

## 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 review for FY 2009 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). One additional program, the Workforce Investment Act (WIA) grant program, is classified as high risk in OMB's Circular A-123, Appendix C, due to its level of expenditures, although the Department's risk assessment does not support such a high risk designation. A third program, Federal Employees' Compensation Act (FECA) benefit program, is also classified as high risk in Appendix C. However, pursuant to Part I, Section K of OMB Circular A-123 Appendix C, OMB granted DOL relief from reporting for FECA and barring any significant changes to legislation or funding, DOL will next be required to report on FECA in FY 2012.

In FY 2009, the Department performed detailed testing for the UI and WIA programs to estimate the level of improper payments and their major causes. The Department has corrective actions to address the causes and reduce improper payments in these programs and has established improper payment reduction targets in accordance with OMB guidance.

The Department's UI improper payments target for FY 2009 was 10.0%, whereas the estimated error rate is 10.3%. This difference is primarily due to an increase in overpayments to UI claimants who were not actively registered, as required, for job referral and reemployment services, as States struggled to keep pace with the large increase in workload due to the adverse labor market conditions. The higher improper payment rate for WIA in FY 2009 is primarily due to including the results of DOL Office of Inspector General audits and other monitoring activities in the measurement methodology as described in Section II below.

*Estimated Improper Payments Rates for the Department's At-Risk Programs*

DOL Program	FY 2008		FY 2009		FY 2010
	Target	Actual	Target	Actual	Target
Unemployment Insurance	11.5%	10.0%	10.0%	10.3%	9.9%
Workforce Investment Act	0.19%	0.07%	0.07%	0.2%	0.07%

### I. Risk Assessment

The Department's FY 2009 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 two programs designated as high risk (UI and WIA), DOL performed detailed testing on all its other significant programs in the last 3 years. These programs included Black Lung Disability Trust Fund, Federal Employees' Compensation Act, 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 of 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 2009 for significant changes in program funding that may impact the amount of improper payments.

Outlays for State UI, Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-Service Members (UCX), Extended Benefits (EB), Emergency Unemployment Compensation 2008 (EUC08) and Federal Additional Compensation (FAC) increased sharply in FY 2009 to an estimated \$119 billion, compared with just over \$42 billion in FY 2008, reflecting the adverse labor market conditions. FY 2009 UI outlays include approximately \$24.9 billion provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act) for benefit payments to unemployed individuals by extending the period of eligibility for benefits and providing additional weekly benefits. For WIA, the Recovery Act provided additional resources primarily for formula grants to states and for other discretionary grants; the Recovery Act outlays in FY 2009 are estimated to be about \$0.8 billion.

The additional funds are disbursed/monitored through established systems and processes as utilized in the past. In addition, the Department has taken and will continue to take various actions to minimize and manage the risk associated with the Recovery Act programs, including the following:

- Issued specific guidance on the use of the funds distributed through the Recovery Act programs.
- Conducted outreach to states and other eligible grant applicants to communicate policies and guidelines and is utilizing the regional office Federal Project Officers to conduct and document quarterly desk reviews of financial obligations, expenditures and program performance. Grantees identified as "high risk grantees" through these reviews are given priority attention for on-site monitoring.
- Trained grantees on Federal grant requirements, performance expectations, fiscal and program requirements, and allowable use of funds.
- Closely monitor the draw-down of UI Recovery Act funds from the specific accounts and has systems in place for reporting information required for monitoring and evaluating the operations of these programs.
- Conduct program reviews to ensure that the various activities included in the Recovery Act are properly implemented, including the use of these funds according to various operating instructions/guidance provided to the states.

## II. Statistical Sampling

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

### Unemployment Insurance

*Sampling Process:* Improper payment rates are estimated from the Benefit Accuracy Measurement (BAM) program. BAM includes the three largest permanently authorized unemployment compensation (UC) programs: State UI<sup>3</sup>, UCFE, and UCX. The Department reports two overpayment rates -- the Annual Report rate and the Operational rate, as well as an underpayment rate.

BAM investigators in each state conduct comprehensive audits for randomly selected weekly samples of paid and denied claims. 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. The universe (population) includes paid and denied claims under the State UI, UCFE, and UCX programs. However because the claims processes and eligibility requirements are very similar for the additional benefits paid to unemployed individuals under the EB, EUC08, and FAC programs, the estimated improper payment rates are assumed to generally reflect

---

<sup>3</sup> 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.

the accuracy of these benefit payments. Overpayment and underpayment rates for FY 2009 shown in the Improper Payment Reduction Outlook Table are for the period July 1, 2008, to June 30, 2009. 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. For the period July 1, 2008, to June 30, 2009, state agencies completed audits for 22,700 paid claims cases, a completion rate of 99.0 percent. Additional information about the BAM methodology can be found at: <http://workforcsecurity.doleta.gov/unemploy/bam/2008/bam-facts.pdf>.

