The New Administration's Potential Impact on State Workforce Agency Operations

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Executive Summary

As the recession of 2008-2009 showed, it is critical for state workforce agencies (SWA) to be able to anticipate changes in political, economic, and social drivers and their impact on workload and service delivery. That recession saw unemployment insurance (UI) and reemployment systems taxed beyond their limits while their supporting trust funds and grants were depleted. Many of those trust funds are only now returning to sustainable levels, while at the same time SWA administrative grants are decreasing, tracking with the unemployment rate. This decrease in funding and the correlated staffing challenges puts SWAs into a position where any sharp increase in unemployment could rapidly land them back where they were in 2008: struggling to meet demand while their trust fund balances head south. The hardening of the UI supporting technical infrastructure, fueled by ARRA[1] funding, has met with very limited success and has left state UI systems vulnerable to the same capacity demands that strained them during the recession.

In addition to the economic factors that may impact state agency operations, the new presidential administration is promoting changes to funding along with new initiatives that will have an inevitable influence on the operation and execution of state workforce agency programming. Job training, especially in anticipation of over one trillion dollars in announced US physical infrastructure spending, may be a state priority even with the proposed reduction in federal training dollars. New trade regulations will undoubtedly have an influence on labor engagement. The new administration has expressed support for paid maternal leave. The implementation of such a plan would be dependent on state systems' ability to support the associated case management and may also be contingent on increased integrity measures. The prioritization around identifying misclassified workers that we've seen in recent years may diminish. Finally, there is already a strong indication that the H-1B program may be substantially restricted, as new enforcement guidance has already been released. The H-1B changes may have a significant impact on states that rely on foreign labor to support their IT operations and systems.

Introduction

This white paper is intended to draw together information and analysis regarding the potential impacts the current presidential administration is likely to have on state workforce and unemployment insurance operations. Manifestly, the current executive is intentionally shifting away from the budgetary, policy, and regulatory standards followed by recent presidential administrations. Although the character and magnitude of this shift are still in flux, it is not too soon to begin to plan and adapt state operations to adjust for the coming changes.

[1] https://www.congress.gov/bill/111th-congress/house-bill/1/text

For the past three decades, On Point Technology, LLC has provided operational support and guidance for state workforce agencies as they navigate the shifting priorities and legislation that govern the services they provide. This paper is intended to bring together pertinent sources and data to guide state administrators through this new topography. To provide the most useful perspectives we have taken every effort to remain non-partisan in this analysis. Our intention is not to espouse or support a political ideology, but instead to explore the practical reality of the current presidential administration's regulatory and budgetary shifts so that state administrators have the tools to make operational decisions that will lead to their agency's success.

Economy

There are as many opinions regarding the impact the new presidential administration's policies will have on the economy as there are pundits. During the 2017 Chicago Booth Economic Outlook Conference[2] this uncertainty was evident—in a room full of analysts there was still no clear position or prediction as to the impact these policies would have. The general sentiment was "wait and see." Though we can't predict with any certainty where the economy will take us, we can look at some of the policies and drivers that are likely to shape economic growth for the next few years. The following articles are intended to pull together those drivers and opinions of where these new policies could take us.

