

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
	CORRESPONDENCE SYMBOL OUI /DL
	DATE February 23, 2016

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 26-13, Change 2

TO: STATE WORKFORCE AGENCIES

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Request for Current Law on Confidentiality Requirements

1. **Purpose.** To remind states to provide to the U.S. Department of Labor (Department), in their submissions under Form MA 8-7, information pertaining to confidentiality requirements in effect as of January 1, 2016, for conformity purposes.

2. **References.**

- Section 303(a) of the Social Security Act (SSA), 42 U.S.C. 503(a);
- Federal Unemployment Tax Act (FUTA), 26 U.S.C. 3301 *et seq.*;
- 20 CFR Part 603;
- 20 CFR § 601.3;
- 20 CFR § 609.1(d)(1), 614.1(d)(1), and 617.52(c)(1);
- Unemployment Insurance Program Letter (UIPL) No. 27-07, *Required Submission of Unemployment Compensation Materials Using Form MA 8-7*;
- UIPL No. 26-13, *Extension of Approval and Reminder of Requirement to Use Form MA 8-7, Transmittal for Unemployment Insurance Materials*; and
- Collection of Information, *Transmittal of Unemployment Insurance Materials*: Office of Management and Budget (OMB) control number 1205-0222.

3. **Background.** Section 303(a)(6), SSA, requires, as a condition of a state receiving unemployment compensation (UC) administrative grants, that state law contain provision for the “making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to ensure the correctness and verification of such reports.” Departmental regulations at 20 CFR 601.3 in part implement this requirement by requiring the submission of “all relevant state materials, such as statutes, executive and administrative orders, legal opinions, rules, regulations, interpretations, court opinions, etc. . . .” Also, the regulations for the Unemployment Compensation for Federal Civilian Employees (UCFE) program at 20 CFR 609.1(d)(1), and for the Unemployment Compensation for Ex-servicemembers (UCX) program at 20 CFR 614.1(d)(1), require

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submission of certain documents to assure that states are properly administering these programs. The Trade Adjustment Assistance (TAA) program, which includes Trade Readjustment Allowances (TRA), provides similar regulatory requirements at 20 CFR 617.52(c)(1).

The MA 8-7 is the mechanism for implementing these submittal requirements, the purpose of which is to provide the Secretary of Labor (Secretary) with sufficient information to determine if: (a) state UC law conforms to FUTA, so that employers in a state may qualify for tax credits; (b) state UC law conforms to Title III, SSA, for the state to obtain UC administrative grants; and (c) the state fulfills its obligations under Federal UC programs.

- 4. Confidentiality requirement in Federal law.** Section 303(a)(1), SSA, requires state law to include “methods of administration. . . reasonably calculated to insure full payment of unemployment compensation when due.” Section 603.4 of 20 CFR interprets this provision to require that state law—

“must include provision for maintaining the confidentiality of any UC information which reveals the name or any other identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with any other publicly available information to reveal any such particulars, and *must include provision for barring the disclosure of any such information. . . [emphasis added]*.”

The Department, on September 27, 2006, published regulations at 20 CFR part 603 titled *Federal-State Unemployment Compensation (UC); Confidentiality and Disclosure of State UC Information; Final Rule*. See 71 Fed. Reg. 56830. The effective date was October 27, 2006. States were given two years from the effective date of the final rule within which to amend their laws, rules, procedures, or existing agreements to conform to the regulatory requirements for confidentiality.

This guidance is a reminder to states to provide copies of their confidentiality laws, regulations, policies and procedures, and precedential court decisions to enable the Department of Labor to ensure state laws conform to the requirements in 20 CFR part 603. States are asked to submit all laws governing confidentiality of state UC information as requested using the attached Form MA 8-7.

States should also submit all conformity materials as changes are made to state law, using the Form MA 8-7, to update the information previously provided and to allow for continuous review of state law for conformity purposes.

- 5. OMB Approval.** Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. As described in UIPL No. 26-13, OMB has approved the use of Form MA 8-7 for data collection under control number 1205-0222.

6. **Action Requested.** The Department reminds states to use the Form MA 8-7 to submit the information requested in section 4 of this UIPL, to include statutes, regulations, policy and procedure memoranda, and precedential agency and court decisions, to the Department no later than March 31, 2016. States should e-mail submissions to Information.StateUILegal@dol.gov.
7. **Inquiries.** Please direct inquiries to the appropriate regional office.
8. **Attachments.** Form MA 8-7 and instructions.