NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley
State Auditor

Mike.Foley@nebraska.gov
PO Box 98917
State Capitol, Suite 2303
Lincoln, Nebraska 68509
402-471-2111, FAX 402-471-3301
auditors.nebraska.gov

December 13, 2023

John Albin, Commissioner
Nebraska Department of Labor
550 South 16th St.
Lincoln, Nebraska 68509

Dear Commissioner Albin:

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the State of Nebraska (State), as of and for the year ended June 30, 2023, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and we have issued our report thereon dated December 13, 2023. In connection with our engagement to audit the financial statements we considered the State's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the State's internal control. Accordingly, we do not express an opinion on the effectiveness of the State's internal control.

In connection with our engagement to audit the financial statements as described above, we noted certain internal control or compliance matters related to the activities of the Department of Labor (Department) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of the Department's management, are intended to improve internal control or result in other operating efficiencies.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, we identified certain deficiencies in internal control, Comment Number 1 (Accounting Issues) and Comment Number 2 (Unemployment Insurance Benefit Payments) that we consider to be material weaknesses.

These comments will also be reported in the State of Nebraska's Statewide Single Audit Report Schedule of Findings and Questioned Costs.

In addition, we noted other matters involving internal control and its operation that we have reported to management of the Department, pursuant to American Institute of Certified Public Accounts (AICPA) Auditing Standards AU-C Section 265.17, in a separate early communication letter dated September 8, 2023.

Draft copies of this letter were furnished to the Department to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this letter. The responses were not subjected to the other auditing procedures applied in the engagement to audit the financial statements and, accordingly, we express no opinion on them. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

The following are our comments and recommendations for the year ended June 30, 2023.

1. <u>Accounting Issues</u>

Despite a modified opinion for the Unemployment Insurance (UI) Fund and related findings in the last three audits, the Department lacked procedures again for ensuring that the UI Fund financial statements were presented accurately for the Annual Comprehensive Financial Report (ACFR). After each of the last three audits, the Auditor of Public Accounts (APA) recommended the Department work closely with the Department of Administrative Services – State Accounting (State Accounting) to establish procedures sufficient for calculating and reporting the UI Fund for the ACFR.

We also recommended the Department establish procedures to ensure its staff performed a proper review of documentation, including the trial balance, and to reconcile the Department's separate tax and benefit system, NEworks, to the State accounting system to identify issues between the systems. Though improvements were noted, it is apparent from the adjustments and errors noted below that the Department failed to comply with our prior recommendations to ensure that the UI Fund financial statements are presented accurately.

The UI funds were maintained in separate, outside bank accounts, differing from most State funds, which are maintained by the State Treasurer. The Department prepared manual journal entries to record financial activity from NEworks to the State's accounting system, which is used to generate the financial statements. However, the financial statements required material adjustments due to incorrect journal entries made by the Department and the lack of an adequate reconciliation of the financial activity recorded in NEworks to that recorded in the State accounting system to ensure account balances and other financial activity were properly presented. The significant number of financial reporting errors required a substantial amount of additional time and work by the APA. Had the Department addressed the prior year findings, the additional time and work would have been significantly less.

The table below summarizes over $24 million in errors made by the Department for fiscal year ended June 30, 2023. The APA proposed, and State Accounting posted, adjustments to correct the financial statements.

Adj.	Description	Dollar Error
1	Prior to fiscal year 2023, the Department accrued the UI benefit overpayment receivable only at year end for financial statement presentation. In fiscal year 2023, the Department changed its procedures to record a receivable balance as of July 1, 2022, and then tracked changes to the balances throughout the year in the accounting system. The Department overstated the beginning overpayment receivable balance and current year expenditures by $5,205,239. Additionally, the Department did not establish a beginning penalty receivable balance of $408,386.	$ 5,205,239
2	Because of the incorrect balances included in #1 above, the Department overstated the overpayment receivable allowance for doubtful accounts by $4,815,264. Additionally, the Department failed to record an allowance for doubtful accounts for the penalty receivable balance of $426,658.	4,815,264
3	The Department used an incorrect amount from a NEworks report to record the recoupments from overpayments to claimants, resulting in the overpayment receivable balance being understated by $1,030,241.	1,030,241
4	As part of the Department's year end processes, it estimates an overpayment receivable for future overpayments related to fiscal year 2023 or prior benefit payments. The Department incorrectly recorded its July 1, 2023, reversing entry as a prior period transaction, which caused State Accounting to record it as fiscal year 2023 activity – thereby eliminating the entry. Due to this, an adjustment was necessary to re-record the accounts receivable balance.	787,570
5	The APA determined that the ending balance of the overpayment receivable as of June 30, 2023, should have been $2,117,396. However, the balance in the accounting system after all other adjustments noted above was $2,014,358, resulting in an unknown variance of $103,038 (understatement).	103,038
Total Overpayment Receivable Adjustments		**$ 11,941,352**

