

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT
SUBMISSION FOR APPLICATIONS, GRANTS AND ADMINISTRATION
OF (SELF EMPLOYMENT ASSISTANCE) (SEA) PROVISIONS**

A. Justification

On February 22, 2012, the President signed into law the Middle Class Tax Relief and Job Creation Act (MCTRJC) of 2012 (P.L. 112-96). In recognition of the importance of supporting entrepreneurship, Subtitle E of P.L. 112-96 (hereinafter referred to as Subtitle E) amended the Federal Unemployment Compensation (UC) Act to extend the SEA program to the long-term unemployed who are receiving benefits under the Emergency Unemployment Compensation (EUC) and Extended Benefits (EB) programs. This is a further expansion of the SEA program, which began in 1993.

The “withdrawal standard” of Section 3304(a)(4) of the Federal Unemployment Tax Act (FUTA) and Section 303(a)(5), Social Security Act (SSA), limits withdrawals (with specified exceptions not relevant here) from a state's unemployment fund to payments of “compensation.”

Prior to the enactment of the North American Free Trade Agreement (NAFTA) Implementation Act (P.L. 103-182) in 1993, withdrawals for the purpose of paying self-employment allowances would have been prohibited. The term “compensation” is defined in Section 3306(h), FUTA, as “cash benefits payable to individuals with respect to their unemployment.” Because payment must be made with respect to “unemployment,” the withdrawal standard prohibits states from using unemployment funds to help individuals establish themselves in self-employment. After NAFTA was enacted, states had the option of operating, for a five-year period, an SEA program permitting certain individuals to receive payments from the state's unemployment fund in lieu of regular compensation to help them establish businesses to become self-employed. Subsequently, on October 28, 1998, the Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998, (P.L. 105-306) permanently authorized the SEA program.

Participation in the state SEA programs under NAFTA (as amended by P.L. 105-306) was voluntary by both the state and the unemployed individual. Individuals were encouraged to become reemployed by starting their own businesses while collecting a self-employment allowance in lieu of regular UC, and to support continued economic growth through developing businesses. Over the last 15 years, small businesses have created two out of every three jobs, and over half of all working Americans own or work in a small business.

SEA provides unemployed individuals, volunteering to enter the SEA program, financial support while they access the resources, information, and training they need to get a business off the ground. Individuals enrolled in an SEA program receive a weekly allowance in the same amount as the individual's regular UC weekly benefit amount. The definition of an SEA program under section 3306(t), FUTA requires an individual to be:

- a. Eligible to receive regular UC under the state's law, except that the individuals are not required to meet the state's requirements related to:
 - Availability for work;
 - Active work search;
 - Refusal to accept work; and

- Disqualifying income with respect to income earned from self-employment;
- b. Identified under a state worker profiling system as likely to exhaust regular UC;
- c. Participating in self-employment activities including entrepreneurial training, business counseling, and technical assistance that are approved by the state UC agency; and
- d. Actively engaged on a full-time basis in activities (which may include training) relating to the establishment of a business and becoming self-employed.

Section 3306(t), FUTA, also provides that the aggregate number of individuals receiving SEA allowances may at no time exceed five percent of the number of individuals receiving regular UC. In addition, the SEA program may not result in any cost to the Unemployment Trust Fund (UTF) in excess of the cost that would be incurred by the state and charged to the UTF had the individual(s) not participated in the SEA program. The “regular” SEA program remains unchanged except that, as explained in section 10 of the UIPL, there are new reporting requirements. Section 4 of the UIPL contains a summary of the differences between the “regular” SEA program and the SEA program for EB and/or EUC authorized under P.L. 112-96.

Justification for Seeking Emergency Approval:

ETA seeks emergency clearance from OMB for new operation requirements in compliance with the revised reporting requirements in sections 2181-2183 of PL 112-96, which permanently changes existing SEA programs and provides for grants to help states expand activities for current or prospective programs. These provisions mean that ETA must provide operational guidance, administrative requirements and reporting and financing framework for states to comply with sections 2181-2183. Since PL 112-96 compels changes in existing state SEA programs, and allows states to apply for grants as soon as ETA transmits guidance, ETA must secure rapid approval to implement guidance for states. Emergency clearance will allow ETA to act on grant proposals and to provide guidance to help states comply with these new requirements. Delaying guidance to states will adversely impact state implementation of needed changes for current SEA programs and uptake of grant provisions in the act.

