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Comptroller General
of the United States

March 26, 2021

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
U.S. House of Representatives

The 2021 GAO High-Risk List: Responses to Questions for the Record

Dear Chairwoman Maloney:

Thank you for the opportunity to testify before the Committee on Oversight and Reform on March 2, 2021 at the hearing titled, "The 2021 GAO High-Risk List: Blueprint for a Safer, Stronger, More Effective America."[1] We also appreciate the opportunity to provide the committee with additional information in response to questions for the record. Our responses can be found in the enclosure to this letter.

Please contact me with any further questions.

Sincerely yours,

Gene L. Dodaro
Comptroller General
of the United States

Enclosure

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

[1]For more details about our work in this area, see *GAO, High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas*, GAO-21-119SP (Washington, D.C.: Mar. 2, 2021)

Enclosure

1) It is my understanding that the GAO threshold to make the High-Risk List is $1 billion. Help me understand why the various federal pandemic unemployment assistance programs, with an estimated fraud level of $63 billion for 2020, did not make your list.

While we consider a number of quantitative and qualitative factors in making our high-risk decisions, we primarily rely on GAO's original audit work. In this particular case, to avoid duplication, the Department of Labor Office of Inspector General (DOL OIG) was focused primarily on fraud and payment integrity issues and GAO focused on program implementation and operations.

This approach is consistent with Congress's creation of the Pandemic Response Accountability Committee made up of Inspectors General to lead efforts to prevent and detect fraud, waste, abuse, and mismanagement. Inspectors General along with other law enforcement agencies and the Department of Justice are the primary agencies responsible for investigating and prosecuting fraud and recovering funds. In addition to the IG community, the executive branch has other investigative resources—such as the Federal Bureau of Investigation, U.S. Secret Service, Internal Revenue Service, and U.S. Postal Inspection Service—that are investigating potential fraud involving CARES Act funds. GAO focuses primarily on systemic weaknesses in programs, such as unemployment insurance, and makes recommendations to strengthen program effectiveness.

Given the significance of this program in responding to unemployment that resulted from the pandemic, and the level of fraud that has become apparent, we will focus on making a determination of whether we should add unemployment insurance programs to the high-risk list. We will do this by reviewing the work done by the IGs and the state audit agencies as well as completing programmatic work currently underway. If we make this determination GAO will, as it has done in the past, add this to the list out of cycle later this year.

2) I would like to hear your thoughts on this growing crisis, and any work the GAO has done in the area of federal unemployment assistance fraud, or may be considering undertaking this year? If no, are you willing to take a look at this growing crisis and make immediate recommendations to Congress on how to fix this problem?

We recognize that the unprecedented demand for unemployment insurance (UI) benefits from the regular and temporary programs and the programmatic flexibilities available at this time have increased the risk of improper payments, including those due to fraud. We are currently conducting work on the UI program, and we intend to include issues of fraud and program integrity based on the work being conducted by the Department of Labor's Office of Inspector General (DOL OIG) and state auditors in our reporting. GAO will also assess whether DOL's management of fraud risk meets leading practices.

In response to the CARES Act, we have two ongoing studies of UI programs during the pandemic, including one focused on Pandemic Unemployment Assistance (PUA). We will provide regular updates on our findings through our CARES Act reporting.

- Specifically, our first study looking broadly at UI programs during the pandemic is addressing the following objective questions: (1) What challenges states have delivering services under the CARES Act UI programs, and what actions have they taken to address them? (2) How has DOL supported and monitored states' implementation of the CARES Act UI programs, as well as assisted states with detecting and preventing improper payments? (3) What is known about the economic effects of expansion of UI benefits for individuals and the economy?

- Our second study focused on PUA is addressing the following objective questions: (1) How did state implementation of the PUA program vary in terms of timing and volume of claims and benefits? (2) In what ways has the pandemic affected contingent workers in selected states and how the PUA program has assisted them?

