

**SUPPORTING STATEMENT FOR OM B 1205-0187,
INTERNAL FRAUD and OVERPAYMENT DETECTION/RECOVERY ACTIVITIES**

A. JUSTIFICATION

1. Circumstances That Make Collection Necessary. This reporting requirement emanates from both a legal basis and from a program operational need.

a. Legal Basis. Section 303(a)(1) of the Social Security Act requires a state's Unemployment Compensation (UC) law to include provisions for:

"Such methods of administration ... as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due..."

Section 303(a)(5) of the Social Security Act further requires a state's UC law to include provisions for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation..."

Section 3304(a)(4) of the Internal Revenue Code of 1954 provides that:

"all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation..."

The Secretary of Labor has interpreted the above sections of Federal law in Section 7511, Part V, ES Manual (copy attached) to further require a state's unemployment compensation (UC) law to include provisions for such methods of administration as are, within reason, calculated (1) to detect benefits paid through error by the state UC agency or through willful misrepresentation or error by the claimant or others, (2) to deter claimants from obtaining benefits through willful misrepresentation, and (3) to recover benefits overpaid under certain circumstances.

b. Program Operational Need. Form ETA 227 is used to determine whether state UC agencies meet the requirements of the Secretary's interpretation of the Federal laws above, and to measure state UC agencies' performance for benefit payment control (BPC). This information is critical to agency administrators and DOL staff to analyze the effectiveness to the states' efforts to detect and recover improper payments. The data collected are used to report and track the detection and recovery of overpayments in each state. In addition to reporting actual data it is used to track performance based on the Benefit Accuracy Measurement predictions. It is the only source for obtaining the necessary data. The data reported on the form include both intrastate and interstate claims for the regular state UC program, the Federal-State Extended Benefits program, the Unemployment Compensation for Federal Employees (UCFE) program, and the

Unemployment Compensation for Ex-Service members (UCX) program. This request for approval to revise and extend the present reporting requirement for another three years is necessary since there are no other reports that contain these data.

- c. Changes to the ETA 227 Report (OMB Control Number prior to merger proposed in this request is 1205-0173). The U.S. Department of Labor (USDOL) must make changes to the ETA 227 to comply with Executive Order 13520, *Reducing Improper Payments*, and to require that states report in detail the extent of their efforts to prevent, detect, and recover improper UC benefit payments.
- d. In responding to this Federal mandate to reduce improper payments, USDOL is required to change and refine reporting guidelines and collect new data in order to better assess states' integrity efforts. The proposed changes to the ETA 227 report, include both modifications to existing reporting guidance as well as additions to the report.
- e. In revising the ETA 227, USDOL will eliminate another integrity-related report, the ETA 9000 report, *Internal Fraud Activities*. This ETA 9000 report will no longer be required. Instead, key data from this report reflecting fraud overpayments and prosecutions due to involvement of agency personnel will be a sub-category under fraud overpayments on the ETA 227 report. A summary of the ETA 227 changes includes the reporting of:
 - f. Key data previously collected on the ETA 9000 report regarding fraud overpayments and prosecutions due to involvement of agency personnel. This will now be reported as a subcategory under *Fraud Overpayments* on the ETA 227 report.
 - g. Fraud and non-fraud overpayments in the amount of \$5,000 and above as requested by OMB. These will now be reported as sub-categories in the fraud and non-fraud overpayments sections.
 - h. Overpayments detected through data matching against the State and National Directories of New Hires systems. Previously these overpayments were not separated into two detection methods. At the request of OMB, they will now be reported separately according to the detection method: either the State Directory of New Hires or the National Directory of New Hires.
 - i. Recoveries of overpayments using the Treasury Offset Program, which allows offsets of Federal Income Tax Refunds. The Treasury Offset Program has just recently become available to the states to recover improper payments. Tracking this type of recovery is essential to evaluating the effectiveness of this tool. These will be reported as a sub-category under recovery methods.

- j. Detection and recovery of Extended Benefit (EB) overpayments will now be reported as separate items to allow USDOL to assess integrity activities related solely to EB alone. Currently, EB data are comingled with regular UC overpayments.
- k. Additionally, the definition of “penalties” in section A, line 109, of the ETA 227 report was changed to exclude penalties that are not subject to recoupment; rather, they but consist only of a disqualification in future weeks. Since no payments are involved, this data element is not needed and causes reporting errors.

The ETA 227 report format has been changed to allow for separate reporting of EB activities. As noted above, this change will allow USDOL to assess integrity-related performance for both the regular state UC program and the EB program.

States acquired access to the Treasury Offset Program during February 2011 as a method to recover UC overpayments. Thus, this is an entirely new data item that states will be reporting on the consolidated ETA 227 report.

2. Use of Information. The ETA 227 contains data on the number and amounts of fraud and nonfraud overpayments, the methods by which the overpayments were detected, the amounts and methods by which overpayments were collected, the amounts of overpayments waived and written off, the accounts receivable for the overpayments outstanding, and data on criminal/civil actions.

These data are gathered by 53 state workforce agencies and reported to the U.S. Department of Labor (USDOL) following the end of each calendar quarter. Annual data are compiled and analyzed to determine the effectiveness of the controls in place for preventing, detecting, and recovering benefit overpayments and to plan and budget for this vital program function.

