



# **ANNUAL REPORT**

## **FRAUD DETERRENCE AND DETECTION ACTIVITIES**

***A REPORT TO THE  
CALIFORNIA LEGISLATURE***

**TWENTY-SIXTH REPORT**

**JUNE 2020**

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## EXECUTIVE SUMMARY

This report documents the Employment Development Department’s (EDD) fraud deterrence and detection activities for Calendar Year (CY) 2019, as required by California Unemployment Insurance Code (CUIC) Section 2614.

The EDD's major program responsibilities include Unemployment Insurance (UI), State Disability Insurance (SDI), Employment Tax Collection, and Workforce Innovation and Opportunity Act Title I and Title III (WIOA) programs. During 2019, through the administration of its programs, EDD collected more than \$84.2 billion in California payroll taxes, penalties, and interest from over 1.5 million employers and issued benefit payments in excess of \$13 billion on over 3.4 million UI and SDI claims.

To protect the integrity of its programs, EDD enforces the CUIC provisions and various other California codes affecting its programs. Doing so assures the integrity of all EDD programs and protects the interests of employers, claimants, and taxpayers. Research suggests that organizations can reduce the risk of fraud through a combination of prevention, detection, and deterrence measures. A strong emphasis on fraud prevention may reduce opportunities for fraud to take place while fraud deterrence could persuade individuals that they should not commit fraud because of the likelihood of detection and punishment.<sup>1</sup>

The EDD takes a comprehensive approach to fraud prevention, detection, and deterrence. This approach involves EDD programs, EDD oversight entities, and business partners including federal, state and local law enforcement agencies, and prosecutors.

During CY 2019, EDD's comprehensive anti-fraud activities in the SDI, UI, Tax, and WIOA programs identified potential fraud to warrant investigation and actual fraud resulting in criminal complaints and prosecutions (in dollars) as follows:

<b>Description</b>	<b>SDI Program</b>	<b>UI Program</b>	<b>Tax Program</b>	<b>WIOA Program</b>
Cases Under Investigation	\$34,280,502 120 cases*	\$24,446,437 61 cases*	\$97,393,884 157 cases*	N/A
Criminal Complaints Filed	\$12,090,967 15 cases*	\$10,016,534 15 cases*	\$2,166,406 28 cases*	N/A
Completed Criminal Prosecutions	\$2,620,779 6 cases*	\$3,025,631 10 cases*	\$6,978,400 21 cases*	N/A
Fraud Overpayments (OP) Established <sup>2</sup>	\$11,047,380 826 OPs	\$116,808,262 109,976 OPs	N/A	N/A
Fraudulent Benefits Prevented	\$2,918,933	\$7,421,483	N/A	N/A

\*The case statistics reported in the above table by the Investigation Division are representative of the cumulative total of open and ongoing criminal investigations and prosecutions.

<sup>1</sup>Management Antifraud Programs and Controls – Guidance to Help Prevent and Deter Fraud, American Institute of Certified Public Accountants, 2002, page 5.

<sup>2</sup>“Fraud Overpayments Established” includes overpayments established as a result of both criminal and administrative actions.

For CY 2019, 396 cases were open and ongoing for criminal investigation. During CY 2019, 58 of the 396 cases were closed for reasons other than prosecution (e.g.: consolidation; resources; administrative action). The residual 338 cases were actively under investigation for SDI, UI, Tax, and WIOA programs combined. Collectively, the 338 active and ongoing cases represent \$156,120,823 of presumptive fraud. During 2019, the Investigation Division closed 94 of the 338 active and ongoing cases throughout the course of the year.

Of the 338 cases, 114 were opened through allegations received during CY 2019. Criminal investigation activities focused on imposter fraud/identity theft, working while collecting benefits, forged documents, and tax evasion violations. Collectively, the 114 cases opened during CY 2019 representative values of \$33,856,143 in potential overpayments and \$ 95,392,053 in potential tax liability.

The remainder of this report highlights fraud deterrence and detection activities by each EDD program and summarizes oversight activities across EDD. The final section of this report highlights enterprise-wide efforts in progress and under consideration to prevent, detect, and deter fraud.

## BACKGROUND INFORMATION

Section 2614 of the CUIA requires the Director of EDD to report to the Legislature by June 30 of each year on EDD's fraud deterrence and detection activities. The EDD administers three large employee benefit programs that include: UI, Disability Insurance (DI), and Paid Family Leave (PFL) programs. In 2019, these three programs paid claimants in excess of \$13 billion.

One of the largest tax collection agencies in the nation, the EDD's Tax Branch is responsible for administering the state's Employment Tax program. With this responsibility, the Tax Branch handles all administrative, education, customer service, and enforcement functions for the audit and collection of employer-paid UI and Employment Training Taxes, and DI and Personal Income Tax (PIT) withholdings paid by employees. The Tax Branch also processes quarterly wage reports from the state's 1.5 million employers, accounting for more than 18 million workers. The Tax Branch collects more than \$84.2 billion in taxes and contributions.

Finally, EDD is also responsible for administering several training programs authorized by the federal WIOA program, and provides employment services to job seekers throughout the state in America's Job Centers of California.

As with any high-value program, the temptation to defraud the system for personal gain is present. For example:

- Businesses who operate in the underground economy illegally evade tax laws.
- Employers may not fully pay their employment taxes as required by law.
- Claimants may claim benefits while working.
- Impostors may falsely use identities of workers to obtain a fraudulent claim.
- Physicians may certify a disability inappropriately.
- Claimants or physicians may submit forged documents.

## APPROACH

The EDD uses a multi-tiered, comprehensive approach to fraud deterrence and detection. This approach involves EDD programs, EDD independent oversight entities, business partners including federal, state, and local law enforcement agencies, and prosecutors.

Each program area has established ongoing anti-fraud activities. In addition, independent oversight entities perform other activities including internal control reviews and audits, quality reviews to measure the accuracy and propriety of benefit payments, and information technology system reviews to detect system control deficiencies.

Anti-fraud activities within EDD include:

Prevention	Detection	
<ul style="list-style-type: none"> <li>• Customer Education</li> <li>• Internal Control Reviews</li> <li>• Employer Audits</li> <li>• Internal System Audits</li> <li>• Fiscal Monitoring</li> <li>• Fraud Detection Efforts</li> </ul>	<ul style="list-style-type: none"> <li>• Analyzing Employer Data</li> <li>• Internal Checks &amp; Balances</li> <li>• Evidence Seizure</li> <li>• Cross-matching Data</li> <li>• Interagency Efforts</li> <li>• Fraud Hot Line</li> <li>• Surveillance</li> </ul>	<ul style="list-style-type: none"> <li>• Undercover Operations</li> <li>• Computer Forensics</li> <li>• Serving Warrants</li> <li>• Interviews</li> <li>• Reviewing Medical Data</li> <li>• Arrests &amp; Prosecutions</li> </ul>

**PROGRAM ACTIVITIES**

The following provides more detailed information on the specific activities performed by each major program to prevent and detect fraud.

**State Disability Insurance Program**

The SDI program includes two benefits: the DI and PFL programs. The DI benefits provide partial wage replacement for eligible California workers who are unable to work due to illness, injury, or pregnancy. Workers covered under SDI are potentially eligible for PFL benefits when they are unable to work because of the need to care for a seriously ill child, parent, spouse, registered domestic partner, parent-in-law, grandparent, grandchild, or sibling, or to bond with a new minor child within the first year of birth or placement by an adoption or foster care agency.

The following are some program highlights for CY 2019:

	<b><u>Claims Processed</u></b>	<b><u>Benefits Paid</u></b>
DI program	744,288	\$6.9 billion
PFL program	297,446	\$1.1 billion

The EDD monitors, researches, and investigates new systems and activities to detect and prevent fraud, and improve benefit payment accuracy in the SDI program. The SDI Program Integrity Unit oversees, coordinates, and conducts various staff education efforts and investigative activities involving suspicious claims in the SDI offices.

The unit staff complete in-depth data analysis of various reports and develop procedures and forms to enhance program integrity efforts. The DI Branch staff work closely with EDD’s Investigation Division (ID) criminal investigators to combat fraud in the SDI program.

Primary SDI fraud deterrence and detection tools include a number of different tactics such as key notifications to claimants, data sharing with key partners, conducting systematic reviews, training and outreach, etc.

**Claimant Interactions**

**1. Claimant Notification**

This notification provides claimants the legal consequences for willfully making a false statement or knowingly concealing a material fact in order to obtain benefits. This notification is provided on the claim form declaration statement and is signed by the claimant when applying for benefits. This notification is also presented to be acknowledged by the claimant when applying for benefits through SDI Online.

**2. Address Integrity**

This is a component of SDI Online that ensures only the rightful owner of the claim makes a change of address to a claim. As a security and fraud detection measure, a letter is sent to the prior address to notify the claimant when the SDI program receives a request for a change of address.

**3. Identity Management Software**

This software authenticates and authorizes external users (customers) who set up external user accounts. The system creates an online profile for each external user and will encrypt and store the user identification/password, profiles, and credentials in an enterprise Identity Management System. The system validates and authenticates external users' logon credentials and allows authenticated users to access system functionality and improve SDI staff's ability to detect fraud.

**4. In-Office Eligibility Review Process**

This process permits EDD to require claimants suspected of fraud, who are currently receiving benefits, to submit to an in-person interview before a decision is made regarding their continued eligibility to receive benefits. The process provides the claimant with a fair and equitable opportunity to be heard in person and enables EDD to gather additional information before making its decision. Regulations provide precise time frames and procedures for conducting interviews to ensure claimants' rights to due process are protected.

**5. Protection of Claimant's Social Security Number**

The EDD continues to identify ways to remove, truncate, or obfuscate claimant Social Security numbers (SSN) on mailed correspondence and increase the availability of forms online.

**6. Electronic Benefit Payment Process**

The electronic benefit payment process allows EDD to pay claimants using debit cards or direct deposit transfer options, providing claimants immediate access to their benefits and eliminating fraud associated with theft or loss of paper checks.

**7. Identity Alert Procedures**

These procedures instruct staff assigned to process DI and PFL claims on how to verify a claimant's identity when an SSN has been reported as being compromised. Staff will conduct an in-depth review to ensure the claimant is the true wage earner before allowing benefits to be paid.

**8. Password Reset Process**

The EDD launched Benefit Programs Online, a single login that EDD customers use to access SDI Online and UI Online, on October 16, 2017. It included a new password reset process utilizing a unique "Reset Password" link. The link is sent directly to the user's registered email address to deter potential imposter fraud and to ensure the payment of benefits to the appropriate person.

**Data Sharing**

**1. Department of Motor Vehicles Interface**

This data interface with Department of Motor Vehicles records helps the DI Branch to verify the identity of SDI Online claimants and medical providers.

**2. New Employee Registry Benefit Cross-Match**

The EDD uses a new hire interface to validate new hires are not collecting benefits when they have returned to work. This interface also allows identification of overpayments established against new hires. As a result of the interface, in CY 2019 EDD established 16 DI overpayments in the amount of \$86,918.

**3. Unemployment Insurance/Disability Insurance Overlap Flags**

These flags automatically stop payments on DI and PFL claims when a prior UI claim period overlaps the dates that DI benefits are claimed. The DI and PFL staff then block the overlapping period pending an eligibility determination, thereby preventing potentially improper payments.

**Medical Providers****1. Independent Medical Examinations**

These examinations provide EDD with a second medical opinion regarding the claimant's ability to perform their regular or customary work when the period of disability allowed by the treating physician or practitioner exceeds the normal expected duration for that diagnosis. Photo identification is required to verify the identity of the claimant appearing for the examination.

The Independent Medical Examinations (IME) are used to validate the treating physician's diagnosis and prognosis, and as a means of controlling the duration of claims. The IMEs are also a useful tool in curtailing the loss of benefits for valid claims that are suspected of fraud or abuse.

IME data previously reported in the ARF was not obtained and recorded during CY 2019 as a result of reorganization and restructuring of program integrity efforts within the DI Branch.

**2. Automated Tolerance Indicators**

These indicators (flags) are associated with the certifying healthcare provider's license number and assist staff to identify and track claims on which fraud or abuse is suspected or has previously been detected. They also alert staff to refer to special instructions created to assist in the adjudication and payment of these claims.

**3. Doctor Activity Tracking System**

This system tracks the status of investigations involving potential doctor or doctor impostor fraud cases. The system ensures that appropriate follow up occurs; and documents and evaluates accomplishments.

**4. Department of Consumer Affairs Notifications**

These notifications identify medical practitioners whose licenses have been revoked or suspended. The information provided by the following medical practitioner boards, helps ensure claims are not certified by improperly licensed medical practitioners and alerts EDD to potential fraud.

- Medical Board of California
- Board of Chiropractic Examiners
- Board of Optometry
- Board of Podiatric Medicine
- Board of Psychology
- Board of Registered Nursing
- Dental Board of California
- Osteopathic Medical Board of California
- Physician Assistant Board

## Reviews and Reports

### **1. Disability Insurance Quality Control Reviews**

Compliance Reviews are conducted independently and on a quarterly basis using statistically random samples of DI claims to determine if the claims were processed in compliance with state law and with DI Branch policies and regulations. After the reviews are completed a report is written for the DI Branch Executives summarizing the results

### **2. Monthly Doctor Activity Report**

This report provides a list of the top doctors certifying the highest total amount of benefits. This automated monthly report enables staff to identify significant changes in claims activity and/or filing patterns, which may be indicators of fraud.

### **3. State Disability Insurance Online Security Features**

These security features provide physicians and medical practitioners the ability to certify DI and PFL claims through secure electronic channels. These channels reduce the risk of losing confidential information in the mail and reduces exposure for misuse.

### **4. Decedent Cross-Match Reports**

These reports check the SSNs of all claimants against SSNs of individuals reported as deceased nationwide. This report enables the DI Branch to identify and recover benefits paid subsequent to the date of death. In CY 2019, of the 1013 Decedent Cross-Match Reports received, 985 (97.24 percent) required no further action; 28 (2.76 percent) required additional actions with potential overpayment of \$315,318.84 and one was submitted to ID for further investigation.

### **5. Automated Detection Reports**

These reports are developed collaboratively with ID's Criminal Intelligence Unit and the DI Program Integrity Unit, and permit staff to detect unusual patterns of activity in the SDI benefit payment system involving addresses, issuance of multiple payments, and multiple claims filed by the same claimant within a specified period of time.

## **6. Address and Phone Number Pattern Reports**

These reports help identify other DI claims with the same address and/or phone number as the claimant, medical practitioner, and/or employer. Analysis of the claims listed on the report may lead to discovery of fraudulent claims or program abuse.

## **7. Employer Pattern Reports**

These reports also help identify other DI claims having the same employer. Analysis of the claims listed on the report may lead to discovery of fraudulent claims or program abuse.

## **8. User Pattern Reports**

These reports identify SDI Online claims processed by a specific user or DI staff. Analysis of the claims listed on the report may lead to discovery of internal fraud.

## Training and Outreach

### **1. Program Integrity Training**

This training is provided to heighten staff awareness and develop capacity to detect and deter fraud and abuse in the SDI program. This is provided to newly hired DI Program Representatives via the 15-Week New Hire Training.

### **2. Medical Training**

This training, provided to field office staff, includes a comprehensive Adobe presentation of medical information and case study training intended to educate and enhance staff's knowledge of disability medical conditions and medical terminology. This training allows the staff to communicate more effectively with physicians/practitioners when discussing and obtaining additional medical information regarding an SDI claim. Medical terminology training provides staff with a better understanding of a diagnosis, and assists in determining the severity and expected length of a disability as well as the appropriate action to control claim duration or potential abuse of the program. This is provided to newly hired DI Program Representatives via the 15-Week New Hire Training.

### **3. Information Security and Privacy Awareness Training**

This training module is designed by the Information Security Office (ISO) to help educate all users of EDD data about basic security threats and vulnerabilities, as well as responsibilities regarding the protection of the confidentiality, integrity, and availability of EDD information and information assets. This is provided via EDD University in conjunction with ISO and is managed and tracked by the EDD Learning Management System.

### **4. Impostor Fraud Training**

Impostor fraud is defined as someone who represents themselves as another to obtain a benefit. This training provides tools to identify abusive or fraudulent activity. The impostor is generally assuming the identity of another to collect benefits to which they are not legally entitled. This is provided to newly hired DI Program Representatives via the 15-Week New Hire Training. In addition, trainers are instructed to review Disability Insurance Policy and Procedures Manual (DIPPM) Section 700 PI training which also has instructions on processing claims with claimant identity issues, claims with PI Issue #5, claims involving deceased claimants, impostor allegations and anonymous tips.

**5. Education and Outreach to Stakeholders**

The Disability Insurance Branch’s Outreach Development Section (ODS) educates and provides outreach to the California medical and employer communities. This section is comprised of two Outreach Units, the Education and Outreach Unit (EOU) and the Paid Family Leave Outreach Unit (PFLOU). The EOU attends conferences and provides a general overview of the State Disability Insurance (SDI) program via webinar to physicians, employers, and claimants. The PFLOU educates and creates partnerships with stakeholders (e.g. hospitals, medical providers, employers, and community groups) in all 58 California counties.

**6. Birth Certificate Requirement for Paid Family Leave Bonding Claims**

For bonding claims in which no medical substantiation is required, claimants must submit a birth certificate, adoption placement, Declaration of Paternity, or foster care certification to verify the relationship.

**7. Digitizing Claim Documents for Paid Family Leave Claims**

The PFL automated system includes a scanning process that digitizes all claim documents. To assist in detecting possible forgeries, claims examiners are able to compare current signatures of claimants and physicians on these documents with documents submitted previously by the same claimant and/or physicians.

**State Disability Insurance Results and Accomplishments**

The following table illustrates the SDI program’s dollar value and case number results for the last three years:

<b>SDI Program Results</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
	\$12,911,367	\$10,852,407	\$34,280,502
Cases Under Investigation	129 cases	140 cases	120 cases
	\$640,950	\$5,032,778	\$12,090,967
Criminal Complaints Filed	16 cases	16 cases	15 cases
	\$1,912,988	\$1,686,689	\$2,620,779
Completed Criminal Prosecutions	16 cases	19 cases	6 cases
	\$6,642,670	\$8,568,548	\$11,047,380
Fraud Overpayments Established	563 OPs	670 OPs	826 OPs
Fraudulent Benefits Prevented By ID	\$734,586	\$2,687,214	\$2,918,933

The following provides more detailed information on the actions cited in the previous table regarding fraud in the SDI program in CY 2019.

- There were 120 open and active cases potentially representing \$34,280,502 investigated. These investigations focused on the following case types:
  - Impostor fraud/identity theft (17 cases representing \$6,481,958).
  - Altered or forged documents (27 cases representing \$5,930,795).
  - Medical practitioner fraud (10 cases representing \$18,415,253).
  - Working while certifying for benefits (46 cases representing \$2,024,382).

- The remaining 20 cases, representing \$1,428,114, included fictitious employer registrations on which fraudulent claims were based, false injury certified by claimant, forgery by taking over the claim of another person, multiple social security numbers used by an individual, self-employment, and other miscellaneous violations.
- The ID filed 15 criminal complaints representing potential fraudulent benefits in the amount of \$12,090,967. The ID has continued its emphasis on the more complex fraud cases such as impostor/identify theft that take longer to investigate.
- The ID completed 6 criminal prosecutions representing fraudulent benefits in the amount of \$2,620,779. These completed prosecutions primarily involved altered and forged medical records, counterfeit checks, impostors, and working while certifying for benefits.

Both DI and PFL staff established a cumulative total of 826 fraud overpayments in the amount of \$11,047,380.

- The DI program established 441 fraud overpayments totaling \$6,945,954 on claims associated with claimants who were prosecuted.
- The PFL program established 8 fraud overpayments totaling \$21,613 on claims associated with claimants who were prosecuted.
- The DI program established 370 fraud overpayments not attributed to prosecutions. These overpayments, totaling \$4,062,991 were the result of administrative actions applied by DI staff, such as false statement overpayments.
- The PFL program established 7 fraud overpayments not attributed to prosecutions. These overpayments, totaling \$16,822 were the result of administrative actions applied by PFL staff, such as false statement overpayments.
- Anti-fraud efforts stopped \$ 9,641,490 in fraudulent SDI benefits from being paid. Of this total, \$11,132,309.07 is attributable to the SDI programs' anti-fraud efforts. Those efforts include, but are not limited to: IMEs, verification of SSN ownership with deletion of improper base period wages, and referrals to ID resulting in convictions or administrative actions. Payment of approximately \$2,918,933 in fraudulent benefits were prevented through ID's ongoing investigations of identity theft, forgeries, and medical practitioner fraud.
- During 2019, there were 133 medical providers who certified to an unusually high number of claims. A review concluded 17 medical providers' certification were justified and no fraud or abuse was detected.  
Of the remaining 116 medical provider certifications, two doctors are under investigation by ID and have a tolerance indicator. The remaining 114 medical providers are pending further evaluation by staff.

### Future State Disability Insurance Program Enhancements

As the SDI program continues to use an electronic web-based application for delivering services to its clients, the need to maintain the security and integrity of the program is a high priority. The following describes fraud detection and prevention system enhancements to the SDI program currently under development:

### **1. Utilizing Business Logic**

With the implementation of SDI Online, the DI Branch has the ability to identify and address fraud and abuse through automated programs and business logic. The DI Branch will continue to develop new reports and automated detection and prevention measures to combat fraud and abuse.

### **2. Benefit Systems Modernization**

The Benefit Systems Modernization (BSM) project creates a single portal integrating the UI, DI, PFL and Tax programs. The system will include data analytics and other fraud prevention and detection tools. The goal of BSM is to modernize the EDD's benefit systems by implementing a single, integrated benefit system that provides customers and staff a consistent, single portal into the EDD's services while providing a more agile and responsive benefit system with overall lower maintenance costs that also protects the benefit programs against potential fraud.

## **Unemployment Insurance Program**

The EDD administers the UI program, which provides benefits to individuals who have lost their jobs through no fault of their own, are actively seeking work, are able to work, and are willing to accept employment. During CY 2019, the UI program processed 2.4 million initial claims, of which 1.2 million were new claims, and paid a total of nearly \$5 billion in benefits.

California's economy showed steady improvement in 2019. Overall UI claims are almost the same compared to 2018 and continue to trend downward compared to 2017.

The EDD is committed to maintaining the integrity of the UI program. The UI program utilizes a variety of processes, tools, and techniques to deter and detect fraud, which include issuing specific notifications and performing various data cross-matching, among other activities.

### **Notifications**

#### **1. Claimant Information**

Notifications to the claimant include the ***Unemployment Insurance Benefits: What You Need to Know*** booklet and ***Step-by-Step Guide: How to Certify for Ongoing Unemployment Benefits***. These notifications explain the requirements to file, and certify for UI benefits, including how to correctly report work and wages.

Additionally, claimants are informed about UI claim eligibility requirements and the legal consequences of willful misrepresentation or willful nondisclosure of facts as referenced in the claimant handbook ***A Guide to Benefits and Employment Services***, which is also available online. Claimants are also notified of the legal consequences for willfully making a false statement or knowingly concealing a material fact in order to obtain benefits. This notification is provided on the claim form declaration statement and is signed by the claimant when applying for benefits. This notification is also presented to be acknowledged by the claimant when applying for benefits through UI Online.

#### **2. Continued Claim Certification**

This certification is completed by claimants every two weeks to attest to their continued eligibility for UI benefits for each week that they claim. This process requires claimants to certify the accuracy and truthfulness of the statements made and that they understand that the law provides penalties for making false statements to obtain benefits. Notification of this requirement is provided on the continued claim certification declaration statement. Claimants sign under penalty of perjury that the information they provide when applying for benefits is true and correct, to the best of their knowledge. This notification is also presented to claimants when applying for benefits through UI Online. Claimants must check a box in UI Online to indicate their electronic signature.

#### **3. Employer Notification**

The notification is issued to the last employer through the ***Notice of Unemployment Insurance Claim Filed*** when claimants file a new claim. If the employer contends that the claimant is not

entitled to UI benefits and the employer's reserve account should not be charged, this notice instructs the employer how to protest the claim.

Employers may also choose to receive and respond to electronic notifications through the State Information Data Exchange System (SIDES). This nationally-standardized web-based system allows employers, including multi-state employers and third party administrators, to access and complete requests for UI information. This notice is mailed to employers who paid wages in the Base Period of the UI claim. The form is mailed to the respective employer after the first benefit payment is made to the claimant advising them of the amount of potential charges to their reserve account. This form also provides the employer with an opportunity to request a ruling for possible relief of charges.

The SIDES system provides a secure and timely way for employers to electronically exchange UI eligibility information about former employees with EDD. Employers can upload supporting documentation and receive an electronic time stamp for submission of information to EDD. Fifty (50) states participate in SIDES, in one or more exchanges, with their state's employer community.

### Data Sharing and Reviews

#### **1. Unemployment Insurance Benefit Accuracy Measurement Program**

This is an independent review of a random sample of claims throughout the year to test the effectiveness of procedures for the prevention of improper UI payments. These reviews detect the nature and extent of improper payments, reveal operating weaknesses, and serve as a check on agency employee fraud or collusion. Claims that appear fraudulent are referred to ID for follow up.

#### **2. Quarterly Benefit Audits**

This process cross-matches wages reported quarterly by employers to UI benefits paid within the same period. Through this process, the UI program is able to detect when claimants have been fraudulently collecting benefits while working and failing to report their work and wages when certifying for UI benefits. This is the most common form of fraud committed against the UI program. Overpayments and penalties are established and collected as a result of this process, protecting the solvency of the UI Trust Fund. These matches are performed on a quarterly basis. The EDD utilizes an employer compliance database to track benefit audit forms that have been mailed and returned by employers.

#### **3. National Directory of New Hires**

This cross-match enables EDD to use new hire information provided by employers nationwide to identify claimants who improperly continue to receive benefits after they have returned to work. This is accomplished by matching, on a weekly basis, the new hire information with EDD's records of claimants currently collecting UI benefits.

This nationally maintained database allows the EDD to identify and investigate claimants receiving UI benefits who have returned to work outside California who may not have reported their work and wages. The EDD utilizes an employer compliance database to track benefit audit forms that have been mailed and returned by employers.

#### **4. New Employee Registry (NER) Benefit Cross-Match**

This cross-match enables EDD to use new hire information from California employers to identify claimants who improperly continue to receive benefits after they have returned to work. This is accomplished by matching, on a daily basis, the new hire information with EDD's records of claimants currently collecting UI benefits. Through this process, EDD is able to detect fraud and other eligibility issues up to six months earlier than through EDD's benefit audit process, allowing EDD to protect the UI Trust Fund by reducing the amount of dollars overpaid to claimants.

To further reduce improper payments resulting from claimants incorrectly or failing to report work and wages, the EDD enhanced the NER Benefit Cross-Match. Effective March 2019, the EDD is re-running the original New Employee Registry records from California employers a second time. This process identifies any SSNs that have UI claim activity not detected during the first run because the claimant had not yet certified for UI benefits. The New Employee Registry Re-Run occurs daily approximately four weeks after the original daily NER Cross-Match. The EDD utilizes an employer compliance database to track benefit audit forms that have been mailed and returned by employers.

#### **5. Interstate Cross-Match**

This process cross-matches wages reported quarterly by employers outside of California to UI benefits paid within the same period. Through this process, the UI program is able to detect when claimants have been fraudulently collecting benefits while working outside of California. Overpayments and penalties are established and collected as a result of this process, protecting the solvency of the UI Trust Fund. These matches are performed on a quarterly basis.

#### **6. Social Security Number Verification Process**

This verification provides real time (online) access to the Social Security Administration's records. The claimant's SSN is verified during the claimant's identification process to detect potential fraud prior to filing a UI claim.

#### **7. Department of Motor Vehicles Verification Process**

This verification provides real time (online) access to its database to verify a claimant's California driver's license or identification card number prior to filing a UI claim. This part of the identity verification process is used to prevent identity theft fraud in the UI program.

#### **8. Last Employer Address Information**

This information is obtained from EDD's internal database. The ability to cross-match employer addresses with this database rather than relying upon the customer to provide EDD with this information helps ensure that proper payments are made to the appropriate individual.

#### **9. Identity Alert Process**

The EDD has always used various measures to ensure the true identity of a claimant for UI benefits. The UI Impostor Fraud Prevention was enhanced with the implementation of EDD's Identity Alert Process. The process, developed to reduce the risk of identity theft fraud, was implemented when employers and/or employers' payroll agents contacted EDD to report that their records containing confidential employee information had been compromised.

When a claim is initiated into the Identity Alert Process, no payments are issued until EDD obtains the information needed to validate the identity of the individual filing the UI claim. The UI Identity Regulations, pursuant to the California Code of Regulations, Title 22, Sections 1251-1 and 1326-2, allow EDD to require a claimant to provide identity verification documentation upon request.

For every staff dedicated to this function, there is an estimated corresponding savings to the UI Trust Fund of more than \$12.1 million. The tools utilized by EDD to specifically prevent UI imposter fraud include:

- Stopping benefit payments on active UI claims that are associated with compromised SSNs until the identity of the claimant is confirmed.
- Utilizing a variety of communication methods to provide information to all California employers on how to protect and properly destroy confidential personnel information and assist EDD in preventing UI fraud. This includes information in a tax publication titled the *California Employer's Guide*.
- Partnering with other states that have also experienced increases in UI imposter fraud. The EDD continues to work closely with other states to identify common patterns and trends, share anti-fraud processes, and resolve fraud cases where the parties have a connection to multiple states.
- Developing a toolkit for employers, as part of an ongoing public education campaign, that includes information on how they can prevent and detect UI fraud. Success in preventing, detecting, and deterring UI fraud is dependent upon a strong partnership with the employer community.

## 10. Mortality Data Cross-Match

The Mortality Data Cross-match process matches UI claimant records with information from the Social Security Administration's Death Master File that the EDD receives from the Department of Commerce National Technical Information Service on a monthly basis. Once the information is received, a thorough review of the information is conducted to identify individuals who continued to certify for UI benefits after they were reported to the Social Security Administration as deceased. By utilizing a cross-match between the EDD's UI claimant data and the Death Master File, the EDD is able to proactively detect and prevent UI fraud and improper benefit payments, protecting the UI Trust Fund. Since the implementation of the Mortality Data Cross-match process, the total cost avoidance is \$2,677,811 and the total amount of overpayments that have been established as a result of the cross-match is \$48,595. The total cost avoidance is the amount of benefits remaining on a claim when action is taken to prevent further payments from being issued to a claimant that was verified deceased. The overpayments assessed are very unlikely to be collected, however, they are a good measure of how quickly we are discovering the fraudulent activity through the Mortality Data Cross-match process. We are detecting it earlier and deterring future fraud.

## 11. Internal System Reports

These reports are generated daily to detect internal fraudulent activity by EDD employees. These reports identify instances when employees update a claimant's base wage file when there is not a

current claim on the UI program's Single Client Data Base. A manager is responsible for performing a full review of each item listed on the report to determine if the update to the base wage file was for a valid and necessary reason.

## Technology Improvements

### **1. Unemployment Insurance Online Features**

The EDD's benefit payment system, UI Online, created self-service functions, increased fraud detection and prevention tools, improved program integrity, and built a more flexible and responsive infrastructure to operate the UI program. This automation system also enhanced EDD's anti-fraud components to ensure that benefits are paid properly and that employers' reserve accounts are charged appropriately.

In May of 2019, an enhancement was made in UI Online to only allow UI applications to be submitted using the Social Security Number (SSN) that is associated with the customer's Benefit Programs Online (BPO) account. If it is determined that the UI application is submitted with a SSN that is not associated with the customer's BPO account, the user is advised that the SSN does not match. This enhancement ensures that customers' confidential information is protected.

In December of 2019, an enhancement was made to the EDD's UI Online services that increased the number of electronic notices sent through the SIDES. This system provides a secure and timely way for employers to electronically exchange UI eligibility information; thereby, reducing the number of paper notices being mailed containing confidential claimant information and increasing the timely response from employers when determining eligibility for benefits.

### **2. Benefit Programs Online Features**

The BPO system is a convenient and secure way for claimants to access the EDD's online systems for State Disability (SDI) claims, Paid Family Leave (PFL) claims, UI claims, and Benefit Overpayment Services through a single sign-on.

In April of 2019, the EDD implemented the reCAPTCHA security check on the BPO log-in page. Customers are required to complete the reCAPTCHA security check anytime they log into BPO by selecting a checkbox to confirm "I am not a robot" and identifying a series of images that match the specified criteria. This prevents automated software from engaging in abusive activities on the EDD site. More importantly, this will occur before access is granted to the EDD's online applications, including UI Online and SDI Online, enhancing system security.