1. Circumstances that make the collection necessary. PL 112-96 contains Subtitle E, Self-Employment Assistance. The sections under this subtitle concern states that currently participate in, or wish to initiate a new program in, Self-Employment Assistance. PL 112-96 provides for grants to cover state program activity and enhancements and requires new reporting elements. ETA cannot administer these provisions without collecting data describing state activities and the use of Federal funds by states.
2. Use of Information. The information collected from state applications will be used to evaluate states’ compliance with the Act and their suitability for grant funds. The information collected from the monitoring will be used to track initial program implementation and effectiveness. The data on grant tracking will be used to ensure that proper financial data is provided to support reimbursement and oversight of program development and administration.
3. Information Technology. ETA is in the process of implementing electronic data reporting for the various SEA forms (ETA 9161). Some of the other materials included in this collection are not as suitable for automation. ETA anticipates that elements such as the quarterly monitoring reports will be reported electronically, though not incorporated into

the current automated reporting systems. Many of the reporting elements required in these other elements involve narratives and would not be supported by substantial automation. It is expected that all of the materials states provide will be electronic and will be provided through email.

4. Duplication. This data is not available from other sources in any manner.
5. Small Entities. Given that this information collection is being created around the concept of SEA, states attempting to follow up with establishments created by claimants may have the appearance of affecting small business. This is much more the case with the reporting instrument previously cleared (OMB Control Number 1205-0490) than with the administrative and grant management tools associated with this submission. The primary respondents to the materials associated with this UIPL are state workforce agencies, rather than claimants or self-employed individuals. In addition, the number of claimants estimated by ETA to enter the program is quite small and the number of those claimants who actually establish small businesses is likely to be even smaller. This program is only funded until the end of 2012. Should this program be extended and entail more longitudinal reporting, ETA will use its experience with the program and the data collected to revisit the impact of this data collection on small businesses.

6. Consequences of Not Collecting or Collecting Less Frequently. If these data were collected less frequently, ETA's ability to carry out its statutory oversight responsibilities and document state issues in implementing the programs would be compromised.
7. 5 CFR 1320.5. Because the directive serves as the information collection, ETA's intention is to put the OMB information on the collection number, estimated burden and expiration date within the text of the UIPL. It will be prominently displayed within the reporting section.
8. Publication in Federal Register and Other Consultation Traditional clearance processes would prevent timely fulfillment of statutory obligations; consequently, DOL is using emergency clearance procedures available under 5 C.F.R. 1320.13, including obtaining a waiver from publishing Notices in the Federal Register to seek public comments, for this information collection request. The agency is taking steps to work with state agencies to minimize the burden of collecting this information. Assuming approval of this request for a period of six months, ETA and DOL will ensure the public has an opportunity to comment when this information request is resubmitted for extension under regular procedures.
9. Payment to Respondents. No payments are made to respondents.
10. Confidentiality. Respondents to this information collection will have no expectation of confidentiality.
11. Sensitive Questions. There are no questions of a sensitive nature.
12. Burden Hours. ETA intends to release all SEA guidance through a single directive. This directive will be an Unemployment Insurance Program Letter (UIPL); it is the official method for ETA to provide guidance to states and to interpret Federal law for our state partners. The UIPL tracks with the broad aspects of law changes in PL 112-96: changes to the underlying federal laws for SEA, opportunities for states to get grants to enhance or promote their systems, operational and legislative guidance and reporting instructions. The UIPLs provide great detail on their underlying statutory authority, as well as citations and requirements from the new law.

In addition to the text of the UIPL, there are ten (10) attachments to the UIPL.

- Attachments I and II are straightforward and should incur no burden on respondents as they are simply the text of the law and the amounts potentially available, through formula, to states that elect to participate.
- The text of the UIPL, as well as attachments III and IV, constitute the materials for the grant application process. SWAs will need to review the text of the UIPL and these attachments to ensure that their application meet the necessary guidelines. The cover sheet will ensure that the SWA's application will summarize the pertinent information and contain all the necessary materials and supporting documents, minimizing the administrative work of multiple submissions and tracking individual components of the package. ETA, based on experience with SGAs and other grant activities, estimates that the application, including all materials, will incur an aggregate burden of approximately 125 hours to fully understand, research, produce and submit the grant application materials.

