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Comptroller General
of the United States

May 9, 2023

Accessible Version

The Honorable Julie A. Su
Acting Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Priority Open Recommendations: Department of Labor

Dear Acting Secretary Su:

The purpose of this letter is to provide an update on the overall status of the Department of Labor's (DOL) implementation of GAO's recommendations and to call your attention to areas where open recommendations should be given high priority.¹ In November 2022, we reported that on a government-wide basis, 77 percent of our recommendations made 4 years ago were implemented.² DOL's implementation rate was 72 percent. As of March 2023, DOL had 120 open recommendations. Fully implementing these open recommendations could significantly improve agency operations.

Since our July 2022 letter, DOL has implemented two of 12 priority recommendations:

- DOL's Occupational Safety and Health Administration (OSHA) worked with the Department of Agriculture's Food Safety and Inspection Service to revise their Memorandum of Understanding and improve collaboration to ensure the safety of meat and poultry workers and to set time frames for evaluating the memorandum, as we recommended in November 2017. These changes will help the agencies improve their collaboration and leverage their resources to further protect the safety and health of plant workers and inspectors.³
- DOL's OSHA evaluated its procedures for ensuring that employers electronically report annual 300A injury and illness data when required, and implemented a plan to remediate deficiencies, as we recommended in January 2021. As a result, more establishments are submitting required reports, and OSHA has increased citations for noncompliance from 95 in 2019 to 369 in 2022. Complete injury and illness data are needed for OSHA's

¹Priority recommendations are those that GAO believes warrant priority attention from heads of key departments or agencies. They are highlighted because, upon implementation, they may significantly improve government operations, for example, by realizing large dollar savings; eliminating mismanagement, fraud, and abuse; or making progress toward addressing a high-risk or fragmentation, overlap, or duplication issue.

²GAO, *Performance and Accountability Report: Fiscal Year 2022*, [GAO-23-900398](#) (Washington, D.C.: Nov. 15, 2022).

³GAO, *Workplace Safety and Health: Better Outreach, Collaboration, and Information Needed to Help Protect Workers at Meat and Poultry Plants*, [GAO-18-12](#) (Washington, D.C.: Nov. 9, 2017).

targeting of inspections of establishments with high injury and illness rates, and ensuring worker safety and health.⁴

We ask for your attention to the 10 remaining open priority recommendations. We are adding one new recommendation related to protecting privacy information, bringing the total number of priority recommendations to 11. (See the enclosure for the list of recommendations and actions needed to implement them.)

The 11 priority recommendations fall into the following areas.

Stronger protections for wage earners. OSHA faces challenges protecting the safety and health of America’s wage earners, and enforcing workplace safety and health standards. We have five priority recommendations in this area, such as taking steps to address workplace violence against health care workers, improving oversight of coal mine operator insurance related to the Black Lung Disability Trust Fund that pays benefits to certain coal miners, and assessing lessons learned for future health care emergencies. Fully implementing these recommendations could help DOL strengthen protections for workers in hazardous industries, better protect the Trust Fund by limiting its financial risk, and improve the agency’s response to worker safety in a public health emergency.

Enhancing unemployment insurance. During economic downturns, the role of unemployment insurance (UI) in supporting workers and our overall economy becomes more vital. However, unprecedented demand for UI benefits during the COVID-19 pandemic and the urgent implementation of new UI programs made these programs vulnerable to fraud, improper payments, and mismanagement. We have five priority recommendations in this area, such as examining the suitability of fraud controls in the UI program and prioritizing residual fraud risk; accurately reporting the number of distinct individuals claiming UI benefits, such as by collecting data already available from states; and examining the extent and potential causes of racial and ethnic disparities in certain claimants’ receipt of benefits. Fully implementing these recommendations could facilitate more effective service delivery while strengthening program integrity and fraud risk management.

Protecting sensitive information. Federal agencies collect large amounts of personally identifiable information for various government programs. One priority recommendation in this area calls for fully defining the role of DOL’s senior privacy official in reviewing and approving privacy protections for department systems that contain such personal information. Ensuring that the leadership of DOL’s privacy program is involved in this process should help ensure more effective implementation of critical protections for sensitive personal information.

