

**SUPPORTING STATEMENT FOR
REEMPLOYMENT SERVICES AND ELIGIBILITY ASSESSMENT (RESEA)
REPORTS
OMB CONTROL NO. 1205-0456**

This information collection request (ICR) seeks to revise and extend the currently approved collection for the ETA 9128 Reemployment Services and Eligibility Assessment Workload and extend the ETA 9129 Reemployment Services and Eligibility Assessment Outcomes. Both are required reports under the Reemployment Services and Eligibility Assessments (RESEA) program. To accurately reflect states' RESEA workloads and support federal oversight of the RESEA program, the Department of Labor's (DOL), Employment and Training Administration (ETA) is proposing modifications to the form ETA 9128 that will allow states to separately report the number of subsequent RESEAs that were scheduled, completed, or resulted in a failure to report and the number claimants that were determined to be incorrectly selected or ineligible for RESEA services.

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.

Revision of currently approved form ETA 9128 and extension for currently approved form ETA 9129: DOL requests to revise the information collected from State Workforce Agencies (SWAs) about all RESEAs they schedule and conduct, which includes both initial and subsequent RESEA meetings and the number of occurrences in which a claimant is scheduled for an RESEA meeting but fails to report as directed. To ensure the reports provide full and accurate information about state's activities, the revisions will also capture information needed to adjust failure to report rates to account for individuals selected for RESEA that are later determined to be incorrectly selected or ineligible for RESEA participation prior to the initial RESEA appointment. The Secretary's authority to implement this reporting requirement is found in the Social Security Act (SSA) section 303(a)(6), 42 U.S.C. 503 (a)(6), which requires that state law include 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 assure the correctness and verification of such reports.

The Secretary interprets section 303(a)(6) of the SSA to authorize DOL to prescribe standard definitions, methods and procedures, and reporting requirements for the collection of information

on benefit payment accuracy and the reemployment of Unemployment Insurance (UI) benefit recipients and to ensure accuracy and verification of these data.

This information is needed to administer the RESEA program. It reflects states' workloads and outcomes that result from participants selection and participation in the RESEA program. OMB previously approved DOL's request that this data collection be approved and later extended the approval for three years through August 31, 2022.

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.

DOL uses the information collected in ETA 9128 and ETA 9129 to: 1) evaluate state performance in terms of service delivery; and 2) report on the RESEA activities, including the number of scheduled RESEA sessions, the number of individuals who participated, the number of individuals who failed to appear for scheduled assessments, actions taken as a result of individuals not appearing for an assessment (e.g., benefits terminated), results of assessments, average weeks to reemployment, and average weeks of benefit payments.

The Bipartisan Budget Act of 2018 (Public Law 115-123) permanently authorized the RESEA program by enacting a new Section 306 of the SSA. The permanently authorized RESEA program provides states with greater flexibility in how they structure their RESEA program and funding for the RESEA program has grown substantially over the past few years. In response to increased funding and flexibility, many states have expanded their RESEA programs to include additional RESEA meetings beyond the required initial RESEA meetings. These additional meetings, which are referred to as "subsequent meetings," now make up a considerable share of RESEA activities and it is anticipated that the adoption of subsequent meetings will continue to expand in future years. During FY 2021 approximately half of all states operating RESEA programs included subsequent RESEA meetings as part of their RESEA program design. To capture workloads associated with the increasing use of subsequent meetings, the ETA 9128 includes revisions that will breakout "subsequent" and "initial" RESEA meetings.

The RESEA program is based on the dual-purpose of supporting the reemployment of individuals receiving unemployment insurance (UI) benefits while also supporting the integrity of states' UI programs. In response to public comments, the ETA 9128 revisions also add a specific data element that will allow DOL to adjust reported failure to report rates to account for claimants who are selected and later found to have been incorrectly selected or ineligible for RESEA before the initial meeting occurs, such as when an individual has a return to work date or the claim has been determined fraudulent as a result of identity fraud. These new elements align with states' increased flexibility in RESEA claimant selection and UI program integrity efforts and provides DOL with essential information on state grant activities that will be used to support federal grant oversight, including routine monitoring or technical assistance meetings.

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.

This data reporting requirement uses automated procedures for data collection, transmission, and analysis that utilize state and Federal information processing technology. DOL provides computers to each state and jurisdiction along with reporting software and a proprietary network to use to transmit data to the computers at the DOL National Office.

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 A.2 above.

There is no duplication.

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

This collection does not impact small 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.

Collecting this information less frequently than quarterly would not allow for adequate monitoring or evaluation of the impact of the reemployment services and eligibility assessments. States already report workload counts and outcomes to DOL each quarter and collecting this data less frequently would not materially diminish the burden of this data collection initiative.

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

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This ICR implicates no special circumstances.

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 given an opportunity to review and comment through a notice in the Federal Register on November 23, 2021 (86 FR 66593). Three comments were received from the State Workforce Agencies of Massachusetts, Virginia, and Rhode Island and are summarized and analyzed below.

One commenter (Massachusetts) provided information on their current reporting practices and expressed support for DOL's proposed addition of new reporting elements to capture information about subsequent RESEA sessions if the data collected would have an impact on "performance allocations" to states. RESEA outcome payments are annual performance-based funding allocations that are authorized by Section 306(f)(2) of the SSA and are based on the performance

of each state's RESEA program during the previous fiscal year. Section 306(f)(2), SSA, further specifies that performance must be assessed based on performance associated with RESEA's statutory purpose, identified in Section 306(b)(1), SSA, of improving employment outcomes of individuals receiving unemployment compensation and reducing the average duration of receipt of such compensation through employment. After requesting and reconciling public comments, DOL announced the final methodology for allocating outcome payments on October 19, 2021 (86 FR 57856). Section 306, SSA, describes specific outcomes to be used for RESEA outcome payments and DOL does not plan to integrate the new subsequent data elements into the outcome allocation methodology. However, the new data elements are essential to supporting routine grant management, evidence-building activities, and targeting technical assistance and these activities may support a state's efforts to increase RESEA program performance.

