

U.S. Department of Labor

Employment and Training Administration
John F. Kennedy Federal Building
Room E-350
Boston, Massachusetts 02203



Reply to the attention of: R1-TR
Serial #FY24-263

July 18, 2024

Michael Harrington
Commissioner
Vermont Department of Labor
5 Green Mountain Drive
P.O. Box 488
Montpelier, VT 05601

Dear Commissioner Harrington:

During the period of June 13, 2023, through April 30, 2024, the U.S. Department of Labor (Department), Employment and Training Administration (ETA) conducted an Enhanced Desk Monitoring Review (EDMR) of the American Rescue Plan Act (ARPA), Coronavirus Aid, Relief, and Economic Security Act (COVID), and Unemployment Insurance (UI) grant(s) administered by the Vermont Department of Labor (VDOL). The review focused on grants that support Integrity related UI work in the state and a financial review of the UI Equity grant.

The review resulted in three findings and four areas of concern as explained below. Please submit a response to the findings to R1monitoring@dol.gov within 30 days of receipt of this report.

I would like to thank you and your staff for their assistance during this review. If you have any questions, please contact your Federal Project Officer (FPO), Ms. Tracy Rousseau at Rousseau.Tracy.G@dol.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg H. Weltz".

Gregg H. Weltz
Regional Administrator

cc: Cameron Wood, UI Director

EXECUTIVE SUMMARY

ETA's review of activities has resulted in three findings and four areas of concern. The findings are noted below:

Finding 1: As a condition of the grant award under Unemployment Insurance Program Letter (UIPL) 22-21, Vermont must refer allegations which they reasonably believe constitute Unemployment Compensation (UC) fraud, waste, abuse, mismanagement, or misconduct to the Department of Labor (DOL)-Office of Inspector General (OIG).

Finding 2: Vermont must provide a narrative Quarterly Progress Report (ETA 9178-ARPA).

Finding 3: Inability to perform UI offset functions for other state's requests.

The area of concerns are noted below:

Area of Concern 1: Vermont's UIPL 22-21 grant award maintains a low rate of expenditure.

Area of Concern 2: Failure to establish Pandemic Unemployment Assistance (PUA) overpayments.

Area of Concern 3: Inability to use Treasury Offset Program (TOP) to recover UI debt.

Area of Concern 4: Failure to issue written determination when claimant identity is not/cannot be verified.

Please note that the review did not cover any areas outside the defined scope. Although no material issues came to the reviewers' attention other than those contained in this report, there is no assurance that other issues may not exist.

SCOPE OF REVIEW

Dates of Review:

June 13, 2023, through April 30, 2024

Exit Date:

June 17, 2024

Reviewers: (alphabetical order)

Brett Casavant, UI Program Specialist

Brisa Lopez, UI Program Specialist

Conrad Kohler-Tiedeman Systems Accountant

Tracy Rousseau, UI Program Specialist

Attendees at Exit Conference:

Cameron Wood, UI Director
Chad Wawrzyniak, Chief Financial Officer
Amanda Poirier, Division Chief
Brisa Lopez, UI Program Specialist
Conrad Kohler-Tiedeman Systems Accountant
Tracy Rousseau, UI Program Specialist

Purpose:

The purpose of the review was to determine if the grants and programs are operating in compliance with all applicable Federal laws, regulations, policies, and other grants management requirements.

Grants/Programs Reviewed:

- ARPA Fraud Detection and Prevention
 - UI-37095-21-55-A-50
- ARPA Equity Grant
 - ARPA Equity - UB000019SB0
- COVID-19 Pandemic UI Grant Program
 - UI-34746-20-55-A-50
- UI Programs
 - UI-35679-21-55-A-50
 - UI-39353-23-55-A-50
 - UI-37254-22-55-A-50

Time Period Covered: September 1, 2021, to August 31, 2023

Tools used to Conduct Review:

ETA Core Monitoring Guide

FINDINGS

Finding 1: As a condition of the grant award under UIPL 22-21, Vermont must refer allegations which they reasonably believe constitute UC fraud, waste, abuse, mismanagement, or misconduct to DOL-OIG.

Condition: Vermont is not referring allegations they believe constitute UC fraud, waste, abuse, mismanagement, or misconduct to the DOL-OIG.

Cause: Lack of procedure to refer allegations of UC fraud, waste, abuse, mismanagement, or misconduct to the DOL-OIG.

Criteria: As noted in UIPL 22-21, “As discussed in UIPL 04-17, Change 1, states must refer allegations which they reasonably believe constitute UC fraud, waste, abuse, mismanagement, or misconduct to the DOL-OIG.”

Correction Action: To resolve the finding Vermont must create a procedure to refer allegations which they believe constitute UC fraud, waste, abuse, mismanagement, or misconduct to the DOL-OIG as required by UIPL 22-21 and UIPL 4-17, Change 1.

Finding 2: Vermont must provide a narrative Quarterly Progress Report (ETA 9178-ARPA).

Condition: Vermont failed to submit the required ETA 9178-ARPA reports for the following quarters: June 30, 2023, September 30, 2023, December 31, 2023, and March 31, 2024.

Cause: Unknown.

Criteria: According to UIPL No. 22-21, “States must provide a narrative Quarterly Progress Report (ETA 9178-ARPA) ... containing updates on the progress and implementation of each grant project.”

