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DEPARTMENT OF LABOR

Employment and Training Administration

Allocating Grants to States for Reemployment Services and Eligibility Assessments (RESEA) and Determining Outcome Payments in Accordance with Title III, Section 306 of the Social Security Act

AGENCY: Office of Unemployment Insurance (OUI), Employment and Training Administration (ETA), Department of Labor (DOL).

ACTION: Request for public comment.

SUMMARY: The Bipartisan Budget Act of 2018, Public Law 115-123 (BBA), established permanent authorization for the RESEA program by adding Section 306 to Title III of the Social Security Act (SSA). DOL is seeking state and public comments/suggestions pursuant to Section 306(f)(4), SSA, on how to allocate base funds for the RESEA program, as provided under Section 306(f)(1), SSA, and outcome payments, as provided under Section 306(f)(2), SSA.

DATES: Consideration will be given to all written comments received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Questions on this notice and responsive comments related to RESEA program funding allocation can be submitted to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue, NW, Room S-4524, Washington, DC 20210, Attention: Lawrence Burns, or by email at DOL-ETA-UI-FRN@dol.gov.

FOR FURTHER INFORMATION CONTACT: Lawrence Burns, Division of Unemployment Insurance Operations, at 202 693-3141 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at Burns.Lawrence@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The federal-state Unemployment Insurance (UI) program is a required partner in the comprehensive, integrated workforce system. Individuals who have lost employment due to a lack of suitable work and have earned sufficient wage credits may receive UI benefits if they meet initial and continuing eligibility requirements. Since 2005, DOL and participating state workforce agencies have been addressing individual reemployment needs of UI claimants and working to prevent and detect UI improper payments through the voluntary UI Reemployment and Eligibility Assessment (REA) program and, beginning in fiscal year (FY) 2015, through the voluntary RESEA program.

On February 9, 2018, the President signed the BBA, which included amendments to the SSA creating a permanent authorization for the RESEA program. These RESEA provisions are contained in Section 30206 of the BBA, enacting new Section 306 of the SSA. Section 306 also contains provisions for funding the RESEA program.

The primary goals for the RESEA program are to: improve employment outcomes for individuals that receive unemployment compensation (UC) and to reduce average duration of receipt of UC through employment; strengthen program integrity and reduce improper payments; promote alignment with the broader vision of the Workforce Innovation and Opportunity Act (WIOA), which is increased program integration and

service delivery for job seekers; and establish RESEA as an entry point to other workforce system partner programs for individuals receiving UC. Core components of RESEA that must be included as part of the initial session with a claimant are:

- UI eligibility assessment, including review of work search activities, and referral to adjudication, as appropriate, if an issue or potential issue is identified;
- Providing labor market and career information that address the claimant's specific needs;
- Enrollment in Wagner-Peyser Act funded Employment Services;
- Providing support to the claimant to develop and implement an individual reemployment plan; and
- Providing information and access to American Job Center services and providing referrals to reemployment services and training, as appropriate, to support the claimant's return to work.

In FY 2018, a total of 51 states and jurisdictions operated a RESEA program.

II. Background

Of amounts appropriated for RESEAs, the BBA specifies three uses and designates the proportion of annual appropriations to be assigned to these uses: 1) base funding (84 percent to 89 percent depending on the year) for states to operate the RESEA program, 2) outcome payments (10 percent to 15 percent of the appropriation depending on the year) designed to reward states meeting or exceeding certain criteria, and 3) up to one percent for the Secretary of Labor to use for research and technical assistance to states. With respect to the base funding, Section 306(f)(1)(A), SSA, states:

IN GENERAL.— For each fiscal year after fiscal year 2020, the Secretary shall allocate a percentage equal to the base funding percentage¹ for such fiscal year of the funds made available for grants under this section among the States awarded such a grant for such fiscal year using a formula prescribed by the Secretary based on the rate of insured unemployment (as defined in section 203(e)(1) of the federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note)) in the State for a period to be determined by the Secretary. In developing such formula with respect to a State, the Secretary shall consider the importance of avoiding sharp reductions in grant funding to a State over time.

III. Proposed Base Funding Methodology

DOL is focused on developing a base funding formula that is relatively simple to understand; uses the state’s insured unemployment rate (IUR) as the starting input variable, as required by law; incorporates other easily obtainable data; and is fair and equitable to state agencies in its application. After considering several options, DOL believes the approach that best satisfies the above-stated objectives is one that converts the states’ IUR into a measure of new beneficiaries. New beneficiaries, or claimants establishing new benefit years and receiving first payments, reflect newly unemployed claimants and encompasses the target population served by RESEAs.

¹ The term “base funding percentage” as used here is a percentage of the funds appropriated for RESEA grants to operate the program in a fiscal year. Section 306(B) defines the base funding percentage for fiscal years 2021 through 2026 as 89 percent and for fiscal years after 2026 as 84 percent.

The proposed formula multiplies the IUR for the 12-month period ending June 30 preceding the fiscal year for which funding is to be allocated by the average covered employment used to calculate a state's IUR during the same period. The resulting insured unemployment levels are then multiplied by 52 and divided by the ratio of weeks claimed to first payments. