

Department of Labor

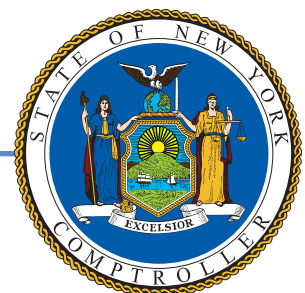
Selected Wage Investigation Procedures

Report 2019-S-46 | March 2021

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine if the Department of Labor (Department) is following its wage investigation procedures, including conducting outreach to claimants about case status and recovered wages. Our audit covered the period April 1, 2016 through November 29, 2019. We also considered information that was provided by the Department through August 18, 2020.

About the Program

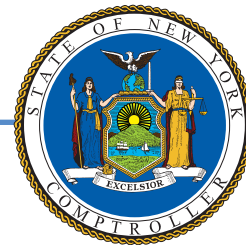
The Department's mission is to protect workers, assist the unemployed, and connect job seekers to jobs. In fulfilling these responsibilities, the Department's Division of Labor Standards (Division) seeks to vigorously enforce New York Labor Laws (Laws) and promote education about these protections. These Laws, such as those that cover minimum wage and overtime, illegal deductions, day-of-rest and meal period requirements, and child labor, help improve working conditions for adults, minors, and individuals with disabilities. Division investigators from 12 District Offices examine complaints and any other alleged labor violations that arise during the course of an investigation. The Division can require employers found to be in violation of the Laws to pay restitution of wages and can also assess penalties (which are retained by the Department), liquidated damages, which are additional amounts assessed in an effort to compensate workers for the delay in receiving wages owed and which may serve as a deterrent to future violations, and interest. Investigators' efforts are critical in promoting compliance and in recovering amounts for aggrieved workers. The Department reported collecting \$31 million and \$29 million in wages, interest, and penalties as a result of its wage investigations during calendar years 2019 and 2018, respectively.

Key Findings

- We reviewed documented wage investigation activities for a sample of 150 of the 5,387 cases opened by the Division's Albany, Buffalo, and Syracuse District Offices between April 1, 2016 and November 29, 2019 (50 from each office). For 69 of the 150 cases (46 percent), investigators did not make first contact with the employer within 60 days of creating a wage investigation case in the Department's tracking system (docketing), as recommended in its procedures. In 55 of the 69 cases, the first contact did not occur for more than 120 days, including 13 cases for which first contact didn't occur until after more than 360 days had passed.
- We identified 24 cases with no documented investigation activities for significant periods of time, including 2 cases with gaps of more than two years.
- For 9 of 56 cases we reviewed that the Department's system indicated were closed and paid, we could not determine whether the 976 claimants represented by these cases received recovered wages totaling \$413,582.

Key Recommendations

- Pursue appropriate actions to ensure investigators make initial contact with employers within 60 days of case docketing and fully document their actions.
- Make efforts to identify the reasons for, and reduce, gaps in the investigation process.
- Identify and implement methods to better document and verify payments to claimants.



Office of the New York State Comptroller Division of State Government Accountability

March 3, 2021

Roberta Reardon
Commissioner
Department of Labor
W.A. Harriman Campus Building 12
Albany, NY 12240

Dear Commissioner Reardon:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Department of Labor entitled *Selected Wage Investigation Procedures*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
Claimant	An individual(s) who submits a wage claim, including those who are added to the claim during an investigation	<i>Key Term</i>
Department	Department of Labor	<i>Auditee</i>
Direct Pay	Situation in which an employer pays recovered wages directly to the claimant	<i>Key Term</i>
Division	Department of Labor's Division of Labor Standards	<i>Division</i>
Docketing	Initiation or creation of a wage investigation case in the Worker Protection Management System	<i>Key Term</i>
Laws	New York Labor Laws	<i>Law</i>
Manual	New York State Labor Standards' Field Investigator's Manual	<i>Guidance</i>
WPM	Worker Protection Management System	<i>System</i>

Background

The Department of Labor's (Department) mission is to protect workers, assist the unemployed, and connect job seekers to jobs. In fulfilling these responsibilities, the Department's Division of Labor Standards (Division) seeks to vigorously enforce New York Labor Laws (Laws) and promote education about these protections. These Laws, such as those that cover minimum wage and overtime, illegal deductions, day-of-rest and meal period requirements, and child labor, help improve working conditions for adults, minors, and individuals with disabilities. Division investigators from 12 District Offices examine complaints and any other alleged labor violations that arise during the course of an investigation. The Division can require employers found to be in violation of the Laws to pay restitution of wages and can also assess penalties (which are retained by the Department), liquidated damages, which are additional amounts assessed in an effort to compensate workers for the delay in receiving wages owed and which may serve as a deterrent to future violations, and interest. Investigators' efforts are critical in promoting compliance and in recovering amounts for aggrieved workers. The Department reported collecting \$31 million and \$29 million in wages, interest, and penalties as a result of its wage investigations during calendar years 2019 and 2018, respectively.

The Division's 2014 Labor Standards' Field Investigator's Manual (Manual) provides instructions and guidance to investigators regarding wage-related investigations. The Worker Protection Management System (WPM) is used by Division investigative staff to document and track wage investigation details, such as employer and employee information, and includes a chronological record of activities that occur during the life cycle of a case.

Audit Findings and Recommendations

We found that the Department did not follow its wage investigation procedures for some of the cases we reviewed. We identified opportunities for improvement in contacting employers, reducing times of inactivity in the investigation process, and providing stronger assurance that claimants receive restitution owed, especially when they are paid directly by the employer. We also found differences in District Office personnel’s understanding of reporting requirements and related missing final reports.

Investigation Process

First Contact With Employer

The Manual, in conjunction with Department memos, provides investigators with instructions and guidance to conduct and document wage investigations. According to the Manual, timely completion of these investigations is essential to proper case management. The Department’s stated goal is for investigators to make first contact with an employer (e.g., in-person visit or mailed letter) within 60 days of “docketing” the case (i.e., creating a wage investigation case in WPM).

We reviewed documented wage investigation activities for a sample of 150 of the 5,387 cases opened by the Division’s Albany, Buffalo, and Syracuse District Offices between April 1, 2016 and November 29, 2019 (50 from each office). As of January 9, 2020, 148 of our sample cases were in pending or closed status and 2 were classified as “Inactive-Uncollectible-Other.” Of the 150 cases, investigators did not make first contact with the relevant employer within 60 days for 69 cases, or 46 percent. In 55 of the 69 cases, the first contact did not occur for more than 120 days, including 13 cases where the first contact didn’t occur until after more than 360 days had passed. In one of the 13 cases, WPM indicated that nearly three years had elapsed between the date the case was created and first contact with the employer. Table 1 presents our results by District Office.

Table 1 – Time From Case Docketing to First Employer Contact

District Office	Number of Cases							Total Cases
	61-120 Days	121-180 Days	181-240 Days	241-300 Days	301-360 Days	361-420 Days	More Than 420 Days	
Albany	6	7	3	0	0	0	0	16
Buffalo	4	0	3	3	9	3	0	22
Syracuse	4	4	3	3	7	2	8	31
Totals	14	11	9	6	16	5	8	69

Delays in contacting employers can adversely affect an investigator’s ability to obtain necessary information to adequately investigate. For example, if an employer relocates, ceases operations under its former name and begins operations under

a different name, or closes its operations before first contact by an investigator, the investigator may have difficulty locating and contacting the employer and advancing the case. Department officials acknowledged our findings and the value of timely contact with all parties to an investigation. They stated that, in some investigations, the initial employer contact takes place after preliminary steps such as worker interviews have taken place, and that the number of workers affected by the case may result in the initial phase taking longer than 60 days. They also indicated that contact with the employer may depend on the businesses being in operation at the time of the visit (e.g., some businesses operate seasonally).

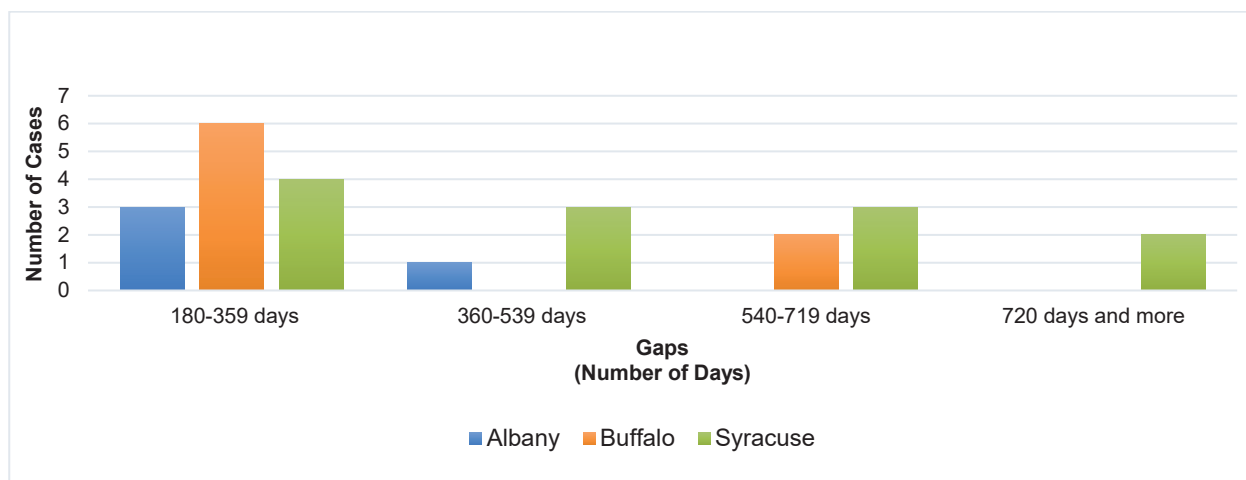
Gaps in Investigation Activities

We also identified 24 cases for which WPM indicated no actions taken for 26 periods of 180 days or more. These gaps occurred in various stages of the investigations. One of the 24 cases had three gaps of 180 days or more: one gap of 207 days between the date the case was created and the date the case was assigned to an investigator, and subsequent gaps of 191 and 186 days in the investigation process. We also identified two cases – both from the Syracuse District Office – each with a gap in investigative activity of more than two years (825 days and 843 days, respectively).

Eleven of the gaps occurred in cases that were reassigned to another investigator (sometimes more than once) or District Office. For two other cases involving more than \$4,000 in recovered wages, the claimants’ uncashed checks were returned to the Department. In those cases, WPM contained no follow-up information indicating any actions had been taken to locate the claimant. In another case, a 238-day gap occurred after an investigator requested information from the employer.

For 18 of the 24 cases with gaps, there were also delays in making the first contact with the employer. Figure 1 presents the periods of inactivity we identified.

Figure 1 – Gaps in Investigation Activities



According to Department officials, gaps in a case investigation can be due to investigators not properly updating the case status in WPM. They also said that cases that involve litigation, require additional information, or involve multiple years of underpayment or unresponsive claimants may cause gaps in the process. However, the gaps in documented investigative activity in the cases we identified were not explained by these extenuating circumstances. Similar to the effects of delays in contacting employers, significant gaps of time between investigative actions increase the risk of losing access to records and people. Department officials emphasized their commitment to ensuring timely completion of investigations and closely monitoring caseloads.

Outreach to Claimants

We could not determine whether claimants received their recovered wages in several cases that represented nearly a thousand claimants. According to Department officials, when a wage investigation results in recovered wages (and – where applicable – liquidated damages and/or interest) owed to a claimant, and the employer agrees to comply with this determination, the claimants are paid either directly by the employer (Direct Pay) or by the Department after it receives the funds representing recovered wages from the employer. If an employer pays a claimant directly, the Department requests support – such as canceled checks, bank statements, payroll records, or confirmations from the employer – as evidence that the payment occurred, and advises workers to inform the Department if they don't receive recovered amounts.

Of the 150 cases in our sample, 56 were identified in WPM as “closed and paid,” including 24 from the Albany District Office, 14 from the Buffalo District Office, and 18 from the Syracuse District Office. Of these 56 cases, which included 24 identified in WPM as Direct Pay, we were unable to determine whether 976 claimants in nine cases received wages they were owed totaling \$413,582.

For seven of these nine cases – all of which were Direct Pay, representing 971 claimants and \$408,381 in wages owed – there was no documentation in WPM, such as copies of canceled checks, to support that the workers received wages they were owed. For one of the seven, information in WPM indicated that the employer filed for bankruptcy with no additional information about the \$816 due to the claimant.

In the other two cases – one Direct Pay case with six claimants and \$2,630 owed and one Department-paid case with two claimants and \$8,263 owed, totaling \$10,893 – we verified that three of the eight claimants received wages totaling \$5,692, but were unable to determine whether the remaining five claimants received the \$5,201 due. In the Department-paid case, the investigator relied on the employer's efforts to locate a claimant owed \$3,047, and there was no evidence in WPM that the investigator took any additional steps to locate the claimant. Table 2 presents our results.

Table 2 – Payments to Claimants

District Office	Payment Method	Number of Claimants	Assessed Amounts Due Claimants	Number of Claimants Not Verified as Having Received Payment	Amounts Not Verified as Having Been Received by Claimants	Number of Claimants Verified as Having Received Payment	Amounts Verified as Received by Claimants
Albany	Direct Pay	21	\$113,141	21	\$113,141	0	–
Albany	Direct Pay	6	19,571	6	19,571	0	–
Albany	Direct Pay	1	1,725	1	1,725	0	–
Albany	Direct Pay	1	240	1	240	0	–
Buffalo	Direct Pay	441	130,186	441	130,186	0	–
Buffalo	Direct Pay	500	142,702	500	142,702	0	–
Buffalo	Department	2	8,263	1	3,047	1	\$5,216
Syracuse	Direct Pay	6	2,630	4	2,154	2	476
Syracuse	Direct Pay	1	816	1	816	0	–
Totals		979	\$419,274	976	\$413,582	3	\$5,692

Without adequate confirmation of payment, the Department has reduced assurance that claimants are receiving the restitution owed. In response to our findings, Department officials indicated that investigators obtained confirmation of payment for two of these cases through other means such as a phone call with either the employer or the employee. Oral confirmations, however, offer less substantial evidence than confirming documentation that claimants were actually paid. Department officials also acknowledged the importance of obtaining evidence that verifies payment to claimants when employers pay claimants directly, and indicated their plans to develop a procedure to evaluate whether an employer should be permitted to make direct payment to claimants.

Required Documentation

We identified several investigations for which there was no final report in WPM. According to the Manual, investigators’ conclusions and the related enforcement actions must be reasonable and supported by substantial evidence, and investigators are required to write an accurate and thorough final report for each wage investigation. Final reports, which are regularly reviewed by directors, supervisors, and senior investigators, track case progress from beginning to end, include information about all critical steps in the investigation, and document and explain any violations. The final report must clearly include the following:

- Investigator(s) name(s), date of report, case ID, business name;
- Allegations (complaints/accusations);
- Responsible parties;

- Evidence;
- Finding(s) (which explains how the investigator came to their conclusion);
- Methodology for computing underpayment, if applicable;
- Position of the employer (i.e., agrees with or disputes the allegation); and
- Recommendation for additional actions, where applicable.