### **3. Call Center Management Information System**

The EDD Call Center System has a management information system that reports call activity, enabling EDD to capture call history and call data for fraud detection and prevention. Additionally, the call center system has implemented new self-service Interactive Voice Response features, including the ability to certify for continued claims by phone via EDD Tele-Cert<sup>SM</sup>.

#### 4. Benefit Overpayment Collection Automation Project

The Benefit Overpayment Collection Automation project (BOCA) was implemented in January 2019, which expanded the Accounting and Compliance Enterprise System, providing a robust, secure, and integrated automated collection system for overpayment liability collection, storage, and account management with added functionality, such as levy automation, increasing the overall effectiveness of the benefit overpayment collection program. The BOCA system replaced the outdated Benefit Overpayment Collection System and has allowed the EDD to utilize the advanced collection tools within the Accounting and Compliance Enterprise System. Automating the Benefit Overpayment Collection System increased the recovery of UI benefit overpayments thereby replenishing the UI Trust Fund and contributing to the overall fiscal stability of the UI Program. The BOCA solution also provides improved access and additional services to claimants. These improved services help to reduce the time and effort required to interact with the EDD, providing self-service options and alternative payment options such as Electronic Funds Transfers and automated correspondence letters. In addition, the new system searches the Financial Institution Record Match information and automatically issues bank levies, based upon established business rules. The issuance of bank levies is a new collection tool used for the collection of benefit overpayments.

Building upon BOCA, the Benefit Overpayment Services (BOS) expansion was implemented in August 2019, which allows claimants to pay by credit card, set up an installment agreement, and view their overpayment balance and corresponded letters. By simplifying the process and providing additional options for repayment, the EDD expects a positive impact on recouping overpayments and replenishing the UI Trust Fund.

### Information Sharing and Marketing

#### 1. Customer Account Number

The EDD randomly assigns a 10-digit EDD Customer Account Number to claimants to use when registering for UI Online services. Notification of this number is mailed to claimants after they file a claim. The notification also promotes the use of UI Online and provides basic instructions on how to set-up an account. Claimants are able to use the EDD Customer Account Number as an identification reference in place of their SSN, and the number is printed as a claimant identifier on certain EDD-issued documents.

#### 2. Fraud Prevention Campaign

To promote fraud awareness and encourage the proper reporting of work and wages, the **EDD Fraud Prevention and Detection Activities Insert, DE 2361CS**, was mailed for one month during each calendar quarter during 2018. The insert details how the EDD collects data from employers and the California Department of Child Support Services to identify claimants who are working and claiming UI benefits at the same time. The insert also provides tips and resources for customers to properly report work and wages and clearly explains the consequences when wages are misreported. These efforts continued at the same interval through the end of CY 2019.

While the EDD recognizes the need to create an awareness among its customers, it is equally important to ensure staff are engaged as well. In November 2018, the UI Branch participated in its first annual International Fraud Awareness Week. Sponsored by the Association of Fraud Examiners

and supported by such powerhouses like Microsoft and TD Bank, the week was full of activities highlighting how each division of the UI Branch contributes to the EDD’s fraud prevention efforts. To diversify our efforts, the EDD’s Tax Branch was invited to participate this year. Their partnership provided UI staff with a greater understanding of the underground economy and their processes to identify and investigate potential fraudulent activities.

Tax Branch staff learned more about the UI Branch efforts to combat fraud such as various cross-match audits, ID verification process, and how UI protects claimant information.

Lastly, to engage the public, [the EDD Actively Prosecutes Fraud](#) web page is continuously updated with the most recent convictions to show that the EDD takes fraud very seriously and does everything possible to protect the UI Trust Fund.

**3. Employer Education**

Employers play an important role in the EDD’s fraud prevention efforts. To educate employers, the ***How to Protect Your Business from Higher Unemployment Insurance (UI) Taxes*** video is available on the EDD’s website. This video focuses on preventing fraud by encouraging employers to immediately report all new hires and rehires to the EDD. To further support these efforts, a corresponding web page and publication are also available to assist employers.

**4. Continuous Marketing Efforts**

The EDD will continue its ongoing efforts to educate claimants, staff, and employers about the impact of fraud on the EDD benefit programs. These ongoing efforts include refreshed web content dedicated to fraud (prevention, detection, and prosecution), helpful videos for claimants on how to properly report their wages, and print publications to distribute during employer and community outreach events.

**Unemployment Insurance Results and Accomplishments**

The following table illustrates the UI program’s results and accomplishments for the last three years:

<b>UI Program Results</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
Cases Under Investigation	\$43,441,050 169 cases	\$44,336,788 140 cases	\$24,446,437 61 cases
Criminal Complaints Filed	\$841,728 20 cases	\$838,788 12 cases	\$10,016,534 15 cases
Completed Criminal Prosecutions	\$5,440,166 25 cases	\$10,809,663 21 cases	\$3,025,631 10 cases
Fraud Overpayments Established	\$136,359,985 123,078 OPs	\$123,763,546 110,007 OPs	\$116,808,262 109,976 OPs
Fraudulent Benefits Prevented By ID	\$414,948	\$4,461,182	\$7,421,483

The following information provides some of the highlights that resulted in the actions cited in the previous table regarding fraud in the UI program in CY 2019.

- There were 61 ongoing and new UI fraud cases representing potential fraudulent benefit payments in the amount of \$24,446,437. These investigations focused on the following case types:
  - Impostor fraud/identity theft (14 cases representing \$5,536,984).
  - Working while certifying for benefits (29 cases representing \$386,373).
  - Fictitious employer registrations with claims (8 cases representing \$18,314,749 )
  - The remaining 10 cases, representing \$208,328, include multiple SSNs used by one person, self-employment, and other miscellaneous violations.
- The ID filed 15 criminal complaints representing potential fraudulent benefits in the amount of \$10,016,534. During 2019, ID gave priority to investigating complex fraud cases involving the most identity theft and similar egregious violations and the highest overpayments. This included a fictitious entity cases with incurred tax liability in the amount of \$46,567, which is not included the in above stated amount.
- The ID completed 10 criminal prosecutions representing fraudulent benefits in the amount of \$3,025,631. These majority of these cases are work and earnings violations, the most common reason for improper payments.
- The ID prevented the payment of \$7,421,483 in fraudulent benefits. This amount refers to remaining unpaid balances on the suspected claims that would have been paid had ID not taken preventive action.
- Other violations on separate cases that were unsuitable for prosecution were referred to the UI Branch for assessment of administrative penalties and collection of overpayments. These violations were determined to be unsuitable for prosecution based on the amount of overpayment, number of weeks of violation, unavailability of witnesses and records, and other mitigating factors identified by prosecuting authorities. These violations included individual suspects who failed to report work and earnings while certifying for benefits, filed claims with stolen identity, employer collusion with employees, and altered or forged documents.
- In compliance with California regulations, UI program staff imposed disqualifications and overpayments on 3,951 cases totaling an additional \$16.9 million in non-fraud overpayments when claimants failed to comply with EDD's request for identity verification information and there was insufficient information to determine the real owner's identity.
- In September 2014, EDD implemented the Treasury Offset Program administered by the Bureau of Fiscal Service in the US Department of Treasury. The Treasury Offset Program allows states to collect delinquent state UI benefit overpayment liabilities from claimants by offsetting their federal income tax refunds. In CY 2019, EDD collected approximately \$55.4 million in Treasury Offset Program overpayment liabilities. This total includes approximately \$33.2 million in actual benefit overpayments, \$10 million in interest, \$9.8 million in penalties, and \$2.4 million in court costs.

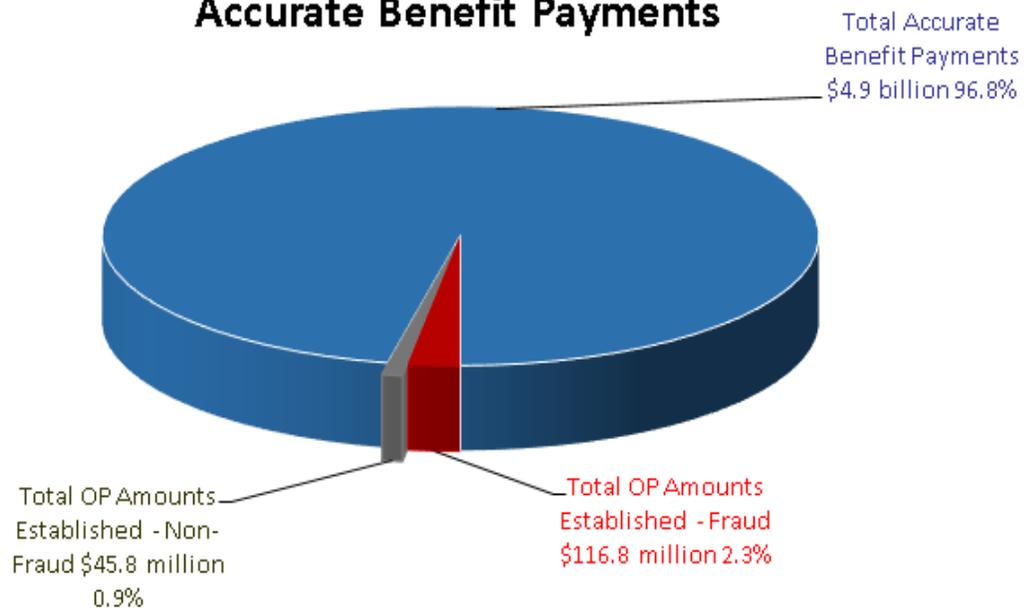
Fraud Overpayments

The following provides additional information regarding UI fraud prevention and detection results related to overpayments:

- The UI program staff established over 110,000 fraud overpayments totaling \$116.8 million in CY 2019. When compared to the \$4.9 billion in benefits paid during this year, the fraud overpayments represent 2.3 percent of all payments.
- Out of the total 110,000 fraud overpayments established, over 62,342 were established as a result of the benefit audit cross-match system, the New Employee Registry cross-match, and the interstate cross-match processes. These overpayments totaled over \$60.8 million.

The chart below is an illustrative comparison between the Total Overpayments (Fraud and Non-Fraud) established and the Total Accurate Benefit Payments:

**2019 Total OPs Established Compared to Total Accurate Benefit Payments**



The following chart provides the number and dollar amount of fraud overpayments detected using the three data cross-match tools:

Method of Detection	Fraud Overpayments Established	
	Number	Dollars
Benefit Audit Cross-Match	25,653	\$28,896,060
New Employee Registry Cross-Match	35,939	\$30,479,024
Interstate Benefit Cross-Match	750	\$1,386,219
<b>Total</b>	<b>62,342</b>	<b>\$60,761,303</b>

- Because the New Employee Registry cross-match allows EDD to detect fraud and other eligibility issues up to six months earlier than through the benefit audit process, the average amount of overpayment is \$848 compared to \$1,126 for a benefit audit overpayment, a variance of \$278.

