

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D. C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL OWS/DUIO
	ISSUE DATE August 2, 2005

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 29-05

TO: STATE WORKFORCE AGENCIES

FROM: CHERYL ATKINSON s/s  
Administrator  
Office of Workforce Security

SUBJECT: Memorandum of Understanding Regarding Unemployment Insurance  
Criminal Investigations Between the U.S. Department of Labor's  
Office of Inspector General and the Employment and Training Administration

- Purpose.** To transmit a Memorandum of Understanding (MOU) between the Employment and Training Administration's (ETA) Office of Workforce Security (OWS) and the Office of Inspector General (OIG) to State Workforce Agencies (SWAs). The MOU establishes the roles, procedures and working relationships among the OIG, the OWS and the SWAs to address cases of fraud and abuse in the unemployment insurance (UI) program.
- References.** Unemployment Insurance Service Information Bulletin No 14-85, dated February 8, 1985; Unemployment Insurance Program Letter (UIPL) No. 16-85, dated May 13, 1985; and UIPL No. 21-90, dated April 4, 1990.
- Background.** In 1985, an MOU was executed between the ETA and the OIG to establish the role of the OIG in investigating cases of fraud or other crimes in the UI program. The MOU defined the types of fraud and established monetary thresholds for state UI agencies to refer cases to the OIG. The OIG agreed to assume responsibility for investigating and prosecuting fraud cases that meet the established criteria and, upon request, to aid state UI agencies in other incidences of fraud or abuse.
- New MOU.** The attached MOU between the OWS and the OIG supercedes the 1985 MOU.

RESCISSIONS None	EXPIRATION DATE August 30, 2006
---------------------	------------------------------------

5. **Effective Date.** This MOU shall apply to appropriate fraud and/or abuse cases that are detected by SWAs beginning on the date of this UIPL.
6. **Action Required.** SWA administrators are requested to provide the attached information to appropriate staff.
7. **Inquiries.** Direct inquiries to the appropriate Regional Office.
8. **Attachment.** Memorandum of Understanding.

**U. S. DEPARTMENT OF LABOR  
MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
OFFICE OF INSPECTOR GENERAL  
AND THE  
EMPLOYMENT AND TRAINING ADMINISTRATION  
OFFICE OF WORKFORCE SECURITY**

**1. BACKGROUND**

All State Workforce Agencies (SWAs) operate Unemployment Insurance (UI) Benefit Payment Control (BPC) and Internal Security (IS) programs. These programs are concerned with prevention, detection, and recovery of UI overpayments and safeguarding of UI assets, personnel and operations against fraud, waste and abuse. The states' BPC and IS programs falls under the general classification of integrity programs. The legal basis for these integrity functions comes from provisions of the Social Security Act (SSA) and Internal Revenue Code. Section 303(a)(1) of the SSA requires that a State's UI law include provisions for: "Such methods of administration... as are found by the Secretary to be reasonably calculated to insure full payment of unemployment compensation when due."

The Office of Inspector General (OIG) has a statutory mandate under the Inspector General Act (Public Law 95-452, and as amended), other laws, and delegations by the Secretary of Labor to detect and prevent fraud, waste, and abuse in Department of Labor programs and operations. To carry out this mandate, the OIG has the authority to conduct investigations and audits to discover possible evidence of fraud, waste, and abuse or inefficiencies, and to refer any findings to the appropriate program manager for action, or to the Department of Justice, U.S. Attorney, or cognizant prosecutor for criminal or civil prosecution.

The UI program is a multi-billion dollar program that is dependent, in part, upon employer and claimant compliance with the Federal and State laws. Various internal and external factors make the integrity of the UI program vulnerable. The Employment and Training Administration's (ETA) Office of Workforce Security (OWS) and the SWAs are continuously assessing the program's vulnerabilities and seeking new ways to ensure its integrity. A cooperative relationship between OWS, SWAs, and the OIG provides an additional means to address integrity issues.

OWS has oversight responsibility for the Federal-State UI program under the provisions of the Social Security Act of 1935 and the Federal Unemployment Tax Act (Chapter 23 of the Internal Revenue Code). OWS provides leadership, policy guidance, and direction to the SWAs for the development, operation, and improvement of the Federal-State UI system including the Federal unemployment compensation programs that the SWAs administer for the Federal government.