Department officials cited exceptions to the Manual’s requirement for a final report. These exceptions included cases referred to or handled by a different jurisdiction and cases that can be handled through a letter and don’t require a field visit, such as those for claims related to meal periods. Of the 150 cases in our sample, we determined that these exceptions applied to 15 cases, and that another case was not complete, totaling 16 cases that didn’t require a final report. We determined that WPM should have had a final report for the remaining 134 cases. Of those 134 cases, we found that 23 – 17 percent – lacked a final report, with the Buffalo District Office lacking about 30 percent of its required final reports. Because the Department did not require a standard form for these reports at the time of our review, we considered those that included all of the required information to have met the report requirement.

We noted other cases for which final reports were in WPM but included inaccurate information and/or did not include all critical steps in the investigation. We also found, based on our discussions with District Office personnel, inconsistencies among the District Office investigative staff’s understanding of investigation documentation requirements. In response to our asking staff to indicate their understanding of what documents or reports were required, Albany District Office staff indicated that a final report is required, while neither of the individuals we spoke with from the Syracuse or Buffalo District Offices (one from each location) indicated that the final report was required. Table 3 presents our results by District Office.

Table 3 – Final Reports in WPM

District Office	Number of Cases Reviewed	Number of Cases That Required a Final Report	Number of Cases With a Final Report	Number of Cases Lacking a Final Report	Percentage of Cases Lacking a Final Report
Albany	50	47	43	4	8.5%
Buffalo	50	43	30	13	30.2%
Syracuse	50	44	38	6	13.6%
Totals	150	134	111	23	17.2%

The lack of an adequate final report may make it difficult for users to evaluate whether an investigation was appropriately completed, and reduces the value of information available for future investigative efforts. Department officials stated that

final reports are important – especially when cases involve legal action – and are also a critical internal control tool. They indicated that they’re currently working on ways to address this area, including issuing guidance regarding cases that require a formal final report.

Recommendations

1. Pursue appropriate actions to ensure investigators make initial contact with employers within 60 days of case docketing and fully document their actions in WPM. If appropriate, establish additional benchmarks that align with the expected complexity and duration of the initial investigatory phase.
2. Make efforts to identify the reasons for, and reduce, gaps in the investigation process.
3. Identify and implement methods to better document and verify payments to claimants, especially in Direct Pay cases.
4. Take steps to identify differences among District Office personnel’s understanding of required wage investigation actions and related documentation – including final reports – and communicate clarifying information as needed.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine if the Department is following its wage investigation procedures, including conducting outreach to claimants about case status and recovered wages. Our audit covered the period April 1, 2016 through November 29, 2019 and considered information provided by the Department through August 18, 2020.

To accomplish our objective and assess the relevant internal controls, we reviewed laws, regulations, the Manual, and Department wage investigation procedures and memos. We also met with Department officials as well as officials from the Albany, Buffalo, and Syracuse District Offices. We assessed the adequacy of the internal controls as they relate to the Department following its wage investigation procedures and conducting outreach to claimants about case status and recovered wages. We also assessed the reliability of the WPM data that related to wage investigation cases. We found the relevant WPM data to be accurate. We were unable to assess its completeness, due to both lack of corroborating source documents and limitations on our ability to visit District Offices and acquire source documents as a result of the COVID-19 pandemic. However, we found the overall WPM data to be sufficiently reliable to support our audit conclusions.

To assess Department wage investigation activities, including outreach to claimants, we selected 3 of the Division's 12 District Offices to visit – Albany, Buffalo, and Syracuse – to represent different areas in the State. We made our visits prior to mid-to-late March 2020, when the emerging pandemic began limiting our ability to travel and conduct in-person audit work. As a result, we began focusing our work on wage cases assigned to these three locations. We reviewed wage investigation activities documented in WPM for a judgmental sample of 150 of the 5,387 cases opened by the three District Offices between April 1, 2016 and November 29, 2019 (50 from each office). As of January 9, 2020, 148 of our sample cases were in pending or closed status and 2 were classified as "Inactive-Uncollectible-Other." In selecting our sample, we attempted to obtain a variety of claim types (e.g., minimum wage, child labor) and also considered factors such as amount of the claim or of restitution paid. We did not design our sample to be projected to the population from which it arose, nor did we project it to the related population.

