

Federal-State Unemployment Insurance Program Data Exchange Standardization OMB Control No. 1205-0510: Supporting Statement

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 Department of Labor's (Department's) Employment and Training Administration proposes to designate in regulation data exchange standards, developed in consultation with an interagency work group established by the Office of Management and Budget (OMB), for Unemployment Insurance (UI) administration as required by amendments to Title IX of the Social Security Act (SSA) made by the Middle Class Tax Relief and Job Creation Act of 2012 (the Act). On February 22, 2012, the President signed the Act. Section 2104 of the Act amends Title IX, SSA (42 U.S.C. 1111 *et seq.*) by adding a new section 911, which requires the Department to issue rules, developed in consultation with an interagency workgroup established by the OMB, that establish data exchange standards for certain functions related to administration of the UI program.

To improve UI program operations by states, the Department has been the facilitating entity for development and implementation of automated systems that states may adopt for efficiently processing claims and improving program integrity. These automated systems, which have been developed through a collaborative effort with states and the National Association of Workforce Agencies (NASWA), have replaced manual paper processing with automated exchanges of information between states as well as those between states and employers. The Department has provided funding to facilitate the development and implementation of these automated systems, and has encouraged the use of these systems by states.

As part of this regulation, the Department is designating eXtensible Markup Language (XML¹) as the data exchange standard for three categories of information implemented through these automated systems:

- Interstate Connection (ICON) network: Three real-time applications on ICON which support state to state exchanges. ICON is operated by the State of Maryland on behalf of the states;
- State Information Data Exchange System (SIDES): All current and future SIDES information modules support the information exchanges between states and employers. SIDES is operated by NASWA on behalf of the states; and

¹ XML is a nonproprietary, searchable, computer-readable format, and has the capacity to be upgraded continually, as necessary. Interoperability helps information technology systems more readily interface to carry out shared functions and manage communications.

- Implementation of the standards identified for ICON and SIDES in major Information Technology (IT) modernization projects to upgrade UI Benefits and Tax systems by State Workforce Agencies (SWAs) using Federal funds.

The use of these systems by states is voluntary and data exchanges are between states and/or employers.

The information shared through these exchanges between states and/or employers is not reported to the Department. Additionally, while the rule imposes standards that might impose burden, no new information is required to be exchanged as a result of this regulation.

The data exchange standards will improve the interoperability of these systems that collect and exchange information for UI administrative purposes.

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.*

Through this regulation, the Department is designating data exchange standards for ICON and SIDES.

ICON Network: The regulation applies to three real-time applications on ICON that support state to state exchanges. These applications are currently used by all SWAs to support the processing of Unemployment Compensation (UC)² claims:

- Interstate Wages and Benefits Inquiries/Responses, which supports online transmission of interstate wages and benefits inquiries and responses between SWAs;
- Withdrawn/Invalid Claims, which allows for the posting and viewing of withdrawn or invalid claim information for SWAs; and
- State Identification Inquiry, which allows SWAs to inquire about wages reported to other SWAs by SSN.

The information shared between states over the ICON network is not reported to the Department.

SIDES: The regulation applies to all current and future SIDES information modules that support the exchange of information between states and employers. SIDES is an automated information exchange and reporting system to standardize SWAs' delivery of information to employers and collection of information by SWAs from employers and Third Party Administrators (TPAs). Currently, three exchanges for SIDES has been developed and implemented.

²The Department's Office of Unemployment Insurance uses the term Unemployment Compensation (UC) when referring to UC benefits paid or UC laws and to use the term Unemployment Insurance (UI) to refer to the UI program, administration and operations.

- Employee separation information: This exchange of information by SWAs with employers or their TPAs on the circumstances underlying individual UI claimants' job separations will reduce UI payments to ineligible claimants, yield administrative cost savings to both employers and taxpayers, and promote more timely benefit determinations;
- Wages/Earnings verification: This exchange of data by SWAs with employers or their TPAs is to verify claimant wages; and
- Monetary and Potential Charges: This exchange is to notify employers electronically, rather than on paper, of SWA decisions on the eligibility of their former workers who quit or were let go for cause. This will improve the timeliness of employer appeals and allow for quicker appeal decisions, halting improper payments faster if the employer prevails in the appeal.

Additionally, several other data exchange modules are under consideration for the expansion of SIDES including UI Benefit Charge Notices, Non-Monetary Determinations Exchange, and Appeals Decisions.

The information shared between the SWAs and employers or their TPAs using SIDES is not reported to the Department.

The Department believes that the data exchange standards will improve the interoperability of certain State, Federal, and employer-operated systems that collect and exchange information for UI administrative purposes.

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 bias for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

ICON and SIDES are automated systems which act as a hub for electronic transactions between states and/or with employers. All transactions between these systems are electronic.

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.*

No duplication exists.

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

ICON supports state to state exchanges. Employers including small businesses are not involved.

SIDES is necessary to effectuate the Standard for Claim Determinations—Separation Information, codified in regulation at 20 CFR part 625 Appendix B. This standard is based significantly on the “methods of administration” requirement in section 303(a) (1), SSA, and includes a requirement that a State promptly obtain information from the worker, employer, or other source that is sufficient to reasonably insure payment of UC when due.

Currently, SWAs request information from employers (including small business) by mail or by other electronic means. SWAs participating in SIDES use this system to send requests to employers for critical information required to make prompt and accurate eligibility determinations. SIDES provides for the exchange of information using an automated, standardized, secure mechanism with data validations that are strictly enforced to prevent the transfer of incomplete or incorrectly formatted data. The benefits of using SIDES for employers include:

- Reduced postage and handling costs;
- Fewer follow-up efforts from the SWA to the employer’s staff to obtain complete and correct employer UI information (reducing employer’s staff time on phone with SWA);
- Reduction in improper benefit payments (improved quality because of standardized questions and in some cases a more detailed request for UI information) and improper benefit charging to the employer account;
- Reduced need for employers to file appeals due to lack of quality information by the SWAs to make an eligibility determination; and
- Easier/better control and management of UI information request workload;

Thus, the use of the SIDES by SWAs promotes efficient collection of information and minimizes the burden on employers, including small businesses. However, the participation by employers in SIDES is voluntary.

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 principle consequence if these data exchange standards are not established is the Department’s clear failure to comply with provisions spelled out in the Act. As described above, the Act requires the Department to issue rules, developed in consultation with an interagency workgroup established by the OMB, that establish data exchange standards for certain functions related to administration of the UI program. Failure to accomplish this would place the Department out of compliance with these requirements.

The inability of the Department to mandate that states transition from the Extended Binary Coded Decimal Interchange Code (EBCDIC) format to the Web Services Description Language (WSDL) format will prevent moving to a single platform for

ICON and the estimated cost savings. It will require the Department to continue to fund dual platforms for which funds may no longer be sufficient to support.

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

There are no special circumstances.

8. *If applicable, provide a copy and identify the data 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.*

ETA published an NPRM in the *Federal Register* governing the Federal-State Unemployment Insurance Program; Data Exchange Standardization as Required by Section 2104 of the Middle Class Tax Relief and Job Creation Act of 2012 on February 25, 2013, Vol. 78, No. 37 Page 12655. The public was provided 60 days from that date to submit comments.

Only one comment was received in response to the NPRM. The Chairman and six members of the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Human Resources stated that "as authors of this provision [the Act], we intended 'any' to cover all categories of information." In other words, the commenters asserted the Department should interpret data exchange standardization to cover all categories of information. The Department recognizes that the statutory language could be interpreted as the commenters' assert. The comment states "we recognize that the effort to move a standardized system will require upfront investment of time and effort." The comment also noted that "[t]his is an iterative process and we look forward to working together to achieve success." The Department appreciates that the Committee members recognize that extending data exchange standardization to all types of reporting and information data exchanges is an enormous effort that takes time; it is an iterative and evolutionary process. The Department has met with staff of the Committee on Ways and Means to address their concerns. The Department will continue to review all UI reporting and determine the application of appropriate data exchange standards and to communicate with the staff of the Committee on Ways and Means, where feasible.

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

There is no payment or gift to respondents.

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

No assurance of confidentiality is provided for in the requirements covered by this ICR.

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 information is collected so there are no concerns about the sensitivity of data.