States are responsible for promulgating their own UI laws and regulations as long as they conform to Federal law. Each SWA designs its own UI program and investigates and prosecutes fraud and abuse under the state law and regulations.

## **2. PURPOSE**

This document serves as a memorandum of understanding (MOU) between the OIG and the OWS to establish procedures to address issues of fraud, vulnerability, and integrity in UI programs and to further the capabilities of the SWAs, OWS, and OIG to successfully fulfill their roles and responsibilities concerning cases of fraud or other crimes in regular State-UI and Federal-UI programs.

## **3. STATE AGENCY RESPONSIBILITIES**

### **Notification to OIG**

It is the responsibility of the Administrator of each SWA to promptly report to the OIG known or substantive allegations of malfeasance, criminal misconduct, and large-scale fraud meeting the criteria specified below. A substantive allegation is one for which the SWA Administrator has determined that there is a reasonable basis to the allegation. The SWA Administrator may delegate the responsibility for determining whether there is a reasonable basis to the allegation and the responsibility for reporting allegations to appropriate staff of the SWA. Substantive allegations will be reported to the OIG through the appropriate ETA Regional Office. The SWA Administrator or the Administrator's designee will make the initial contact regarding the allegation by telephone to the ETA Regional Administrator or to the Regional Administrator's designee. The ETA Regional Office staff would then initially report the allegations by telephone to the OIG Special Agent in Charge (SAC) in the OIG Regional Office. A written notification with all pertinent details will be forwarded by the SWA staff to the SAC or designee within five workdays of the initial notification.

The SWAs also have a responsibility to report without delay any suspected cases of fraud or abuse to their own state investigative agencies as required by state laws or regulations.

### **Criteria for Reporting to OIG**

Known instances or allegations of potentially illegal or fraudulent activity in excess of \$5,000 from the following categories will be reported to the OIG, but with the understanding that upon mutual agreement between the OIG, SWA, and ETA Regional Office, the dollar threshold for reporting may be adjusted on a State-by-State or Regional basis:

- Unemployment Compensation for Federal Employees (UCFE);
- Unemployment Compensation for Ex-Service Members (UCX);
- Trade Adjustment Assistance (TAA);
- Disaster Unemployment Assistance (DUA);
- Extended benefit programs, wholly or partially funded by the Federal government.

Known instances or allegations of potentially illegal or fraudulent activity in any amount from the following categories will be reported to the OIG:

- Internal and external thefts and embezzlements of UI administrative funds;
- Fictitious/fraudulent employer schemes, potentially involving multiple states and/or international boundaries;
- Schemes involving claims or taxes in multiple states and/or international boundaries;
- Multi-claimant or multi-state schemes involving the use of false federal documentation (social security numbers, military records, immigration documents, etc.);
- Schemes involving counterfeit benefit checks or multi-victim forgery cases such as forged UI weekly certifications and forged UI check cashing.

#### **4. OIG RESPONSIBILITIES**

##### **Acceptance of Cases for Investigation**

Within a reasonable timeframe (not to exceed 45 days) after a case is reported by a SWA Administrator or Administrator's designee, the OIG will provide written notification to the appropriate ETA Regional Administrator and the SWA Administrator as to whether or not an investigation by the OIG will be initiated. In rendering a decision regarding initiation of investigative activity, the OIG may consider: OIG workload, demands on OIG resources, and cost effectiveness of the investigation. If the case is accepted by the OIG, the SWA Administrator will be notified of the appropriate OIG staff contact. If the case is not accepted by the OIG, the SWA Administrator will refer the case back to appropriate SWA staff to be treated along with other cases not requiring OIG referral.

In instances where, in the opinion of the OIG, an investigation will be furthered by the continuation of payment of benefits, the OIG will notify the SWA Administrator, provide justification for the request, and seek agreement. If agreement cannot be reached, the OIG may contact the ETA Regional Administrator for assistance. However, in all instances involving regular State-UI funds, the decision as to whether or not to continue to pay benefits rests with the SWA Administrator. In such instances when notification to the SWA Administrator and/or the RO may interfere with an investigation, the OIG will notify the Administrator of OWS.

