

SUPPORTING STATEMENT
Income and Eligibility Verification System (IEVS) Confidentiality
OMB Control No. 1205-0238

A. Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

The Employment and Training Administration (ETA) of the Department of Labor regulates disclosure requirements, under the Confidentiality Rule, concerning the confidentiality and disclosure of information in state unemployment compensation records. The current regulations set forth statutory disclosure requirements in Title III of the Social Security Act (SSA), the Federal Unemployment Tax Act (FUTA), and the Wagner-Peyser Act. They also establish safeguards for information disclosed under those provisions, as directed by sections 303(a)(1), (d), (e), and (h) of the SSA. (The disclosure requirements are contained in: sections 303(a)(7), (c)(1), (d), (e), (f), (h), and (i), SSA; section 3304(a)(16) of FUTA; and section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b).))

These regulations expand upon those governing the Income and Eligibility Verification System (IEVS), a system of information sharing primarily among state and local agencies administering several Federally assisted programs that was established by the Deficit Reduction Act of 1984 (P.L. 98-369). The IEVS is required under section 1137 (and section 303(f)) of the SSA and the establishment of safeguards associated with IEVS is required by section 1137(a)(5)(b), SSA. Agencies participating in the IEVS are required to exchange information to the extent it is useful and productive in verifying eligibility and benefit amounts.

Finally, these regulations set forth the Secretary's interpretation of section 303(a)(1), SSA, with regard to the general rule of confidentiality of information in state unemployment compensation records, and the general requirements, with respect to disclosures unrelated to unemployment compensation program administration, for safeguards (including acknowledgments and releases for optional informed consent disclosures (and audits thereof)), notifications of claimants and employers, and agreements. These are necessary to ensure the responsible use of confidential unemployment compensation program information.

Requirements of the Deficit Reduction Act of 1984 that necessitated the development of the Confidentiality Rule include:

- As a condition of eligibility for participating programs, applicants and recipients must furnish their Social Security Numbers (SSN). States must use the SSNs to associate the individual's records. There is no burden as states must collect SSNs for income tax and other purposes without regard to IEVS requirements;
- Effective September 30, 1988, employers were required to make quarterly wage reports to a state agency unless the state had an alternative system that was effective and timely. Section

1137, SSA, benefits HHS for child support enforcement and eligibility for TANF, among other reasons. As a result, states would have to file quarterly wage reports even if those reports did not secondarily benefit the UC program;

- Adequate safeguards must be in effect to assure that (1) data exchanged by state agencies is made available only to the extent necessary to assist in the administrative needs of the program receiving information, (2) IRS data is exchanged only with agencies authorized to receive information, and (3) data is adequately protected against unauthorized disclosure for other purposes;

- All applicants and recipients must be notified at the time of application and periodically thereafter that data available through the system will be requested and used. There is no additional burden to states in providing this information as states already provide a notice on paper claim forms and on their Website; and

- Accounting systems must be used to assure that programs providing data receive appropriate reimbursement from the programs requesting and using the data.

An interdepartmental task force chaired by the Department of Health and Human Services (HHS) was established to develop and publish regulations implementing the Deficit Reduction Act. Each Department published regulations under a joint preamble supplemented to the extent necessary. Accordingly, this justification covers only the Department of Labor's final rules at 20 CFR Part 603.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

As reflected in these regulations, many public officials utilize wage and claim information from the state unemployment compensation agencies to verify eligibility and benefits amounts payable under their respective programs. State unemployment compensation agencies themselves conduct a within-agency cross match of quarterly wage information and claim information for the same quarter to detect unreported or improperly reported earnings. In addition, under Subpart C of this regulation, state agencies are expected to use information available from the Social Security Administration to the extent it is needed in verifying eligibility and benefit amounts. This information is needed because the receipt and amount of pensions may affect the amount of unemployment compensation payable to an individual.

States are required to use data sharing agreements when making disclosures to provide some assurance that recipients of disclosed information follow safeguards protecting confidentiality, to provide an enforcement mechanism against any recipients that breach those safeguards, and to show that they have complied with this rule. When opting to make a disclosure on the basis of informed consent, states are required to audit the recipients of information to ensure that such recipients actually have a written release on file from each individual or employer to whom the disclosed information pertains. Such recipients must obtain releases to show informed consent.

