



# MEMORANDUM

## Legislative Post Audit

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To: Members, Unemployment Compensation Modernization and Improvement Council  
From: Justin Stowe, Legislative Post Auditor  
Date: June 24, 2021  
Subject: **Overview of LPA Audits on Unemployment Fraud and Claims and Recommendations for an Audit RFP**

Chairman Tarwater asked that I address three topics in my presentation to the council today:

- 1. Audit Presentation** - A presentation of our February audit on the Kansas Department of Labor's response to unemployment insurance fraud.
- 2. Audit Update** - An update on the audit we'll release in August on what caused unemployment insurance claim processing delays and how they compared to other states. This report will also include an updated estimate of unemployment insurance fraud in Kansas in 2020.
- 3. RFP Recommendations** - Recommendations on what the council might consider in developing a request for proposal (RFP) for the audit required by House Bill 2196.

### **1. Audit Presentation (45 min.)**

My presentation is based on the audit report we released in February, 2021. I've provided council members with a copy of this audit. I'll present our audit findings and stand for any questions the council may have.

### **2. Audit Update (15 min.)**

We plan to release our 2<sup>nd</sup> audit on the Department of Labor's response to unemployment insurance claims in August, 2021. State law makes our audit findings confidential until they are presented to the Post Audit Committee at that time.

Since I can't share our findings yet, I wanted to give the council a preview of what that audit report will cover.

- A summary of how long it took KDOL to process unemployment claims during the pandemic in 2020. Specifically, our report will evaluate three primary factors that contributed to unemployment claim processing delays:
  - The Department's reliance on an old mainframe system
  - The Department's staffing levels (including call center staff)
  - The spikes in claims during the COVID-19 pandemic

We used U.S. DOL and KDOL's claims data to get a sense of how long it took to process claims in Kansas and nationally before the pandemic in 2019 (baseline) and during the pandemic in 2020. That should allow us to do a state-by-state comparison. We also worked extensively with KDOL staff, reviewed critical incidents, phone logs, and staffing reports to get a sense for what caused claims delays.

- A more precise estimate on how much unemployment fraud occurred in Kansas in 2020. In part 1 we used a high-level approach to estimate how much fraud could have occurred in Kansas in 2020. In part two, we created a neural network program to provide a more precise estimate of fraud. Here's what we did:
  - We selected a random sample of 1,000 unemployment claims from January 2020 to February 2021 from KDOL's claims data.
  - A team of auditors looked at key criteria for each of the 1,000 claims that could indicate fraud. This included duplicative passwords, password complexity, duplicative addresses, and several other indicators. We established team consensus on which claims could be fraud.
  - We created a neural network program and loaded the results of our sample into it. That program reviewed our sample and taught itself about the decision-making patterns the auditors used when reviewing the claims for fraud.
  - After it was finished learning, we ran the network against all claims data from January 2020 through February 2021 so the network could identify all potentially fraudulent claims during that time.

Using this program, we will be able to estimate the number and amount of potentially fraudulent claims during the pandemic. We will also be able to break those numbers out by state and federal programs.

### **3. RFP Recommendations (30 min.)**

Until just a couple of years ago, our office managed the state's primary financial audit contracts. Based on that experience, I've developed several recommendations for the council to consider as it develops its RFP for the audit required by House Bill 2196.

#### **Administrative Issues**

- Who will draft the RFP, assemble a list of potential bidders, and receive bids on behalf of the council?

The council may need help from legislative or executive branch staff for some of the administrative tasks related to the RFP (e.g. drafting the RFP, creating a bidder list, etc.) Also, it is probably prudent to designate a specific individual to serve as the single point of contact for the RFP and to act as a liaison between bidding firms and the council.

- How will the council ensure the RFP meets any relevant state legal requirements?

The council should consider having Revisor's Office staff and/or Department of Administration staff help draft and/or review the RFP. Moreover, it should consider consulting with these staff to ensure other potential legal requirements (e.g. posting the RFP publicly, etc.) are met.

- Will the council hold a pre-bid conference?

It can be helpful to offer a pre-bid conference to address any questions bidders may have about the RFP. The council could require all bidders to submit any questions in advance of the pre-bid conference so they can be compiled and answered by the council in writing.

- How will the bids be evaluated and who will evaluate them?

One option is to use a rubric to evaluate firms submitting an RFP. The scoring system could include factors such as:

- Office & staff qualifications – previous firm experience conducting similar work, no conflicts of interest, staff with sufficient experience assigned to

the audit, have sufficient security protocols in place to handle sensitive data, etc.

- Audit cost – The amount of hours the audit is estimated to take and its total cost.
- Scope and Deadlines – The firm can complete the scope of work outlined in the RFP within the specified deadlines.

The council could add any other relevant factors to its evaluation as needed.

- Will staff of the selected firm be required to undergo a background check?

Likely. Access to the types of sensitive information required by this audit may require that a firm's staff have some form of background check completed (e.g. KBI fingerprint check).

- Will the awarded firm be required to sign any data sharing agreements with KDOL, and will it be able to meet required IT security provisions of such agreements?

Likely. Agreements would stipulate how data can be used, how it must be stored, and how it must be deleted. Those agreements often require firms to meet federal or state IT security standards (e.g. data stored in secure data centers).

## **Scope Issues**

HB 2196 clearly lays out the general scope of the audit. At a minimum, the scope of work should include these statutorily required components:

The council shall conduct an audit that shall examine:

the effects on the department of labor and the unemployment insurance system of fraudulent claims and improper payments during the period of March 15, 2020, through March 31, 2022, and the response by the department of labor to such fraudulent claims and improper payments during that period.

The scope of the audit shall include, but not be limited to:

- 1) the amounts and nature of improper payments and fraudulent claims, fraud processes and methods and the possibility of recovery of any improper payments. (due September 1, 2022)
- 2) an evaluation that provides likelihood of a data breach being a contributing factor to any fraudulent payments, improper network architecture allowing a potential breach to have occurred and a timeline of relevant events. (due September 1, 2022)
- 3) an evaluation of systems with access to the payment and processing of claims, forensic endpoint images related to the claims and the external perimeter housing the claims systems, as well as an evaluation of the department of labor's response to claims. (due May 1, 2022)
- 4) information on the progress regarding the secretary's implementation of all program integrity elements and guidance issued by the United States department of labor and the national association of state workforce agencies as described in section 2(e), and amendments thereto. (due September 1, 2022)

In addition, the council might consider:

- Whether the audit would be required to meet any specific set of standards or be subject to any form of quality control review.
- The cost and time associated with significantly expanding the scope beyond what's already required by HB 2196.