

Congress of the United States
Washington, DC 20515

July 20, 2023

The Honorable Julie Su
Acting Secretary
United States Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Acting Secretary Su:

It is the responsibility of our respective Committees to provide proper oversight of the unemployment insurance (UI) program and ensure the program is operating effectively, efficiently, and as intended. During the COVID-19 pandemic, fraudsters and other bad actors exploited a system already susceptible to misuse and high rates of improper payments.¹ According to the U.S. Department (“the Department”) of Labor’s own Inspector General, taxpayers are now on the hook for at least \$191 billion in misspent pandemic UI funds.²

We acted with our bill the *Protecting Taxpayers and Victims of Unemployment Fraud Act* (H.R.1163 / S.1587), which passed the U.S. House of Representatives in May with bipartisan votes, to help recover taxpayer dollars lost to fraud and improve the integrity of the UI program.

For their part, Congressional Democrats are quick to point to \$2 billion provided in Section 9032 of the American Rescue Plan Act (ARPA) to the Department to help prevent UI fraud. However, the law’s stated statutory goals for those funds are wide ranging: (1) improve access to unemployment insurance, (2) promote equity, and (3) prevent fraud.³ This shows a clear lack in prioritizing combatting fraud and leaves significant discretion to the Department.

We write to express serious concerns about the lack of transparency in how the funds have been spent, including diversion of taxpayer dollars for “promoting equity”, and specifically how the Department prioritized use of these critical funds for fraud prevention, identification, and recovery.

More than two years have passed, and, to date, the Department has yet to provide adequate explanation as to how this money has been used or any results of the Department’s efforts to

¹ Government Accountability Office, *Payment Integrity: Federal Agencies’ Estimates of FY 2019 Improper Payments*, March 2020, GAO-20-244. The report found that in FY 2018 and FY 2019 the improper payment rate in the unemployment insurance program was 13.1 percent and 10.6 percent respectively.

² Department of Labor Inspector General, *Testimony before the U.S. House Committee on Ways and Means*, Hearing “The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud,” February 8, 2023.

³ 15 U.S.C. § 9034(a).

fight fraud. In fact, the Department reports having recovered less than \$5 billion in fraudulent pandemic unemployment payments.⁴

Since receiving ARPA funds, the Department has made significant contract and grant announcements without providing details, progress, or implementation updates on state projects funded by ARPA. Specifically, in August 2021, the Department announced the availability of up to \$200 million in grants for states to implement recommendations made by “Tiger Teams.”⁵ Following a consultative assessment, these Teams issued a series of recommendations which proposed changes to a state’s UI system that relate to the three statutory factors of Section 9032.⁶ States were then given the opportunity to (1) negotiate with the Department which recommendations to implement, and (2) the ability to apply for ARPA funding to complete implementation of the agreed-upon recommendations.

In 2021, the Department touted the Tiger Teams initiative as having the ability to “achiev[e] quick wins.”⁷ However, nearly two years later, the Department has yet to provide a satisfactory explanation as to how this money has been spent and the progress of the projects being funded.

Even after multiple federal law enforcement agencies raised red flags about the timeliness and acute need for the Department to prioritize and ramp-up anti-fraud efforts, in August 2021, the Department announced the availability of \$260 million in “Equity Grants.” According to the Department, these grants were awarded to states to, “[E]nhance awareness and improve delivery of unemployment insurance benefits to help people overcome obstacles to access...streamline instructions, provide translation services, increase staffing and address other accessibility issues in marginalized communities.”⁸ It remains unclear why the Department chose to focus on these activities when there was a clear need for urgency in fighting fraud in pandemic UI programs.

In the President’s proposed FY 2024 budget, the Department claims it is “actively engaged in activities to effectively and efficiently use the [UI] funding provided under the American Rescue Plan Act.”⁹ The proper use of a \$2 billion fund with vague goals and no timeline for obligating funds suggests the need for additional oversight.

Taxpayers should expect basic accountability on these large, structural investments. To ensure accountability and to assess the accuracy of the assertions regarding the use of these funds made in the Department’s budget, our respective Committees request the following information and documents:

⁴ Unpublished data requested by Committee staff and received from the DOL Employment and Training Administration on January 19, 2023, covering the period March 1, 2020 through December 31, 2022.

⁵ UNEMPLOYMENT INSURANCE PROGRAM LETTER (UIPL) NO. 2-22.

⁶ Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs (UIPL 22-21): up to \$140 million, and (UIPL 22-21, Change 2): up to \$200 million.

⁷ UIPL NO. 2-22. (“The expectation is that the consultative assessment will aid the state in addressing immediate needs and issues that will lead to achieving quick “wins” such as near-term improvements in customer experiences, improved operational processes, and improved fraud prevention and detection.”)

⁸ UIPL NO. 23-21.

⁹ FY 2024 CONGRESSIONAL BUDGET JUSTIFICATION EMPLOYMENT AND TRAINING ADMINISTRATION, State Unemployment Insurance and Employment Service Operations, (SUIESO), at 31.

- (1) The balance of Section 9032 funding which remains unobligated;
- (2) All consultative assessments issued by Tiger Teams to states;
- (3) A list of all recommendations issued by Tiger Teams, but not agreed to between the Department and states;
- (4) A list of all agreed-upon negotiated recommendations issued by Tiger Teams, and any outcome metrics used to prioritize certain recommendations; and
- (5) For each recommendation issued by a Tiger Team;
 - a. Any and all Project Synopses for each of the negotiated recommendations;
 - b. Any and all status updates on the implementation of that recommendation;
 - c. Any project narratives associated with the implementation of Tiger Team recommendations, including ETA 9178-ARPA Quarterly Progress Reports and Quarterly Financial Reports (ETA 9130); and
 - d. Any SF 424s submitted in support of any projects listed above.
- (6) A description of projects undertaken by each state awarded Equity Grants and the amount of funds provided;
 - a. Any project narratives associated with the implementation of Equity Grants recommendations, including ETA 9178-ARPA Quarterly Progress Reports and Quarterly Financial Reports (ETA 9130); and
 - b. Any SF 424s submitted in support of any projects listed above.
- (7) A description of the Department's determination of allowable use of funds for states awarded Equity Grants;
- (8) Outcome metrics used by states to demonstrate the effectiveness of actions taken to improve program equity and how that relates to identification, recovery, and prevention of fraud;
- (9) Results of "business process analysis" activities reported by states that received Equity Grants;
- (10) Amount of overpayments recovered from pandemic unemployment programs, with the subset of fraudulent overpayments recovered, including from the Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation; and Pandemic Emergency Unemployment Compensation programs.

We request that you provide written responses to these questions **no later than Friday, August 11, 2023.**



Senator Mike Crapo
Ranking Member
Committee on Finance



Representative Jason Smith
Chairman
Committee on Ways and Means