State UC agencies are required to provide notice to both employers and claimants about the uses to which information they provide IEVS. ETA does not, under these regulations, receive any of this collected information.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

The quarterly wage and benefit cross match identified above is an automated match. The match with Social Security records is also an automated match by computer tape or direct inquiry through Social Security Administration (SSA) offices in the states. The Social Security record matching activity has been enhanced to provide interactive systems that will link to the Social Security Administration and provide responses to requests immediately. Currently, 45 states are using the SSA cross match. These systems will process requests for verification for all claimants as a means to improve program integrity. The automated system will return information about Social Security benefit payments, if applicable, as a by-product of the verification of the claimant's SSN. Requests from other agencies utilizing unemployment compensation wage and benefits information will be largely automated matches.

Notification to claimants and employers will be included on automatically generated forms.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

The quarterly unemployment compensation wage and benefit cross match is not duplicative of any other techniques the state agency utilizes to detect improper payments. This is evidenced by the fact that state unemployment compensation agencies have utilized this detection technique routinely for a number of years. Social Security benefit information is available only from the Social Security Administration and the individual applicant. We are not aware of any other similar information available which could be utilized in place of quarterly wage information or Social Security benefit information. States are not required to obtain a separate agreement, written release, or notification form to satisfy the requirements in this rule. Existing state notification forms, releases, and agreements can be modified to meet the Federal requirements in this rule.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

The rule applies to states, which are not small entities or businesses.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

Agencies participating in the IEVS may be in danger of overpayment of benefits and the collection of child support payments would be negatively impacted if the wage and income information is not shared as required by the Deficit Reduction Act of 1984. The final confidentiality rule does not stipulate the frequency of collection and use of information.

Quarterly wage records must be used by state unemployment compensation agencies to verify eligibility and benefit amounts, but the rule does not state how frequently. The frequency with which other agencies request information from the state unemployment compensation agencies is largely dictated by the other agencies' needs and the regulations promulgated by the other Departments.

Notification of claimants and employers, and audits of informed consent disclosures, must be "periodic." States must obtain written agreements and/or written releases when disclosures are made. However, the timing of all these collections is under the control of state agencies.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

Collection is consistent with 5 CFR 1320.5.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In accordance with the Paperwork Reduction Act of 1995, the public was allowed 60 days to comment through the Federal Register Notice posted on March 4, 2016 (81 FR 11592). DOL received one comment, from a company that provides Federal and state agencies with automated employment and income verification services. The commenter suggested that, in addition to using the Income and Eligibility Verification System [mandated by section 1137 of the Social Security Act], states and the Federal government utilize the commenter's proprietary database for information on third-party employment and income data, which would "assist DOL to identify, reduce, and eliminate improper payments."

No change is made to the MA 8-7 form based on this commenter's suggestion, as the comment does not address use of, or content of, the form and is therefore, outside the scope of the Notice.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts are provided to respondents other than remuneration of contractors and grantees.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

This regulation provides no assurance of confidentiality to respondents, which include state agencies and informed consent requesters, concerning the information required by this rule to be collected (such as agreements, informed consent releases, acknowledgments, required audits). However, this rule sets forth the requirements for keeping information private in state unemployment compensation records. Also, to the extent that Social Security information is used, state unemployment compensation agencies will have to abide by the Social Security Administration's rules on disclosure of information.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

This rule does not include information collection requirements relating to questions of a sensitive nature.

12. *Provide estimates of the hour burden of the collection of information.*

(a) Agreements and Contracts = 3,604

The number of agreements in place for data matching varies from state to state but is generally unchanged over time. A study by the National Governors' Association of 47 state agencies indicated that states have an average of 17 agreements. There is burden associated with such agreements in terms of state agency record keeping. The estimated time involved is, on average, 4 hours per year per contract, producing an estimated 3,604 burden hours.

53 states x 17 contracts x 4 hours = 3,604 hours

Cost: 3,604 x \$47.20/hr* = \$170,108.80

* \$47.20 per hour, throughout this document, is the average hourly salary of state unemployment compensation personnel, taken from information supplied by states to ETA.

(b) Disclosure of Information

A number of sections in these regulations implement provisions in the SSA, the FUTA, and the Wagner-Peyser Act that require state unemployment compensation agencies to disclose information to other state or Federal agencies upon request as part of the IEVS. The agencies requesting information under those provisions will address the Paperwork Burden since those agencies are the initiators of the information collection burden. State UI agencies must request payment for information disclosed that does not serve UI purposes (section 603.8 of the Confidentiality Rule).

