

Recommendations Briefing

UI Employer Audits Work Group

March 16, 2016



Project Overview

Impetus:

The UI Employer Audits process is not well understood and there is strong belief that a joint Department-Industry effort could yield benefit.

Project Objective:

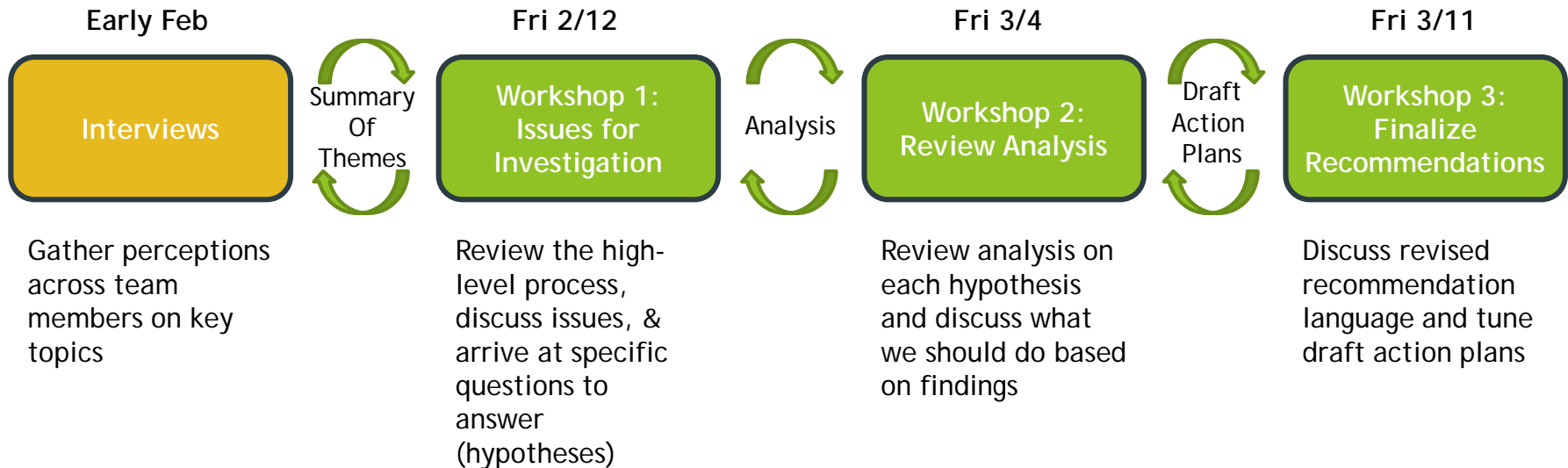
Arrive at a list of practical, near-term improvements to enhance the Employer Audits process and improve Department-Industry collaboration.

Team:

- Dan Block, RW&O
- Dave Davia (co-chair), CAMPC
- Karen Emmons, CDLE
- Jeff Fitzgerald, CDLE
- Greg Fulton, CMCA
- Loren Furman (co-chair), CACI
- Tony Gagliardi, NFIB
- Sam Gilchrist, AFL-CIO
- Roger Hays, Premier Employer Services
- Jenyce Houg, Celadon Trucking
- Dona Rhodes, Consultant
- Kathy White (co-chair), CO Fiscal Institute
- Latonia Williamson, CDLE

Project Approach

The team was interviewed and then conducted 3 workshops to arrive at 8 recommendations:



Recommendation Summary

The team developed 8 recommendations, which are supported by all members:

1. Develop more robust guidance in the formal regulations/rules to the factors that establish IC status
2. Further explore variance in audit findings rates and establish methods to improve audit process consistency
3. Develop, track and improve the percentage of "clean compliance" during random audits
4. OPTIONS FOR CONSIDERATION—SEE FOLLOWING PAGES
5. Augment the current online handbook, tailoring it to popular industries
6. Work with industry to refine and re-energize employer outreach
7. Clarify the close-out letter/process to allow for further info to be considered by the auditor prior to an appeal
8. Make education/compliance assistance a component of auditor ratings

Recommendation 4 (1 of 2)

What was originally recommendation 4 actually contained at least 3 different components. A short survey was created to poll support on these options but a decision remains to be made as to which option(s) will be implemented.