Adj.	Description	Dollar Error
6	In fiscal year 2023, the Department failed to record an allowance for doubtful accounts related to employers' accounts receivable (employer UI taxes owed), including penalties and interest receivable. The Department also failed to record a similar entry in fiscal year 2022, resulting in an adjustment to the Beginning Fund Balance. Additionally, the Department is required by State statute to transfer the penalties and interest assessed on the late employer remittance of taxes from the Unemployment Insurance Tax Clearing Fund to the Employment Security Special Contingent Fund. The APA determined the Department transferred the amount charged and not amount collected, resulting in too much money being transferred to the Employment Security Special Contingent Fund from the Unemployment Insurance Tax Clearing Fund. Therefore, these adjustments, totaling $2,912,501, were necessary to correct the amounts.	2,912,501
7	Employer balances due to the Department for UI taxes, interest, and penalties from unpaid tax contributions and UI taxes owed back to employers are maintained in NEworks. The Department failed to reconcile the employer accounts receivable consisting of Tax Contribution Receivable, Billed Interest Receivable, Penalty Receivable, and Reimbursable Employer Receivable, or Tax Contributions Payable accounts from the State accounting system to NEworks to ensure the amounts agreed. Since they did not, adjustments, totaling $2,693,984, were necessary to record these balances accurately as of June 30, 2023. In December 2021, the Department converted from its old Tax Management System (TMS) to NEworks. After the fiscal year 2022 audit, in which the Department was unable to determine its balances for the financial statements, a contractor was hired to review the Department's account balances and to ensure the balances from the old system were properly transferred to the new system. The contractor determined that the conversion of account balances from TMS to NEworks was correct. The Department took the prior balances confirmed by the contractor and added financial activity from the accounting system from December 2021 to June 2022 to determine the June 30, 2022, balances. The Department compared its calculated balance to the accounting system balances on July 1, 2022. Because variances were identified, the Department created adjustments to correct the balances. The APA noted the following issues with the adjustments prepared by the Department: ● At the time of conversion, the balances for Tax Contributions Receivable and Reimbursable Employer Receivables were negative. The Department appears to have considered all employer balances to be receivables when employers with negative balances should have been considered payables. ● The Department used activity from the accounting system for the December 2021 to June 2022 period. There appears to be errors in these entries made, so a more accurate method would have been to use reports directly from the NEworks system. ● The Department incorrectly recorded its adjustment to correct the balances. Balances that should have increased were decreased, and balances that should have decreased were increased. Due to the errors noted above, the APA performed its own review and calculation of the balances as of June 30, 2023. The Department failed to provide a report from NEworks that accurately reported all employer balances. Therefore, the APA started with the employers' balances from the contractor at the time of conversion, December 6, 2021, and added activity for each employer from reports from NEworks through June 30, 2023. The APA performed additional validation procedures to ensure its calculation agreed to the NEworks employer balances at June 30, 2023, and determined the following adjustments were needed: ● Increase Tax Contribution Receivable by $1,823,317 ● Increase Billed Interest Receivable by $870,667 ● Decrease Penalty Receivable by $125,397 ● Decrease Reimbursable Employer Receivable by $5,730 ● Increase Tax Contributions Payable by $2,201,533 ● Increase Beginning Fund Balance by $361,324	2,693,984
8	The Department's fiscal year 2022 State Unemployment Insurances Taxes (SUIT) revenue was overstated by $2,151,033, while the fiscal year 2023 SUIT revenue was understated by $2,151,033. The inaccurate revenues were due to errors made by the Department in transferring the revenue between funds. Therefore, an adjustment was necessary to decrease the fiscal year 2023 beginning fund balance and increase fiscal year 2023 revenue.	2,151,033
9	In its preparation of the ACFR, State Accounting annually reviews entries identified as prior period transaction and recorded within three months after the fiscal year end. The Department failed to process multiple miscellaneous adjustments related to fiscal year 2022 until August 2023 and failed to notify State Accounting of the late entries. Therefore, State Accounting did not properly record the transactions as fiscal year 2022 activity, and an adjustment was needed in fiscal year 2023 to reflect the activity in the proper fiscal year.	1,002,510

Adj.	Description	Dollar Error
10	In fiscal year 2023, the Department recorded entries to write off $614,926 in overpayments receivable. However, the entries were recorded as miscellaneous adjustments instead of as current year expenditures.	614,926
11	Fiscal year 2023 revenues were overstated because the Department incorrectly recorded the reversal of the fiscal year 2022 accrual for tax contributions.	242,619
Total Miscellaneous Adjustments		**$ 9,617,573**
12	The Department failed to reverse the fiscal year 2022 claims payable accrual entry, resulting in the overstatement of the fiscal year 2023 benefits payable by $1,431,090.	1,431,090
13	As of June 30, 2023, the Department failed to record a benefits payable accrual for claims paid after the fiscal year end for services rendered prior to the fiscal year end. The total payable amount was $361,452.	361,452
14	The Department failed to consider canceled payments to claimants, resulting in expenditures and payables being overstated by $319,541.	319,541
15	The Department incorrectly calculated its claims liability for fiscal year 2023, resulting in an understatement of $168,328.	168,328
Total Claims and Benefits Payable Adjustments		**$ 2,280,411**
16	The Department failed to record a $288,865 payable to the Federal government for overpayments due back to the Federal government once received.	288,865
17	The Department moved the beginning balances in 11 accounts, totaling $21,509, to the Due to Government account. However, the Department did not have support for the payable, and it was not paid in fiscal year 2023, so it is likely that this balance is incorrect and should be written off.	21,509
Total Due to Government Adjustments		**$ 310,374**
18	The Department failed to record a receivable for $160,505 in Combined Wage Claims, which are benefits owed by other states.	160,505
19	The Department recorded the reduction of the Due from Federal Government receivable in the wrong account, resulting in the balance being overstated by $75,100.	75,100
20	The Department moved the beginning balance in eight accounts, totaling $23,793, to the Due from Federal Government account during fiscal year 2023. However, the Department lacked support for the receivable, and it was not received in fiscal year 2023, so it is likely that this balance is incorrect and should be written off.	23,793
Total Other Receivable Adjustments		**$ 259,398**
Total Adjustments		**$ 24,409,108**

The APA identified additional financial statement errors that did not require adjustments to the financial statements due to their relative insignificance; nevertheless, these were errors and are detailed in the table below:

Error	Description	Dollar Error
1	The Department incorrectly recorded $264,598 in benefit payment recoupments for July and August 2022 to the wrong account. Additionally, the Department failed to record entries for the September to June 2023 benefit payment recoupments, totaling $777,899, until notified by the APA. The Department corrected these issues prior to September 30, 2023, so formal adjustments to the financial statements were not required.	$ 1,042,497
2	The suspense account serves as the holding account for unreconciled items between the bank and NEworks. During fiscal year 2023, the Department wrote off the $854,980 balance at June 30, 2022, without an analysis of the balance. The Department failed also to perform an analysis of the $113,441 balance in the holding account at June 30, 2023.	854,980
3	The Department claimed to have discretion in the use of a Federal fund balance of $846,573; however, documentation to support that assertion was not provided, nor was an explanation describing how the balance was accumulated.	846,573
4	The Department recorded $496,122 in Federal revenues incorrectly as miscellaneous adjustments rather than operating Federal grants and contracts. Therefore, its revenues in the Reed Act Fund were not correct.	496,122
5	The Department recorded an entry to write off the $202,921 balance in the employer reimbursable payable account. Prior to the conversion to NEworks in December 2021, the Department used two accounts to record the payable balance to contributory employers and reimbursable employers. After the conversion, the Department stopped using the reimbursable payable account and used only the contributory payable account. As the reimbursable payable account had no activity in over a year, the Department mistakenly wrote off the balance, when it should have been moved to the contributory payable account. An entry was not proposed to correct this directly, as the balance was corrected in entry #7 in the table above.	202,921
6	The Department recorded a $151,569 check to the benefits payable account, even though a liability was never recorded related to this check. Therefore, the benefits payable liability was understated.	151,569
7	The Department lacked support for $143,899 of the $542,632 benefits payable account balance at June 30, 2023. It is likely the amount is for benefit payments returned to the bank, but the Department lacked support for the amount of the returned payments.	143,899