Correction Action: To resolve the finding Vermont must submit ETA 9178-ARPA reports for the following quarters: June 30, 2023, September 30, 2023, December 31, 2023, and March 31, 2024.

The regional office is available to provide technical assistance.

Finding 3: Inability to perform UI offset functions for other state’s requests.

Condition: Vermont is not performing UI offset functions for other states.

Cause: Unknown. Vermont participates in the request for UI interstate offsets to other states but is currently not performing offset functions that other states’ request to Vermont.

Criteria: Cross-program Offset is a federal program mandated by the Social Security Act. When both the Recovery State and Requesting State have entered into an Agreement with the U.S. Secretary of Labor to implement Section 303(a) of the Social Security Act, these regulations require states to have the capability to process both outgoing and incoming offset requests.

In accordance with UIPL 05-13, the following applies:

Section 2103 of the Act (Middle Class Tax Relief and Job Creation Act of 2012) amends section 3304(a)(4)(D), FUTA (the “withdrawal standard”), and section 303(g)(1), SSA, to require states to offset any UC overpayments, paid under a Federal or other state program and not previously recovered, against payments of UC due to the individual under such state’s UC law.

Corrective Action: Vermont should take steps to implement the necessary programming changes to enable UI offset functions for other states. Vermont should also develop a plan to identify and recover any improper benefit payments that may have been made.

To resolve this finding, Vermont must submit a corrective action plan outlining the specific steps it will take to address this issue. The plan should include timelines for implementation and a mechanism for monitoring progress.

The Regional Office is available to provide technical assistance.

Area of Concern 1: Vermont’s UIPL 22-21 grant award maintains a low rate of expenditure.

Condition: Vermont maintains a low rate of expenditure for its UIPL 22-21 grant award.

Cause: The state’s previous plan for leveraging the funds changed during the period of performance and a new plan has yet to be determined.

Consequence: Due to the upcoming end of the period of performance, August 31, 2024, Vermont may not implement the appropriate Integrity measures, as allowed in UIPL 22-21 to support one of the key pillars of ARPA, detecting and preventing fraud. This lack of expenditure may result in a missed opportunity to detect and prevent UI fraud and create new identity verification tools.

Recommended Action: ETA recommends Vermont develop a grant implementation plan to leverage UIPL 22-21 funding. The plan should be articulated in the ETA 9178-ARPA report and include the following:

- Summary of the Project.
- Timeline for Grant Activities and Milestones or Deliverables.
- Project Implementation and Funding Status.

- Project Challenges, Risk Mitigation Efforts/Modification Requests and Technical Assistance Needs.
- Best Practices, Promising New Strategies, and Success Stories; and
- Additional Outcome Information.

If Vermont requires technical assistance, the regional office is available to provide support.

Area of Concern 2: Failure to establish PUA overpayments.

Condition: Vermont is not establishing and reporting any PUA overpayments (fraud and nonfraud) on the monthly 902P (PUA Activities) reports. In addition, because PUA overpayments are not being established, the corresponding FPUC overpayments are also not being established and reported.

Cause: This issue was identified in a previous monitoring report with an undetermined cause and has yet to be resolved. This issue cannot be resolved due to Vermont's finality laws.

Consequence: Unemployed individuals who received PUA benefits to which they were not entitled may not be identified and required to repay the improper payments.

Recommended Action: Due to the expiration of the PUA program and Vermont's finality laws preventing the establishment of an overpayment beyond three years from the date of the payment, there is nothing Vermont can do to correct this error. To avoid future findings, Vermont should ensure its programming conforms to program requirements if PUA or a similar program is reauthorized in the future.

Area of Concern 3: Inability to use TOP to recover Unemployment Insurance debt.

Condition: Vermont's legacy system cannot pass the Internal Revenue Service (IRS) safeguards inspection; the State is unable to obtain 1099 data and cannot participate in TOP to recover UI benefit overpayments or employer contribution debt.

Cause: This issue was identified in a previous monitoring report with an undetermined cause and has yet to be resolved.

Consequence: The inability to utilize TOP hinders the state's ability to recoup UI overpayments, resulting potential financial loss.

Recommended Action: Vermont should continue working with the Regional Office to identify and implement a solution that enables the utilization of TOP for UI debt collection. A Corrective Action Plan (CAP) under the State Quality Service Plan (SQSP) is suggested in another monitoring report since administration of TOP is a required activity.

Area of Concern 4: Failure to issue written determinations when claimant identity is not/cannot be verified.

Condition: When an individual notifies Vermont that his or her information was used to create a fraudulent claim, whether in paid status or not, the claim is automatically flagged with a stop payment until the identity of the individual filing can be resolved. It is not clear whether Vermont issues a written determination that includes appeal rights when claimant identity cannot be verified or when it determines the claim is fraudulent.

Cause: This issue was identified in a previous monitoring report with an undetermined cause and has yet to be resolved.

Consequence: Without written determination for all claims, there is no clear documentation of agency's decision-making process for these claims. This could lead to errors in processing, appeals, and potential legal challenges.

Recommended Action: Vermont should continue working with the Regional Office to finalize a determination notice that meets federal requirements. If Vermont requires technical assistance, the regional office is available to provide support.