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25 July 2024

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Larry D. Turner, Inspector General
US Department of Labor
Office of the Inspector General
200 Constitution Avenue, NW
Room S-5502
Washington, DC 20210

RE: Request for Oversight of the State of Delaware's
Division of Unemployment Insurance Trust Fund

Dear Inspector General Turner,

The Delaware Coalition for Open Government – a 501(c)(3) nonprofit organization that promotes transparency and accountability in government – is appealing to the OIG of the US Department of Labor for federal oversight to address the auditing and accounting problems at the Delaware Department of Labor's Division of Unemployment Insurance.

In January 2023, \$181,000 of federal and state funds was embezzled from the Division of Unemployment Insurance Trust Fund. In this regard, federal oversight and assessment may be needed to help ensure the Trust Fund's systemic accounting problems – as described in the 2024 written reports by the Department of Finance's Division of Accounting and the Office of the Auditor of Accounts – are corrected.

(References, links to written reports, statutes, and news articles are listed below.)

In addition, and based on interviews as reported by the news media, the internal auditing and accounting controls of the Division of Unemployment Insurance Trust Fund are so lax and the computer integration so ineffective, it is possible that additional acts of embezzlement have occurred and remain undiscovered.

For more than an entire year, the January 2023 embezzlement was kept secret, until the PBS WHYY news division was contacted by a whistleblower and broke the story in a May 6, 2024, news article that contained this quotation from a Delaware state employee who described the problems at the Division of Unemployment Insurance Trust Fund:

"I'm not sure how or why they [state officials] tried to keep it quiet other than they don't want to bring attention to the fact that everything is really screwed up [at the Division of Unemployment Insurance Trust Fund]," said Laura Henderson, a tax collection manager for the state's Unemployment Insurance Office. "It's really crazy there, really crazy."

<https://whyy.org/articles/delaware-state-employee-embezzlement-unemployment-trust-fund/>

Moreover, of concern is that state-government offices may not have the resources to find additional wrongdoing, let alone to solve the problems cited by the independent accounting firm hired to complete the audit of the *2023 Annual Compensation Fund Report*, described by the Auditor of Accounts as “important . . . for transparency about the use of public money.”

The findings of the independent auditor classified the problems with the trust fund administered by the Department of Labor Division of Unemployment Insurance as "material weaknesses" and "significant deficiencies" relating to a systemic lack of "internal controls over financial reporting during fiscal years 2020-2022." This information was included on page 4 of the Auditor of Accounts' 2024 *Special Report: Delaware Unemployment Compensation Fund / Financial Management Within The Delaware Department of Labor Division of Unemployment Insurance*.

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/03/DOLUI-Final-Report.pdf>

Although it is understood that the Department of Labor's Division of Unemployment Insurance has “a unique fiscal structure entirely disconnected from the First State Financials System” that precludes the Auditor of Accounts and the Department of Accounting from being “oversight entities” empowered to observe “the accounting deficiencies within the Division of Unemployment Insurance,” nevertheless, they made 2024 reports citing the lack of appropriate internal controls that led to the “deterioration in the division's business operations by not following internal accounting procedures” that by “fiscal year 2023 . . . had stopped entirely.”

It is especially troubling, then, that until June 4, 2024, (a month after the May 6 news article made the embezzlement known and a year and a half after the embezzlement happened), the reports published by the Delaware Department of Finance's Division of Accounting and the Office of the Auditor of Accounts – both of which enumerated the many problems within the DOLUI accounting system – failed to disclose one of most flagrant of those problems: the January 2023 embezzlement of nearly \$200,000 of state and federal funds. The inference is that Delaware state offices and agencies intentionally may have concealed the 2023 embezzlement.

The Delaware Code clearly states that illegal activity must be included in their written reports* to the state agencies concerned: the Governor, the General Assembly (the members of Delaware State Senate and House of Representatives), the Attorney General, and the Director of the Office of Management and Budget.

(* Written reports are available to the public on the Office of the Auditor of Accounts website.)

DelCOG therefore suggests federal oversight of the auditing and accounting problems at the Delaware Division of Unemployment Insurance Trust Fund by the US Department of Labor OIG.