Error	Description	Dollar Error
8	The Department failed to record a liability for amounts collected that were more than a claimant's overpayment balance, which should be paid back to the claimant. The APA calculated this liability to be $133,982.	133,982
9	The Department incorrectly reported a Federal fund balance as $118,716; however, due to incorrect entries, that fund did not actually have a balance.	118,716
10	The Department inappropriately included $15,755 of fiscal year 2024 interest charges in the original calculation of the employers' fiscal year 2023 accounts receivable allowance for doubtful accounts. The amount was appropriately not included in the adjustment proposed by the APA. Testing revealed also a projected additional amount of $21,297 for fiscal year 2024 interest charges that should not have been included in the allowance.	37,052
11	The Department failed to record a payable to the Federal Government for Federal Pandemic Unemployment Compensation (FPUC) monies held on June 30, 2023, totaling $12,916.	12,916
12	The Department recorded $11,296 in entries that increased the payable due to the Federal Government. When processing the payment to the Federal government, however, the Department recorded the entry to the wrong account; therefore, the original entries need to be reversed.	11,296
13	The Department's methodology for the calculation of the overpayment receivable, those expected to be established within 90 days after June 30, 2023, was not reasonable. First, the calculation included the average overpayments established between July and September for the last eight years, which assumes that all overpayments established during that time period are for payments from the previous fiscal year. However, those overpayments could be for payments made during the current fiscal year. Second, the calculation neglected to include overpayments established from October to June for payments made in the previous fiscal year.	0
Total		**$ 4,052,523**

A proper system of internal control requires procedures to ensure accurate information is included in the State accounting system for the proper presentation of the State's financial statements. Without such procedures, there is an increased risk of not only material misstatements occurring and remaining undetected but also improper payments being made.

> We continue to recommend the Department establish procedures to ensure accounting records are recorded properly in the accounting system, including reconciliation procedures to ensure accounting records reflect accurately the activity and appropriate balances of NEworks. Without the resolution of these repeated findings, the APA's ability to audit the UI financial statements might be compromised.

Department Response: The Department recognizes that the Auditor of Public Accounts (APA) invested substantial time into reviewing and identifying proposed adjustments. The Department has corrected one-time errors related to establishing accurate balances. Further, the Department is continuously working to improve accounting processes.

2. <u>Unemployment Insurance Benefit Issues</u>

The Department paid $62,550,014 million in unemployment insurance (UI) benefits to 15,948 claimants between July 1, 2022, and June 30, 2023.

Our testing included a random sample of 40 payments, totaling $22,178, and resulted in $4,493 in questioned costs due to inadequate support for 10 payments tested. Based on the sample tested, the dollar error rate for the sample was 20.26% ($4,493/$22,178), which estimates the potential dollars at risk for fiscal year 2023 to be $12,672,633.

The APA also found an additional $32,376 of questioned costs during other testing procedures.

Similar findings have been noted since the fiscal year 2020 audit.

The following table summarizes the questioned costs, which are explained in detail below:

	Questioned Costs FY 2023
Random Sample Adjudication Issues	$ 4,493
Claimants with Excessive Wages	$ 22,506
Improper UI Benefits Paid to State Employees	$ 9,870
Total	**$ 36,869**

Good internal controls require procedures to ensure that UI claimants are eligible, and benefit payments are proper.

Per 2 CFR § 2900.4 (January 1, 2023), the U.S. Department of Labor adopted the Office of Management and Budget (OMB) Uniform Guidance as its policies and procedures for financial assistance administration.

2 CFR § 200.403 (January 1, 2023) requires costs charged to Federal programs to be reasonable, necessary, and adequately documented.

2 CFR § 200.302 (January 1, 2023), requires states to expend Federal awards in accordance with state laws.

2 CFR § 200.511(b) (January 1, 2023) states, in relevant part, the following:

> *The summary schedule of prior audit findings must report the status of all audit findings included in the prior audit's schedule of findings and questioned costs. . . .*
>
> * * * *
>
> *(2) When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding's recurrence and planned corrective action, and any partial corrective action taken. When corrective action is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule must provide an explanation.*

<u>Random Sample Adjudication Issues</u>

<u>Adjudication of Employer Responses</u>

When a claimant files for UI benefits, the Department sends a "Separation Information Request" to the claimant's previous employers to provide information, such as beginning and ending dates of employment, reason for termination, and whether vacation, severance, or other wages were paid after termination. Employers are required to respond within 10 days after the mailing or electronic transmission of such a request in accordance with Neb. Rev. Stat. § 48-632(1) (Reissue 2021).

For 6 of the 40 randomly selected claimants tested, the Department failed to adjudicate properly the most recent separating employer responses because the employers provided information that required the Department to request additional information for accurate adjudication.