This is an average savings, or benefit overpayment avoidance, of \$9.9 million annually. Based on findings through the Benefit Accuracy Measurement system, the top two leading causes of fraud overpayments are unreported work and earnings during the biweekly benefit certification and misreported separation information at the claim filing point.

- The UI program staff established fraud overpayments on 45 cases of identity theft totaling \$211,540. A total of 47,000 fraud overpayments were established that were not attributed to the Benefit Audit or New Employee Registry cross-match system or identity theft. These overpayments, totaling \$55.8 million, were established for a variety of reasons including retroactive disqualifications of miscellaneous eligibility issues and unreported work and earnings that were not discovered through the Benefit Audit crossmatch system.

Future Unemployment Insurance Program Enhancements

The EDD continues to monitor, research, and investigate systems and activities in order to detect and prevent fraud within the UI program. As EDD moves toward an electronic system, such as web-based applications for delivering UI services to its clients, the need to maintain the security and integrity of the program is a high priority. California has taken a lead role in developing system enhancements for the detection and prevention of fraud within the UI program.

The following describes fraud detection and prevention system enhancements to the UI program that are currently being developed:

**1. State Information Data Exchange System Enhancements**

The SIDES, originally implemented in 2015 and enhanced in 2016, reduces errors, common with paper forms, and provides employers with a standardized format to ensure that separation information is communicated to the EDD. The EDD is focusing efforts towards marketing the many benefits of SIDES to encourage business participation. The EDD continues to explore different

marketing strategies to reach a larger audience. It is the EDD's objective in 2020 to increase participation and usage of SIDES in the business community to maximize the number of electronic communications received by employers.

## **2. Benefit Systems Modernization**

This effort will consist of a full replacement of the UI and DI and PFL legacy benefit systems. This will be a modern, stable, and fully automated system for EDD's benefit programs. It is anticipated that this system will have data analytics and other fraud prevention and detection tools. The ultimate goal of this effort is to ensure EDD can pay benefits timely and accurately, while protecting EDD's benefit programs against any potential fraud.

## **Employment Tax Program**

One of the largest tax collection agencies in the nation, the EDD's Tax Branch is responsible for administering the state's Employment Tax program. With this responsibility, the Tax Branch handles all administrative, education, customer service, and enforcement functions for the audit and collection of employer-paid UI and Employment Training Taxes, and DI and Personal Income Tax (PIT) withholdings paid by employees. The Tax Branch also processes quarterly wage reports from the state's more than 1.5 million employers, accounting for more than 18 million workers. Collecting almost 50 percent of the state's General Fund, the Tax Branch collects \$84.2 billion in taxes and contributions.

The Tax Branch ensures the integrity of the employment tax program by collaborating with our customers to provide efficient, responsive, and innovative services. The EDD is committed to reducing unfair business competition and protecting the rights of workers by coordinating the joint enforcement of tax, labor, and licensing laws; detecting and deterring employment tax violations in the underground economy; and educating customers to increase compliance with tax laws. The EDD has staff presence throughout the state and also conducts out-of-state audits to provide education, assistance, and enforcement. The Tax Branch takes a strategic approach to combating the underground economy through the following:

### **Education and Outreach**

The Tax Branch has a variety of methods for outreach and education accessible to employers, employees, tax professionals, business groups, and the general public to promote voluntary compliance. The education and methods used to distribute information include publications, online and in-person seminars, community outreach, social media, and websites.

The EDD conducts various in-person payroll tax seminars, available at no cost including co-presented joint seminars such as the EDD/Internal Revenue Service (IRS) payroll tax, EDD/Department of Industrial Relations (DIR) labor law and payroll tax seminars, etc. The EDD's outreach efforts also include providing special presentations and participating in information booths at events sponsored by entities such as payroll associations, industry groups, non-profit organizations, and other governmental entities. In 2019, the EDD conducted more than 361 outreach events with over 53,730 attendees. The EDD continues to look for innovative ways to expand its education and outreach efforts. For example, the EDD utilizes social media such as Facebook and Twitter to reach employers and more of the general public. In addition, the EDD is reaching out to Chambers of Commerce throughout the state to obtain assistance in its marketing efforts.

In addition to its standard seminars, the EDD conducts and participates in industry focused events and partnering activities. Specific to the cannabis industry, the EDD participated and/or attended 79 events with 41,958 attendees statewide, including the California Society of Certified Public Accountants (CalCPA) Education Foundation's Cannabis Business Symposium, the National Cannabis Industry Association's California Business Conference, and the Bureau of Cannabis Control's public licensing events. This was a significant increase from 2018 when the EDD participated in 19 cannabis events with 4,308 attendees.

## **Administrative**

The Tax Branch uses administrative enforcement activities such as site inspections, audits, and involuntary collection of amounts due to address noncompliance. They share data and information with all governmental agencies where permitted, to maximize enforcement results. The Tax Branch's Collection Program administers the employment tax collection and benefit overpayment collection programs where it ensures that employers promptly and accurately report data and pay revenues necessary to support services and benefits provided by the UI, DI, ETT, and PIT withholding programs. It also collects UI and DI benefit overpayments and this revenue is a major source of income for UI and DI funds that are used to pay future benefits. In particular, the Collection Division Field Operations works on complex accounts involving the most flagrant and egregious employers engaged in underground economy activities and asset deception; UI rate manipulation (state unemployment tax avoidance schemes); and employers penalized due to fraud or intent to evade.

## **Criminal Prosecutions**

The EDD's Tax Branch, ID, and local District Attorneys leverage resources, share best practices, and work together to combat the underground economy. The ID has a specialized law enforcement unit that investigates criminal violations of the CUIC, the California Penal Code (PC), and the United States Code for federal prosecution. They conduct criminal investigations involving employer collusion in the underground economy, employer failure to register and report wages paid to employees, and collaborate on workers' compensation insurance investigations related to state payroll tax violations. The EDD works with prosecutors and local District Attorneys to convict individuals who commit employment tax fraud. The conviction itself and the collection of the tax liabilities play an integral part in deterring the underground economy.

The EDD monitors if the convicted party made restitution and is still on active probation. The conviction itself and the collection of the tax liabilities play an integral part in deterring the underground economy.

The following are some Tax Branch specific efforts in combating the underground economy:

### **1. Tax Audit Program**

In 2019, this program conducted 7,002 audits and investigations, resulting in assessments totaling \$208,933,454 and identified 123,074 unreported employees.

### **2. Compliance Development Operations**

The Compliance Development Operations (CDO) is a program within the EDD's Tax Branch whose functions include conducting on-site business inspections as part of Joint Enforcement Strike Force (JESF) and Labor Enforcement Task Force (LETF) operations and screening allegations received from task force partners to determine suitability for on-site inspections. In addition, the CDO captures allegations of non-compliance submitted through the Payroll Tax Fraud Hotline (1-800-528-1783), correspondence, fax, and online Fraud Reporting form and electronic mail. The allegations are screened and referred for inspection or audit.

### 3. Joint Enforcement Strike Force

The JESF was established in October 1993, by Executive Order W-66-93, to combat the underground economy by pooling resources and sharing data among the state agencies charged with enforcing licensing, labor, and payroll tax laws. On January 1, 1995, Section 329 was added to the CUIIC, which placed the provisions of the Executive Order into law. The EDD is the lead agency for the JESF. The JESF is responsible for enhancing the development and sharing of information necessary to combat the underground economy, to improve the coordination of enforcement activities, and to develop methods to pool, focus, and target enforcement resources.

The JESF is empowered and authorized to form joint enforcement teams, when appropriate, to utilize the collective investigative and enforcement capabilities of the JESF partners. The partners include, but are not limited to:

- Employment Development Department
- Department of Industrial Relations
- Department of Consumer Affairs - Contractors State License Board, Bureau of Automotive Repair, and Bureau of Security Investigative Services
- California Department of Insurance
- California Department of Justice
- Franchise Tax Board
- California Department of Tax and Fee Administration (formerly Board of Equalization)
- California Department of Labor
- Alcoholic Beverage Control
- Internal Revenue Service
- US Department of Labor
- District Attorneys throughout California
- Local law enforcement

The EDD's enforcement efforts undertaken by JESF to combat the underground economy include:

- Conducting unannounced site inspections to identify employers operating in the underground economy. The goal is to identify and bring into compliance individuals and businesses in the underground economy that are in violation of payroll tax, labor, and licensing laws.
- Utilizing various databases, income tax return analysis, along with informant information, to conduct in-depth investigations of employers suspected of operating in the underground economy. When noncompliance is detected, the case is referred to the EDD's Audit Program.
- Collaborating efforts between the EDD and the IRS to allow for an exchange of case information regarding unreported wages and/or misclassified workers. This multiagency compliance approach presents a united effort to taxpayers and their representatives that both the federal and state agencies work together to enforce tax laws.

- Targeting of industries known for high levels of noncompliance with licensing, labor, and payroll tax laws.
- Pursuing administrative actions to address employer noncompliance detected via the JESF's efforts, or for cases warranting criminal investigation, ID's Criminal Tax Enforcement Program works with law enforcement agencies and JESF partner agencies to identify and prosecute those responsible for the criminal activities.

#### **4. Labor Enforcement Task Force**

The LETF was initially formed in 2005 as the Economic and Employment Enforcement Coalition and began operating as LETF in January of 2012. The LETF is responsible for ensuring that California workers receive proper payment of wages and are provided a safe work environment, ensuring that California receives all employment taxes, fees, and penalties due from employers, eliminating unfair business competition by leveling the playing field, and making efficient use of state and federal resources in carrying out its mission.

The Department of Industrial Relations leads this multi-agency coalition. The LETF partners include:

- Department of Industrial Relations
- Employment Development Department
- Department of Consumer Affairs – Contractors State License Board, and Bureau of Automotive Repair
- California Department of Tax and Fee Administration
- California Department of Insurance
- State Attorney General
- District Attorneys throughout California

#### **5. FedState Tax Partnership**

This partnership is an ongoing alliance between the EDD, Franchise Tax Board, California Department of Tax and Fee Administration, and the IRS. The mission of the FedState Tax Partnership is to increase tax compliance and provide greater convenience to taxpayers. The FedState Tax Partnership goals include: enhancing taxpayer access to information and services, reducing taxpayers' burden, increasing voluntary compliance, increasing the sharing of taxpayer data among the partner agencies to enhance compliance activities, enhancing communication among the tax partner agencies regarding current and long-range agency specific projects, and identifying opportunities to leverage resources among the partner agencies.

#### **6. Interagency Tax Collection Committee**

This committee is an alliance with the EDD, Franchise Tax Board, California Department of Tax and Fee Administration, and the IRS. It provides a forum to share common collection practices in order to increase compliance and resolve collection issues. It also allows the agencies to meet and share information about their collection programs focusing on common, competing, and overlapping functions including bankruptcy, lien, and levy issues. It is intended to foster communication and allow collection staff to meet their counterparts, establish working relationships, and encourage cooperation on common tax collection issues.