### Workforce Investment Act

*Sampling Process:* The Department performed a detailed risk assessment of the WIA program in FY 2009 and is currently evaluating the results to develop a new measurement methodology that incorporates this information and which could be used for future reporting on WIA improper payments. For FY 2009, the Department used a separate methodology (similar to its previous measurements) to estimate the improper payments rate 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 1996<sup>4</sup>) 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, along with other data in FY 2009, were utilized to determine the improper payment rate for the WIA grant program.

The Department reviewed FY 2007 (most recent available) Single Audit Act Reports with DOL-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. 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. In addition to using the Single Audit Act Reports, in FY 2009 the Department performed additional procedures to assess the level of improper payments which included a review over the last three year period of (1) the results of the monitoring work performed by the ETA staff who are responsible for managing the WIA program; (2) the Government Accountability Office (GAO) and DOL Office of Inspector General (OIG) audit reports issued for the WIA program; and (3) the results of DOL's OMB Circular A-123, Appendix A internal control assessment. To determine an approximate rate of improper payments for the grant programs, the Department divided the average annual amount of questioned costs from these sources by the direct program outlays. The resulting improper payment rate (assumed to be representative of the FY 2009 rate) was applied to the WIA program outlays for FY 2009 to determine the estimated improper payment amount for FY 2009.

### **III. Corrective Actions**

#### Unemployment Insurance

Many errors in the UI program are due to eligibility errors that can be prevented or detected early through state use of third-party verification resources, such as matching claimant records with new hire and Social Security data.

---

<sup>4</sup> 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.

---

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 nearly 30 percent of all overpayments in FY 2009 -- 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) and State Directory of New Hires (SDNH) databases is the most effective tool in identifying these improper payments. For the period July 2008 to June 2009, Benefit Payment Control operations in all agencies except Puerto Rico reported using new hire matching to detect and establish for recovery over \$140 million in overpayments. During the same period, BAM identified an estimated \$342 million in overpayments through matching with the NDNH or SDNH.

The second largest cause of overpayments is errors in handling separation issues, which represented nearly 25 percent of all overpayments in FY 2009. To reduce improper payments due to separation issues, the Department has two efforts underway. First, the Department is working closely with a six-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. The Department is planning a phased implementation of SIDES. After the six-state consortium implements the system, the Department will assist the other state agencies with their implementation. Currently, SIDES implementation is scheduled to begin in FY 2010. Second, the Department provided funding to train over 400 state adjudicators. Ten training sessions were conducted during FY 2008 and 2009. These training sessions were designed to improve claimant eligibility determinations and thus reduce improper payments that result from nonmonetary determination errors.

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, such as 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. During FY 2009, funding was provided to support REA activities in 34 states.

#### Workforce Investment Act

The improper payment rate estimate work indicated that the major types of errors found in the WIA program are primarily administrative in nature, including unallowable costs and insufficient documentation for participant and vendor payments. The grant management and monitoring processes focus on both of these items to reduce and prevent improper payments. 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. 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 (Single Audit Act 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 2008– FY 2012 (\$ in millions)

Program	FY 2008			FY 2009			FY 2010			FY 2011			FY 2012		
	Outlays	%	\$	Outlays	%	\$	Est Outlays	%	\$	Est Outlays	%	\$	Est Outlays	%	\$
<b>Unemployment Insurance</b>	\$42,430			\$119,249			\$140,190			\$89,720			\$71,510		
Operational Rate		5.49%	\$2,329		5.2%	\$6,201		5.4%	\$7,570		5.3%	\$4,755		5.2%	\$3,719
Annual Report Rate Over-payment		9.25%	\$3,925		9.6%	\$11,448		9.15%	\$12,827		9.05%	\$8,120		8.95%	\$6,400
Underpayment		0.71%	\$301		0.7%	\$835		0.71%	\$995		0.71%	\$637		0.71%	\$508
<b>Workforce Investment Act</b>	\$3,547	0.07%	\$2.5	\$4,300	0.2%	\$8.6	\$5,970	0.07%	\$4.2	\$4,412	0.07%	\$3.1	\$3,723	0.07%	\$2.6

##### Notes:

UI outlays and error amounts for FY 2008 were revised from what was published in FY 2008 to include outlays of the EUC08 program (approximately \$3.3 billion). Actual UI outlays in FY 2009 and projected FY 2010 outlays include approximately \$24.9 and \$29.2 billion, respectively, of Recovery Act benefit payments under the EB, FAC and EUC08 programs. Recovery Act UI modernization incentive and administrative cost payments to states are not included. For WIA, the FY 2009 to 2011 outlays include \$0.8, \$2.4 and \$0.8 billion, respectively, of Recovery Act grants.