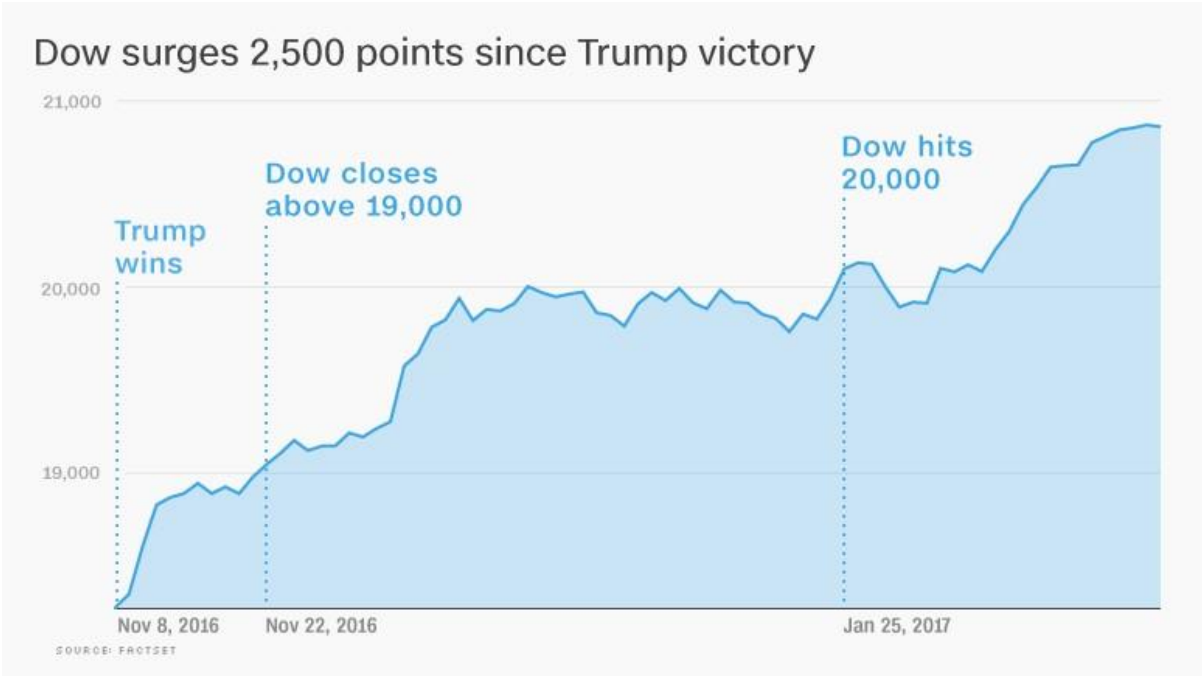
The Stock Market

Whether the stock market can be relied upon to predict the economy has been a matter of some debate. Economists who support the predictive value of the stock market hold that, since the stock market is a forward-looking entity, logically then the prices reflected on the exchanges are an indication of future earnings. Although the stock market only reflects that subset of business that is publically traded, the argument goes that stock prices being an indication of expectations of future probability should tie to expectations about economic growth. Additionally, stock prices can have an impact on spending which also is viewed as an indicator of economic health.

Detractors of this position hold that historically this methodology has proved unreliable. The stock market crash of 1987, or "Black Monday" where the Dow lost 22.6% of its value is the most cited false indicator. Although there were economic impacts because of this decline in the market, the U.S. did not enter a recession and continued to enjoy economic growth.

Whatever weight you assign to the prognosticating value of the stock market, it is undeniable that since November 2016 the Dow has showed impressive growth.

[2] https://www.chicagobooth.edu/eo/upcoming-events/eo-chicago-2017



[3]

The new presidential administration's plan to foster economic growth through reductions in regulations, increased infrastructure spending, and lower corporate taxes seems to be driving the current expansion. If these policies come to fruition, it is likely we will see an increase in investment from those corporations most likely to benefit.

Echoing this optimism, the Federal Reserve Board voted to raise the federal funds rate in March 2017 by a quarter of a point which indicates faith in the growth of the economy and the strength of financial institutions.

Trade

It is, however, important to recognize that along with the positive indicators cited above, there is concern that the outlook from changes in policies and regulations towards trade are murkier. Protectionism is one of the most divisive issues on the political front and trade is a major factor. Whatever your political leanings, the statistics around trade are undeniable. Between 1985 and 2007, trade grew at twice the rate of world GDP, but since the 2008 financial crisis, it has hardly managed to keep pace, at times even lagging. In the last five years, it has grown at about 3 per cent annually, which is less than half the rate of growth over the previous 30 years. There are few historical precedents in the last 50 years for such weak performance and none for such prolonged sluggishness. Given these statistics, looking for a way to improve trade should appeal to individuals across the political spectrum. The concern is that addressing trade through protectionist policies could drive current trade partners to seek new alliances. The hope is that