In April 2023, we issued our biennial update to our [High-Risk List](#), which identifies government operations with greater vulnerabilities to fraud, waste, abuse, and mismanagement or the need for transformation to address economy, efficiency, or effectiveness challenges.⁵

One of our high-risk areas concerns DOL, the [Unemployment Insurance System](#). Resolving this high-risk area will require leadership commitment and action by DOL and Congress. We

⁴GAO, *Workplace Safety and Health: Actions Needed to Improve Reporting of Summary Injury and Illness Data*, [GAO-21-122](#) (Washington, D.C.: Jan. 27, 2021).

⁵GAO, *High-Risk Series: Efforts Made to Achieve Progress Need to Be Maintained and Expanded to Fully Address All Areas*, [GAO-23-106674](#) (Washington, D.C.: Apr. 20, 2023).

removed another high-risk area of concern for DOL, the [Pension Benefit Guaranty Corporation single-employer and multiemployer insurance programs](#), given significant improvement in the financial positions for both programs and the reduced risk of insolvency.

Several other government-wide high-risk areas also have direct implications for DOL and its operations. These include: (1) [improving the management of IT acquisitions and operations](#), (2) [improving strategic human capital management](#), (3) [managing federal real property](#), (4) [ensuring the cybersecurity of the nation](#),⁶ and (5) [establishing a government-wide personnel security clearance process](#).

We urge your attention to the high-risk issues that center directly on DOL and the government-wide high-risk issues as they relate to DOL. Progress on high-risk issues has been possible through the concerted actions and efforts of Congress, Office of Management and Budget (OMB), and the leadership and staff in agencies, including DOL. In March 2022, we issued a report on key practices to successfully address high-risk areas, which can be a helpful resource as your agency continues to make progress addressing these high-risk issues.⁷

In addition to your attention on these issues, we recognize the key role Congress plays in providing oversight and maintaining focus on our recommendations to ensure they are implemented and produce their desired results. Legislation enacted in December 2022 included a provision for GAO to identify any additional congressional oversight actions that can help agencies implement priority recommendations and address any underlying issues relating to such implementation.⁸

Congress can use various strategies to address our recommendations, such as incorporating them into legislation. Congress can also use its budget, appropriations, and oversight processes to incentivize executive branch agencies to act on our recommendations and monitor their progress. For example, Congress can hold hearings focused on DOL's progress in implementing GAO's priority recommendations, withhold funds when appropriate, or take other actions to provide incentives for agencies to act. Moreover, Congress could follow up during the appropriations process and request periodic updates. Congress also plays a key role in addressing any underlying issues related to the implementation of these recommendations. For example, Congress could pass legislation providing an agency explicit authority to implement a recommendation or requiring an agency to take certain actions to implement a recommendation.

Copies of this report are being sent to the Director of the OMB and the appropriate congressional committees. In addition, the report will be available on the GAO website at <http://www.gao.gov>.

I appreciate DOL's continued commitment to these important issues. If you have any questions or would like to discuss any of the issues outlined in this letter, please do not hesitate to contact

⁶With regard to cybersecurity, we also urge you to use foundational information and communications technology supply chain risk management practices set forth in our December 2020 report: GAO, *Information Technology: Federal Agencies Need to Take Urgent Action to Manage Supply Chain Risks*, [GAO-21-171](#) (Washington, D.C.: Dec. 15, 2020).

⁷GAO, *High-Risk Series: Key Practices to Successfully Address High-Risk Areas and Remove Them from the List*, [GAO-22-105184](#) (Washington, D.C.: Mar 3, 2022).

⁸James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263, § 7211(a)(2), 136 Stat. 2395, 3668 (2022); H.R. Rep. No. 117-389 (2022) (accompanying Legislative Branch Appropriations Act, H.R. 8237, 117th Cong. (2022)).

me or Cindy Brown Barnes, Managing Director, Education, Workforce, and Income Security Issues, at brownbarnesc@gao.gov or 202-512-7215. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. We will continue to coordinate with your staff on all of the 120 open recommendations. Thank you for your attention to these matters.

Sincerely yours,

A handwritten signature in black ink that reads "Gene L. Dodaro". The signature is written in a cursive style with a large, prominent "D" and a long horizontal flourish extending to the right.