Statutory Requirements

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal written response. We considered their response in preparing this report, and have included it in its entirety at the end of this report. In their response, Department officials disagreed with some aspects of our conclusions, but indicated actions they plan to take to implement our recommendations. Our State Comptroller's Comments addressing certain Department remarks are embedded within the Department's response.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Labor shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments and State Comptroller's Comments

WE ARE YOUR DOL



Andrew M. Cuomo, Governor
Roberta L. Reardon, Commissioner

December 18, 2020

Brian Reilly
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11th Floor
Albany, NY 12236-0001

Re: Audit Draft Report – 2019-S-46, Issued 11/19/2020

Dear Mr. Reilly,

The Department of Labor (DOL) has reviewed the Office of the State Comptroller's (OSC) above-referenced draft report relating to Audit Report Number 2019-S-46 titled Selected Wage Investigation Procedures for the period April 1, 2016 through November 29, 2019. Below are the DOL's responses.

OSC Recommendation 1: Pursue appropriate actions to ensure investigators make initial contact with employers within 60 days of case docketing and fully document their actions in WPM. If appropriate, establish additional benchmarks that align with the expected complexity and duration of the initial investigatory phase.

DOL Response1: The Department places significant value on timeliness of contact with all parties to an investigation which is why we established the benchmark for initial employer contact to take place within 60 days. The Department currently has 12 field District Offices that conduct unannounced visits to businesses within their regions to investigate allegations of Labor Law violations. The three Upstate District Offices reviewed by the Comptroller cover 53 of New York State's 62 counties. These three offices were assigned 5,545 new cases of the 26,907 total new cases handled by the Department from 2016-2019.

The Department has been able to meet its 60-day benchmark standard in 54% of all cases. Notably, where there are numerous workers impacted that need to be interviewed on more than one occasion, a greater amount of time is required in this initial investigatory phase and employers may receive initial contact beyond the targeted 60-day period. The Department would also highlight that the Comptroller's current sample covers cases requiring field investigations where our policy is to establish initial employer contact through an unannounced on-site visit after various preliminary steps, including worker interviews, have already taken place. These visits are often contingent upon businesses remaining operational during particular seasons of the year, subsequent to the Department receiving a wage complaint, and typically require investigators to travel hundreds of miles and strategically schedule multiple visits in a region within the same day to ensure overall operational efficiency. By contrast, in cases for unpaid wages that do not require field visits to be conducted, the Department establishes employer contact within **48 hours**. 40% of all statewide investigations over the audit period fall into this category. The Department will

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create a new report to be generated for District Supervisors after 45 days of docketing to assist in ensuring first employer contact is made according to current guidelines.

OSC Recommendation 2: Make efforts to identify the reasons for, and reduce, gaps in the investigation

DOL Response 2: The Department is staunchly committed to ensuring timely completion of investigations and considers this to be a key performance measure. It's also important to note that certain factors impact the relative duration of investigations—for instance complexity of a case, the volume of records requiring analysis, the number of claimants and other workers impacted, and the unavailability of claimants or employers. These factors can, in certain instances, lead to multiyear cases. For the current audit period, the Department has completed 100% of the investigations commenced in 2016; 95% of cases commenced in 2017; 86% of cases commenced in 2018; and 72% of cases in 2019.