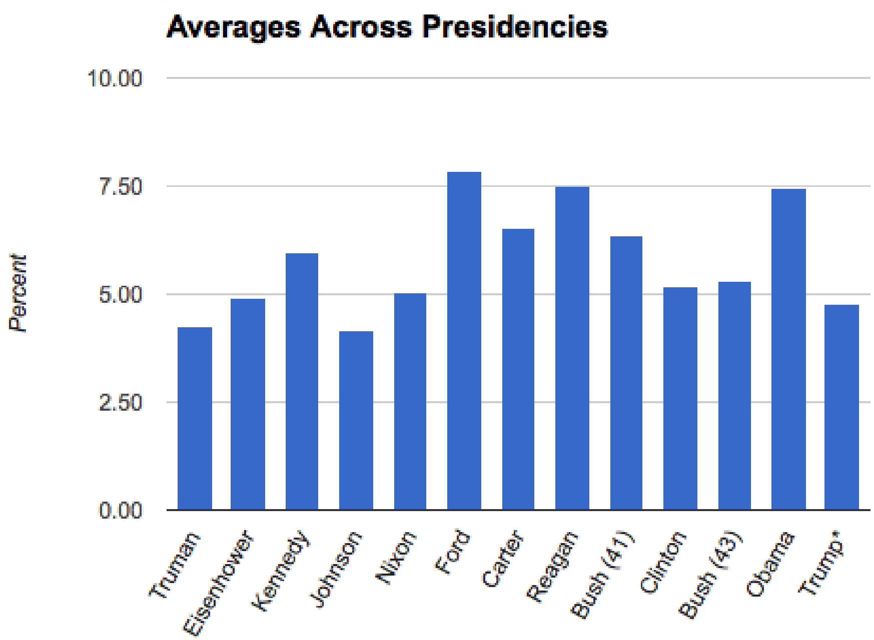
[3] http://stockstotrade.com/markets-lower-trumps-address-congress/

any new trade policy will balance the potential loss of American jobs against the lower prices and greater economic efficiency which trade can promote.

Jobs

Of paramount importance to any state workforce agency administrator is anticipating the load on the unemployment benefits systems they support. Through the proposed America First[4] budgetary adjustments and their public talking points, the current administration has made clear that downsizing government is a priority. The proposed budget indicates a 21% decrease in funding for the USDOL, while the specific programs cited for cuts are largely related to workforce training programs. It's not unreasonable to assume that state's administrative grants will be reduced as the cited program reductions do not account for a significant percentage of the requested cuts.

Looking at the unemployment rate across the last dozen or so administrations we can see that the new presidential administration is starting out in a good place.



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[4]https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf

[5] Compiled by David Coleman, http://historyinpieces.com/research/us-unemployment-rates-president, from official figures put out by the Bureau of Labor Statistics, U.S. Department of Labor. Specifically, they are from "U-3 Total unemployed, as percent of the civilian labor force (official unemployment rate)".

Analysts are widely split as to how the new administration's policies will fare over time. Trump continues to predict "big league" job growth, and indeed in February 2017 the Bureau of Labor Statistics reported, "total **nonfarm payroll employment** increased by 235,000 in February, and the **unemployment rate** was little changed at 4.7 percent."[6] This increase extends the recent record streak of US jobs creation.[7]

However, other economic predictions are less rosy. Moody's predicts 3.5M jobs lost based on the impact of changes to economic policy.[8] Others predict worse, modeling a loss of 11M jobs by 2040.[9]

In general, the current sentiment is consistent that the bullish wave of consumer sentiment, coupled with promised tax cuts for corporations, will spur growth through 2017. In 2018, the view forward becomes less clear. It remains to be seen whether the administration's corporate tax cuts and incentives will spur growth sufficient to offset the negative impacts new protectionist policies may have on construction and farming (by deporting workers vital to those industries) or on technical fields through the restriction of visas.

The volatility and unpredictability of future job growth or unemployment should spur those agencies tasked with the administration of unemployment benefits to update, harden, and automate wherever possible so that they may avoid the types of deleterious impacts on systems and operations that occurred during the last recession.

Job Training

President Trump has not yet formally released a plan for widespread workforce training. He has, however, addressed the issue in relation to veterans and his proposed Department of Veterans Affairs reforms. Through his veterans' plan, Trump intends to invest funds in job training, placement services, and education as well as loans for veterans looking to start entrepreneurial ventures.