**Compliance Development Operations and Related Audit and Investigation Results**

The following table illustrates the CDO’s cumulative JESF/LETF activities and results of related follow-up audits and investigations for the last three years:

<b>CDO JESF/LETF Cumulative Lead Development Activities and Results</b>			
	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
Joint Inspections	1,410	1,442	1,448
EDD Audit Referrals	948	993	916
EDD Payroll Tax Audits	806	1,026	937
EDD Payroll Tax Assessments	\$31,401,790	\$46,293,424	\$37,167,357
Assessed Amounts Collected To-Date**	\$6,050,217	\$6,879,212	\$3,701,823
Previously Unreported Employees	9,093	13,572	10,572
Cases w/Fraud Penalty Assessed	23	31	19
Assessments on Fraud Cases	\$8,639,773	\$4,318,430	\$1,913,115
Fraud Assessed Amounts Collected To-Date**	\$882,380	\$489,702	\$268,405

\*The out-of-state audit results shown in a separate table later in this report are not included in the above figures.

\*\*Assessed amounts collected to-date are shown in the same column as the year of the original assessments which illustrates the effectiveness of collecting these amounts due. They are amounts collected through January 14, 2020 for all years shown. The year 2017 and 2018 amounts include additional amounts collected after 2018 which is why the figures differ from what was reported in the 2018 report.

**Non-CDO Audit and Investigation Results**

The following table illustrates the results of additional audits and investigations in which the Audit Program found fraud on cases that were initiated from non-CDO leads for the last three years:

<b>Fraud Audit and Investigation Results From Non-CDO Leads</b>			
	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
Cases w/Fraud Penalty Assessed	48	50	44
Previously Unreported Employees	3,991	8,131	3,566
Assessments on Fraud Cases	\$15,250,652	\$20,554,351	\$17,776,273
Fraud Assessed Amounts Collected To-Date*	\$1,732,425	\$469,530	\$103,331

\*Assessed amounts collected to-date are shown in the same column as the year of the original assessments which illustrates the effectiveness of collecting these amounts due. They are amounts collected through January 14, 2020 for all years shown. The year 2017 and 2018 amounts include additional amounts collected after 2018 which is why the figures differ from what was reported in the 2018 report.

The Field Audit and Compliance Division’s Central Office staff conducts follow-up work on informant allegations of non-compliance received by CDO’s Complex Case Group when the circumstances or information received does not warrant a site inspection.

They conduct desk investigations of the businesses using various databases and income tax return analysis to detect non-compliance and fraud. They forward their reports to the Audit Program for follow-up when the likelihood of non-compliance is high.

The following table illustrates the results from these cases for the last three years:

<b>Desk Investigation Results</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
EDD Audit Referrals	8	47	36
EDD Payroll Tax Audits	51	41	28
EDD Payroll Tax Assessments	\$5,893,637	\$6,425,646	\$1,261,865
Previously Unreported Employees	2,427	1,252	643
Assessed Amounts Collected To-Date*	\$1,077,483	\$640,493	\$123,139
Cases w/Fraud Penalty Assessed	2	0	0
Assessments on Fraud Cases	\$2,598,546	N/A	N/A
Fraud Assessed Amounts Collected to Date*	\$384,442	N/A	N/A

\*Assessed amounts collected to-date are shown in the same column as the year of the original assessments which illustrates the effectiveness of collecting these amounts due. They are amounts collected through January 14, 2020 for all years shown. The year 2017 and 2018 amounts include additional amounts collected after 2018 which is why the figures differ from what was reported in the 2018 report.

The EDD’s Complex Case Group receives allegations of noncompliance by several methods. The following table provides a breakdown of the number of contacts received by each method in 2017, 2018, and 2019:

<b>Number of Contacts Received and Processed</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
Telephone Call to Payroll Tax Fraud Hotline*	1,641	1,764	2,537
Online Submission (EDD Website or Email)	1,668	1,058	2,338
Correspondence (Fax or Mail)	204	122	117
Total	3,513	2,944	4,992

\*The name of the Underground Economy Hotline was changed to the Payroll Tax Fraud Hotline in 2018.

Of the 4,992 overall contacts in 2019, there were 1,651 allegations that were screened to determine if there was enough information to conduct a site inspection, schedule an audit, or consider a criminal investigation. The remaining 3,341 contacts were either requests for general information or inquiries that were intended for other agencies and were received by the EDD in error. These misrouted items were forwarded to the original intended recipients as appropriate.

The following are the out-of-state audit results for the last three years:

<b>Out-Of-State Audits Completed</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
EDD Payroll Tax Audits	185*	242*	207
EDD Payroll Tax Assessments	\$5,957,819*	\$7,982,173*	\$9,209,014
Average Liability Change	\$32,204*	\$32,984*	\$44,488
Unreported Employees	9,748*	7,351*	10,101
Assessed Amounts Collected To-Date**	\$2,269,562	\$3,335,569	\$1,875,366

\*These 2017 and 2018 numbers have been adjusted due to discovery of a coding error.

\*\*Assessed amounts collected to-date are shown in the same column as the year of the original assessments which illustrates the effectiveness of collecting these amounts due. There are amounts collected through February 26, 2020 for all years shown. The year 2017 and 2018 amounts include additional amounts collected after 2018 which is why the figures differ from what was reported in the 2018 report.

The Questionable Employment Tax Practices Program (QETP) was initiated in 2007 as a collaborative effort between the EDD and IRS. A Memorandum of Understanding was created to allow for exchange of case information. These cases are excellent audit leads for the EDD since the employers in these cases concurred with the IRS findings regarding unreported wages and/or misclassified workers.

The following table illustrates the results of the QETP Program for the last three years:

<b>QETP Results from IRS Leads</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
EDD Payroll Tax Audits	22	37	43
EDD Payroll Tax Assessments	\$943,509	\$2,127,091	\$2,288,127
Average Liability Change	\$42,887	\$57,489	\$53,212
Previously Unreported Employees	20	866	398
Assessed Amounts Collected To-Date*	\$86,801	\$449,926	\$140,693
Cases w/Fraud Penalty Assessed	0	0	0
Assessments on Fraud Cases	N/A	N/A	N/A

\*Assessed amounts collected to-date are shown in the same column as the year of the original assessments which illustrates the effectiveness of collecting these amounts due. They are amounts collected through January 14, 2020 for all years shown. The year 2017 and 2018 amounts include additional amounts collected after 2018 which is why the figures differ from what was reported in the 2018 report.

The Tax Branch makes assessments of UI rate differences when reserve accounts are transferred by employers attempting to circumvent the UI experience rating system to inappropriately gain a lower UI rate.

The table below illustrates the Tax Branch’s workload accomplishments in this area for the last three years. The number of CUIC Section 1061 payroll tax investigations completed increased significantly in 2019 due to efficiencies gained by centralizing this workload.

<b>Results - Experience Rating Exploitation</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
<b>CUIC Section 135.2 (2 or more businesses combining)</b>			
EDD Payroll Tax Investigations	3	1	0
EDD Payroll Tax Assessments	\$159,821	\$0	N/A
Average Liability Change	\$53,274	\$0	N/A
<b>CUIC Section 1061 (business transfers)</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
EDD Payroll Tax Investigations	69	32	105
EDD Payroll Tax Assessments	\$6,077,157	\$762,133	\$3,311,080
Average Liability Change	\$88,075	\$23,817	\$31,534

In 2019, ID conducted the following tax enforcement activities independent of JESF:

- The ID investigated a total of 157 ongoing and new payroll tax evasion fraud cases representing a potential tax liability of \$97,393,884.
- The ID filed 28 criminal complaints representing a potential tax liability of \$2,166,406.
- The ID prosecuted 21 criminal cases resulting in convictions with a potential tax liability of \$6,978,400.
- The ID continues to partner with staff from the Tax and UI Branches to develop a strategy for addressing fictitious employer schemes responsible for perpetrating fraud against EDD. The objective is to identify potential fictitious employer schemes based on a thorough and ongoing evaluation of the characteristics/elements of such schemes. The identification of these schemes allows EDD to increase detection and eliminate fraudulent UI and SDI benefit claims filed against EDD.

## 7. License Suspensions/Holds Requested

The Business and Professions Code and CUIA authorize the state agencies to suspend/hold a license needed to legally operate certain types of businesses in this state. This is a valuable collection tool for resolving delinquent tax liabilities and for compelling corrective action. There are three types of licenses that the EDD can request other state agencies to suspend/hold if the licensee is delinquent in paying amounts due to the EDD:

- **Contractor License (CSLB Hold)**

Once the CSLB receives the request from the EDD to place a license hold, the CSLB will search their database for all licenses with the same personnel of record and suspend those licenses as well. The licenses remain suspended until the delinquency that led to the suspension has been resolved or arrangements have been made to pay it.

- **Liquor License (ABC Hold)**

The EDD may request the ABC to place a hold on certain types of liquor licenses. A hold establishes a priority for the EDD to any monies received from the sale of the liquor license and prevents the transfer of a liquor license from the seller to a buyer until the conditions of the hold have been met.

- **Farm Labor Contractor License (FLC Hold)**

The EDD is authorized to notify the Labor Commissioner of the (DLSE) in writing that an FLC is delinquent in payment of worker contributions. Once notified, the Labor Commissioner has the authority to refuse to issue or renew any license until the licensee has fully paid the amount of the delinquency.

The following table illustrates the ending inventory of license holds for the past three calendar years:

<b>License Holds Requested</b>			
<b>Type of Hold</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
Contractors	578	591	441
Liquor	40	41	43
Farm Labor Contractors	16	19	10

When the court orders restitution to the EDD as part of the sentencing during criminal prosecutions, the EDD monitors these cases to ensure that the restitution is made. The cases are monitored by Collection Division Central Operations until the convicted party is no longer on probation. If there is a restitution balance remaining at the end of probation, the case is transferred to Collection Division Field Operations for collection action. The following table illustrates data for criminal restitution cases for the calendar years 2017, 2018, and 2019:

<b>Criminal Restitution Cases</b>			
<b>Calendar Year</b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
Restitution Cases Monitored**	82*	119*	120
Beginning Restitution Accounts Receivable	\$19,767,532*	\$21,508,906*	\$26,043,889
Restitution Amounts Ordered	\$3,821,632*	\$6,591,914*	\$1,729,062
Payments Received During the Year	\$2,046,166*	\$1,278,794*	\$828,619
Transfers***	\$34,093	\$778,136	\$219,597
Ending Restitution Accounts Receivable	\$21,508,906*	\$26,043,889*	\$26,724,735

\*Figures corrected from what was previously reported.

\*\*Inventory at the end of the calendar year.

\*\*\*"Transfers" are restitution collection cases transferred to the Collection Division Field Operations for collection action due to non-payment of restitution and expiration of probation. The dollar amount shown in the table above is the unpaid restitution liability only.

The following table illustrates amounts collected to-date by the EDD as of January 14, 2020 on audit assessed amounts during the last three years. The year 2017 and 2018 amounts include additional amounts collected after 2018 which is why the figures differ from what was reported in the 2018 report.

<b>Amounts Assessed by Audits</b>			
	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>
Audit Assessed Amounts Collected	\$39,605,049	\$35,044,628	\$23,561,877

## Recent Legislation

Governor Newsom signed two new bills in 2019 which will ensure benefit coverage for workers and a level playing field among competing businesses in California.