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

For states currently using the EBCDIC format for ICON, there may be burden incurred to comply with this regulation. SWAs differ considerably in terms of hardware platforms and software used to develop their ICON applications, so the costs may vary from State to State. The Department estimates that the burden of making the changes required to bring these systems into compliance with requirements of the Act will take 1,200 hours per SWA. We are assuming that states will use a phased approach for this implementation over a period of 5 years, so the burden estimate per year has been pro-rated by dividing the totals by 5. Further, it has been assumed an equal split (50%- 50%) of states will use in-house state and contract programming staff. Thus, the estimated burden associated with bringing states into compliance with this new Federal requirement is split between labor performed by state employees and startup costs (discussed in item 13) for labor performed by contract programming staff and materials, with the majority associated with labor to make programming changes to state systems. In monetizing the estimates, we are using the ETA's FY 2013 program planning rate (estimated hourly wage which includes fringe) for state employees of \$42.09.

$1,200 \text{ hours over 5 years} \times 50\% \text{ (state share of hours)} = 600 \text{ hours over 5 years.}$

$600 \text{ hours over 5 years} = 120 \text{ hours a year.}$

$120 \text{ annual hours} \times 53 \text{ states} = 6,360 \text{ total annual burden hours.}$

$6,360 \text{ annual burden hours} \times \$42.09 = \$267,692.40$

The regulation concerns the 53 SWAs that comprise the UI system, and requires changes to their software programming. There are no additional steps that the SWAs need to take and there are no other parties who are impacted by this change.

The SIDES information modules were developed by states for their use, through a collaborative effort between states and NASWA. The Department provided funding to help facilitate this effort; however, ETA believes the underlying data exchange

would have occurred, regardless of DOL funding, as a customary and routine business practice. Since the SIDES interfaces have been designed using XML, the states and employers participating in SIDES automatically comply with the data exchange standard included in this regulation. So, there is no additional cost burden due to this regulation.

Also, note that there is no recordkeeping burden as a result of this regulation. The regulation concerns the specific format that will be used for electronic transfers of information through a hub, so there is no retention concern whatsoever.

As previously indicated, SIDES is currently operated and maintained by NASWA on behalf of the states. SIDES was developed by a consortium of states to improve the communication of states with employers i.e. primarily to request claimant separation information with employers. The information collected by states from employers via paper and other means were not timely and incomplete. States approached USDOL for funding to pilot test the SIDES concept and the results were positive. Additional funding was provided for complete SIDES development and implemented in FY 2010.

ETA does not claim burden for the information that employers provide that ends up on SIDES. The primary reasons are: (1) states developed SIDES for their use and USDOL only provided funding for it and (2) SIDES only replaces what the states already collect by mail and other means. Furthermore, (1) ETA does not have access or use SIDES and (2) the use of SIDES is voluntary by the state and employers,

The UI program is Federal-State partnership program where USDOL only sets the framework but the state administers the program under state law. The eligibility criteria for benefits vary by state and the data collected by states from claimants and employers also vary.

13. *Provide an estimate of 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 shown in Items 12 and 14).*

As explained in item 12, we estimate half of the labor will be performed by contractor staff; therefore we anticipate each state will average 120 contract programming staff hours each year. For contract programming staff, an hourly wage very close to \$150.00 per hour is used. In addition, we are assuming that there may be needs for materials, hardware and software that run to approximately \$10,000 per SWA (\$2,000 per year).

120 annual contract programmer hours x \$149.58 = \$17,949.60 estimated contract staff time per respondent per year.

\$17,949.60 contract staff time + 2,000 materials = \$19,949.60 estimated costs in contract programming and support services per respondent per year.

19,949.60 x 53 state respondents = 1,057,328.80 total estimated costs.

14. *Provide estimates of 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), and any other expense that would not have been incurred without this collection of information.*

No direct Federal costs are associated with this effort.

15. *Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.*

This is a new information collection request.

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.

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 publish a notice in the Federal Register announcing the control number when OMB approves this information collection. To the extent that it is possible, the Department will place the OMB collection number and expiration date on official guidance to states.

18. *Explain each exception to the certification statement identified in Item 19, "Certification of Paperwork Reduction Act Submission," of OMB 83-I.*

There are no exceptions.

- B. *Collection of Information Employing Statistical Methods (if Item 17 of the OMB 83-I is checked Yes, answer the questions that follow).*

This collection of information does not employ statistical methods.