Claimant	Claimant Response	Employer Response	Benefit Paid for Weeks Ending	Questioned Costs	Total Payments	Adjudication Issue
#1	Lack of Work / Layoff	Terminated / Fired	5/14/22 - 8/6/22	$ 980	$ 6,370	For each claimant, the employer responded that the claimant was either "Terminated/Fired" or "Resigned/Quit." In each case, the Department either did not follow up with the employer to obtain additional information on the specifics of the termination or did not document its follow-up attempts. If the cause of termination was due to misconduct or work was left without good cause, the claimant may have been ineligible for benefits. The questioned costs include only the payment tested by the APA.
#2	Terminated / Fired	Terminated / Fired	6/4/22 - 10/1/2022	$ 240	$ 2,091	
#3	Terminated / Fired	Terminated / Fired	Note 1	$ 396	$ 8,712	
#4	Lack of Work / Layoff	Terminated / Fired	3/4/23 - 6/3/23	$ 514	$ 7,196	
#5	Terminated / Fired	Terminated / Fired	1/14/23 - 6/3/23	$ 482	$ 10,122	
#6	Resigned / Quit	Resigned / Quit	1/14/23, 2/18/23 - 6/3/23	$ 339	$ 5,576	
			Totals	**$ 2,951**	**$ 40,067**	

Note 1: Claimant was paid for the following weeks ended: 1/22/2022, 1/29/2022, 2/12/2022 - 2/26/2022, 3/12/2022 - 3/26/2022, 4/16/2022, 4/23/2022, 5/7/2022 - 5/28/2022, 6/11/2022 – 6/25/2022, 7/9/2022 - 7/23/2022, 8/6/2022, and 8/13/2022.

Neb. Rev. Stat. § 48-628.10 (Reissue 2021) provides the following:

(1) An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.

(2) If the commissioner finds that the individual was discharged for misconduct that was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery while the individual is on the worksite or while the individual is engaged in work for the employer, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer.

(3) If the commissioner finds that the individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify such individual from receiving benefits with respect to wage credits earned prior to discharge for such misconduct.

Neb. Rev. Stat. § 48-628.12 (Reissue 2021) states, in relevant part, the following:

An individual shall be disqualified for benefits:

* * * *

(2) For any benefit year beginning on or after October 1, 2018, for the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for all subsequent weeks until the individual has earned wages in insured work in an amount of at least four times his or her weekly benefit amount and has separated from the most recent subsequent employment under nondisqualifying conditions.

The Employment and Training Administration (ETA) Handbook 301, 5th Edition (July 2005), page V-11, states, in relevant part, the following:

A request for information which is returned by the claimant, employer or interested party with insufficient or missing information is not considered a reasonable attempt. The [State Workforce Agency] SWA must attempt to obtain the needed information.

Good internal control requires procedures to ensure that the Department adjudicates properly each claimant's last separation from employment.

Without such procedures, there is an increased risk of not only benefit payments being made to ineligible claimants but also noncompliance with State Statute.

<u>Issues Regarding Separation Information Requests</u>

The APA also found issues and questioned costs related to the Department not sending Separation Information Requests. The following table explains the issues noted:

Claimant	Claimant Response	Benefit Paid for Weeks Ending	Questioned Costs	Total Payments	Description of Issue
#7	Terminated / Fired	9/3/22 - 10/1/22	$ 490	$ 2,428	The Department failed to send the last separating employer a Separation Information Request. The questioned costs include only the payment tested by the APA.
#8	Lack of Work / Layoff	9/10/22 - 12/31/22	$ 394	$ 5,880	
#9	Terminated / Fired	4/15/23 - 6/24/23	$ 286	$ 3,146	
		Totals	**$ 1,170**	**$ 11,454**	

Per Neb. Rev. Statute § 48-632(1) (Revised 2021), employers must respond to the Separation Information Request within 10 days, as follows:

> *An employer shall provide information to the department in respect to the request for information within ten days after the mailing or electronic transmission of a request.*

ETA Handbook 301, 5th Edition (July 2005), page V-13, contains the following:

> *Employer information is essential on eligible voluntary quit, discharge, refusal-of-work, and certain deductible income cases. Also, the employer must be given the opportunity to be heard and to refute information which could be adverse to the interests of the business.*

Good internal controls require procedures to ensure that Separation Information Requests are being sent to the last separating employer.

Without such procedures, there is an increased risk of improper adjudication, which could result in benefit payments being made in violation of Federal and State requirements.