1. Assembly Bill (AB) 5 addresses employment status and codifies the ABC test adopted by the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903. AB 5 requires the application of the “ABC test” to determine if workers in California are employees or independent contractors for purposes of the Labor Code, the Unemployment Insurance Code (CUIC), and the Industrial Welfare Commission (IWC) wage orders. AB 5 became effective January 1, 2020.

Under the ABC test, a worker providing labor or services for remuneration is presumed to be an employee rather than an independent contractor unless the hiring entity demonstrates **all three** of the following conditions:

- A. The worker is free from control and direction, both under contract and in fact;
- B. The worker performs work that is outside the usual course of the hiring entity’s business; and,
- C. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

To learn more, visit the California Labor & Workforce Development Agency’s (LWDA) [AB 5 – Employment Status Portal](#).

2. Assembly Bill 1296 established the Tax Recovery in the Underground Economy Criminal Enforcement (TRUE) Program within the Department of Justice to combat the underground economy. It expanded the required membership of the JESF to include the Department of Justice, the California Department of Tax and Fee Administration, and the Franchise Tax Board. Additionally, the bill expanded the duties of the task force to include enforcement activities regarding labor, tax, insurance, and licensing law violators operating in the underground economy and authorize the provision of investigative leads to participating agencies.

To learn more, visit [AB 1296, Joint Enforcement Strike Force on the Underground Economy: Labor Enforcement Task Force](#).

## Future Employment Tax Program Efforts

### Education and Outreach for Emerging Issues and Industries

- In an effort to prepare California’s employers for AB 5 and administrative changes, the Tax Branch of the EDD created a comprehensive implementation plan that includes strategies to address external marketing as well as organizational change management and training needs within the EDD. The external outreach efforts include the following:

- The EDD offers a newly developed *Assembly Bill 5/ABC Test-Employment Status Seminar* throughout the state to the employer community and the general public. This seminar was developed in preparation for the implementation of AB 5, which changes worker classification criteria effective January 1, 2020. The EDD conducted seven (7) statewide *AB 5/ABC Test - Employment Status Seminars* in December 2019. For 2020, 87 additional *AB 5/ABC Test-Employment Status Seminars* are scheduled, which consists of 82 in person presentations and 5 webinars. Due to the Covid-19 Pandemic social distancing requirement, additional webinars may be scheduled for the remainder of the year.
- The EDD is in the process of updating the impacted forms and publications, including several information sheets to provide guidance on the application of the ABC test.
- The EDD provided email messages to chambers and associations to help educate businesses about the new employment status mandate.

For 2020, the EDD is planning to sustain a comparable level of outreach at about 400 total seminars and outreach events combined. The no cost payroll tax seminars cover a variety of payroll tax topics. Two of the seminars are offered in collaboration with the Internal Revenue Service and the Department of Industrial Relations. They are the *Federal/State Basic Payroll Tax Seminar* and the *State Labor Law and Payroll Tax Seminar*. These two seminars are designed to integrate the requirements of both agencies, covering their similarities and differences. The other EDD sponsored seminars include *State Basic Payroll Tax Seminar*, *Cannabis Industry and State Payroll Tax Seminar*, and *AB 5/ABC Test-Employment Status*. In addition, the EDD has been participating in outreach events as presenters and exhibitors, in an effort to educate and assist employers in meeting their payroll tax obligations. Some of the outreach events are held virtually due to the Covid-19 Pandemic and the shelter in place directives.

## **Workforce Services Program**

The EDD administers the federally funded WIOA program in California. The WIOA program provides funding to local entities that provide employment and training opportunities. The EDD guides the sub-granting of WIOA funds received from US Department of Labor (DOL) and provides general program direction to local administrative entities that deliver services to eligible clients via a statewide system of WIOA Local Workforce Development Areas (LWDA) and other grantees. The WIOA superseded the Workforce Investment Act and took effect in July 2015.

The detection and deterrence of fraud in the expenditure of WIOA funds is accomplished through a combination of processes that EDD requires of the local administrative entities. In addition, DOL occasionally conducts specialized WIOA reviews, which, even though their focus is on the adequacy of the state's management of the program, typically include review of a sample of local administrative entity activities. The program integrity components related to WIOA include:

### **Workforce Innovation and Opportunity Act Activities**

#### **1. Monitoring Reviews**

These reviews determine whether programs operate in compliance with WIOA, and applicable federal, state, and local rules and regulations, and impose corrective action for any deficiencies.

**2. Local Workforce Development Areas Administrative Entity Sub-recipient Monitoring** Each LWDA administrative entity, as a condition of receiving WIOA funds, is required to maintain and operate a monitoring system that ensures that each of its sub-recipients are monitored on-site at least once during each program year in both fiscal and program areas. In addition, EDD conducts monitoring of LWDA administrative entities and all other recipients of WIOA funding.

#### **3. Incident Reporting System**

This system provides reports of fraud, waste, abuse, and criminal activity within the WIOA program. Each local administrative entity, as a condition of receiving WIOA funds, participates in this system by being alert to indications and allegations of WIOA-related fraud, waste, abuse, and criminal activity, and by maintaining procedures that ensure that violations are reported promptly (within 24 hours of detection). The EDD then takes action to ensure the allegations are investigated and resolved.

#### **4. Single Audits**

Single Audits are required of LWDA administrative entities and their subcontractors that expend an aggregate of \$750,000 or more in federal funds. Further, commercial subcontractors that expend \$750,000 or more in federal funds to operate a WIOA program must obtain either an organization-wide audit or an independent financial and compliance audit. These audits are usually performed annually, but must be performed no less than once every two years.

Audit findings of local sub-recipients are resolved by the local administrative entity. Audit findings of the local administrative entities and other direct grantees are resolved by EDD. The EDD may also conduct ad hoc WIOA audits as warranted.

## 5. Workforce Services Division

Program staff in this division oversee the delivery of services by WIOA funded organizations. Staff provide ongoing programmatic, fiscal, and technical assistance to WIOA funded projects. Staff also review WIOA grantee participant and financial records to ensure that they follow applicable state and federal requirements, and each grantee adheres to the terms and conditions of their grant with EDD.

## 6. Regulatory Controls

These controls provide for additional fraud protection. The DOL provides a Hotline to report fraud and abuse complaints. This Hotline functions as a national control point. Another control point is that the WIOA program prohibits contracting or doing business with any agency that has been disbarred (e.g., license revoked, de-certified). Additionally, the WIOA regulations have established controls against nepotism.

## Wagner-Peyser Activities

The EDD also administers the federally funded Wagner-Peyser Act program (Title III of WIOA) in California. The Wagner-Peyser Act program provides funding for EDD field staff to provide employment services throughout California. The EDD staff deliver services to eligible customers statewide through the America's Job Centers of California<sup>SM</sup> network, while providing job matching services to the employers of California.

The primary tool used directly by customers (both job seekers and employers) is the California Job Opening Browse System (CalJOBS<sup>SM</sup>). Through CalJOBS, clients can utilize the system themselves, and EDD staff can refer job seekers to jobs, workshops, and appointments. The system can also be used to track services for the federally mandated participant reports. The EDD ensures that client data is kept confidential, and works with the vendor to ensure that CalJOBS maintains its program integrity and security. The program integrity components related to CalJOBS include:

### 1. Access to Confidential Data

Access to confidential data is limited by various internal safeguards which have been implemented, including system generated reports listing suspicious activity, redacting job seekers' SSNs in the system, removing confidential data from any standard reports, and giving job seekers the option to suppress their contact and personal information. Job seekers may omit personal information on résumés and provide it only to employers with whom they would like to share it.

### 2. Employer Vetting

This vetting is completed on every employer granted access to the system. Because postings are generated by employers, vetting is critical to protecting users. This validation process includes a confirmation that each employer who registers is a California employer with verified identifiers including a valid California tax identification number. Starting on December 4, 2017, an automated vetting solution was implemented within CalJOBS. Employers that provide information that matches the identifiers are automatically verified and granted access to CalJOBS. Employers that provide information that does not match revert to the manual review process, which can take up to 72 hours.

Once an employer is vetted and granted access to CalJOBS, there are automated features in place to report suspicious activity. A small percentage of employers were identified as fraudulent in 2018 and were immediately locked out and prevented from accessing the system. Legitimate California employers continue to have the option to search for and contact qualified candidates through internal CalJOBS messaging. The EDD continues to closely monitor and immediately respond to suspicious employer activity in order to ensure California jobseekers are protected. Stronger warning messages and additional cautionary language informing job seekers of the dangers of potentially fraudulent employers and information on how to detect them have also been added to the CalJOBS website.

### **3. Document Management and Scanning**

This functionality was implemented in 2015 as a CalJOBS enhancement, reducing the need for paper files. The replacement of hard copy files eliminates the need for job seekers to carry documents with them every time they are provided services, reduces the chances of lost or misfiled documents, and increases efficiency in managing the documents both locally and remotely.

### **4. System Controls**

To ensure security in the system and maintain data integrity, the CalJOBS system is equipped with various levels of access that are defined by several privilege groups within the system. The privilege groups give users access to confidential and non-confidential data depending on the privilege group they are associated with. In order to maintain access and ensure changes are minimal, the creation of these privilege groups are determined by Workforce Services Management. This internal control allows the state to maintain the security and data integrity of the data housed in the CalJOBS system.

## Workforce Services Results and Accomplishments

The Compliance Resolution Unit makes determinations on incident report allegations, findings contained in audit reports, and findings contained in monitoring reports. The resolution of these cases is based on the proper expenditure of WIOA, Workforce Investment Act, and American Recovery and Reinvestment Act funds. Although the American Recovery and Reinvestment Act and Workforce Investment Act programs have ended, staff continue to resolve fraud and abuse cases associated with these programs.

During CY 2019 the Compliance Resolution Unit processed 61 cases, 7 of which were resolved, however no non-federal funds from LWDA or subgrantees were recovered. At the end of the 2019 year, 54 ongoing cases for a total of \$4,037,542 in questioned costs remained open in various stages of the state resolution process.

- The \$4,037,542 represents 6 of the 7 cases for which EDD has been able to determine the potential disallowance.
- The remaining 47 cases are in various stages of resolution and fact-finding.

## INDEPENDENT OVERSIGHT ACTIVITIES

The EDD's Policy, Accountability and Compliance Branch (PACB) performs independent departmental oversight activities of EDD programs, including fraud detection and deterrence. Fraud detection and deterrence are accomplished through sound internal control structures, internal and external audits, risk assessments, detailed quality control reviews, and criminal investigations. The PACB has increasingly taken an active role to prevent, detect, and deter fraud against EDD's programs through partnerships with internal and external entities.

Fraud in EDD programs covers a variety of offenses, such as:

- Fictitious employer registrations to establish future fraudulent UI and DI claims.
- Forgery of claim documents.
- Identity theft or impostor claimants using the wage credits of others.
- Impostors taking over the claims of individuals who are deceased or returned to work.
- False certifications by medical practitioners and claimants.
- Underground economic activities to evade paying taxes such as underreporting or failure to report employee wages and taxes; and
- Internal fraud by EDD employees.