In instances where investigation of suspected fraudulent activity is initiated as a result of information received from sources other than the SWA, the OIG will advise the SWA Administrator and the ETA Regional Administrator when an investigation is begun. In such instances when notification to the SWA and/or RO may interfere with an investigation, the OIG will notify the OWS.

At its discretion, the OIG may accept an invitation from a SWA or a law enforcement agency to initiate an investigation or conduct joint investigations involving regular state benefits in a single state (including cases of other possible offenses of an extremely flagrant nature). When feasible

and mutually agreed upon, the OIG will coordinate investigative efforts with the appropriate SWA personnel.

### **Interim and Final Reporting**

Whenever the OIG has accepted or initiated a criminal investigation in the UI system, the OIG will provide periodic status reports to the SWA Administrator and the ETA Regional Administrator. Should the OIG uncover information relating to a fictitious/fraudulent employer scheme, multi-claimant schemes, or malfeasance by a SWA employee, the OIG will immediately provide notification to the appropriate ETA Regional Administrator. Notification may be withheld at the OIG's discretion only if it would interfere with the ongoing investigation. In such case, notification will be provided to the OWS Administrator.

Following completion of an investigation, the OIG will notify the appropriate ETA Regional Administrator and SWA Administrator of the case's outcome. In cases involving SWA employee fraud, program weakness, or other issues significant to State-UI program management, the OIG will provide a memorandum to the appropriate ETA Regional Administrator detailing the results of the investigation. Further, should the investigation disclose any systemic weakness, the OIG may offer ideas or recommendations regarding possible solutions to the identified weaknesses.

### **Publicity**

Press releases, testimony before Congress, and other forms of publicity issued by the OIG will acknowledge the roles played by the SWAs in the investigations.

## **5. OWS RESPONSIBILITIES**

OWS will ensure that the SWAs are informed of this MOU. OWS will also provide guidance, as needed, to assist SWAs in carrying out the terms of this MOU and their responsibilities for program integrity. OWS will work with the SWAs to facilitate good communication and sound ongoing working relationships with Regional OIG staff.

## **6. FUNDING**

When the financial cost to a SWA cooperating in an investigation at the request of the OIG becomes more than de minimus, the SWA may seek reimbursement from the OIG.

## **7. SPECIAL PROJECTS**

The OIG and OWS agree to work together on projects, probes, or initiatives in order to detect and prevent potential fraud and/or correct systemic weaknesses within UI programs. Such efforts will be designed and conducted to ensure minimal workload impact on State UI program operations and service delivery. When feasible, the OIG will also offer training and technical support to facilitate the prevention of fraud and abuse in UI programs.

**8. DIALOGUE**

**National Office Communications**

OIG agrees to obtain input from OWS concerning its annual work plan related to the UI program and any special projects it undertakes. The OIG's final work plans will be shared with OWS. Concerns, decisions, actions, and resolutions of investigative activity and related issues need not necessarily involve OWS or the OIG national office unless matters cannot be resolved at the Regional Office levels. However, OIG will notify the OWS Administrator on all matters that may have a national impact the UI system.

**Regional Office Communications**

Communications at the Regional Office level will be structured to consist of ongoing discussions between OIG and ETA staff, and, where appropriate, include SWA input. To maintain good communication, the OIG agrees to notify ETA Regional Offices of any significant issues related to UI investigations, as appropriate and when practical, unless such notification would interfere with or hamper such investigations. In those cases where the Regional Office is not notified, notification will be provided to the OWS Administrator.

**9. NO RIGHTS CREATED BY THIS MOU**

This MOU is adopted for the purpose of defining the internal relationship among the OIG, OWS, and the SWAs. This MOU is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law or in equity by any party in any matter, civil or criminal. Further, this MOU does not place any limitations on otherwise lawful investigative prerogatives of the OIG, OWS, or the SWAs.

s/s

6/29/05

\_\_\_\_\_  
**Stephen J. Cossu**

\_\_\_\_\_  
**Date**

**Assistant Inspector General  
Office of Labor Racketeering  
and Fraud Investigations**

s/s

6/29/05

\_\_\_\_\_  
**Cheryl Atkinson**

\_\_\_\_\_  
**Date**

**Administrator  
Office of Workforce Security  
Employment and Training Administration**