<u>*Untimely Follow-up of Employer Information*</u>

The Department paid benefits for a claimant's ineligible weeks, as noted in the table below:

Claimant	Claimant & Employer Response	Benefit Paid for Weeks Ending	Questioned Costs	Total Payments	Description of Issue
#10	Still Employed	1/7/23 - 1/14/23	$ 372	$ 744	The claimant filed for a temporary separation on December 21, 2022. On January 20, 2023, the employer confirmed that claimant was on leave due to a temporary lack of work and indicated that the claimant was expected to return to work on January 3, 2023. On January 30, 2023, the claimant contacted the Department to report that she had returned to work on January 9, 2023, (confirmed by the employer the following day) and should not have filed for UI benefits for the week ending January 14, 2023. On March 11, 2023, the employer provided wage documentation for the claimant, showing that she worked 80 hours for the pay period ending January 20, 2023. However, as of July 26, 2023, no follow-up had been performed by the Department regarding the wages, and an overpayment had not been established. On August 9, 2023, after notification by the APA, the Department established an overpayment for the week in question. The questioned costs include only the payment tested by the APA.

NE Rev. Statute § 48-625(1) (Cum. Supp. 2022) states, in relevant part, the following:

> *[E]ach eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount.*

Good internal control requires procedures to ensure that the Department adjudicates properly each claimant's last separation from employment. This would include following up on potentially disqualifying information provided by employers and the timely establishment of overpayments.

Without such procedures, there is an increased risk of not only benefit payments being made to ineligible claimants but also noncompliance with State statute.

Claimants with Excessive Wages Issues

The APA tested five claimants who received over $250,000 in wages during the period July 1, 2022, through June 30, 2023, and an additional five claimants who received over $55,000 in wages and received over $12,000 in unemployment benefits during the period.

Benefits paid to 2 of the 10 claimants were inappropriate, as detailed in the table below:

Claimant	FY23 Wages	FY23 Questioned Costs	Description of Issue
Claimant #1	$ 382,414	$ 9,766	The employer reported a $200,000 severance payment to the claimant. After receiving the employer's response, the Department contacted the claimant to ask about the severance pay, and the claimant stated that the money received was a settlement payment, not severance. The APA found no attempts by the Department to confirm this statement with the employer, nor did the Department receive any documentation to support the claimant's statement. If the payment was severance, the claimant would not have been eligible to receive benefits until March 2024. The claimant was paid $9,766, which is considered questioned costs.
Claimant #2	$ 74,397	$ 12,740	The claimant separated from his last employer on September 1, 2022, and received his first benefit payment on November 10, 2022. However, based on wage records available to the Department, the claimant was reemployed during the period October 1, 2022, to December 31, 2022, and received wages from a new employer. The claimant received $42,186 in wages from the new employer during the period October 1, 2022, to June 30, 2023, and received $12,740 in unemployment benefits during this same time. However, the claimant reported only $5,760 in wages from the new employer during this time. On multiple occasions, the Department attempted to contact the claimant's new employer to confirm when these additional wages were earned. However, the employer failed to respond. It is likely that the claimant fraudulently certified his wages to the Department and was ineligible to receive UI benefits. The Department lacked sufficient controls to ensure that benefit payments made to claimants are not made while the claimant is also receiving disqualifying wages. The $12,740 paid to the claimant is considered questioned costs.
Totals	**$ 456,**811	**$ 22,506**	

Neb. Rev. Stat. § 48-628.02 (Reissue 2021) states, in relevant part, the following:

> *(1) An individual shall be disqualified for benefits for any week in which he or she is receiving or has received remuneration in the form of:*
>
> *(a) Wages in lieu of notice or a dismissal or separation allowance;*
>
> * * * *
>
> *(2) Payments described in subsection (1) of this section that are made in a lump sum shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributed.*

Good internal control requires procedures to ensure that unemployment benefits are being paid properly to claimants in accordance with State statute and Federal regulations, and all claims, including supporting documentation, are adequately reviewed for indicators of potential fraud.

Without such procedures, there is an increased risk of improper benefit payments to claimants.

Improper Benefits Paid to State Employees

The APA compared a list of unemployment benefit claimants to the State's employee management system to identify State employees who had also received unemployment benefits during the fiscal year ended June 30, 2023. The APA then compared the weeks these individuals were paid UI benefits to the weeks they were paid wages from the State.

In total, the APA identified 30 State employees who received UI benefits for weeks they were also employed with the State. We selected six of those employees to test. During fiscal year 2023, the Department paid $5,119 in improper unemployment benefits to State of Nebraska (State) employees for three of six claimants tested. All three claimants failed to report any wages and are included in the table below:

Claimant	Wages per State Accounting System	Benefits Paid	APA Calculated Benefits to be Paid	Overpayments
Claimant #1	$ 1,441	$ 980	$ -	$ 980
Claimant #2	$ 5,288	$ 5,654	$ 1,781	$ 3,873
Claimant #3	$ 365	$ 394	$ 128	$ 266
Total Overpayments				**$ 5,119**

In addition to the overpayments noted above, Claimants #2 and #3 voluntarily left employment with the State, while receiving UI benefits, for reasons that are not defined as good cause by Neb. Rev. Stat. § 48-628.13 (Reissue 2021). Due to this, the claimants would be disqualified for benefits from the week in which they left work voluntarily and all subsequent weeks until they had earned wages in insured work in an amount at least four times the weekly benefit amount on their current claim, per Neb. Rev. Stat. § 48-628.12 (Reissue 2021). The APA noted that, together, the claimants were paid $4,751 in UI benefits after their disqualifying separations.

