internal controls in the PAR. The OCFO continues with the quarterly financial management certifications and reviews with each agency in the Department. These controls began in fiscal year 2003. The primary objectives of this oversight are to obtain assurances of DOL compliance with the Federal Managers' Financial Integrity Act of 1982 (FMFIA), the Federal Financial Management Improvement Act of 1996 (FFMIA), and IPIA, to enhance the Department's internal financial controls, and to resolve financial management issues in a more efficient and timely manner. The quarterly certification process allows for an open discussion of each agency's progress in resolving internal control issues, audit findings, and improper payments, as well as establishing a formal, early warning process to identify and address other potential problem areas.

Employment and Training Administration (ETA), is responsible for Federal oversight of state unemployment insurance (UI) programs, including oversight of state activities to reduce and recover improper UI benefit payments. ETA has taken/continues to take the following steps to hold Federal managers accountable for reduction and recovery of improper UI payments by states.

- ETA requires states to measure and report the percent, dollar amount, and reasons for improper payments. These data are derived from investigations of a statistically valid sample of payments using Federally prescribed procedures. ETA reviews these data for validity, analyzes data for each state, and makes the data available publicly. Data review, analysis and publication are included in the performance plan of the Administrator of ETA's Office of Workforce Security (OWS) and in the elements and standards of numerous staff in that office.
- In 2005, ETA implemented a core performance measure for detection of overpayments by state UI programs. States that fail to meet the performance criterion submit corrective action plans. Development



and implementation of this measure were included in OWS managers' performance plans; analysis and monitoring states' corrective actions continues to be an evaluation factor.

- ETA has promoted and continues to promote cost effective methods for states to prevent, detect, and recover improper UI benefit payments. Development, delivery, and/or successful implementation of these initiatives by states have been and continue to be factors on which the OWS administrator and managers are evaluated. A few of the most noteworthy are described below:
 - *National Directory of New Hires*: Facilitating the state roll-out of the NDNH crossmatch to address the largest cause of UI improper payments – earnings while benefits are being paid. The Department's activities are discussed in Section III (Corrective Actions).
 - *National Integrity Conference*: In order to provide a forum for disseminating successful practices for preventing, detecting and recovering UI overpayments, the Department in partnership with the National Association of State Workforce Agencies sponsored the National Unemployment Insurance Integrity Professional Development Conference in April 2008.
 - *Adjudication Training Sessions*: In order to improve the quality and accuracy of initial UI eligibility determinations, five training sessions were completed in 2007 with 200 state staff trained, and an additional 200 are expected to be trained in 2008.
 - *Separation Information Data Exchange System*: This initiative will improve the accuracy of claimant eligibility determinations, which is the second largest cause of improper payments by enabling state agencies to obtain more timely and complete information regarding the reasons that UI applicants were separated from work. The Department's activities are discussed in Section III (Corrective Actions).
 - *Unemployment Compensation Integrity Act of 2008*: A significant provision in this set of legislative proposals would authorize recovery of improper UI payments from Federal income tax refunds—increasing recoveries substantially. A modified version of that provision (limited to certain fraud improper payments) was enacted on September 30, 2008 in the "SSI Extension for Elderly and Disabled Refugees Act" (P.L. 110-328). Action steps involved in implementation will be included in managers' performance standards.

In FY 2009, OWS will also focus on the following integrity related activities and ensure the annual performance standards for managers include the completion of significant milestones for the projects listed below:

- The Department will continue its outreach efforts and provide technical assistance to the remaining states/areas not yet matching with NDNH.
- Plan and conduct the FY 2009 Unemployment Insurance National Benefits and Adjudication Forum in April 2009. This forum will showcase best practices in UI benefits, management, and training.
- Contingent on FY 2009 appropriations, expand Reemployment and Eligibility Assessment (REA) initiatives designed to reduce improper payments of UI benefits and promote quicker reemployment.

As part of its monitoring and oversight responsibilities of the State's UI operations, the Department takes an active role in facilitating and promoting strategies to reduce improper payments and meet the payment accuracy and recovery targets set by the Office of Management and Budget. However, it should be noted that these strategies require the cooperation and implementation by individual states, including changes to state laws and regulations. The Department has no explicit authority over how states establish priorities in administering their UI programs and, therefore, can only make recommendations and provide technical assistance in the use of these strategies.

Beginning in FY 2008, a new FECA quarterly performance measure was established to track timely debt identification and processing and elevated the review of district office overpayment performance to the FECA National Office. The program is also developing new training capacities to reduce and minimize the impact of improper payments by improving claims adjudication and compensation payment performance across the program, as well as providing claims examiner training that targets improved improper payment identification,



processing and collection. Managers' performance standards address meeting quarterly performance measures, operational plan targets, and implementation of corrective plans to successfully resolve issues, missed targets, and audit findings pertaining to timely and accurate payments, reduction of improper payments, and collection and management of debt.

ETA has revised and expanded its training for grant managers and is currently implementing an expansion of its grant electronic management system (GEMS) to include all WIA grants. GEMS tracks the grant managers' grant review actions and provides the grant manager financial and other information useful in managing the grants. The ETA Division of Policy Review and Resolution has requirements in its closeout grant officer performance standards relating to the requirement to follow-up on Single Audit Act, OIG or GAO audit findings and questioned costs relating to WIA grants, and the Director of the Office of Grant and Contract Management has overall responsibility for ensuring that these procedures are followed.

VII. Information Systems and Infrastructure

Unemployment Insurance

ETA believes that in most cases the states have the information systems and infrastructure they need for improper payment reduction. States are implementing systems to exchange data with the NDNH and the Social Security Administration. Forty-eight states/areas are now using the NDNH; two other state agencies have signed the computer-matching agreement with HHS that is the prerequisite to connecting with the NDNH; and the remaining three states/areas are in the planning stage for implementing NDNH.