Two commenters (Rhode Island and Virginia) both expressed general concerns that the current lack of an element capturing information about UI claims selected for RESEA that are later identified as suspected fraud or fraudulent is negatively impacting states' performance metrics. One commenter (Virginia) provided an analysis of the number of UI claims selected for RESEA that were suspected of fraud and recommended changes, such as adding "referred to UI due to suspected fraud" as an outcome for initial RESEA sessions; including lines on the ETA 9128/9129 to yield a "net" number of Initial RESEA's scheduled; and including an estimation of RESEA staff time needed to accomplish data comparisons used to identify potential fraud as part of the allowable RESEA workload activities when developing the annual RESEA state plan. As detailed further below, DOL is adding one new reporting element to the ETA 9128 report in response to these comments.

The RESEA program is intended to serve the dual role of supporting the reemployment of UI claimants and strengthen the integrity of a state's UI program. DOL recognizes that many states have made changes to RESEA scheduling using automation and self-service tools and increased their fraud detection efforts. As a consequence of these system changes, states have increased their ability for the early identification of claimants selected for RESEA that should be exempted from RESEA reporting for reasons such as being in approved training; receiving UC benefits other than regular UI compensation, having a return to work date; securing work only through a union hiring hall; being disqualified from benefits for a non-related eligibility issue; or the claim being determined fraudulent as a result of identity fraud. To ensure RESEA quarterly reports adequately and accurately reflect RESEA workloads and activities and that failure to report calculations do not include claimants ineligible for RESEA, DOL is adding one new element to the RESEA ETA 9128 report:

Line 1a: "Scheduled Initial RESEAs Determined Ineligible for Participation" was added to capture the number of scheduled RESEAs that are identified as being incorrectly selected or ineligible for RESEA participation before the initial meeting occurs. The identification of claimants determined to be incorrectly selected or ineligible for RESEA will depend on state specific UI and RESEA program requirements design but common examples include instances where a claimant is in approved training; receiving UC benefits other than regular UI compensation, such as extended benefits; has a return to work date; secures work only through a

union hiring hall; was disqualified from benefits for a non-related eligibility issue; or the claim has been determined to be fraudulent as a result of identity fraud.

In addition to the new data element, DOL has revised the ETA 401 handbook to clarify that instances of fraud identified during the initial or subsequent RESEA meeting or due to a failure to report to a scheduled RESEA session should be reflected in current ETA 9128 lines 12 and 18.

DOL recognizes that efforts to detect fraud may require RESEA resources but information about specific RESEA resource allocations and policies for allowable activities are outside the scope of this ICR and are currently reflected in states' annual RESEA state plan and annual RESEA operating guidance. On April 4, 2022, DOL published a notice in the Federal Register requesting public comments on renewal and proposed modifications to the RESEA state plan template and notified state RESEA program operators of this opportunity to provide formal comments (87 FR 22234).

9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments and/or gifts are made to respondents.

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

There are no issues of confidentiality as no personal data on individual claimants is provided to the DOL as part of this collection. DOL maintains strict controls over the data gathered through the UI reporting system. DOL does not receive any data on individual claimants from states as a requirement of this data collection. Only aggregate data describing activity for all claimants are reported to DOL.

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.

No questions of a sensitive nature are included.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of**

potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

Estimated Annualized Respondent Cost and Hour Burden

Activity	No. of Respondents	No. of Responses per Respondent	Total Responses	Average Burden (Hours)	Total Burden (Hours)	Hourly Wage Rate	Total Burden Cost
ETA 9128	53	4	212	3.32	703.84	\$53.27	\$37,493.55
ETA 9129	53	4	212	2.5	530	\$53.27	\$28,233.10
Unduplicated Totals	53	--	424	--	1,233.84		\$65,726.65

*Source: The hourly rate is computed by dividing the FY 2022 national average PS/PB annual salary for state staff as provided for through the distribution of state UI administrative grants (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6102) by the average number of hours worked in a year (1,711). For FY 2022, this calculation is: \$91,144 / 1,711= \$53.27.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- **The cost estimate should be split into two components: (a) a total capital and start up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of**

methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

There are no annualized costs to respondents.

14. Provide estimates of the annualized cost 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), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

Although no staff is required to process this report, ETA has budgeted \$1,055,487.22 in fiscal year 2022, to operate and maintain the Unemployment Insurance Required Reports system. Including the subject ICR, this reporting system supports 30 information collections. For administrative purposes, each information collection is assumed to contribute an equal share of the cost for supporting the entire system; therefore, the cost allocated to this ICR is estimated to be \$35,182.91 (\$1,055,487.22 system cost/30 information collections).

15. Explain the reasons for any program changes or adjustments.

DOL is proposing to collect data for two RESEA groups which are “initial” and “subsequent” RESEAs and information about the number of scheduled Initial RESEAs determined ineligible for participation. These new reporting elements are included in the ETA 9128 form only and are necessary to accurately capture information that fully reflects states’ RESEA workloads. Burden estimates for the ETA 9128 have been increased from 2.5 to 3.32 hours, a change of

approximately 50 minutes per response, to reflect the new reporting elements. The reporting Instructions and Form were also updated to reflect the new elements described above.

16. For collections of information whose results will be published, outline plans for tabulations, 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.

Decisions on publication of data have not been made.

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.

The expiration date for OMB approval will be displayed.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This information collection does not employ statistical methods.