Proposed Reductions in Funding

The recent budget indicates some significant explicit and implicit cuts to workforce training programs. The proposed operating budget for the Department of Labor is $12.2B in 2017 and $9.6B in 2018. This proposed 21% cut in the Labor Department includes the reduction of funding for job training programs that benefit seniors and disadvantaged youth. The proposal would also shift funding responsibility to states for certain job placement programs. The budget:

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6 https://www.bls.gov/news.release/pdf/empsit.pdf

7 http://www.businessinsider.com/us-jobs-report-january-2017-2017-2

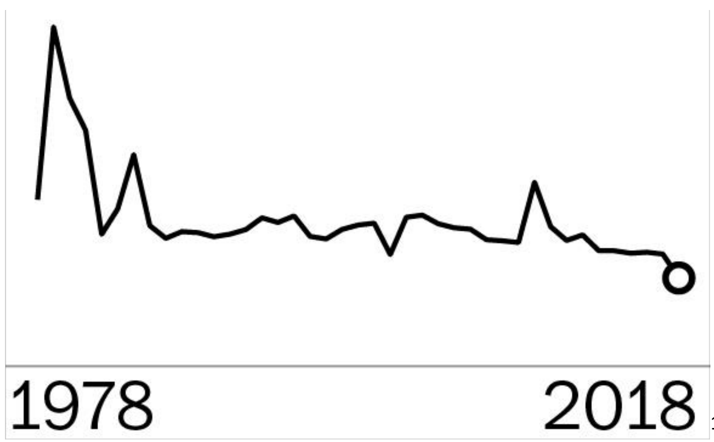
8 https://www.economy.com/mark-zandi/documents/2016-06-17-Trumps-Economic-Policies.pdf

9 http://knowledge.wharton.upenn.edu/article/whose-tax-plan-is-best/

- Eliminates the Senior Community Service Employment Program, which helps low-income seniors find work
- Closes poor-performing centers for Job Corps, a job-training program for disadvantaged youth
- Eliminates grants that help nonprofit groups and public agencies pay for safety and health training
- Expands efforts to reduce improper payments made to people receiving unemployment benefits

This plan also shifts more funding responsibility to states for certain training and job placement programs.

DOL Budget Over Time



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On March 22nd, at his confirmation hearing, Labor Secretary nominee Alexander Acosta testified in support of job-training programs that could well be cut under the new administration's proposed budget. During the hearing, Mr. Acosta stated he would be "a voice for workers" and would enforce workplace safety laws. About job training programs, Mr. Acosta said that they "have substantial positive impact on American workers," but also must better align training with the skills employers demand.

Given the timing of the announced call for a 21% decrease in DOL funding, senators from both parties questioned how Acosta would manage these reductions while still meeting the need to train skilled workers. Acosta said:

[10] Decreased $2.6B (-21% change), https://www.washingtonpost.com/graphics/politics/trump-presidential-budget-2018-proposal/?utm_term=.1f339c64ddea

"If confirmed as Secretary of Labor, one of the things that I want to do is go through these programs that compiled the data, because for a lot of these programs I believe the rate of return on investment in taxpayer dollars is quite significant, and would pay for itself very readily from the jobs they've created."

Infrastructure Jobs

The new presidential administration has been actively touting a massive infrastructure package. In March, U.S. Transportation Secretary Elaine Chao said the Trump administration would unveil a $1 trillion infrastructure plan later this year. Details for this program have not been released, however, the need for infrastructure improvement is undeniable. The American Society of Civil Engineers' regularly reports[11] on the state of US infrastructure assets. In their most recent survey they gave Aviation, Dams, Drinking Water, Inland Water, Levees, and Roads all a grade of D. Energy, Hazardous Waste, Parks, Schools, and Waste Water all received a grade of D+. Transit received a grade of D-, while Bridges, Ports and Solid Waste all received a grade of C+. Rail was the sole B. Over the past few years, federal investment in repairing and upgrading infrastructure has remained largely unchanged. The proposed package would provide needed funds to improve these critical infrastructure assets, while at the same time creating work opportunities for skilled workers. That last may be a challenge, though.

Since the 2008 recession and corresponding reduction of available construction work, the nation's pool of skilled construction workers has diminished.[12] To support the implementation of the infrastructure package, along with the funding, there would also have to be a great expansion to the pool of applicable skilled labor. This presents a job growth and training opportunity, but one that will be a challenge under the current budget proposal for Labor. States may need to take on the cost and burden of training but will see benefits in the employment of their local workforce.

