

OFFICE OF WORKFORCE SECURITY

REQUEST FOR OMB CLEARANCE OF INFORMATION COLLECTION
UNDER THE PAPERWORK REDUCTION ACT OF 1995 OMB 1205-0332;
Tax Performance System

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JUSTIFICATION: PART A

A-1. Circumstances that make the collection of information necessary.

Social Security Act, Sec. 303(a)(1) gives the Secretary of Labor several responsibilities toward the Unemployment Insurance (UI) system. Among these is to oversee the performance of the system, and so ensure that it provides "full payment of unemployment compensation when due". In general, this includes ensuring that states are in substantial compliance with their laws, which must embody the requirements of Federal law. The Secretary must also "certify from time to time to the Secretary of the Treasury for payment to each state which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary determines to be necessary for [the law's] proper and efficient administration" [Social Security Act, Sec. 302(a)]. To carry out these responsibilities, the law gives the Secretary authority to require "such methods of administration...reasonably calculated to insure full payment of unemployment compensation when due" [SSA, Sec. 303 (a)(1)] and to require the making of reports [United States Code 503 (a) 6] Attached as Appendix A-1.]

The Department has interpreted these requirements to allow it to require all states to have and properly operate a Benefits Accuracy Measure (BAM) program. Since October 5, 1987, the regulation, at 20 CFR 602, published September 3, 1987, has required all entities considered states for UI purposes (except the Virgin Islands) to operate a BAM program. Section 602.1 of the regulation specifies that the purpose of the program is to "assess the timeliness and accuracy of state administration of the UI program" including both "claims processes and revenue

collections." The accuracy of certain benefit payment operations is reviewed by the BAM program which has been approved by the OMB Information Collection Review under OMB Control No. 1205-0245 with clearance through November 30, 2012. The Department is also reviewing the timeliness, accuracy, and completeness of certain tax collection (revenue) operations in the states utilizing the Tax Performance System (TPS). (Formerly known as the Revenue Quality Control (RQC) program.) This request is for an extension of the TPS program. The handbook, which prescribes the operation of this program, is attached as Appendix A-2.

The UI Tax Operation and Tax Functions

Most UI benefits are financed through a state payroll tax on covered employers. The tax is experience-rated; i.e., the rate charged each employer reflects the system's "experience" with paying benefits to the firm's former employees. Most employers are subject to the UI tax, the conditions of liability varying from state to state. (A small percentage of employers--mostly governmental and nonprofit entities--do not pay a payroll tax but reimburse the state UI agency dollar for dollar for benefits paid to their former employees.)

Each quarter, subject employers must report their contributions due and send them, along with the funds, to the state agency. The Agency deposits the funds into a clearing account from which they are deposited into the state's account in the Unemployment Trust Fund which the U.S. Treasury invests. Trust funds are drawn out daily to match projected benefit payments. Nearly all states require employers also to report the wages paid to each employee; this information, kept in automated wage record files, is accessed to determine claimants' monetary eligibility for benefits.

Managing this system is usually described in terms of the following functions:

1. Status Determination. The agency must identify employers, determine which are liable, and process changes of status as firms go out of business, leave the state, or change ownership.
2. Cashiering. This function involves receiving and depositing contributions into the Clearing Account and crediting them to the appropriate employer's account.

3. Delinquent Reports. Contribution reports not received when due from employers in the state's employer file must be secured, or the Agency must determine that no report is due.

4. Collections. This is the function by which the Agency retrieves accounts receivable or declares them uncollectible. It is closely associated with the delinquent reports function.

5. Field Audit. This is the tax system's primary enforcement function. Subject employers are audited to determine whether contribution reports are filed completely and accurately and promote compliance with the tax code. It is often closely associated with delinquent reports and collections.

6. Benefit Charging. This process links the tax collection and benefit payment sides of the UI system. It involves determining whether the benefits paid to each claimant are chargeable to former employer(s), allocating chargeable benefits to the correct employer(s) and allocating any non charged benefits to the social or pool account.

7. Experience Rating. In most states the tax rate for the "contributions" which fund UI benefit payments reflects in part contributory employers' history of contributions paid and benefits paid out to their former employees. In addition to the "experience" factor the tax rate may also contain components whose sizes depend on the present and projected status of the state's trust fund.

8. Accounting. The core of the tax system, touching all of the above functions, is the accounting or accounts maintenance function. It either receives information from or triggers actions by all of the above functions, or both. The maintenance of accounts by employer is considered a tax function; the maintenance of accounts by claimant or covered employee is a benefit payment function.

Overview of the Design

The quality of most of the above functions is examined. To do so in a cost-effective manner, the design combines several

methodologies. "Computed Measures" are indicators of timeliness and completeness based on data from automated reports, most of which states are already reporting for other reasons. "Program Reviews" assess accuracy through a 2-part assessment. "Systems Reviews" examine tax systems for the existence of internal controls; and then small samples of those systems' transactions are examined to verify the effectiveness of the controls.