Gene L. Dodaro
Comptroller General
of the United States

Enclosure

cc: The Honorable Shalanda Young, Director, Office of Management and Budget

Enclosure

Priority Open Recommendations to Department of Labor

Stronger Protections for Wage Earners

Workplace Safety and Health: Additional Efforts Needed to Help Protect Health Care Workers from Workplace Violence. [GAO-16-11](#). Washington, D.C.: March 17, 2016.

Year Recommendation Made: 2016

Recommendation: To help determine whether current efforts are effective or if additional action may be needed, such as development of a workplace violence prevention standard for health care employers, the Secretary of Labor should direct the Assistant Secretary for Occupational Safety and Health to develop and implement cost-effective ways to assess the results of the agency's efforts to address workplace violence.

Action Needed: The Department of Labor's (DOL) Occupational Safety and Health Administration (OSHA) agreed with this recommendation. The agency published enforcement procedures to help OSHA field offices conduct inspections related to workplace violence. Officials said the agency is developing regulatory options and will obtain additional input from potentially affected small businesses. OSHA held a small business panel discussion in December 2022 and plans to complete a report with recommendations in April 2023. To fully implement this recommendation, the agency should use the information collected to assess its efforts and determine which, if any, additional actions are needed. Implementing this recommendation would better position the agency to determine whether additional action may be needed to prevent workplace violence.

Director: Thomas Costa, Education, Workforce, and Income Security

Contact Information: costat@gao.gov or 202-512-4769

Black Lung Benefits Program: Improved Oversight of Coal Mine Operator Insurance Is Needed. [GAO-20-21](#). Washington, D.C.: February 21, 2020.

Year Recommendation Made: 2020

Recommendations: The Director of the Office of Workers' Compensation Programs (OWCP) should develop and implement:

- procedures for coal mine operator self-insurance renewal that clarify how long an operator is authorized to self-insure; when an operator must submit its renewal application and supporting documentation; and the conditions under which an operator's self-insurance authority would not be renewed; and
- procedures for self-insured coal mine operator appeals that identify time lines for self-insured operators to submit documentation supporting their appeals and that identify a goal for how much time DOL should take to make appeals decisions.

Action Needed: DOL agreed with these recommendations and is taking steps to improve oversight of coal mine operator insurance. Regarding renewals, in January 2023, OWCP published a Notice of Proposed Rulemaking in the Federal Register that proposes revisions to

the process for coal mine operators to apply for authorization to self-insure, the amount of security self-insured operators must provide, and the process for operators to appeal determinations made by OWCP.

To fully implement these recommendations, DOL should: (1) clarify renewal procedures; and (2) ensure appeals procedures identify time frames for operators to submit documentation for their appeals, and a goal for how much time DOL appeals decisions should take. Implementing these recommendations as part of its new process for self-insurance going forward could better position OWCP to protect the Black Lung Disability Trust Fund should an operator not submit its renewal application or comply with DOL's collateral requirements. In addition, establishing appeals procedures could help ensure that DOL is able to revoke an operator's ability to self-insure, when warranted.

Director: Thomas Costa, Education, Workforce, and Income Security

Contact Information: costat@gao.gov or 202-512-4769

COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response. [GAO-22-105051](#). Washington, D.C. October 27, 2021.

Year Recommendation Made: 2022

Recommendation: The Assistant Secretary of Labor for OSHA should assess—as soon as feasible and, as appropriate, periodically thereafter—various challenges related to resources and to communication and guidance that OSHA has faced in its response to the COVID-19 pandemic and should take related actions as warranted.

Action Needed: OSHA partially agreed with this recommendation and noted that it is important to assess lessons learned and best practices. However, officials said that while the pandemic is ongoing, the agency's resources are best used to help employers and workers mitigate exposures to COVID-19. In February 2023, OSHA officials said that in fiscal year 2023, the agency would select and implement a task force to assess how OSHA could have improved its communications, provided clearer information, and sought feedback from the field in responding to the COVID-19 pandemic. To fully implement this recommendation, OSHA should conduct an assessment of the challenges it has faced in responding to COVID-19, and take any related warranted actions. Implementing this recommendation could help the agency improve its enforcement efforts and help it prepare for operations during any future pandemic.

