

WE ARE YOUR DOL



Kathy Hochul, Governor
Roberta Reardon, Commissioner

July 17, 2024

Andrea LaBarge, Audit Manager
Office of the New York State Comptroller
Division of State Government Accountability
110 State Street
Albany, NY 12236

Re: Report – 2023-F-41, Issued 07/17/2024

Dear Ms. LaBarge:

The New York State Department of Labor (NYSDOL) has reviewed the Office of the State Comptroller's (OSC) Follow-Up Report Number 2023-F-41 titled Controls and Management of the Unemployment Insurance System. Below is NYSDOL's response to the four outstanding recommendations, following OSC's numbering.

Recommendation #1:

Continue the development of the replacement UI system and ensure its timely implementation.

OSC Status: Partially Implemented

NYSDOL Response 07/17/2024:

NYSDOL understands and appreciates OSC's interest in the new Unemployment Insurance (UI) system. To provide New Yorkers with the new UI system they need and deserve, NYSDOL must be confident in a quality system delivering complete benefit, contribution, and appeal functions that include the new process for paying partial unemployment insurance benefits. As Commissioner Reardon has previously stated, NYSDOL will not launch the new system unless it has been sufficiently tested to ensure a successful launch. NYSDOL is actively engaged in User Acceptance Testing and working to ensure that the vendor completes all work, including implementing fixes for any identified defects, as soon as possible. NYSDOL is also working with the vendor to develop a definitive timeframe for the completion of the work and system Go-Live.

NYSDOL has implemented a multi-faceted strategy in an effort to achieve these important goals as swiftly as possible.

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 funding source and overpayments are recovered, as warranted.

OSC Status: Not Implemented

NYSDOL Response 07/17/2024:

*It is important to emphasize that these questionable claims are not overpayments and OSC did not find or otherwise determine that these claims were wrongfully paid or fraudulent. Instead, these claims were identified as potentially being **partially** paid under an improper funding source. As far as payments that were potentially partially paid by an improper source, OSC did not provide NYSDOL with the requisite identifying information within the time period allowed under law¹ to take action. Since OSC has not identified any of the questioned claims as being fraudulent, NYSDOL is precluded by state law in modifying those claims years beyond the statute of limitations.*

State Comptroller's Comment – In our initial report, we questioned whether the payments made to 8,798 claimants totaling \$41.2 million were correctly paid from the appropriate funding source. While the statute of limitations may preclude DOL from modifying the claim amount, in April and May 2024, DOL officials reviewed and were able to correct the funding source on the UI system for 98 of the 100 claimants we sampled during this follow-up. Further, DOL was informed about these claims during the original audit and should have investigated the questionable claims as soon as it was made aware of the issue.

Recommendation #4:

Develop and implement a process to include specific language access information in the UI system to provide the Department with appropriate, current, complete, accurate, accessible, and timely information on LEP individuals.

OSC Status: Partially Implemented

NYSDOL Response 07/17/2024:

As previously stated, this recommendation has been incorporated into the new UI system. Additionally, NYSDOL sought and received a federal grant to promote equitable access to the UI program, including LEP access. NYSDOL has provided OSC with copies of the NYSDOL's Equity Grant detailing the different projects.

Recommendation #5:

Ensure the current and new UI system and data comply with 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 system access.

¹ New York Labor Law § 597(3) restricts NYSDOL's ability to redetermine non-fraudulent claims more than one year after the initial determination was issued.

- Separating duties for administrators of UI applications or implementing appropriate compensating controls.
- Establishing a 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.

OSC Status: Partially Implemented

NYSDOL Response 07/17/2024:

NYSDOL continues to work with its internal information technology security team and our Office of Information Technology Services partners 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. NYSDOL is focused on ensuring that the new system is compliant with all of the above referenced security standards.

For example, NYSDOL recently learned of an update to the New York State Security Logging Standard, <https://its.ny.gov/security-logging>, and is in the process of modifying affected procedures accordingly.

If you have any comments, please contact Donald Temple, Director of Internal Audit and Control (518) 457-7332.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott B. Melvin". The signature is stylized and cursive.

Scott B. Melvin
Executive Deputy Commissioner