H-1B Visa Fraud and Abuse

The new presidential administration has made it clear that one of the ways they intend to protect American jobs is through modifying and curtailing the tech serving H-1B program. This program grants visas to skilled individuals to fill US job vacancies when local resources are unavailable. It is likely one of the mechanisms that will be employed to modify the operation of this program will be the "Protect and Grow American Jobs Act"[13] which was re-introduced by co-authors Congressman Darrell Issa (R-California) and Representative Scott Peters (D-Calif). They stated, "The purpose of this Act is to close a loophole in the H–1B visa program by requiring H–1B-dependent employers once again to pay sufficiently high wages to ensure the protection of the workforce in the United States and to remove other impediments to proper H–1B visa enforcement." In short, the bill severely limits the scope of the H-1B and raises the minimum salary requirement from $60,000 to $100,000 for anyone utilizing the visa to work in

[11] http://www.infrastructurereportcard.org/americas-grades/
[12] http://www.reuters.com/article/us-usa-trump-infrastructure-idUSKBN148121
[13] https://www.congress.gov/bill/115th-congress/house-bill/170/text

the United States. Currently, the H-1B cap is 65,000 foreign workers, with an additional 20,000 going to foreigners who were educated in the United States.

On April 3rd, 2017, the Department of Homeland Security (DHS) announced[14] that it would strengthen enforcement of the H-1B visa program. DHS reported they would take a "more targeted approach," which could include:

- Site visits to companies hiring foreign workers through the program
- Focusing on cases in which an employer's information cannot be verified
- H-1B-dependent employers
- Employers petitioning for H-1B workers who work off-site at another company or organization's location.

It is possible, though, that restricting or reforming the visa program may have a deleterious impact on the tech industry. By potentially increasing the expense while restricting the pool of available tech resources, curtailing the H-1B program may push companies overseas or stress their local hiring.

Should these changes to the visa program be adopted, state workforce agencies may be presented with challenges as well as opportunities. Many state IT implementations are dependent on foreign-based companies or foreign laborers augmenting their IT staff. At the same time, states that proactively institute policies and programming to attract, train, and nurture local tech resources will find their efforts rewarded with better jobs and wages in their local workforce.

Child Care and Family Leave

The federal Family and Medical Leave Act (FMLA)[15] as well as complementary state legislation "entitles eligible employees of covered employers to take ***unpaid***[16], job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave". Along with the Act's positive attributes, a key point is that the provision is for *unpaid* leave only. Only a very few employers independently provide paid family leave. To close that gap the following five states; California, Rhode Island, Washington, New Jersey, and New York, along with the District of Columbia have laws that provide paid leave for employees to take time off to care for a newborn or to help with a disabled or sick family member.

The new presidential administration has expressed interest in creating legislation that would provide similar paid family leave support at a federal level. The available details of this plan are

[14] https://www.uscis.gov/news/news-releases/putting-american-workers-first-uscis-announces-further-measures-detect-h-1b-visa-fraud-and-abuse
[15] https://www.dol.gov/whd/fmla/
[16] emphasis added

still in flux but two approaches have been circulated. The first of which, supported by memos obtained by the Washington Post, shows a plan that "will rewrite the tax code to allow working parents to deduct from their income taxes child-care expenses for up to four children and elderly dependents."[17] The second approach would be to fund the initiative through recovered unemployment fraud monies. There are some broad issues that must be addressed in both or either of these approaches to institute a successful paid leave program.

The Tax Cut Approach

Likely as a part of a larger tax reform bill, the tax cut approach, as opposed to a tax credit, would not benefit a significant portion of the populace. "As a tax deduction, rather than a tax credit, critics say the plan would primarily help more affluent households. More than 40 percent of U.S. taxpayers don't make enough money to owe taxes to the federal government, meaning they would not benefit from a deduction."[18]

The UI Integrity Approach

As leaders in the UI integrity space, On Point Technology has recovered over $3 billion for our state customers, proving that improvements in integrity are possible. And although there is about $3.3 billion in unemployment insurance fraud **every year**, even if 100% was recovered, it would still be only a fraction of the dollars required to pay for even a bare-bones paid leave implementation. Also, these recovered funds by law must be returned to the trust fund. Lastly, these benefits would only make up a portion of the lost wages, especially for lower income workers.

State workforce agencies should have some legitimate concerns with this plan regarding the health of their trust fund, UI tax rates, and implementation and program considerations. In addition, the implementation and administration of such a program could be prohibitive even for those states with recently modernized systems. On Point Technology's OPTimum UI[19] system is a micro service, business rule driven UI platform designed to support these types of changes in legislation. Without that capability, most SWAs will struggle to meet the demands of this new programming.