Federal Employees' Compensation Act

The Office of Worker's Compensation Programs (OWCP) has deployed an integrated FECA management information and compensation benefit system that will enhance both compensation payment accuracy and medical bill processing accuracy. The FY 2009 budget request for this system includes resources for enhanced tracking of improper payments that will improve the ability to analyze potential improper payments.

Workforce Investment Act

ETA currently has multiple technology projects underway in an effort to improve grants management. The WIA program utilizes these tools to execute the risk management process to assess and monitor grantees. They include the web-based EBSS (Enterprise Business Support System), with its GEMS (Grants e-Management Solution). EBSS is the Enterprise Business Support System, a web-based solution used to track and manage grants. A component of the EBSS is the automated grant cost reporting system that captures grant costs and obligations, which improves fiscal integrity. The combination of the two is part of the cradle-to-grave E-grants solution for the entire Department. The GEMS system, mentioned also in Section III of this appendix is an online grants management tool meant to provide web accessible, customizable, role based context access to grant related information from multiple sources. The utilization of the GEMS system by the Federal Project Officers and program management and financial staff allows ETA a more coordinated and comprehensive repository of grant specific information. A GEMS technology project has recently been undertaken to provide for a report writing module and the cataloging of the Core Monitoring Guide and supplements. This will allow ETA staff to customize and target their oversight efforts.

VIII. Statutory or Regulatory Barriers

Unemployment Insurance

The UI program has several statutory barriers to reducing improper payments. First, States administer the UI program and set operational priorities. The Department has limited authority to ensure they pursue improper payment reduction activities. Second, the "immediate deposit" requirement (Sec. 3304(a)(3), Federal Unemployment Tax Act (FUTA) and Sec 303(a)(4), Social Security Act (SSA)) and the "withdrawal standard" (Sec. 3304(a)(4), FUTA and Sec 303(a)(5), SSA) preclude the use of recovery auditing techniques and affect recovery efforts.



The "immediate deposit" requirement dictates that all employer contributions (unemployment taxes) must be paid immediately into the trust fund and the "withdrawal standard" says that money in the trust fund can only be used for UI benefits. There are certain exceptions to the "immediate deposit" requirement, but they do not apply to recouped benefit overpayments. These requirements preclude State UI agencies from using funds recovered from overpayments to be used for administrative or operational efforts to improve prevention, detection, and recovery efforts. In addition, Title IV-D of the SSA, which established the state and national directories of new hires for the purposes of locating individuals who were delinquent in paying child support, does not require employers to report the date of hire. Having this data greatly increases the efficiency of using crossmatches with the SDNH or NDNH to detect UI beneficiaries who continue to claim benefits despite having returned to work.

Elements of the Unemployment Compensation Integrity Act, transmitted to Congress on June 2, 2008, as a result of the President's 2009 budget request, would relax the barriers posed by the "immediate deposit" requirement and the "withdrawal standard" to provide additional funding for recovery and other integrity activities. It would permit states (a) to use up to 5 percent of all recovered overpayments to augment Benefit Payment Control (BPC) activities, (b) to use up to 25 percent of certain fraud overpayments recovered or delinquent contributions collected by a collection agency to be retained by that agency, and (c) to use up to 5 percent of delinquent tax collections to implement provisions of the law relating to employer fraud or tax evasion, such as the SUTA Dumping Prevention Act of 2004. It would also amend the SSA to require states to impose a penalty of at least 15 percent on fraudulent overpayments, and use the penalties to fund BPC activities. The Integrity Act would also prohibit states from non-charging employer accounts if the agency determined the employer's "fault" — e.g., a late, missing or incomplete response — caused an overpayment, and would allow the recovery of benefit overpayments, delinquent taxes, and associated unpaid penalties and interest by intercept of certain Federal income tax refunds. Finally, it would mandate that states require all employers to report the date of first earnings or "start work" date to the SDNH, and that the state transmit this information to the NDNH.

Federal Employees' Compensation Act

With regard to the FECA program, legislation does not currently permit FECA to verify employment earnings with the SSA without the claimant's written permission. Compensation benefits may be overpaid if an employee has unreported earnings and does not grant permission for the program to verify earnings with SSA. The 2009 Budget includes a proposal for legislative reform that would authorize regular database matching with SSA to identify unreported work earnings and receipt of Federal Employees' Retirement System (FERS) retirement benefits.

Workforce Investment Act

No statutory or regulatory barriers exist that limit WIA's ability to address and reduce improper payments. The WIA program has the legal authority to establish receivables and implement actions to collect those receivables.

IX. Additional Comments

The Department continues to consider the most appropriate ways to define reportable UI overpayments. The Operational Overpayment rate, in use since 2002, was defined to measure recoverable overpayments readily detected by normal agency operations for establishment and recovery. Although the total or "Annual Report" rate used in this report has the virtue of measuring the value of all payments that exceed what State law and policy prescribe, it may be excessively broad. It includes many "technical" overpayments (e.g., that may not involve any conscious act or omission on the part of claimants or employers). For example, complete and timely information for some UI claimants is not entered into the Employment Service (ES) database. Overpayments for these claimants, who are not considered to be "actively" registered with the ES database, accounted for approximately 0.9 percent of UI payments and nearly 10 percent of all overpayments in FY 2008. Other eligibility issues were detected after the period of time permitted by state law to establish an overpayment for recovery. About one-fourth of all UI overpayments are not subject to recovery, a typical criterion in other public programs. The Department also regularly monitors the fraud rate which is 2.6 percent of UI benefits paid in FY 2008.