- Attachment V is the operating instructions for the program. Though there is no direct burden from disseminating these instructions, ETA wants to ensure that states have carefully reviewed the instructions, and claims a burden of 10 hours per state to clearly understand the requirements for a state to implement SEA under the new law.
- Attachment VI is agreements and amendments to the existing UI funding arrangement that will allow states to be in compliance with the revised Federal laws and continue to use the UI administrative grant to operate an SEA program. The attachment requires only a name, signature, date and title, and for the designated state official to return these documents to ETA. This document is similar to amendments that were required with the expansion of the Emergency Unemployment Compensation Program of 2008, and experience has shown that approximately 5 hours per document per state is a good estimate of the time burden states incur. Since the need to amend the grant is a one-time task, this will not be an ongoing burden.
- Attachments VII and VIII are model legislative language for states to examine. As with attachment V, there is no direct burden from disseminating this model language, however ETA wants to ensure that states have carefully reviewed these materials, and claims a burden of 10 hours per state to clearly understand the requirements for a state to implement SEA under the new law changes.
- Attachment IX to the UIPL is the data map and reporting instructions for the previously cleared ETA 9161 (1205-0490) to ensure states are aware of their reporting obligations.
- Attachment X to the UIPL is the quarterly progress report. This instrument will be used for states to track and report a summary of grant activities, outreach to employers and other partners, progress towards program implementation, successes and challenges. This will track state implementation efforts in a manner analogous to the way 1205-0490 will track participant flow through the program. Each state participating in this program would submit this report on a quarterly basis. Each quarterly report is expected to take approximately 40 hours to compile and submit. ETA readily acknowledges that there is some uncertainty in the number of states that will adopt this program and apply for grants, and similar uncertainty regarding how long the resulting programs may operate. ETA envisions that each state that adopts SEA or applies for a grant will submit no less than 4 quarterly reports. As a result, the burden estimates provided below are annualized and assume that the states will continue submitting such reports throughout their implementation period, and through the grant period as well. In the event that fewer states were to enact SEA provisions in their law, or fewer states were to apply for grants, the actual aggregate burden experienced by states as a result of these requirements would be smaller.

Burden Hour Summary on an Annualized Basis

In preparing early cost estimates for the SEA program, the Division of Fiscal and Actuarial Services (DFAS) within the Office of Unemployment Insurance for ETA projected a state implementation rate (takeup rate) of 50% and a claimant takeup rate (accepting the offer of SEA) of 1% among the states offering the program, resulting in an anticipated program participation rate for CY 2012 of 32,000 claimants. (note, these estimates are unchanged from the materials provided in the submission for 1205-0490, no new information has become available that would modify these initial estimates.)

In monetizing this burden, DOL used the FY 2012 program planning average wage of State Workforce Agency staff of \$40.99. This rate is applied to any hours of burden estimated as a result of the requirements of this UIPL.

This information collection is only concerned with state administration of the SEA program. Its contents are operating instructions for state workforce agencies, a grant application for state workforce agencies and quarterly monitoring of state workforce agencies. There is no explicit or implied impact on UI claimants, SEA participants, or third parties. As a result, ETA does not anticipate any burden on SEA participants as a result of these requirements, nor any third party disclosures as a result of what is proposed in this UIPL. As a result, no burden is claimed beyond those specific items in the UIPL that states will need to review, understand and/or respond to. It should be noted that in some cases, ETA is claiming burden only where it expects states will need to review materials or ensure that their staff have an adequate understanding of the underlying requirements, as opposed to providing data or reporting on actions.

The individual items are broken out in this document strictly to provide OMB with an estimate of the burden associated with the task. ETA regards the entire UIPL, including attachments, as a single application, grant agreement and set of operational instructions, and the burden claimed includes states reviewing all materials within the UIPL. Please note that only one item among the three UIPLs carries an ongoing burden: the quarterly narrative progress report which serves as both a monitoring instrument for state progress in implementation and also a grant tracking tool for expenditures. All other documents are one time collections in order to enable states to have the legal framework to operate these programs and be eligible for grants.

Category and Instruments	Respondents	Hours Per Response	Annualized Responses per State.	Annualized Hours	Annualized Value of Respondent Time
Grant Application: Attachments III, IV	26	125	1	3,250	\$133,217.50
Review of Operating Instructions: Attachment V	26	10	1	260	\$10,657.40
UI Funding Agreement: Attachment VI	26	5	1	130	\$5,328.70
Review of Model Language: Attachments VII and VIII	26	10	1	260	\$10,657.40
Data Map (Control No. 1205-0490): Attachment IX	NA	NA	NA	NA	NA
Quarterly Monitoring Instrument	26	40	4*	4,160	\$170,518.40
Unduplicated Totals	26			8,060	\$330,379.40

*This table provides an estimate of the annual burden ETA expects states to encounter based on 26 states adopting SEA or taking grants to expand and improve existing SEA programs. Given that the program has a short authorization period, most of the items in the table are one time tasks the state must accomplish as a pre-requisite to start the program. However, the quarterly monitoring will continue throughout the grant and implementation period. It is not expected that any state would report for less than 8 quarters so there will be ongoing reporting burden insofar as quarterly monitoring of state activities will continue past 12/31/2012.

13. Burden Costs. There are no burden costs. See also section 14 below.

14. Federal Annualized Costs. There are no anticipated Federal annualized costs.

15. Changes in Burden. This is a new collection.
16. Publication. There are no plans to publish the data collected from this project.
17. Display of OMB Approval and Expiration. ETA will display the OMB control number and expiration date, once provided through notice of action by OMB on each directive (UIPL) since it forms the source of the application materials, guidance, and statutory authority.
18. Certification Exceptions. There are no exceptions.

B. Collections of Information Employing Statistical Methods

Statistical methods are not employed for this report.