Team Member	"Navigator" role to help employers understand audit findings and their options for curing/appealing (informational only)	"Ombudsman" role to conduct pre-appeal consultation & assist in curing issues (active role; can settle issues for the Dept. & does NOT report to Jeff)	"Inspector General" role to review a portion of audit and appeal results to identify trends and drive continuous improvement in the audits process
Dan Block			X
Dave Davia	X	X	X
Jeff Fitzgerald	X		X
Greg Fulton	X	X	X
Loren Furman	X		
Roger Hays		X	
Dona Rhodes	X		
Kathy White	X		X
Latonia Williamson	Supports none of the above		
Anonymous		X	
No responses were received from Karen Emmons, Tony Gagliardi, Sam Gilchrist, and Jenyce Houg.			

Recommendation 4 (2 of 2)

Here is commentary from the (2) team members who utilized the open-ended field on the survey.

Greg Fulton: The navigator concept could be part of the ombudsman role. Also I don't see the Inspector General type function as being one where that individual would overturn the audits but look to review the overall situation over time.

Dona Rhodes: I am not entirely opposed to the above stated functions for Ombudsman and Inspector General. As I understand the Inspector General role, it is compatible with that of Navigator. I also see no reason why the line of authority restriction (i.e., not reporting to Jeff) is unique to the Ombudsman role. I think that condition should apply to whichever function goes forward. I am resistant, however, to the suggestion that the Ombudsman would have the power to interfere with the auditor's liability determination or negotiate a different outcome. There is a long tradition of independence in decision-making for quasi-judicial officers, not just at CDLE, but across the country. Public opinion about that independence has been skeptical/dubious (e.g. "you're all in the same boat anyway."). I think disturbing that tradition would jeopardize the integrity of the decision process and lead to allegations of unfairness. News that one company got relief from the Ombudsman would spread like wildfire and lead to a flood of requests from other company owners. I also think it would be necessary to carefully tailor the job responsibilities to ensure the Ombudsman is not providing legal advice and is not reputed to be a tacit attorney for business owners. That would be a Pandora's box.

Proposed Implementation Governance

Making an impact will require coordinated effort. Here are some initial thoughts on implementation governance.

Dimension	Potential Approach
Define Clear Roles and Responsibilities	<ul style="list-style-type: none">• Task Owner: Execute tasks, report completion/progress to improvement sponsor via email and by updating status tracking spreadsheet on shared drive (at least every other week), surface barriers quickly to the improvement sponsor• Improvement Sponsor: Guide and coordinate implementation, approve plans, supply necessary resources, make timely decisions, call face-to-face meetings and remove barriers as necessary
Reporting and Reviewing Status	<ul style="list-style-type: none">• Task owner reports to sponsor early if the planned date cannot be achieved• Sponsor meets on each improvement via phone or in person as necessary• Discuss progress at task force meetings (Begin in July and then at least 1x/quarter)
Measuring Success and Celebrating	<ul style="list-style-type: none">• Gather feedback when each improvement is implemented to gauge qualitative success• Each improvement team to discuss methods to quantify improvement with sponsor, gather data and report to the division/task force• Celebrate at regularly-scheduled task force meetings, as appropriate

Proposed Next Steps

- Decision needs to be made regarding options 4a, 4b, 4c (TBD)
- Update task force at next meeting (Ellen, leads)
- Confirm a governance structure (CDLE)
- Work with industry reps to refine implementation plans (CDLE)
- Implement ideas and report progress/barriers at each quarterly task force meeting (Implementation teams)

Appendix

Project Roles and Responsibilities

Executing this projects requires at least these 4 roles:

Sponsors/ Chairs

- Confirm objectives and approach
- Provide resources, as necessary, for the team to do their work
- Consider recommendations and approve implementation actions

Team Members

- Gather perceptions from their stakeholder group and define real issues for the team to investigate
- Participate in data analysis, as required