(c) Obtaining Information from Other Agencies

1. Social Security Administration = 15,068 hours

Under section 1137(a)(2) of the SSA and Subpart C of these regulations, state unemployment compensation agencies must obtain information from the Social Security Administration, or another agency already having access to Social Security data, that is needed in verifying eligibility and benefit amounts. This is largely an automated process. Inquiry is limited to those cases where the individual cannot provide documentation of pension amounts or there is a question regarding receipt of a pension. According to the most recent data available, *13.9% of the claims filed by the 6.504 million people who became eligible for Unemployment Insurance during calendar year 2015 were submitted by applicants who were 60 years of age and over, or roughly at retirement age. It is estimated that no more than 904,056 claimants will need to be checked with the SSA.

*Sources: Data used for obtaining the percentage and amount of claimants 60 years and over can be found on the following links:

-6,503,581 eligible for UI in 2015

(<http://www.ows.doleta.gov/unemploy/claimssum.asp>)

-13.9 % were 60 and older in August 2015

(<http://www.ows.doleta.gov/unemploy/content//chariu2015/2015Aug.html>)

Each case checked should take an average of one minute, which includes cases involving no further follow-up action and those requiring subsequent interview and issuance of a written determination. The time required for a written determination would be funded through normal nonmonetary determination expenditures. The total burden activity is estimated at 15,068 hours.

Total Burden:

904,056 transactions x 1 minute per transaction = 904,056 burden minutes

904,056 minutes * (1 hour/60 min) = 15,068 burden hours

Cost: 15,068 x \$47.20*/hr = \$711,209.60

* \$47.20 per hour, throughout this document, is the average hourly salary of state unemployment compensation personnel, taken from information supplied by states to ETA.

2. Wage Record Cross match

All states maintain or have access to wage record information. They already do or will conduct quarterly cross matches between benefit payments and wages paid as part of regular operations. Therefore, under 5 CFR 1320.3(b)(3), the burden for the states is not claimed.

(d) Payment of Costs

Several sections of this rule require states to obtain reimbursement for the costs associated with making optional or required disclosures of information. In order to be able to request and receive such reimbursement, states obviously must keep track of the costs associated with making disclosures. The Agency believes states would undertake this activity to support reimbursement requests that would typically be a part of regular program operations to mitigate costs; therefore, no additional burden is claimed for this requirement (see 5 CFR 1320.3(b)(3)).

(e) Acknowledgment

Section 603.9(b)(1)(v)(B) of this rule requires a state agency that chooses to make an optional disclosure to require the recipient agency or entity to sign an acknowledgment that all personnel having access to the disclosed information have been instructed of the safeguards required by this rule and will adhere to the state's or state agency's confidentiality requirements and procedures, and agree to report any infraction of these rules to the state agency fully and promptly. Because this acknowledgment may be part of the agreement described in paragraph (a), above, no additional burden is claimed for this requirement (the burden is already claimed in paragraph (a)).

Summary:

A summary of the estimate burden hours being claimed for the collection information in this rule is:

Total burden hours = 18,672 hours
 Total respondent costs = \$881,318.40

Category	Number of	Frequency	Total	Time Per	Total	Hourly	Total Annual
----------	-----------	-----------	-------	----------	-------	--------	--------------

	Respondents		Annual Responses	Response	Annual Burden (Hours)	Rate*	Estimate Burden Cost
Agreement& Contracts	53	17	901	4	3,604	\$47.20	\$170,108.80
Obtaining Information from Agencies	53	Once	904,056	1/60	15,068	\$47.20	\$711,209.60
Unduplicated Totals	53		904,957		18,672		\$881,318.40

*Source: The hourly rate is computed by dividing the FY 2016 national average PS/PB annual salary for state staff as provided for through the distribution of state UI administrative grants (http://wdr.doleta.gov/directives/attach/UIPL/UIPL_21-15.pdf) by the average number of hours worked in a year (1,711). For FY2016, this calculation was: \$80,756 / 1,711 = \$47.20.

13. *Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).*

No cost burden is reported as this process is paid for by monies allocated to states for administration. The activities are part of the process for nonmonetary determinations. There are no breakouts for specific reports. This is a well-established reporting system and there are no start-up costs.

14. *Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.*

There are no costs to the Federal government.

15. *Explain the reasons for any program changes or adjustments reported on the burden worksheet.*

The changes in state burden hours are due to the decreased number of people becoming eligible for UI, which has fallen since the last PRA submission.

16. *For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

There are no plans to publish data relating to this activity.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

This request is not seeking approval not to display the expiration date for OMB approval of the information collection.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions,”

There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

This collection does not employ statistical methods.