Sincerely,

Delaware Coalition for Open Government Board Members

Contact: John D. Flaherty, DelCOG Board Member • 302-319-1213 • jdf0000@aol.com

REFERENCES, WRITTEN REPORTS, STATUTES AND NEWS ARTICLES

2024 Written Reports that Failed to Disclose the 2023 Embezzlement

All Pages - ACFR Financial Statement Internal Controls Reports (January and June 2024)

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/01/ACFR-INTERNAL-CONTROLS-FINAL-REPORT.pdf>

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/06/ACFR-Internal-Controls-FY23.pdf>

Pages vii and viii - Department of Finance Statement - Annual Comprehensive Financial Report

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/03/FY-2023-ACFR-FINAL-03262024.pdf>

Page 1 - Auditor of Accounts - Summary Annual Comprehensive Financial Report

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/03/ACFR-FY23-Summary-032624-v3.pdf>

Pages 2, 3, 4 - Auditor of Accounts Special Report: Delaware Unemployment Compensation Fund

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/03/DOLUI-Final-Report.pdf>

Pages 29, 30, 31 - Independent Auditor's Report

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/05/FY23-Single-Audit-Final.pdf>

Pages 29, 30 - Uniform Guidance Single Audit Report

<https://auditor.delaware.gov/wp-content/uploads/sites/209/2024/05/FY23-Single-Audit-Final.pdf>

Violations of the Delaware Code by the Office of the Auditor of Accounts and by the Department of Finance:

Filing written reports is a statutory requirement of postaudits by the Office of the Auditor of Accounts to the Governor, General Assembly, and the public, including the disclosure of all illegal and unbusinesslike practices, as mandated in the Delaware Code Title 29, Chapter 29, Auditor of Accounts, § 2909.

Filing written reports is a statutory requirement by the Department of Finance's Division of Accounting to the General Assembly, the Attorney General, and the Director of the Office of Management and Budget, including the disclosure of irregular, illegal, or improper financial administration or transaction, as mandated in the Delaware Code Title 29, Chapter 83, Department of Finance, Division of Accounting, § 8304.

News Media Articles

<https://whyy.org/articles/delaware-state-employee-embezzlement-unemployment-trust-fund/>

<https://delawarebusinessnow.com/2024/05/my-take-time-for-a-state-labor-department-overhaul/>

<https://whyy.org/articles/delaware-unemployment-theft-embezzlement-michael-brittingham/>

<https://whyy.org/articles/delaware-nonprofit-oversight-hearings-theft-taxpayer-funds/>

<https://whyy.org/articles/inspector-general-office-delaware-bill/>

<https://www.delawareonline.com/story/news/2024/05/30/delaware-department-of-labor-embezzlement-investigation-open-government/73906255007/>

<https://www.delawareonline.com/story/news/local/2024/05/31/unauditable-delaware-unemployment-fund-brings-risk-experts-say/73911635007/>

<https://delawarebusinesstimes.com/news/viewpoints/vwpt-report-embezzlement-unemployment-insurance/>

<https://www.delawareonline.com/story/news/2024/05/31/unemployment-insurance-administrator-michael-brittingham-delaware-embezzlement-of-unemployment-fund/739195350>

<https://www.delawareonline.com/story/news/2024/06/07/delaware-promises-full-report-on-unemployment-insurance-theft-in-july/73997276007/>

<https://baytobaynews.com/stories/delaware-lawmakers-open-government-advocates-call-for-answers-on-2023-unemployment-fund,136982>

<https://whyy.org/articles/delaware-state-employee-embezzlement-lawmakers-transparency/#:~:text=Delaware's%20General%20Assembly%20is%20considering,unemployment%20insurance%20fund%20in%202023.>

<https://www.capec Gazette.com/article/republicans-want-answers-missing-180000/276468>

<https://www.delawarepublic.org/politics-government/2024-06-10/gop-legislative-leadership-calls-for-investigation-into-department-of-labor-embezzlement-case>

<https://delawarebusinesstimes.com/news/vwpt-delaware-inspector-general/>

https://www.coastalpoint.com/opinion/letters/representatives-ask-for-investigation/article_ef26800e-29aa-11ef-9b7d-f7df58bf658f.html

https://www.coastalpoint.com/opinion/letters/representatives-ask-for-investigation/article_ef26800e-29aa-11ef-9b7d-f7df58bf658f.html

<https://baytobaynews.com/stories/delcog-answers-needed-about-embezzlement-of-unemployment-trust-fund,139980>

<https://www.capec Gazette.com/article/labor-department-head-says-officials-told-unemployment-insurance-fund-embezzlement/277355#:~:text=the%20Civic%20League-,for,-New%20Castle%20County>

<https://www.delawareonline.com/story/news/politics/2024/07/09/when-will-report-on-fraud-in-delawares-unemployment-insurance-land/74310637007/>

<https://www.capec Gazette.com/article/labor-department-head-says-officials-told-unemployment-insurance-fund-embezzlement/277355>

<https://www.delawareonline.com/story/opinion/2024/07/18/embezzlement-from-delaware-unemployment-insurance-trust-fund/74353708007/>