

SUPPORTING STATEMENT
Overpayment Detection and Recovery Activities
OMB Control No. 1205-0187

The Department of Labor (Department), Employment and Training Administration (ETA) is submitting an extension without change of the Overpayment Detection and Recovery Activities (ETA 227).

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.

a. Legal Basis. Section 303(a)(1) of the Social Security Act requires a state's Unemployment Compensation (UC) law to include provisions for:

"Such methods of administration ... as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due..."

Section 303(a)(5) of the Social Security Act further requires a state's UC law to include provisions for:

"Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation..."

Section 3304(a)(4) of the Internal Revenue Code of 1954 provides that:

"All money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation..."

The Secretary of Labor has interpreted the above sections of Federal law in Section 7511, Part V, ES Manual (Handbook 401) to further require a state's unemployment compensation (UC) law to include provisions for such methods of administration as are, within reason, calculated (1) to detect benefits paid through error by the state UC agency or through willful misrepresentation or error by the claimant or others, (2) to deter claimants from obtaining benefits through willful misrepresentation, and (3) to recover benefits overpaid under certain circumstances.

b. Program Operational Need. Form ETA 227 is used to determine whether state UC agencies meet the requirements of the Secretary's interpretation of the Federal laws above, and to measure state UC agencies' performance for Benefit Payment Control (BPC). This information is critical to agency administrators and Department of Labor (DOL) staff to analyze the effectiveness to the states' efforts to detect and recover improper payments. The

data collected are used to report and track the detection and recovery of overpayments in each state. In addition to reporting actual data, it is used to track performance based on the Benefit Accuracy Measurement predictions. It is the only source for obtaining the necessary data. The data reported on the form include both intrastate and interstate claims for the regular state UC program, the Federal-State Extended Benefits (EB) program, the Unemployment Compensation for Federal Employees (UCFE) program, and the Unemployment Compensation for Ex-Service members (UCX) program. This request for approval to extend the present reporting requirement for another three years is necessary since there are no other reports that contain these data.

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.

The Form ETA 227 contains data on the number and amounts of fraud and non-fraud overpayments, the methods by which the overpayments were detected, the amounts and methods by which overpayments were collected, the amounts of overpayments waived and written off, the accounts receivable for the overpayments outstanding, and data on criminal/civil actions.

These data are gathered by 53 State Workforce Agencies (SWAs) and reported to the DOL following the end of each calendar quarter. Annual data are compiled and analyzed to determine the effectiveness of the controls in place for preventing, detecting, and recovering benefit overpayments and to plan and budget for this vital program function.

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.

States must report this data electronically to the DOL, and have been doing so for a number of years. States submit reports through a web-based computer system. This is the only way to submit reports and ensures a consistent, timely submission. On an exception basis (hardware or software problems), SWAs may transmit hard paper copy.

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 similar information available that can be used or modified that can furnish the overpayment detection/recovery data contained on the Form ETA 227.

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

The data collected from this reporting requirement does not involve small businesses or other small entities.

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.

The Form ETA 227 is used by the states to summarize the results of BPC activity. This information is not captured elsewhere. The Form ETA 227 provides critical information on the results of BPC investigations of specific issues and alleged fraud and resulting overpayments that have been identified and overpayments collected. Such information allows state and Federal managers to evaluate the effectiveness of the principal integrity functions in the UC program and assess whether they have deployed their BPC resources effectively.

Any less frequent collection of these data would weaken DOL's ability to provide timely information for program managers within the SWAs and the DOL staff charged with ensuring that the Secretary's responsibilities are carried out.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner that requires further explanation pursuant to regulations 5 CFR 1320.5.:

- **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.**

There are no special circumstances that would require the collection of this information to be conducted in a manner that is not consistent with the guidelines contained in 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 December 29, 2022 (87 FR 80196). No public comments were received.

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

There are no payments or gifts to respondents.

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

Assurance of confidentiality is not necessary for this report since only cumulative data is reported.

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.

The information contained in this report does not involve questions of a sensitive nature.

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.

All states use this report as a part of information management system for their normal data processing operations. Based on previous experience and information reported by state personnel, it is estimated that it takes state agencies a total of 2,968 hours per year to run a retrieval program, review the results and transmit the results through the electronic reporting system. This disaggregates to 14 hours per submission per quarter per state (53). Following is the calculation:

Number of respondents - states	53
Frequency of report - quarterly	<u>4</u>
Total number of responses (53 x 4)	212
Estimated hours per state per report	<u>14</u>
Annual burden hours (212 x 14)	2,968
Average hourly wage	<u>\$54.00</u>
Annual cost burden (2,968 x \$54.00*)	\$160,272.00

Estimated Annualized Respondent Cost and Hour Burden

Activity	Number of Respondents	Annual Frequency	Total Annual Responses	Time Per Response (Hours)	Total Annual Burden (Hours)	Hourly Rate*	Monetized Value of Respondents Time
ETA 227	53	4	212	14	2,968	\$54.00	\$160,272.00
Unduplicated Totals	53		212		2,968		\$160,272.00

*Source: The hourly rate is computed by dividing the FY 2023 national average PS/PB annual salary for state staff as provided for through the distribution of state UI administrative grants (<https://www.dol.gov/agencies/eta/advisories/uipl-no18-22>) by the average number of hours worked in a year (1,711). For FY 2023, this calculation is: \$91,210 / 1,711= \$54.00.

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 annual costs in addition to those in item 12 above.

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 \$1,141,509.22 for fiscal year 2023 in contractual cost for operating and maintaining 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 \$38,050.30 ($\$1,141,509.22$ system cost/30 information collections).

The report format is basic fillable PDF form/document and will be provided to the state UI agencies, so there are no capital/startup costs for the state UI agencies and there are no other parties who are impacted by this reporting.

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

There are no changes.

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.

Data reported on the Form ETA 227 are summarized periodically and distributed to the users: SWAs and DOL regional offices.

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.

ETA displays the OMB approval number and expiration date.

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This information collection does not employ statistical methods.