TPS was pilot tested in eight states during 1991 through 1992. Various aspects of that pilot test were evaluated by Abt Associates, Inc., the Department's technical consultant. The evaluation concluded that the design is effective and efficient. The Executive Summary of the evaluation was included in the original OMB request.

A-2. Intended users, uses, and consequences of not collecting the information.

The findings are of extensive use to both state and Federal UI staff. The various measures were developed very systematically, taking as the starting point the requirements of Federal law, and implied quality dimensions the law and regulations require. Many of the measures were totally new, assessing aspects of performance previously unmeasured in most states. In pilot testing TPS, pilot state tax administrators were asked to indicate what kinds of deficiencies in their programs the instrument should expect to find. Eighty percent of findings were **not** expected by state administrators--but their staffs agreed that real deficiencies had been identified. Thus, TPS ensures both state administrators and Federal UI staff now know whether state programs are being operated in accordance with the quality implied by Federal law. This information enables state managers to make informed program decisions, and give Federal staff the information they need to exercise oversight by providing technical assistance, sharing information, or persuading a state to take action in a particular area.

TPS data now are an integral part of UI PERFORMS , the performance management system for the UI program. UI PERFORMS incorporates a strategic planning process of identifying priorities; ongoing collection and monitoring of valid data to measure performance; identification of areas of potential

improvement; and development of specific action steps to improve performance, followed by use of available data to determine whether the action steps are successful.

If TPS data are not collected, information relative to UI tax performance according to the requirements of Federal law will not be produced, and many deficiencies in state tax operations will go unnoticed.

A-3 Use of improved information technology to reduce burden.

In order to comply with the Government Paperwork Elimination Act, maximum use has been made of computer technology to limit burden. States are able to enter data using the Sun computers already in service for UIS. The Department has provided them with the appropriate database software, as well as software for their mainframes to create files and draw acceptance samples, and toll-free hotline support. The Department picks up data at night through autodial procedures entailing no burden on state staff. The Department is not aware of any obstacles to the use of these technologies.

A-4 Describe efforts to identify duplication.

TPS was designed to replace the Quality Appraisal (QA) tax measures. Very little of what is now being measured was being collected previously. When TPS was approved, the QA tax measures were dropped to eliminate redundancy.

A-5 Methods used to minimize the burden on small businesses.

There is no burden on small businesses: the program reviews state tax operations only.

A-6 Consequences for Federal program/policy activities of less frequent data collection.

The Department believes that the proposed schedule is a reasonable frequency given the normal state of UI tax operations. The cycle of systems review once every four years is sufficient for validation of changes in processing structure or patterns while not allowing deviation from patterns of proper control. Drawing small samples once every year is an inexpensive way to alert state and Federal staff if something has gone amiss before the next scheduled systems review. The Computed Measures

indicators are based on quarterly reports data, but the real conclusions based on them are actually based on annual data. Reviewing programs on less than an annual cycle allows excessive time to elapse between the onset of problems and their identification.

A-7 Special circumstances requiring data collection inconsistent with the guidelines in 5 CFR 1320.5.

The program will not collect any data inconsistent with the guidelines.

A-8 Description of efforts to consult with persons outside the agency on this data collection.

Since it first began the development of TPS in 1988, the Department has consulted extensively, both formally and informally, on its design. All the parties at interest--the major UI stakeholders--were consulted or briefed at various points in the program's design. These efforts occurred around three formal rounds of consultation. On December 23, 1988, the Department published in the Federal Register at 53 FR 52108, an initial notice and opportunity to comment on basic design issues. On November 6, 1989, a second notice announced decisions on the original broad design issues and solicited comment on a series of more specific issues. Both notices were transmitted to the major group of interested parties--the states--via Unemployment Insurance Program Letters (UIPL) to ensure that they had the opportunity to comment if they wished, and most did. The third solicitation in the cycle occurred in September 21, 1990, when a broad description of the entire design, plus a draft handbook for the program was sent directly to all states via UIPLs for their comment. The availability of these materials was also announced to the broader UI community via a Federal Register Notice at 55 FR 48304 on November 20, 1990. The Department sent a detailed summary of the comments received to the third solicitation, and its responses to them, to all states via UIPL 24-92 dated April 23, 1992. On 11/9/92, the Department sent the proposed final design to all states for final comments. This revised handbook (attached) incorporates many of the comments received in the rounds of public review.

In addition to the above, other sources of reaction to the design materials are particularly significant. First, all design

elements were presented to an expert panel convened by Abt Associates, Inc., the Department's technical contractor on the project. The reactions of this panel--which included 10 state UI tax administrators--have influenced the course of the design significantly. Secondly, it has gone through two rounds of testing. Six states pre-tested the design in 1990; their experiences helped shape the design presented to the UI community in September 1990. In 1991, eight other states pilot tested the program. Their findings, plus the suggestions offered by Abt Associates in its evaluation report, have refined the current design. Third, several state staff have worked as members of the design task force under Intergovernmental Personnel Act (IPA) details. Taking together the pretest, pilot test, expert panel, and IPAs, 29 states have had direct involvement in the development.