The PACB performs audits in accordance with the Generally Accepted Government Auditing Standards and the International Standards for the Professional Practice of Internal Auditing, which are promulgated by the Comptroller of the United States and the Institute of Internal Auditors. These standards require auditors to possess the knowledge, skills and other competencies needed to perform audits, including sufficient knowledge to identify the indicators of fraud and to evaluate the adequacy and effectiveness of controls encompassing the organization's operations and information systems that are used to detect illegal activities and deter fraud. Audit independence is achieved by reporting to a level within the enterprise that allows the audit organization to fulfill its responsibilities.

The following activities are performed by the PACB to assist in the fraud deterrence and detection efforts. Many of these activities cited under the specific EDD program areas are performed with the assistance of PACB criminal investigators, auditors, and compliance monitors.

### 1. Independent Internal and External Audits

These audits are conducted of departmental operations and recipients of federal funds such as LWDA's and community-based organizations, over which EDD has administrative and program oversight responsibility. These audits are performed at the request of EDD management, or in response to issues resulting from EDD program monitoring activities or received incident reports.

### 2. Independent Internal Control Audits

These audits assist organizations in maintaining effective controls including fraud prevention, by evaluating their effectiveness and efficiency. The EDD considers a strong system of internal controls to be a major deterrent to internal fraud. The PACB provides technical assistance to EDD staff prior to and during the system design phase to ensure appropriate internal controls are

developed and in place. The EDD believes that it is more cost effective to build controls into the system, as opposed to raising internal control issues during an audit, which may require system redesign.

### **3. On-Site Monitoring Reviews**

As required under federal law, on-site reviews are conducted of WIOA funding recipients to determine fiscal and program compliance. The EDD is required to perform scheduled on-site monitoring reviews of sub-recipients and sub-grantees of federally funded programs, including WIOA and Disaster Relief funded services.

The monitoring reviews include regularly scheduled examinations of both fiscal and programmatic systems and records. This oversight provides EDD with an opportunity to ensure that internal control structures are in place and that they function as prescribed. The PACB provides fraud deterrence by continually ensuring that proper safeguards are in place to discourage fraudulent activity. Monitors are alert to symptoms and conditions that may be indicators of illegal activities.

### **4. Incident Reporting**

The incident reporting system under the WIOA provides a means for individuals to report allegations of program fraud and abuse, as well as a process in which these allegations are reviewed. The PACB receives and tracks incident reports and submits them to the DOL for their review. The DOL will determine whether to conduct the investigation itself, or refer the reports back to EDD for investigation, audit and appropriate action.

### **5. Criminal Fraud Investigations**

The EDD's criminal investigators conduct these investigations to prevent, detect, and deter fraud committed against the UI, SDI, Tax Collection, and other programs administered by EDD. The ID develops cases for criminal prosecution at the county, state, and federal level.

Whenever appropriate, EDD seeks prosecution of perpetrators that commit fraud against EDD programs. Publication of the prosecutions and the heightened awareness of EDD's actions against both external and internal fraud provide a deterrent for individuals who might be contemplating committing fraud. Court ordered restitution and imprisonment or probation also act as a fraud deterrent.

Restitution includes recovery of benefit overpayments, tax liabilities, penalties, interest, investigation costs, and any other monies determined by the court to be owed to EDD by an entity or individual.

A deterrent used in ID's Internal Affairs cases is the initiation of adverse action against EDD employees. The adverse action process includes suspensions, demotions, reductions in pay, dismissal from state service, and/or criminal prosecution.

## **6. Published Website to Report Fraud**

The EDD website ([www.edd.ca.gov](http://www.edd.ca.gov)) has a link to an electronic fraud reporting form. The form allows the public to report allegations of fraud against programs administered by EDD which are automatically directed to the ID and reviewed by the Criminal Intelligence Unit.

## **7. Participation in Task Forces**

The PACB participates in task forces with other state and federal law enforcement agencies such as the California Department of Insurance, Department of Fee and Tax Administration (formerly Board of Equalization), Franchise Tax Board, IRS, DOL, US Postal Inspectors, and local prosecutors.

## **8. Forensic Audit and Examinations**

The Audit and Evaluation Division conducts forensic audit and examinations in response to requests for assistance from ID.

## **9. Strategic and Tactical Intelligence Gathering**

The ID's Criminal Intelligence Unit develops strategic and tactical intelligence for investigative planning and case identification, and assists program managers in identifying areas to prevent and detect fraud. This unit works with EDD program managers to identify characteristics of fraud and uses technology to screen claims for potential fraudulent activities. The unit is currently gathering and analyzing data from claims filed and investigative cases worked to gain insight into the fraudulent trends being employed against EDD. This information will help identify strategies that EDD can use to counter this fraudulent activity.

## **10. Business Intelligence Competency Center**

The EDD's Business Intelligence Competency Center is a data warehouse that helps the ID's Criminal Intelligence Unit utilize complex software to improve data mining to prevent and detect fraud against EDD's programs. This data warehouse is used to improve fraud detection efforts by conducting in-depth data analyses to identify patterns and trends that will serve as potential indicators of fraudulent activity.

## **ENTERPRISE-LEVEL ACTIVITIES**

The EDD embraces an enterprise-wide approach to identify and combat fraud within and across programs. Additionally, EDD is continually seeking new approaches to prevent, detect, and deter fraud, through partnerships with both internal and external entities. This section summarizes enterprise-level anti-fraud efforts that are ongoing, new and enhanced partnerships undertaken during CY 2019, as well as those activities that are under consideration for future implementation.

### Ongoing Efforts

#### **1. Fraud Penalty Assessment**

A monetary penalty of 30 percent is assessed on overpayments resulting from claimant fraud in the UI and SDI programs.

**2. Personal Identification Number and Identity Management System** These technology features provide telephone identification, authentication, and authorization services via EDD's Interactive Voice Response system improving claimant privacy by preventing unauthorized access to confidential data. The systems are available 24-hours a day, seven days a week.

Claimants select their Personal Identification Number the first time they use the Interactive Voice Response system to obtain payment information by matching personal identifying information. As an additional security and fraud detection measure, claimants are sent a notice when their Personal Identification Number is established or changed. Claimants are required to enter their SSN and four-digit Personal Identification Number each time they request confidential payment information for their UI and SDI benefits.

### **3. Education and Outreach**

Increased marketing efforts to educate the public on the consequences associated with committing fraud is ongoing. The EDD also publishes a summary of recent fraud convictions detected by the EDD and prosecuted to the fullest extent of the law. These convictions are for both UI and SDI benefit fraud, and tax evasion schemes.

The EDD posts these summaries of recent fraud prosecutions on the EDD public website under the title of Recent Fraud Prosecutions. During CY 2019, the website received a 33,486 total of views and is available directly through the link:

[http://edd.ca.gov/About\\_EDD/EDD\\_Actively\\_Prosecutes\\_Fraud.htm](http://edd.ca.gov/About_EDD/EDD_Actively_Prosecutes_Fraud.htm)

### **4. Toll-free EDD Fraud Tip Hotline 800-229-6297 and Website**

This toll-free Hotline provides employers and individuals a designated telephone number to report alleged fraud directly to ID's Criminal Intelligence Unit. These reporting options provide individuals the ability to report fraud in a secure environment.

During CY 2019, due to several corporate data breaches nationwide, the ID saw an escalation in identity theft reporting, and other fraudulent activities. Over 6,564 public contacts were made (phone and in-person) and 14,632 fraud allegation reports were received by phone, fax, USPS mail, and electronically through the EDD public website application AskEDD. As a result in the significant increase in identity theft and fraudulent claim reports, the Investigation Division partnered with the Unemployment Insurance Branch to respond to the public.

The following table details the number of fraud allegations received through the EDD Fraud Desk and Hotline during CY 2019 for the EDD programs for the last three years:

<b>EDD Fraud Desk and Hotline Allegations Received*</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
SDI (DI & PFL)	2,019	2,069	2,825
UI	2,685	2,941	11,710
Tax	N/A	8	83
WIOA	N/A	2	14

\*The ID previously only reported benefit program allegations.

\*\*Allegation Intake data for Tax and WIOA was not captured or reported in prior reports.

New and Enhanced Partnerships

**1. Internal Partnerships**

The ID, jointly with both the UI and SDI programs, continues to identify claim or payment characteristics that are indicative of fraud. The ID uses built-in SDI Online and California Unemployment Benefit Services applications’ fraud detection rules to more easily identify fraud. Additionally, the ID enjoys a close partnership with staff in UI, DI and Tax to work collaboratively to combat fraud in the respective programs.

An expanded partnership between ID and the EDD’s Audit and Evaluation Division has enabled more thorough and timely analysis of large volumes of accounting data as a tool to identify and analyze perpetrators’ fraudulent activities and develop investigative leads.

The ID maintains a valuable partnership with Tax Branch staff to develop a strategy for addressing fictitious employer schemes responsible for perpetrating fraud against EDD. This partnership identifies the characteristics and elements used to establish fictitious employers that improves timely detection of these schemes and eliminates fraudulent UI and SDI benefit claims filed against EDD.

**2. External Partnerships**

The ID has continued to foster joint investigative activities with the DOL, Office of Inspector General, US Postal Inspector General, and the US Attorney, as a means to develop and share fraud leads, and more effectively investigate and prosecute perpetrators of fraud.

The ID coordinates with partner investigative and enforcement agencies to publicize joint investigative, arrest, indictment, and prosecution actions, with the intent of deterring fraud perpetrators.

## Activities Under Consideration

### **1. New Data Sharing Interfaces**

The EDD is considering new options for data sharing interfaces with government agencies such as incarceration data, or a more department wide use of the Social Security Administration's decedent data.

### **2. A New Identity Management System**

The EDD is also considering a new identity management system to provide a more robust approach to validate the true identity of those applying for UI or SDI benefits online or via the telephone.

**ACRONYMS**

CalJOBS <sup>SM</sup>	California Job Opening Browse System
CDO	Compliance Development Operations
CUIC	California Unemployment Insurance Code
CY	Calendar Year
DI	Disability Insurance
DOL	United States Department of Labor
EDD	Employment Development Department
ID	Investigation Division
IME	Independent Medical Examination
IRS	Internal Revenue Service
JESF	Joint Enforcement Strike Force
LETF	Labor Enforcement Task Force
LWDA	Local Workforce Development Area
OP	Overpayment
PACB	Policy, Accountability and Compliance Branch
PFL	Paid Family Leave
QETP	Questionable Employment Tax Practices Program
SDI	State Disability Insurance
SIDES	State Information Data Exchange System
SSN	Social Security Number
TAA	Trade Adjustment Assistance
UI	Unemployment Insurance
US	United States
WIOA	Workforce Innovation and Opportunity Act Title I

This report was prepared by the Policy, Accountability and Compliance Branch of the  
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EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 916-654-7249 (voice) or TTY users, please call the California Relay Service at 711.



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