Active State workers may be eligible for unemployment benefits if: 1) their work hours were reduced; b) they were terminated from other employment; or c) their hours from another job were reduced. In these instances, the employee would be required to report his or her wages earned from the State to determine both eligibility and benefit amount.

Neb. Rev. Stat. § 48-625(1) (Cum. Supp. 2022) provides, in relevant part, the following:

> *[E]ach eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 48-628.02, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.*

Neb. Rev. Stat. § 48-628.02 (Reissue 2021) states, in relevant part, the following:

> *(1) An individual shall be disqualified for benefits for any week in which he or she is receiving or has received remuneration in the form of:*
>
> > *(a) Wages in lieu of notice or a dismissal or separation allowance;*
> >
> > *(b) Vacation leave pay, including that received in a lump sum or upon separation from employment;*
> >
> > *(c) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States;*

(d) Retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; or

(e) A gratuity or a bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law.

(2) Payments described in subsection (1) of this section that are made in a lump sum shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributed.

Neb. Rev. Stat. § 48-628.12 (Reissue 2021) states, in relevant part, the following:

An individual shall be disqualified for benefits:

* * * *

(2) For any benefit year beginning on or after October 1, 2018, for the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for all subsequent weeks until the individual has earned wages in insured work in an amount of at least four times his or her weekly benefit amount and has separated from the most recent subsequent employment under nondisqualifying conditions.

A good internal control plan requires procedures sufficient to identify improper or questionable benefits for further investigation and proper resolution.

Without such procedures, there is an increased risk of improper or fraudulent benefit payments being made.

Wage Crossmatch Issues

According to 20 CFR § 603.23(b) (April 1, 2023), the Department is required to perform a quarterly wage crossmatch to check against the Department's wage database to determine whether a claimant met the Department's criteria for further investigation. If the criteria were met, an investigation should automatically be created in the benefit system. The Department's investigation included sending a wage audit request to the employer to obtain the wages earned for each week that the claimant was receiving benefits.
The Department's procedure provided to the APA stated the following:

The quarterly crossmatch runs for 2 quarters in arrears. I.E. If we are in 3rd quarter of 2022 it will run for 1st quarter of 2022 and it checks 2nd quarter of 2022. Then if we are in 4th quarter of 2022 it will run for 2nd quarter of 2022 and it checks 3rd quarter of 2022.

From the APA's review of the initial 40 random payments tested above (page 5), the crossmatch does not appear to be working as intended. One of these payments was to an individual who received UI benefits for weeks ending February 11, 2023, through March 11, 2023, and who also received $2,282 in wages during this quarter. The employee was not identified when the Department ran the wage crossmatch on May 20, 2023.

Therefore, the APA selected a separate random sample of 40 claimants who received UI benefit payments during calendar year 2022 to test the fiscal year 2023 wage crossmatch control process. From this separate sample, another 11 claimants met the criteria; however, an investigation was not created. For another two claimants, an investigation was created, and an employer response was received by the Department; however, this information was not used to adjudicate the claim in a timely manner.

The following table details the wages of these 13 claimants for the quarter tested, the amounts self-certified by the claimants, and the benefits paid to the claimants. A Wage Audit Request was sent for 10 of these claims, and the APA was able to determine that the payments were supported. The APA determined that 3 of the 13 payments were unsupported, as the Department failed to send the employer a wage audit request for the weeks in question.