In addition, a Federal Register Notice was released to request any further input on the extension of the program (Vol. 61, No.89 dated May 7, 1996). No responses were submitted or received, and it was granted OMB Approval Number 1205-0332. Another Federal Register Notice was released (Vol. 64, No. 85, 23872 dated May 4, 1999). Two responses resulted which came from one state who indicated that it is "delighted to have the RQC program"; and another state which also supported continuation, adding that the program is in its infancy and needs continuing direction and growth. This state requested more staffing resources - however, guiding policy has always been to limit the size of the TPS program to one reviewer per state.

Additionally, Bureau of Labor Statistics (BLS) was asked to review the statistical methods and validity of the program's design as part of the OMB clearance process. Issues raised by BLS during the 2002 review were addressed and included in the request sent forward and approved by OMB.

Another Federal Register Notice was released to request any further input on the extension of the program (Vol. 67, No. 93, dated May 14, 2002). Two timely responses were generated. One indicated support for TPS as a means to validate the quality of operations and to identify areas that need improvement. A concern was raised about cases that fail a review of accuracy due to errors in posting employer account information. "If the data elements are critical to determining employer subjectivity and/or tax liability, accurate posting should be used to pass or fail.

If accuracy of the data element has no effect on the employer's subjectivity or tax liability determination, it should not be used to determine if a state passes or fails an acceptance sample." The Department is in agreement with this, and had identified the specific data elements that, if entered incorrectly can have a direct impact on tax liability. Some examples include the employer's address, type of account, and effective date of liability. If incorrect information is posted, it can cause delays in payment or incorrect payments to be made. The second response indicated that it supports continuation of the TPS program, but added that more resources are needed so that larger samples can be examined in more detail. The Department, however, has allocated one staff year per state, and there are no plans for an increase.

Another Federal Register Notice, Vol. 70, No. 105, was released several years later to request any further input on the extension of the program. Only one response was received, from the Nebraska Workforce Development Agency, and it was very supportive of the TPS program: "The results of the states' TPS programs provide an excellent data source for the states which can be utilized as a valuable data comparison tool for management... The TPS program is a very efficient statistical program that is already established in all of the states."

The most recently-released Federal Register Notice, Vol. 77, Page 3287 et. seq; January 23, 2012 generated no responses.

A-9 Payments to respondents.

Respondents to this program are state staff and do not receive gifts.

A-10 Assurances of confidentiality.

The program produces no data on individual beneficiaries or business establishments and thus is not affected by Privacy Act considerations.

A-11 Questions of a Sensitive Nature.

There are no questions of a sensitive nature.

A-12 Estimates of respondents' hour burden.

The burden of this activity is the time required to conduct the investigations and provide the information to the Department of Labor.

The following continuing effort is involved: conducting Systems Review every fourth year and the accompanying samples every year; and data entry of the findings into the Sun computer. The actual transmission of data requires no time and effort to the states; the Department polls their computer systems periodically to update all records, including TPS records.

1. Continuing Activities. The Department provides one staff year per state for the conduct of this program's activities. The average hours worked per state averages about 1739 per person. This is the estimate of burden per state.

Program Review. Every fourth year, the state conducts a complete Program Review, which comprises a Systems Review and examination of Acceptance Samples. In the subsequent years in which states do not conduct Systems Reviews, they still draw and evaluate the samples.

Average Annual Burden: **1734 hours**

Data Entry. Each year, sampling results are entered into the database and once every four years, the results of the Systems Reviews are entered.

Average Annual Burden: **5 hours**

Total Annual (Continuing) Burden: **1739 hours** per state
(90,428 hours for 52 states).

Every year, funding for one full-time staff is provided to each state. Responsibilities include generating findings on the quality of the state's UI tax operation and providing these data electronically to the Department.

A-13 Annual cost to respondents

No additional operating costs other than what is noted in A-12 above.

A-14 Annual Federal cost

Federal costs are associated with the staff required for handling, maintaining, and verifying data. Costs are estimated to be the following:

Mathematical Statistician, GS-14/5
Data validation 0.02 Staff Year
Data analysis 0.06 Staff Year
Report evaluation 0.02 Staff Year
Total 0.1 Staff Year \$11,641

UI Program Specialist, GS-13/5
Data management 0.5 Staff Year
Data review 0.3 Staff Year
Report preparation 0.1 Staff Year
Technical assistance 0.1 Staff Year
Total 1 Staff Year \$98,518

Total--Salaries \$110,159

A-15 Reason for changes in burden.

No changes in burden hours. State costs have been removed from this request for OMB clearance because funding for state staff is provided by the Department.

A-16 Information on programs to be published for statistical use.

Data from this program are not intended to be published for general statistical use.

A-17 Reasons for not displaying OMB expiration date.

The Department intends to display approval information.

A-18 Exceptions to Certification.

There are no exceptions.