Director: Thomas Costa, Education, Workforce, and Income Security

Contact Information: costat@gao.gov or 202-512-4769

Equal Employment Opportunity: Better Assistance and Data Use Could Improve Oversight of Veterans' Federal Contractor Employment. [GAO-22-104599](#). Washington, D.C., May 26, 2022.

Year Recommendation Made: 2022

Recommendation: The Director of the Office of Federal Contract Compliance Programs (OFCCP) should use available data to better approximate the size and characteristics of the veteran population protected under the Vietnam Era Veterans' Readjustment Assistance Act of

1974 (VEVRAA). For example, OFCCP could consider how to adjust the data it uses from the CPS Veterans Supplement to approximate the subset of veterans who are protected.

Action Needed: DOL neither agreed nor disagreed with this recommendation. OFCCP conducted research, consulted with other agencies, and met with subject matter experts. However, in February 2023, they noted limitations to some approaches that may hinder approximating veterans protected under VEVRAA. For example, they stated that using the CPS Veterans Supplement data to narrow down the veteran population would result in a lower benchmark. Yet OFCCP officials previously stated that one of the limitations to identifying an employment goal for VEVRAA was the inability to isolate the narrower subset of veterans who are protected under the law from the overall veteran population. As such, it is unclear why using data that align with protected veteran categories would be a limitation to better approximating that population.

To implement this recommendation, OFCCP should continue its efforts to explore options and identify available data that will better approximate the veteran population it is charged with protecting. Having this information would allow OFCCP to better monitor contractors' progress in hiring and recruiting protected veterans.

Director: Thomas Costa, Education, Workforce, and Income Security

Contact Information: costat@gao.gov or 202-512-4769

Enhancing Unemployment Insurance

Unemployment Insurance: Actions Needed to Ensure Consistent Reporting of Overpayments and Claimants' Compliance with Work Search Requirements. [GAO-18-486](#). Washington, D.C.: August 22, 2018.

Year Recommendation Made: 2018

Recommendation: The Assistant Secretary of DOL's Employment and Training Administration should provide states with information about its determination that the use of state formal warning policies is no longer permissible under federal law.

Action Needed: DOL agreed with this recommendation. As of February 2023, DOL is developing new guidance to inform states more explicitly that formal warning policies are not permissible. DOL officials said they expect the guidance to be finalized in 2023 but added that this effort is competing with other priorities to help states recover from the COVID-19 pandemic and implement provisions under the American Rescue Plan Act of 2021.⁹ To fully implement this recommendation, DOL needs to demonstrate that it has notified states to stop using formal warning policies by finalizing and publishing this information. If DOL does not provide states with this information and monitoring their response, states may continue to report inconsistent information on the extent of work search overpayments.

Recommendation: The Assistant Secretary of DOL's Employment and Training Administration should clarify information on work search verification requirements in its revised Benefit

⁹Pub. L. No. 117-2, 135 Stat. 4.

Accuracy Measurement procedures. The revised procedures should include an explanation of what DOL considers to be sufficient verification of claimants' work search activities.

Action Needed: DOL agreed with this recommendation and, as of February 2023, is developing information to clarify work search verification requirements. According to DOL officials, however, this effort is competing with other priorities to help states recover from the COVID-19 pandemic and implement provisions under the American Rescue Plan Act of 2021. To fully implement this recommendation, DOL should finalize and share this information with states. Until DOL provides clear direction to states about verifying work search and monitors state compliance, the agency has little assurance that states are complying with its requirements.

High-risk area: [Unemployment Insurance System](#)

Director: Thomas Costa, Education, Workforce, and Income Security

Contact Information: costat@gao.gov or 202-512-4769

COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response. [GAO-21-191](#). Washington, D.C.: November 30, 2020.

Year Recommendation Made: 2020

Recommendation: The Secretary of Labor should ensure the Office of Unemployment Insurance pursues 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.

Action Needed: DOL agreed to pursue options to report the actual number of distinct individuals claiming benefits but not with collecting data retroactively, noting that state UI programs may face challenges in implementing any new reporting requirements, particularly retroactively. DOL continues to work on developing a new state report to capture data on distinct individuals claiming regular UI benefits and data on other operations data, including the causes of claims processing backlogs such as ID verification issues. As of February 2023, DOL officials said their work on this new report has been delayed until the agency finalizes guidance on appropriate ID verification procedures.