Claimant	Quarter Ending	Benefits Paid for the Quarter	Wages Paid for the Quarter	Wages Certified by Claimant	Payment Tested	Unsupported Payments	Date Investigation Created	Wage Audit Sent?
#1	3/31/22	$ 572	$ 4,561	$ -	$ 116	$ 116	Not Created	No
#2	3/31/22	$ 4,104	$ 3,174	$ 720	$ 456	$ 456	Not Created	No
#3	3/31/22	$ 3,280	$ 857	$ 563	$ 366	$ -	Not Created	Yes
#4	6/30/22	$ 2,096	$ 1,235	$ -	$ 262	$ -	Not Created	Yes
#5	6/30/22	$ 2,870	$ 1,536	$ 1,488	$ 410	$ -	Not Created	Yes
#6	6/30/22	$ 810	$ 2,317	$ -	$ 162	$ -	5/21/2023	Yes
#7	9/30/22	$ 2,940	$ 5,384	$ -	$ 980	$ -	Not Created	Yes
#8	6/30/22	$ 480	$ 1,799	$ -	$ 120	$ 120	Not Created	No
#9	9/30/22	$ 1,980	$ 495	$ 1,600	$ 396	$ -	Not Created	Yes
#10	9/30/22	$ 4,048	$ 700	$ -	$ 368	$ -	Not Created	Yes
#11	9/30/22	$ 1,960	$ 8,411	$ -	$ 490	$ -	Not Created	Yes
#12	9/30/22	$ 5,390	$ 4,025	$ -	$ 490	$ -	Not Created	Yes
#13	12/31/22	$ 2,450	$ 20,337	$ 118	$ 490	$ -	5/21/2023	Yes

The Department stated that, due to the volume of investigations open and the staff available to review and complete them, the investigations created from the quarterly wage crossmatches are low priority because they will not identify improper payments until after the payments have been made.

Our testing included payments totaling $13,978 and resulted in $692 in unsupported payments. The benefit payments for calendar year 2022 totaled $56,916,501. Based on the sample tested, the dollar error rate for the sample was 4.95% ($692/$13,978), which estimates the potential dollars at risk for calendar year 2022 to be $2,817,367.

Good internal control requires procedures to ensure that wage crossmatches are performed, and benefits are paid in compliance with applicable Federal requirements.

Without such procedures, there is an increased risk of improper benefit payments being made in violation of Federal requirements.

> We recommend the Department implement procedures to prevent the payment of improper UI benefits by ensuring compliance with applicable State and Federal requirements. At a minimum, those procedures should ensure the following: 1) proper adjudication actions – including wage crossmatches, investigations into suspect separation from employment information, and separation information requests being sent to employers – are undertaken; and 2) neither ineligible State employees nor other ineligible claimants receive benefit payments.

Department Response:

<u>Adjudication of Employer Responses</u>

The Department acknowledges the findings in the Adjudication of Employer Responses. The Department has been working to improve its quality and has coached the adjudication team on ETA requirements for follow-up with employers. Separation issues as a cause of improper payment decreased from 6.245% in FY 2022 to 3.173% in FY 2023.

<u>Issues Regarding Separation Information Requests</u>

The Department continues to work extensively with their vendor to address and resolve the issues related to separation information requests. The Department has also revised its adjudication process to manually address these issues pending the vendor completion of the needed corrections.

<u>Untimely Follow-up of Employer Information</u>

The Department acknowledges the overpayment should have been established in a timelier manner, but timely processing the employer information would not have impacted the overpayment amount. All information regarding the ineligible week was received after payment had been made. The Department was able to recover the overpaid amount in full. The Department has increased staff in its Benefit Integrity Unit and is working with the unit and individuals to properly prioritize workloads and more timely address known issues on claims.

<u>Claimants with Excessive Wages Issues</u>

The Department acknowledges the findings related to claimants with excessive wage issues. The one-time error addressed in the Claimants with Excessive Wages for Claimant #1 will be brought to the appropriate individual's attention and they will be provided with the necessary guidance and support. For Claimant #2, the Department will pursue other legal remedies, due to the extraordinary level of non-cooperation of the employer, to compel compliance by the employer so it can be determined if benefits were fraudulently claimed.

<u>Improper Benefits Paid to State Employees</u>

The Department acknowledges the findings related to the benefits paid to state employees. The Department has or will take the appropriate steps for correction. An overpayment has been established for the full amount for both Claimant #1 and Claimant #3. For Claimant #2, an overpayment has been established and the claimant will be referred for prosecution.

<u>Wage Crossmatch Issues</u>

The Department acknowledges that 11 of the wage crossmatches identified in the audit were due to a vendor identified error, which has since been addressed. For the remaining two claims, investigations set as expected, employer responses were received, and overpayments were established within the statutorily allowed timeframe.

* * * * *

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Department and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the Department.

The purpose of this letter is solely to describe the scope of our testing of internal control over financial reporting and compliance and the result of that testing, and not to provide an opinion on the effectiveness of the State of Nebraska's internal control over financial reporting or on compliance. This letter is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the State of Nebraska's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purposes.

Kris Kucera

Kris Kucera, CPA, CFE
Assistant Deputy Auditor