Misclassified Workers

The Department of Labor's Wage and Hour Division Misclassification Initiative seeks to "combat employee misclassification [as independent contractors] and to ensure that workers get the wages, benefits, and protections to which they are entitled." [20] As of April 2017, 37 states have

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[17] https://www.washingtonpost.com/news/post-politics/wp/2016/09/13/donald-trump-joined-by-ivanka-trump-to-outline-child-care-policy/

[18] http://bigstory.ap.org/article/9f7a7e4c2645447fb13bfbbfdff5030d/trump-says-clintons-deplorables-remark-disqualifying

[19] http://www.onpointtech.com/optimum-ui/

[20] https://www.dol.gov/whd/workers/misclassification/

signed a Memorandum of Understanding (MOU) with the Department of Labor to support the sharing of information to reduce the incidence of employee misclassification. It is likely that given the state level acceptance of this initiative, and in many cases supporting state level legislation, it is likely that efforts to address misclassification will continue. However, it is likely those efforts will be without the federal support they have had under the Obama administration.

Conclusion

The unemployment insurance (UI) system provides a critical safety net for qualifying people who have lost their jobs and need financial assistance by temporarily replacing a portion of their wages. The roots of the program extend back to the New Deal and the creation of the Social Security Act in 1935. In addition to providing a safety net to individuals separated from employment, the system also helps to bolster consumer demand during recessions by providing an injection of dollars for impacted individuals and their families to spend. The UI program has undergone many changes over the years and through various administrations, but throughout its history the program has proved a critical economic support both at an individual and at a macroeconomic level. Anticipating economic and policy changes is critical to the proactive maintenance of the program, systems, and custodianship of the supporting state trust funds necessary to UI operations. How the next few years will play out remains unclear. Most state administrators may be well served by following the adage, “Hope for the best, plan for the worst.”

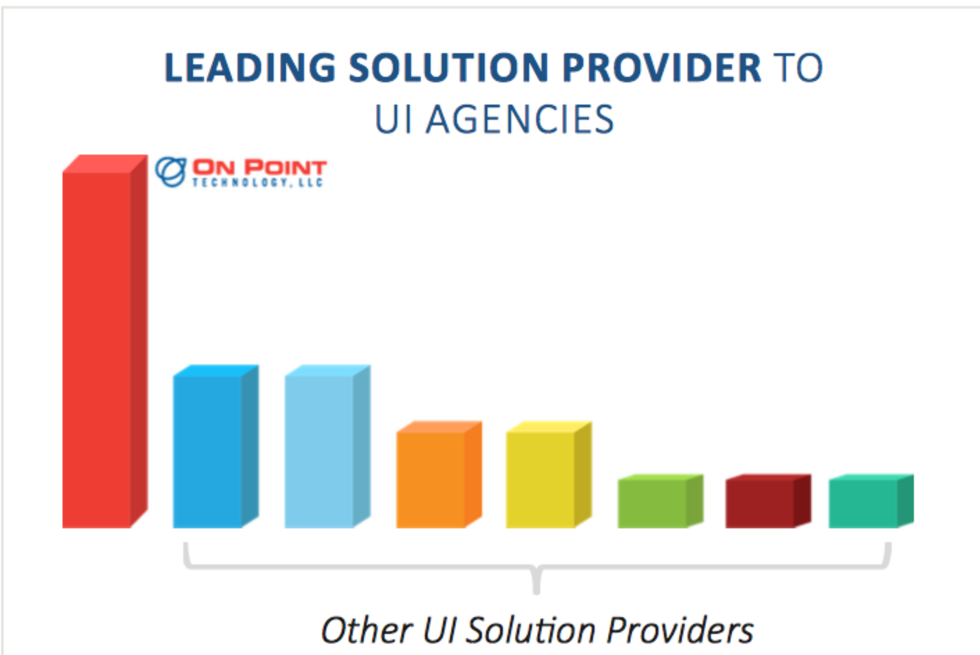
About On Point Technology, LLC

In 2015, NASWA and the Integrity Center of Excellence published the results of a survey identifying On Point Technology as the overall leading solution provider to UI Agencies. From our inception, our mission and dedication have remained constant; to provide the United States UI community with the highest quality, modern Information Technology services, and software applications. Through On Point Technology’s combination of business expertise, software solutions, service delivery, and industry knowledge, we are experts in helping UI programs operate at a higher level of efficiency. On Point Technology provides:

- **Unique Understanding of the Department of Labor Environment** – Our experts have walked in your shoes because they have worked in the trenches at State Workforce/Unemployment Insurance Agencies. Therefore, On Point Technology understands the many difficult challenges of maintaining antiquated, legacy mainframe systems while having to implement federal and state regulatory and administrative changes within the context of the urgent need for technological modernization.
- **Technical Expertise** – Our staff has the full complement of the required skills and experience to manage, maintain and improve both your mainframe and web-based systems and their underlying infrastructures.