In addition to those two ongoing engagements, in our past and upcoming CARES Act reports (https://www.gao.gov/coronavirus), we have made and will continue to make recommendations. For example, to enhance monitoring across the federal government, **in November 2020, we recommended that the Office of Management and Budget (OMB) develop and issue guidance directing agencies to include COVID-19 relief funding with associated key risks, such as provisions contained in the CARES Act and other relief legislation that potentially increase the risk of improper payments, as part of their improper payment estimation methodologies.**

In March 2021, OMB revised its guidance to federal agencies to implement the requirements of the Payment Integrity Information Act of 2019. We reviewed this guidance and found that it did not direct agencies to use a risk-based approach to help ensure that key risks of improper payments, like eligibility requirements, are addressed through testing processes. Without such guidance, there is increased risk that agencies' processes may not address key risks of improper payments in their programs—for example, key eligibility rules contained in the CARES Act and other relief laws—calling into question the reliability of the improper payment estimates for such programs and their usefulness for developing effective corrective actions. I plan to follow up on this issue with the new OMB leadership team once they are in place.

Additionally, since June 2020, we have made four recommendations to DOL for improving the administration of the pandemic unemployment insurance programs and related reporting. [2] Specifically:

[2]For more information, see *GAO, COVID-19:Critical Vaccine Distribution, Supply Chain, Program Integrity, and Other Challenges Require Focused Federal Attention*, GAO-21-265 (Washington, D.C.: Jan. 28, 2021); *COVID-19:Urgent Actions Needed to Better Ensure an Effective Federal Response*, GAO-21-191 (Washington, D.C.: Nov 30, 2020); *COVID-19:Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, GAO-20-701 (Washington,

- In June 2020, to ensure that proper controls are in place to prevent and detect certain individuals from simultaneously receiving pay funded with the Paycheck Protection Program (PPP) and unemployment insurance payments, **we recommended that DOL, in consultation with the Small Business Administration (SBA) and the Department of Treasury, immediately provide information to state unemployment agencies that specifically addresses SBA's PPP loans, and the risk of improper payments associated with these loans.** DOL has addressed this recommendation.

- In November 2020, **we recommended that DOL (1) revise its weekly news releases to clarify that in the current unemployment environment, the numbers it reports for weeks of unemployment claimed do not accurately estimate the number of unique individuals claiming benefits and (2) pursue options to report the actual number of distinct individuals claiming benefits, such as by collecting these already available data from states, starting from January 2020 onward.** DOL agreed with our recommendations, with the exception of collecting data from states retroactively. In its weekly news release published on December 10, 2020, DOL clarified that the numbers it reports for weeks of unemployment claimed do not represent the number of unique individuals claiming benefits. DOL has not taken action to address to the second recommendation.

- In January 2021, we **recommended that DOL collect data from states on the amount of overpayments recovered in the Pandemic Unemployment Assistance program, similar to the regular unemployment insurance program.** DOL agreed with our recommendation but has yet to address it.

Through our other collaborative efforts, we have also gained information about other recent pandemic unemployment insurance program findings. Specifically, the DOL OIG is conducting ongoing work reviewing state UI claims data for potential fraud, and on February 22, 2021, it released an alert memorandum notifying DOL of more than $5.4 billion of potential fraudulent UI benefits paid to individuals from March to October 2020. Within this memorandum, the OIG recommends DOL work with Congress to require state workforce agencies to conduct data matches used by the OIG to uncover the potential fraud on which it reported. Currently, these data matches are not among those that are required. Additionally, the Pandemic Response

D.C.: Sep. 21, 2020); *Covid-19:Opportunities to Improve Federal Response and Recovery Efforts*. GAO-20-625 (Washington, D.C.: Jun. 25, 2020).

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Accountability Committee has listed responding expeditiously to the pandemic while ensuring UI program integrity among its top challenges for federal agencies. The committee also makes related state auditor reports, which include state-specific recommendations, available on its website.

We continue to collaborate with the DOL IG, state auditors, and other key parties to monitor the size and nature of fraud in UI programs. Moreover, we will examine how DOL assesses risk in this program and will start a new engagement that will elicit recommendations from experts on transforming the UI program to both improve service to claimants and prevent fraud.