To fully address this recommendation, DOL should complete the effort and pursue options to report these data retroactively, and report the actual number of individuals claiming benefits in the most feasible and least burdensome way. An accurate accounting of the size of this population may be critical to understanding the effectiveness of the nation's response to the pandemic, and may help DOL and policymakers identify lessons learned about the administration of regular and expanded UI benefit programs.

Director: Thomas Costa, Education, Workforce, and Income Security

Contact Information: costat@gao.gov or 202-512-4769

COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response. [GAO-22-105051](#). Washington, D.C.: Oct. 27, 2021.

Year Recommendation Made: 2022

Recommendation: The Secretary of Labor should examine the suitability of existing fraud controls in the unemployment insurance program and prioritize residual fraud risks.

Action Needed: DOL neither agreed nor disagreed with this recommendation. Agency officials said the agency would use this recommendation to build on its current risk assessment and management process. One of the leading practices for planning and conducting fraud risk assessments is to examine the suitability of existing fraud controls and prioritize residual fraud risks. As of February 2023, DOL continues to work on developing a fraud risk profile and officials said the work has contributed to its UI Integrity Plan. They also said DOL plans to finalize the UI fraud framework by the end of calendar year 2023. To fully implement this recommendation, DOL should incorporate this leading practice as part of its fraud risk assessment process, which would strengthen fraud risk management to help ensure that agency efforts are targeted to areas most at risk for fraud.

Director: Seto Bagdoyan, Forensic Audits and Investigative Service

Contact Information: BagdoyanS@gao.gov or (202) 512-6722

Pandemic Unemployment Assistance: Federal Program Supported Contingent Workers amid Historic Demand, but DOL Should Examine Racial Disparities in Benefit Receipt. [GAO-22-104438](#). Washington, D.C.: June 7, 2022.

Year Recommendation Made: 2022

Recommendation: The Secretary of Labor should ensure the Office of Unemployment Insurance examines and publicly reports on the extent of and potential causes of racial and ethnic inequities in the receipt of Pandemic Unemployment Assistance (PUA) benefits, as part of the agency's efforts to modernize UI and improve equity in the system. The report should also address whether there is a need to examine racial, ethnic, or other inequities in regular UI benefit receipt, based on the PUA findings.

Action Needed: DOL partially agreed with this recommendation, noting that enhancing demographic data collection in the permanent UI programs to inform actions to improve equity is a higher priority than performing a complete retrospective review of the PUA program, which is no longer operating. DOL's efforts to promote equity in UI programs have continued, including providing grant awards to 33 states as of January 2023 to promote equitable access to UI programs. DOL has also continued its work to establish data partnerships with selected states to obtain claimant-level data to analyze the demographic and geographic characteristics of people who apply for, receive, and are denied UI benefits, including reasons for denial, if possible. DOL also plans to enhance its collection of demographic information in certain reports states submit with UI data. These ongoing efforts represent key steps to promoting equity in UI programs.

Examining and reporting on the extent and potential causes of racial and ethnic inequities in the receipt of PUA benefits would provide valuable information for DOL and policymakers. Without this information, DOL may have difficulty effectively monitoring state practices or fully meeting its goals of advancing racial, geographic, and gender equity in the UI system.

Director: Thomas Costa, Education, Workforce, and Income Security

Contact Information: costat@gao.gov or 202-512-4769

Protecting Sensitive Information

Privacy: Dedicated Leadership Can Improve Programs and Address Challenges. [GAO-22-105065](#). Washington, D.C.: September 22, 2022.

Year Recommendation Made: 2022

Recommendation: The Secretary of Labor should fully define and document the role of the senior agency official for privacy or other designated privacy official in reviewing and approving system categorizations, overseeing privacy control assessments, and reviewing authorization packages.

Action Needed: DOL agreed with this recommendation. Agency officials stated they would take steps to address it. To fully implement this recommendation, the agency needs to fully document the senior agency official's role with respect to privacy control assessments and authorization packages. Without fully establishing this element of its privacy program, DOL will have less assurance that it is consistently and effectively implementing privacy protections.

Director: Jennifer Franks, Information Technology and Cybersecurity

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