CDLE Audits Team

- Provide process details and expertise
- Work with facilitator and auditor team to mine data and conduct analyses to prove/disprove the team's hypotheses

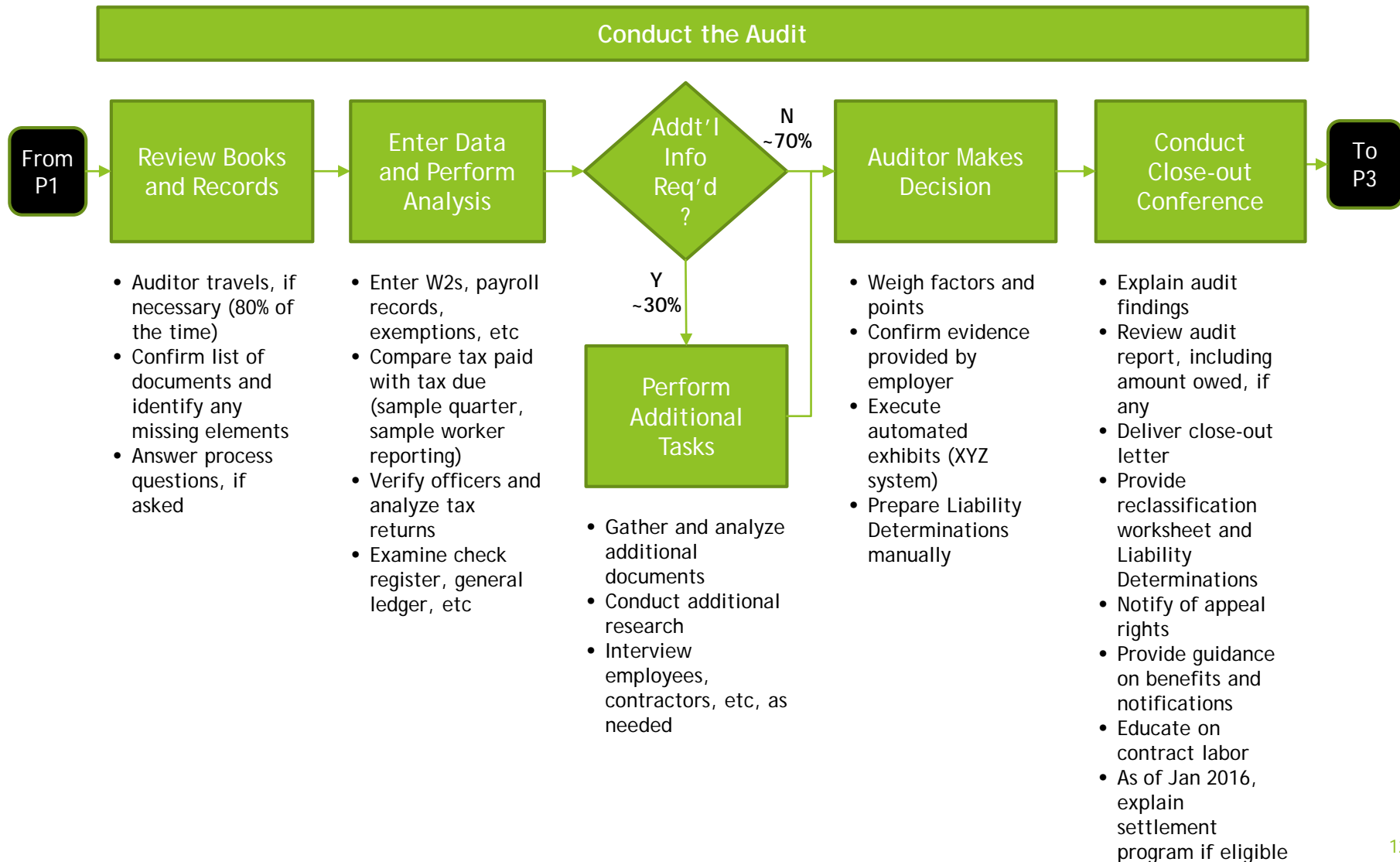
Facilitator

- Ensure open, productive dialogue on key issues
- Design exercises to maximize the input of each team member
- Provide structures for analysis and implementation planning