- **Past Performance and Relevant Experience** – On Point Technology has experience in service delivery and maintaining contracts with 25 State Workforce/Unemployment Insurance Agencies over 25 years.

On Point Technology brings together a full and comprehensive core team of 64 UI management and user experts, including software architects, designers, engineers, user support and QA analysts–all with significant experience in UI software development and support. In other words, WE GET IT. While other firms may have a few UI experts that they shuffle around between projects, On Point Technology's staff are all dedicated experts. Having worked in 25 states, we bring a national perspective of best practices and a comprehensive knowledge of UI. Leveraging this expertise, On Point Technology products have recaptured or prevented over $3 billion in improper payments for our partners. Designed with an eye on the future and with a deep understanding of the past, all our products are built to maximize value by being flexible and integrating with both legacy and modern systems.



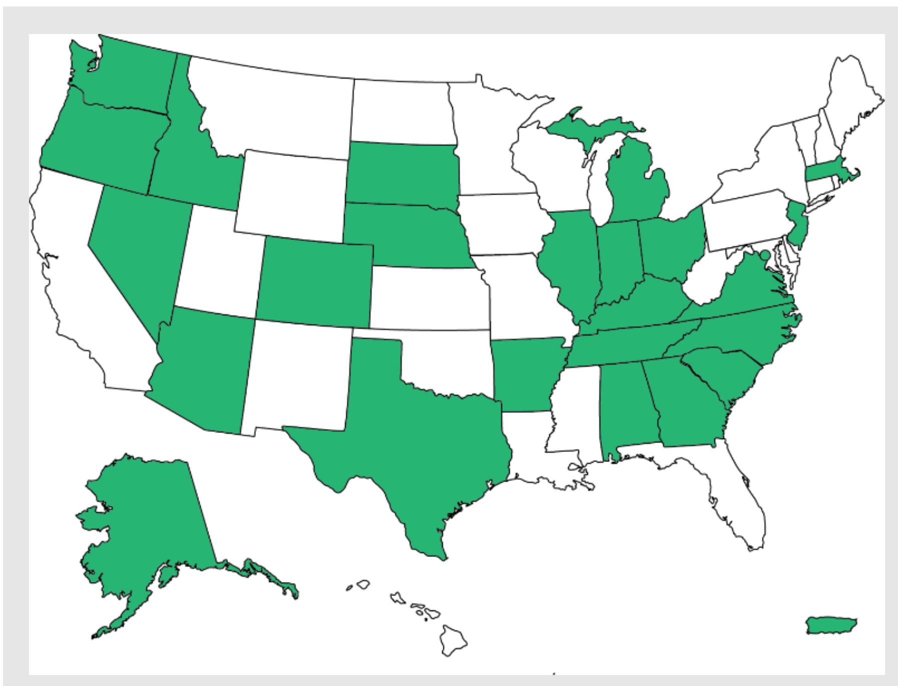
On Point Technology's Core Competencies

Anchored in our core product offerings, On Point Technology also offers a broad spectrum of industry leading information technology and security services and solutions. Our core competencies include the following:

- Modernization (UI Tax and/or Benefit Systems)
- Fraud Detection and Integrity Solutions
- Enterprise Systems Architecture Analysis, Design, Development & Integration

- Custom Software Application Development
- Software Application & Data Migration
- Software Application/Infrastructure Development & Life Cycle Management
- Business Process & Requirements Definition
- Application Maintenance and Support
- Program & Project Management
- Data Center Support (Software Maintenance, Database & Server Administration)
- Data Analytics, Predictive Modeling, Machine Learning
- Quality Assurance & Testing
- Security & Information Assurance

On Point Technology's Unrivaled Experience Footprint



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For information on our products and services visit our corporate website at www.onpointtech.com. A brief overview video can also be viewed on our homepage.

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