

**SUPPORTING STATEMENT FOR
Tax Performance System (TPS)
OMB Control 1205-0332**

This ICR seeks to renew OMB approval of the Tax Performance System (TPS), which collects data from states concerning their Unemployment Insurance (UI) tax programs. There has been no change to the program since OMB Control Number 1205-0332 was last approved.

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.

Social Security Act section 303(a)(1) gives the Secretary of Labor several responsibilities toward the UI system. Among these is to oversee the performance of the system, and to ensure that it provides “full payment of unemployment compensation when due”. In general, this includes ensuring that states are in substantial compliance with their laws, which must embody the requirements of Federal law. The Secretary must also “certify from time to time to the Secretary of the Treasury for payment to each state which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary determines to be necessary for [the law’s] proper and efficient administration” [Social Security Act, Sec. 302(a)]. To carry out these responsibilities, the law gives the Secretary authority to require “such methods of administration...reasonably calculated to ensure full payment of unemployment compensation when due” [SSA, Sec. 303 (a)(1)] and to require the making of reports [United States Code Title 42 section 503 (a)(6). Attached as Appendix A-1.]

The Employment and Training Administration (ETA) has interpreted these requirements to allow it to require all states to have and properly operate a Benefits Accuracy Measure (BAM) program. Since October 5, 1987, the regulation, at 20 CFR 602, published September 3, 1987, has required all entities considered states for UI purposes (except the Virgin Islands) to operate a BAM program. Section 602.1 of the regulation specifies that the purpose of the program is to “assess the timeliness and accuracy of state administration of the UI program” including both “claims processes and revenue collections.” The accuracy of certain benefit payment operations is reviewed by the BAM program which is approved by the OMB Information Collection Review under OMB Control No. 1205-0245. ETA also reviews the timeliness, accuracy, and completeness of certain tax collection (revenue) operations in the states utilizing the TPS (formerly known as the Revenue Quality Control (RQC) program). This request is for an extension of the TPS program. The handbook and appendices, which prescribe the operation of this program, is attached.

The UI Tax Operation and Tax Functions

Most UI benefits are financed through a state payroll tax on covered employers. The tax is experience-rated, (i.e., the rate charged each employer reflects the system’s “experience” with paying benefits to the firm’s former employees). Most employers are subject to the UI tax, the conditions of liability varying from state to state. A small percentage of employers—mostly governmental and nonprofit entities—do not pay a payroll tax but reimburse the state UI agency dollar for dollar for benefits paid to their former employees.

In accordance with state UI law, each quarter, subject employers must report their contributions due and send them, along with the funds, to the state UI agency. The state UI agency deposits the funds into a clearing account from which they are deposited into the state’s account in the Unemployment Trust Fund which the U.S. Treasury invests. Trust funds are drawn out daily to match projected benefit payments. Nearly all states require employers also to report the wages paid to each employee. This information, kept in automated wage record files, is accessed to determine claimants’ monetary eligibility for benefits.

Managing this system is usually described in terms of the following functions:

1. Status Determination. The state UI agency must identify employers, determine which are liable, and process changes of status as firms go out of business, leave the state, or change ownership.
2. Cashiering. This function involves receiving and depositing contributions into the Clearing Account and crediting them to the appropriate employer’s account.
3. Delinquent Reports. Contribution reports not received when due from employers in the state’s employer file must be secured, or the state UI agency must determine that no report is due.
4. Collections. This is the function by which the state UI agency retrieves accounts receivable or declares them uncollectible. It is closely associated with the delinquent reports function.
5. Field Audit. This is the tax system’s primary enforcement function. Subject employers are audited to determine whether contribution reports are filed completely and accurately and promote compliance with the tax code. It is often closely associated with delinquent reports and collections.
6. Benefit Charging. This process links the tax collection and benefit payment sides of the UI system. It involves determining whether the benefits paid to each claimant are chargeable to former employer(s), allocating chargeable benefits to the correct employer(s) and allocating any non-charged benefits to the social or pool account.
7. Experience Rating. In most states the tax rate for the “contributions” which fund UI benefit payments reflects in part contributory employers’ history of contributions paid and benefits paid out to their former employees. In addition to the “experience” factor the tax rate may also

contain components whose sizes depend on the present and projected status of the state's trust fund.

8. Accounting. The core of the tax system, touching all of the above functions, is the accounting or accounts maintenance function. It either receives information from or triggers actions by all of the above functions, or both. The maintenance of accounts by employer is considered a tax function; the maintenance of accounts by claimant or covered employee is a benefit payment function.

Overview of the Design

The quality of most of the above functions is examined. To do so in a cost-effective manner, the design combines several methodologies. "Computed Measures" are indicators of timeliness and completeness based on data from automated reports, most of which states are already reporting for other reasons. "Program Reviews" assess accuracy through a 2-part assessment: (1) "Systems Reviews" examine tax systems for the existence of internal controls; and (2) small samples of those systems' transactions are examined to verify the effectiveness of the controls.

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 findings are of extensive use to both state and Federal UI staff. The various measures were developed very systematically, taking as the starting point the requirements of Federal law, and implied quality dimensions the law and regulations require. Many of the measures assess aspects of performance. TPS ensures both state administrators and Federal UI staff know whether state programs are being operated in accordance with the quality implied by Federal law. This information enables state managers to make informed program decisions and gives Federal staff the information they need to exercise oversight by providing technical assistance, sharing information, or persuading a state to take action in a particular area. [Appendix A-2 provides a sample of state performance.]