3. Use of Information Technology for Information Collection. States must report this data electronically to the USDOL, and have been doing so for a number of years. States submit reports through a web-based computer system. This is the only way to submit reports and ensures a consistent, timely submission.
4. Duplication/Availability of Similar Information. There is no similar information available that can be used or modified that can furnish the overpayment detection/recovery data contained on the Form ETA-227 (into which Form 9000 has been merged).
5. Collection of Information Involving Small Business. The data collected from this reporting requirement does not involve small business or other small entities.
6. Program Consequences of Not Collecting or Collecting Information Less Frequently. The ETA-227 report is used by the states to summarize the results of BPC activity. This

information is not captured elsewhere. The report provides critical information on the results of BPC investigations of specific issues and alleged fraud and resulting overpayments that have been identified and overpayments collected. Such information allows state and Federal managers to evaluate the effectiveness of the principal integrity functions in the UC program and assess whether they have deployed their BPC resources effectively.

Any less frequent collection of these data would weaken DOL's ability to provide timely information for program managers within the state workforce agencies and the DOL staff charged with ensuring that the Secretary's responsibilities are carried out.

7. Special Circumstances. There are no special circumstances that would require the collection of this information to be conducted in a manner that is not consistent with the guidelines contained in 5 CFR 1320.5.
8. Consultation with Others. In accordance with the Paperwork Reduction Act of 1995, a notice about this information collection was published in the Federal Register on January 28, 2011 (Vol. 76, p 5212 et seq), and the public was allowed 60 days to review and comment . No comments were received.
9. Payments/Gifts to Respondents. No payments or gifts are made to any respondents.
10. Assurance of Confidentiality Provided Respondents. No assurance of confidentiality is provided, because it is not necessary for this report. Only cumulative data is reported.
11. Sensitive Nature of Information. The information contained in this report does not involve questions of a sensitive nature.
12. Estimated Annual Burden Hours and Cost for Collection.
The burden for this consolidated report is based on what was the burden for the ETA 227 (1205-0173) report, with additional burden of including some cells from the ETA 9000 (1205-0187), and for the one-time change to state programming and systems.

We were instructed by departmental staff to fold the much larger and elaborate ETA 227 report (a quarterly report with an average estimated reporting burden of 14 hours) into the ETA 9000, in large part based on the expiration dates of these two reports, not based on the relative sizes of the collections or importance to the Agency.

The burden estimates presented here are designed to convey the estimated burden of filing the consolidated report, the majority of which is represented by the existing ETA 227 with a small addition on an ongoing basis for the cells from the ETA 9000 that are being incorporated and a one-time cost associated with the programming change.

The consolidation of the ETA 227 and the ETA 9000 means that the average estimated burden on respondents for the new ETA 227 rises from 14 hours per submission to 15 hours per submission. As a result, the average annual estimate of ongoing burden is 3,180 hours.

Estimated annual reporting burden associated with the new ETA 227		
Number of respondents -- states		53
Frequency of report -- quarterly		<u>4</u>
Total number of responses	(53 x 4)	212
Estimated hours per state per report		<u>15</u>
Estimated Annual burden hours	(212 x 15)	3,180

In addition, there is a one time burden imposed on respondents to make these changes. Our estimate of 20 hours per respondent is based on many years of experience working with states on these sorts of changes. This will not represent an ongoing burden, but is included to be comprehensive in addressing the total burden on respondents.

Estimate of burden associated with creating necessary reporting changes		
Number of respondents -- states		53
Hours required for programming changes		<u>20</u>
Total number of responses	(53 x 20)	1060

Average hourly wage		<u>\$32.50</u>
Annual cost burden	(3,180 + 1,060 x \$32.50)	\$137,800

13. Estimate of Total Annual Cost Burden to Respondents. None. This, and all other reporting for Unemployment Compensation, is paid for by monies allocated to states for administration. There are no breakouts for specific reports. Although this is a well established report and there is no start-up costs associated with this data collection, there will be some costs for one-time programming associated with the changes to the report.

14. Estimate of Annualized Cost to the Federal Government. This data is submitted electronically by States and stored on a USDOL owned computer system along with many other reports. There are no additional Federal costs to process this report.

15. Changes in Burden. The added burden estimate is due to the one-time burden for programming the changes to this report as well as to the elements of the ETA 9000 report and some new data fields incorporated into the ETA 227. Specifically, the current burdens for the ETA 9000 and ETA 227, now merged into a single quarterly report, the newly consolidated ETA 227, have been computed at 1 hour for the ETA 9000 and 14 hours for the ETA 227. The estimate of burden for the new consolidated ETA 227 is equal to the burden it carried previously (14 hours per submission) plus an added one hour per submission to account for the data from what used to be the ETA 9000, for a total of 15 hours per submission. A one-time burden per state to adjust to new requirements not included in the ETA 9000 is estimated at 20 annual hours. The ETA 9000 is being discontinued, and the previous ETA 227 (OMB Control No. 1205-0178) will be discontinued once this submission is approved.

16. Information to be Published. Data reported on the Form ETA-227 are summarized periodically and distributed to the users: state workforce agencies and USDOL regional offices.

17. OMB Approval Number. ETA displays the OMB approval number and expiration date.n

18. Exceptions. There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection of this information does not involve statistical methods.