

# WE ARE YOUR DOL



Kathy Hochul, Governor  
Roberta Reardon, Commissioner

October 17, 2022

Nadine Morrell  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street – 11<sup>th</sup> Floor  
Albany, NY 12236-0001

Re: Audit Draft Report – 2021-S-3, Issued 09/15/2022

Dear Ms. Morrell,

The Department of Labor (DOL) has reviewed the Office of the State Comptroller's (OSC) above-referenced draft report relating to Audit Report Number 2021-S-3 titled Controls and Management of the Unemployment Insurance System for the period January 2020 through March 2022.

DOL appreciates the opportunity to respond to the audit and would like to start by providing some context to readers and commending the DOL staff, along with staff from the Office of Information Technology Services (ITS) and volunteers from various state Agencies, for their tireless efforts during this truly historic time. In March 2020 when the State went on pause, DOL could not have anticipated the crisis that was about to unfold. During this time, when many Americans were not leaving their home due to the uncertainty of the COVID 19 virus, DOL Agency staff were working seven days a week, more than ten to twelve hours a day. DOL staff became the unsung heroes of the pandemic who spent countless hours answering phones, adjusting computer systems to meet demand, and ultimately getting the much-needed funds to New Yorkers in need. This report does not detail all the actions taken by the DOL staff or provide adequate context for the stress the Agency was under contending with the ever-changing mandates coming from the federal government while working with an antiquated system, that was ten months into a 4-year UI IT system modernization project at the onset of the COVID 19 outbreak.

During the pandemic, call volume into our call centers increased 13480%, unemployment initial claims increased 2666%, and the number of unemployment compensation programs to implement and manage increased by 600%. We cannot conceive a single example where any form of public – or even private -- infrastructure was capable of scaling-up so quickly such that supply could meet demand. Even in these extreme circumstances and unprecedented volumes, mission driven DOL staff came to work every day, and DOL, initiated scores of technological and operational improvements. In the end, DOL paid out over \$105B in funds over approximately 24 months. This is over 50 years of benefits. A truly remarkable

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achievement for this agency, given 1970's era system architecture. We appreciate the Office of the State Comptroller's patience with DOL during this emergency situation and look forward to future reviews when the modernized UI system is implemented. Below are the DOL's responses.

**OSC Recommendation 1:** Continue the development of the replacement UI system and ensure its timely implementation.

**DOL Response1:** DOL agrees with the recommendation to continue replacement of UI system. DOL is already half-done with its 4-year technology improvement plan. As outlined, the synergistic effect of these complementary enhancements will improve, if not transform, NY's UI system for all stakeholders.

**OSC Recommendation 2:** Take steps, including collecting and analyzing data related to the identity verification process, to ensure the correct balance between fraudulent identity detection and a streamlined process for those in need of UI benefits.

**DOL Response 2:** DOL agrees with this recommendation. The amount of fraud occurring during the pandemic was unprecedented. Since the onset of the pandemic DOL has adjusted and continues to make changes to the use of the identify verification solution. For example, currently DOL has moved from sending all claims to ID.me to sending only those claims that have been identified by DOL as potentially fraudulent. DOL has also worked with ID.me on improving and expanding the services for individuals with limited English proficiency (LEP). DOL will continue to evaluate the implementation of ID.me to ensure the correct balance between fraudulent identity detection and a streamlined process for those in need of UI benefits.

**OSC Recommendation 3:** Follow up on the questionable claims identified by our audit to ensure adjustments have been made so they are paid from the proper finding source and overpayments are recovered.

**DOL Response 3:** DOL agrees with this recommendation and will continue making claim adjustments to ensure claimants receive appropriate benefits, benefits are paid from the proper funding allocation, overpayments are established, and attempts are made to collect upon recoverable overpayments that are not otherwise waived pursuant to federal authority.



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**OSC Recommendation 4:** Develop and implement a process to include specific language access information in the UI system to provide the DOL with appropriate, complete, accurate, accessible, and timely information on LEP individuals.

**DOL Response 4:** DOL agrees with this recommendation. As previously mentioned, DOL is in the process of modernizing its unemployment insurance system. Among other improvements, the new system will allow for more robust data analytics, including LEP data, to promote the goals and objectives associated with the recommendation. Additionally, DOL is seeking a multi-million-dollar grant from the United States Department of Labor – known as an equity grant – that would enhance the inclusivity of New York’s UI system for all New Yorkers. The system is expected to go live late 2023.

**OSC Recommendation 5:** Ensure the current and new UI system and data comply with the provisions of the Security Policy, the Classification, Authentication, Encryption, and Logging Standards, as well as the Change Management Process and Policy by:

- Performing a data classification for the systems and data related to the UI process.
- Ensuring encryption has been employed where necessary on the UI system
- Reviewing and modifying as necessary the procedures for granting access.
- Separating duties for administrators of UI applications or implementing appropriate compensating controls
- Establishing formal log monitoring and review process to support operations, maintain awareness of security events, and verify compliance.
- Ensuring changes to the UI system are fully documented.

**DOL Response 5:** DOL agrees with this recommendation. DOL will continue to work with its partners at ITS to ensure compliance with the provisions of the Security Policy, the Classification, Authentication, Encryption, and Logging Standards, as well as the Change Management Process and Policy.

**OSC Recommendation 6:** Improve timeliness of cooperation with authorized State oversight inquiries to ensure transparent and accountable agency operations.

**DOL Response 6:** DOL agrees with the need for transparent and accountable agency operations. It should be noted that the report fails to consider the competing priorities that ITS and DOL were managing at the time of fieldwork for this audit. All resources were allocated to pandemic efforts. As indicated in the preliminary response, while DOL was tackling a significant increase in claim volume, and both DOL and ITS were managing several concurrent audit requests and systems upgrades, in an effort to ensure responsiveness and cooperation with this audit, both DOL and ITS participated in biweekly status meetings with OSC. During these meetings all requested items were reviewed and questions about the status of

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outstanding requests were followed up on. At no point did OSC raise any concerns about the timeliness of information being provided. It wasn't until a preliminary draft report was issued, that a concern with delays and the number of days OSC was waiting for specific items was communicated. To improve cooperation with state oversight inquiries going forward, DOL recommends OSC participate in open transparent communication about expectations of timeliness with requested items in weekly status meetings, rather than waiting to issue draft reports with delinquent status. The time lags experienced during this audit were due to the emergency situation DOL and ITS were operating in throughout the course of the audit. Providing clearer communication during status meeting about OSC's expectations for timely responses would have enabled DOL and ITS to balance competing priorities with available resources to both meet the needs of our customers and OSC.

If you have any comments, please contact Erin Murphy, Director Internal Audit, (518) 457-9076.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Filburn".

Susan Filburn  
Deputy Commissioner Employment Security

Cc: Scott Melvin  
Lars Thompson  
Stephen Geskey  
Jacqueline Kagan  
Erin Murphy