TPS data are an integral part of UI PERFORMS, the performance management system for the UI program. UI PERFORMS incorporates a strategic planning process of identifying priorities; ongoing collection and monitoring of valid data to measure performance; identification of areas of potential improvement; and development of specific action steps to improve performance, followed by use of available data to determine whether the action steps are successful.

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.

To comply with the Government Paperwork Elimination Act, maximum use has been made of computer technology to limit burden. ETA has provided states with specifications for their mainframes to create files and draw acceptance samples. After states review the samples in accordance with guidance provided in the TPS handbook and appendices, states enter results of their review on software that ETA provides on the Web. ETA provides toll-free hotline support. ETA picks up data at night through procedures entailing no burden on state staff. ETA is not aware of any obstacles to the use of these technologies.

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.

The agency is unaware of any other system that collects this data; no other agency has a mandate to administer UI programs.

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

There is no burden on small businesses, the program reviews state tax operations only.

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.

If TPS data were not collected, information relative to UI tax performance according to the requirements of Federal law would not be produced, and many deficiencies in state tax operations would go unnoticed.

ETA believes that the TPS schedule is a reasonable frequency given the normal state of UI tax operations. The cycle of systems reviews once every four years is sufficient for validation of changes in processing structure or patterns while not allowing deviation from patterns of proper control. Drawing small samples once every year is an inexpensive way to alert state and Federal staff whether something has gone amiss before the next scheduled systems review. The Computed Measures indicators are based on quarterly reports data, but the real conclusions based on them are actually based on annual data. Reviewing computed measures on less than an annual cycle may cause users of data to reach incorrect conclusions if temporary, circumstances affect performance, and the state UI agency corrects performance quickly.

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.**

The program does not collect data in a manner under any of the special circumstances described above.

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 1, 2024 (89 FR 15220). The Texas Workforce Commission (TWC) submitted a public comment, as copied below.

TWC believes that USDOL's estimate of one full time employee does not fully represent the burden imposed on state agencies for the proposed collection of information in the TPS program. TWC acknowledges it is possible for a state agency with established TPS programming and an experienced TPS auditor to perform the TPS functions with one employee, however, USDOL's estimate fails to account for certain externalities needed to ensure continuity of operations. Cross training staff for essential functions is an organizational necessity to ensure continued operations. USDOL's estimate of one full time employee does not account for the employee time state agencies must spend to ensure more than one person can perform TPS responsibilities in the event of staff turnover. TWC recommends that USDOL increase its estimated burden on state agencies to include the time needed to cross train a potential backup for the TPS auditor.

No state other than TWC has submitted comments to the Federal Register Notice posted on March 1, 2024.

The answer to question 12 provides information on the burden of one full-time position to perform the responsibilities of TPS. ETA fully funds this position.

Since TPS was implemented in 1996, one full-time position has been sufficient to collect data under the TPS program. This burden has not changed since 1996. There has been no significant change to TPS since OMB Control Number 1205-0332 was last approved. TWC did not provide specific information that it takes more than one-full time equivalent position to perform TPS duties under normal circumstances. Instead, ETA interprets TWC's concern that a state experiences an additional burden to cross train a back-up person to collect data under the TPS program. Presumably, the back-up person would collect data if the regularly assigned person is unable to perform the duties.

The costs of a back-up person are not included in the estimate of the costs and hour burden of the collection of information. ETA does not endorse TWC's recommendation to increase the estimated burden on state agencies to include the time needed to cross train a potential back-up.

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

Respondents to this program are state staff and do not receive gifts.

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

The program produces no data on individual beneficiaries or business establishments and thus is not affected by Privacy Act considerations.

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.

There are no 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.**

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
TPS	52	1	52	1,716	89,232	\$54.50	\$4,863,144

*Source: The hourly rate is computed by dividing the FY 2024 national average PS/PB annual salary for state staff as provided for through the distribution of state UI administrative grants (Fiscal Year (FY) 2024 State Workforce Agency Unemployment Insurance (UI) Resource Planning Targets and Guidelines (dol.gov) by the average number of hours worked in a year (1,716). For FY 2024, this calculation is: \$93,520 / 1,716= \$54.50.

**The number of respondents includes all 50 states, as well as the District of Columbia and Puerto Rico.

The burden of this activity is the time required to conduct the investigations and provide the information to ETA.

The following continuing effort is involved: conducting Systems Reviews every fourth year and the accompanying samples every year; and data entry of the findings into ETA's software.

Continuing Activities. ETA provides one staff year per state for the conduct of this program's activities. The average hours worked per state averages about 1,716 per person. This is the estimate of burden per state.

Program Review. Every year, the state conducts a Program Review of each tax function which comprises of a Systems Review and examination of Acceptance Samples. Systems Reviews are conducted once every four years in a staggered manner over the four years. For example, systems reviews of three tax functions may be completed in year one, while systems reviews for a different three tax functions are conducted in year two. Systems reviews that identify risks in internal controls must be repeated in the subsequent year(s). Also, systems reviews of tax functions must be completed when changes to the state's automated tax system occurred. In the years in which states do not conduct systems reviews for a tax function, they still draw and evaluate the samples for the tax function. Acceptance sampling for all tax functions is conducted each year.

Average Annual Burden: 1,716 hours

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 startup 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.**

No additional operating costs other than what is noted 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 \$1,046,088 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 \$34,869.60 (\$1,046,088 system cost/30 information collections).

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

No changes or adjustments to the program.

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 from this program are published on Federal internal servers under the Unemployment Insurance Reporting System for state and Federal agency analysis. Data from this program are not intended to be published for general statistical use by the public.

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 will display approval information.

Tax Performance System
OMB Control Number 1205-0332
OMB Expiration Date: November 30, 2024

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.