The Comptroller findings contain errors in the analysis of the data in this realm. For example, in five of the 24 cases cited, investigations were in fact concluded and claimants were paid wages, however, the checks were returned in the mail un-cashed. This results in the case being categorized as open in the case management system. Multiple attempts are made to locate claimants who have wages recovered on their behalf. One case remained open solely due to the claimant's unresponsiveness to DOL's attempts at establishing contact over time. Another case consisted of a large audit covering multiple years of underpayment, one the most common reasons for lags to occur. Although, it's acknowledged that there were gaps in the continuous progression on 13 of the 24 cases, the gaps equate to less than 10% of all cases sampled. The Department will continue to closely monitor caseloads and effectuate reassignments as needed so all offices can meet established benchmarks as efficiently as possible. The Department continues to aggressively pursue new technological solutions and further automate core processes and tasks so that investigators can focus exclusively on investigating cases.

State Comptroller's Comment – We stand by the results of our analysis of WPM data. In some of the 24 cases cited in our report, checks were returned uncashed. However, despite the Department's response that multiple attempts are made to locate claimants, WPM did not include information about attempts to contact or locate these claimants throughout the gaps we reported. Further, extenuating circumstances – such as unresponsive claimants or multiple years of underpayment that create gaps in activity – should be documented in WPM and updated accordingly throughout the investigation.

OSC Recommendation 3: Identify and implement methods to better document and verify payments to claimants, especially in Direct Pay cases.

DOL Response 3: The Department disagrees with the Comptroller's analysis on the number of cases cited as lacking proper documentation. For example, one of the nine cases where the Comptroller indicated there was no evidence that claimant had received payment of wages, the following was included in the case management system as a case note which clearly states workers are paid up to date "

payment to workers within 30 days of the Comptroller's report. It will specifically document criteria Supervisors should apply, and identify required documentation that should be included in a case file. In addition, the Department has created a report of Direct Pay cases so all needed follow up action can be taken.

OSC Recommendation 4: Take steps to identify differences among District Office personnel's understanding of required wage investigation actions and related documentation – including final reports -and communicate clarifying information as needed.

DOL Response 4: The Department prioritizes the importance of proper case documentation as demonstrated in the Field Investigator's Manual. The Comptroller overstates their findings of "no proper documentation found" in 23 cases. Certain cases may not contain a formal "Final Report" (marked as such) but do in fact, contain adequate documentation. Further, not all case types require a final report, such as those that were not investigated by field visit or where a fixed amount of unpaid wages were claimed and the need for a formal audit was avoided. Other cases were referred from other program areas within the Department's Worker Protection Unit that already conducted the investigation and contained requisite information. The Department's analysis of the Comptroller's findings concludes there are 12 instances where a final report is lacking, not 23 as stated in the report.

State Comptroller's Comment – Our report did not state there was “no proper documentation found” in 23 cases; rather, we reported that 23 of the 134 cases (17 percent) lacked a final report. Further, as noted in our report, we considered the exceptions to the Manual's requirement for a final report that were cited by Department officials. In addition, we considered cases that included all of the required information, although not in a formal final report, to have met the requirement. The Department agreed that 12 of the 23 cases we cited lacked a final report. The additional 11 cases we cited, some of which did not require a field visit, often were more involved or included investigative efforts or other circumstances in which a final report should have been prepared to track and document the case's progress and the investigator's conclusions. We are pleased the Department plans to rectify cases lacking a final report and to issue additional guidance regarding cases requiring a formal report.

The Department contends that final reports are important, especially where cases require further legal action and are also a critical internal control tool. Department staff are currently working on establishing report templates, and checklists, which will help close gaps in the case review process. The Department continues to conduct staff development regarding improvements of operational efficiencies. Any investigation that identified deficiencies of lacking a report or entry will be rectified. The Department will issue guidance regarding cases requiring a formal report within 30 days of the Comptroller's report.

If you have any comments, please contact Maura McCann, Director Labor Standards (518) 457-2979.

Sincerely,



Erin Murphy
Director of Internal Audit

Cc: Scott Melvin
Selica Grant
Milan Bhatt
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