The rates were determined as described in the preceding pages and applied to the outlays for the fiscal year. UI rates are estimates based on a statistical survey of State UI, UCFE, and UCX payments. Because the claims processes and eligibility requirements are very similar for the EB, EUC08, and FAC programs, the estimated improper payment rates are assumed to generally reflect the accuracy of these benefit payments. These rates, which include full and partial overpayments, overestimate the improper payments relating to FAC outlays (about 5% of total outlays), as the FAC payments are payable in full to claimants entitled to at least \$1 in unemployment compensation.

Only an estimated 2.31 percent of UI benefits were overpaid due to fraud in FY 2009. Overpayments due to fraud are included as part of both the Annual Report and Operational overpayment rates.

##### Recovery of Improper Payments

State Benefit Payment Control (BPC) 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 identification of overpayments for recovery for the WIA program is primarily done through ETA's onsite monitoring activities, the

Single Audit Act reports and Office of Inspector General (OIG) program audits. From FY 2004 through FY 2009 approximately \$3,379 million has been recovered for the UI and the WIA programs.

## 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 these costs to be at low risk for improper payments. In FY 2008, the Department performed a recovery audit of the contract payments made in 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.

Recovery Audit Results for FY 2007 Payments (in millions)

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

Since the recovery contractor's work in FY 2008 did not identify any improper payments, in FY 2009, the Department again statistically sampled non payroll costs as it did prior to FY 2008. Such testing found these costs to be at low risk for improper payments. In FY 2010, the Department plans to conduct a Recovery Audit of the contract payments made in FY 2008 and 2009.

## 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 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 Department 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.

The 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. In FY 2010, ETA will continue to 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.

- 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 on the ETA Web site -- <http://workforcesecurity.doleta.gov/unemploy/bam/2008/bam-cy2008.pdf>. Data review, analysis and publication are included in the performance plan of the Administrator of ETA's Office of Unemployment Insurance (OUI) and in the elements and standards of numerous staff in that office.
- ETA has 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. Analysis of state performance and monitoring of states' corrective actions continue to be an evaluation factor in OUI managers' performance plans.
- 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 OUI administrator and managers are evaluated. A few of the most noteworthy are:
  - *National Directory of New Hires*: The Department's activities with respect to facilitating state implementation of the NDNH crossmatch to address the largest cause of UI improper payments -- earnings while benefits are being paid -- 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 plans to host a National Unemployment Insurance Integrity Professional Development Conference in April 2010.
  - *Adjudication Training Sessions*: In order to improve the quality and accuracy of initial UI eligibility determinations, ten training sessions were held during FY 2008 and 2009 with over 400 state staff trained.
  - *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).
  - *Treasury Offset Program (TOP)*: The "SSI Extension for Elderly and Disabled Refugees Act" (P.L. 110-328) included provisions to permit states to recover certain Unemployment Compensation debts due to fraud from Federal income tax refunds under TOP. In November 2008, DOL informed states of the provisions in this law and outlined the process for implementation. DOL is in the process of meeting with other Federal agencies to discuss technical issues related to the implementation of an automated system to administer TOP for UI.

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.

ETA has revised and expanded its training for grant managers and is currently implementing an expansion of 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

State and Federal information systems and infrastructure were upgraded to accommodate the additional Federal compensation programs and extensions to other unemployment compensation programs included in the Recovery Act.

As a result of ETA monitoring, states modified computer matching procedures to improve the productivity of NDNH as a resource to detect improper payments. ETA is also working closely with the six-state consortium to develop the information systems and infrastructure to support SIDES, which is discussed in Section III, Corrective Actions.

### 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 GEMS. 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.

DOL and OMB are working on a legislative proposal that would relax the barriers posed by the "immediate deposit" requirement and the "withdrawal standard" to allow states to use a portion of recovered overpayments to support recovery and other integrity activities, such as collecting delinquent taxes from employers and assuring that employers properly classify employees. It would also mandate that states require all employers to report the date of first earnings or "start work" date to the NDNH, which will facilitate state identification of claimants who have returned to work and continue to claim UI 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.