3) Are you familiar with, and do you have an opinion on, the congressionally imposed integrity measures required of states to combat fraud? Do you believe Congress should require the states to do more to protect their systems and guarantee that federal taxpayer dollars will be protected from organized fraudsters?

Yes, we are familiar with the congressionally imposed program integrity measures required of states, such as the new requirements to verify identities and substantiate prior employment in the Pandemic Unemployment Assistance (PUA) program (Consolidated Appropriations Act, 2021). These additional measures address some gaps in the way the pandemic-related unemployment insurance programs were initially established and are likely to enhance program integrity.

GAO also recommended that Congress consider designating all executive agency programs and activities making more than $100 million in payments from COVID-19 relief funds as “susceptible to significant improper payments.” Congress already requires this for disaster relief funds. Specifically, in November GAO recommended that, **to hold agencies accountable and increase transparency, Congress should consider, in any future legislation appropriating COVID-19 relief funds, designating all executive agency programs and activities making more than $100 million in payments from COVID-19 relief funds as "susceptible to significant improper payments."** This would require Labor and other agencies to identify COVID-19 response programs that are most vulnerable to significant improper payments and to estimate the potential amount of improper payments.

We have been closely monitoring the Department of Labor’s activities aimed at assisting states in reinforcing program integrity while also recognizing the importance of getting vital assistance to those in need. For example, through our CARES Act reporting, we have provided updates on the Department of Labor’s efforts to provide guidance and technical assistance to assist states in reinforcing program integrity, including those related to new federal requirements.

Given that the UI program is a federal-state partnership, states design and administer their own UI programs within federal parameters, and DOL oversees states’ compliance with federal requirements. Over the past year, DOL officials have reminded states of their obligation to ensure program integrity in the regular and pandemic UI programs and of required and recommended tools to combat potential fraud. In particular, in May 2020, DOL issued an Unemployment Insurance Program Letter reminding state agencies that they must conduct the following program integrity activities for the regular and pandemic UI programs: a National Directory of New Hires Cross-match; a Quarterly Wage Records Cross-match; and a Systematic Alien Verification for Entitlements.

The data matching tools used by the DOL OIG have utility for detecting potential fraud but are not among those federally required. States vary in their use of these tools and capacities for detecting fraud. Moreover, as reported by the DOL OIG in February 2021, DOL program officials have encouraged state workforce agencies to use the National Association of State Workforce Agencies' Integrity Data Hub (IDH). This secure, centralized platform allows the state workforce agencies to perform various cross-matches of UI data, such as identifying claims filed in two or more states and claims filed using deceased persons' social security numbers. As a result, the system allows state agencies to work collectively to compare and analyze their UI claims data, enhancing their abilities to detect and prevent fraud and improper payments.

The DOL OIG reported that, as of December 2020, 32 of the 54 state workforce agencies use or partially use the IDH. In separate examples, California and Kansas state auditors recently reported that the states' fraud detection methods, that involved having staff visually review claims data, were not effective against the high number of claims during the pandemic. California began automating its processes during the summer of 2020. As of December 2020, Kansas was in the process of working with a private company to upgrade and automate its fraud detection process.

DOL has provided states with administrative funding targeted specifically at addressing potential fraud and identity theft in pandemic programs. DOL made available $100 million in September 2020 and $100 million in January 2021. DOL requires that states report quarterly on their progress in using this funding to address potential fraud. In addition, the American Rescue Plan Act of 2021, enacted on March 11, 2021, provides $2 billion for DOL to, among other activities, detect and prevent fraud.

We will continue to monitor DOL's activities and provide Congress with information on DOL's monitoring efforts through our ongoing CARES Act reporting and in our two planned final reports; we will provide recommendations for addressing programmatic challenges as appropriate. Additionally, we anticipate that our new engagement on transforming UI will result in recommendations to Congress for strengthening the program operations and integrity.

4) Are you willing to come back to this Committee and report any findings?

Yes, we would be happy to brief your staff and/or return to the committee to report on our work.