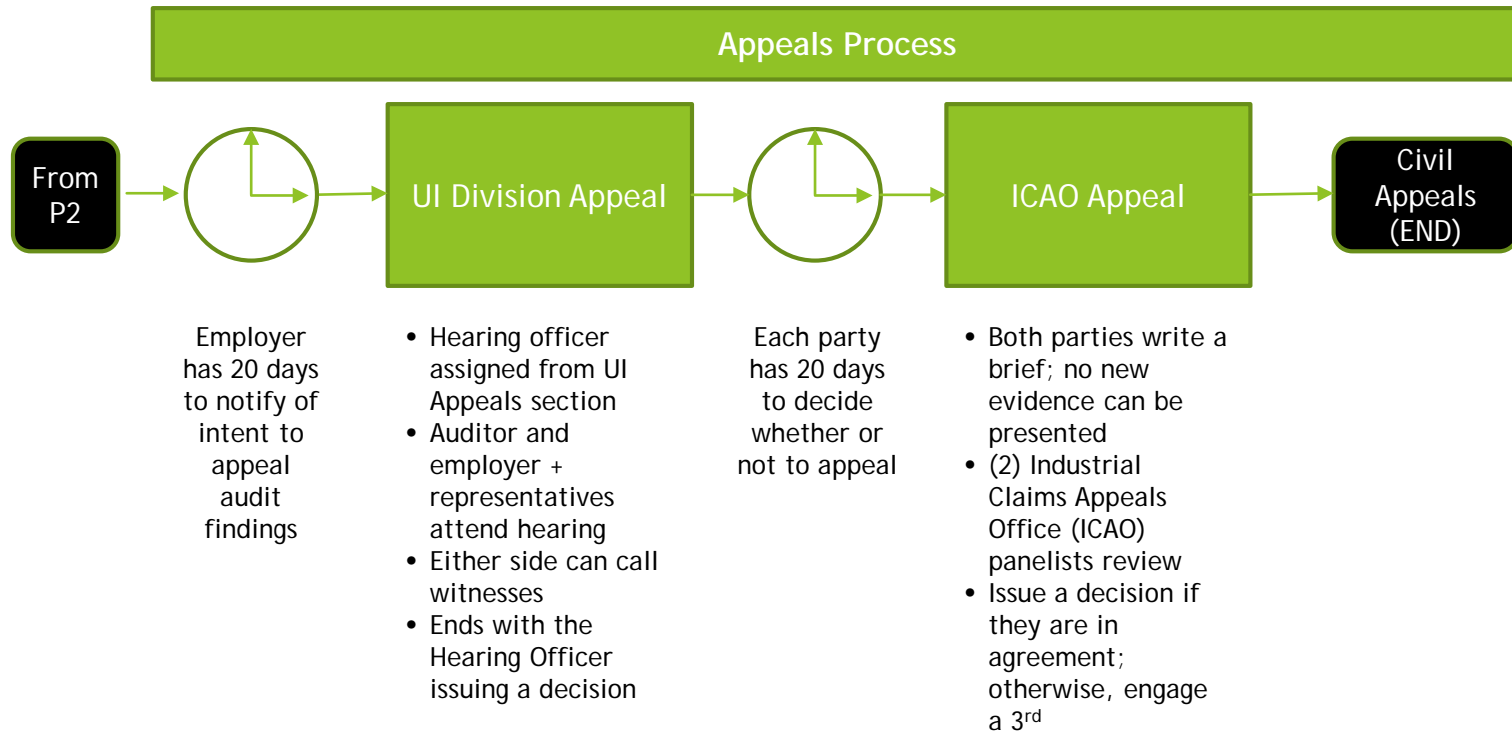
Audits Process (1 of 3)



Audits Process (2 of 3)



Audits Process (3 of 3)



Hunch Analysis (1 of 2)

The team explored 9 hypotheses to help identify opportunities for improvement:

	Hunch and Analysis	Observations
1	<p>Hunch: Colorado is overly aggressive when it comes to auditing and reclassifying employees.</p> <p>Investigation: Gather CO's audit rate and findings rate v. other states and compare to see if CO is higher than others.</p>	<p>CO is consistently between the median and the 3rd quartile (better than 75% of others) on key dimensions compared to other states that pass USDOL standards</p> <p>→ <i>Confirmed</i></p>
2/4	<p>Hunch: Certain industries are audited at a greater rate and/or have a higher reclassification rate than others.</p> <p>Investigation: Build a table of the number of employers in each NAICs category and the number of audits conducted (both random and targeted); compute the percentage of employers audited in each industry. Perform a similar analysis for reclassification rates.</p>	<ul style="list-style-type: none"> • Taking 3 years of data dampens year to year variability • Audit rates: Vary but statistically few outliers (normal distribution) • Reclass rates: Educ. Services, Public Admin, & Utilities have rates significantly higher than the mean <p>→ <i>Inconclusive</i></p>
3	<p>Hunch: The majority of reclassifications come from targeted audits rather than random audits.</p> <p>Investigation: Compare the findings rate on targeted v. random audits.</p>	<ul style="list-style-type: none"> • There are roughly 2x as many random audits performed as focus (targeted) audits • More reclassifications result from focus audits (1803) than from random audits (1396) • The likelihood of finding a reclassification on a focused audit is ~2.5x greater than a random audit <p>→ <i>Hypothesis confirmed</i></p>
5	<p>Hunch: There is a difference in the enforcement patterns across UI offices.</p> <p>Investigation: Compare the reclassification rates across the Outstation and Denver offices.</p>	<ul style="list-style-type: none"> • Comparing reclassification rate reveal a high degree of variation from year to year both within and office and between offices • Denver is the largest office but has tighter variation than the others • A "p-value" of 0.481 indicates that the offices are not statistically different (e.g. GJ may be different from CO Springs but not from the group as a whole) <p>→ <i>Hypothesis disproved</i></p>

Hunch Analysis (2 of 2)

The team explored 9 hypotheses to help identify opportunities for improvement:

	Hunch and Analysis	Observations
6	<p>REVISED Hunch: There are a few common issues that occur consistently across audits. Investigation: Poll Auditors and sample 60 cases for which common reasons exist; use these to guide employer education and assistance.</p>	<p>There are 4 components of the audits that could be focused on for employer education → <i>Revised hypothesis confirmed</i></p>
7	<p>Hunch: A significant percentage of those cases that are appealed get overturned. Investigation: Determine the percentage of audits that are appealed that have the auditor's decision overturned at each of the potential appeal steps (internal, ICAP, etc).</p>	<ul style="list-style-type: none"> • Approximately 30% of appeals are overturned • Roughly 35% of appeals are affirmed • Roughly 15% of appeals are modified <p>→ <i>Hypothesis confirmed; there may be opportunity for pre-appeal discussion</i></p>
8	<p>Hunch: Certain auditors are more zealous than others. Investigation: Blindly plot the percentage of each auditor's audits that result in a reclassification decision.</p>	<p>Descriptive data: Mean = 43%, Min = 17%, Q1 = 34%, Median = 41%, Q3 = 52%, Max = 59%, St. Dev = .11 → <i>Related hypothesis confirmed; Auditors are normally distributed but the spread is quite wide</i></p>
9	<p>Hunch: The current performance management system encourages auditors to maximize reclassifications. Investigation: Publish the evaluation criteria for auditors and blind plot the findings rate v. their performance evaluation score.</p>	<p>Auditor Performance Framework:</p> <ul style="list-style-type: none"> • Auditors rated on a 6-point scale from 0 (needs improvement) to 6 (peak performer) • Demonstration of (7) CDLE Values = 42% of score • Productivity and quality measures = 58% of score <ul style="list-style-type: none"> • Audit quality • Quantity of Audits performed by category • Number of delinquent account reports (DARs) cleared by the auditor • Quality of documentation of audit results in GGCC Note Pad (NP1) • Timeliness of progress reports and documentation <p>→ <i>Hypothesis disproved</i></p>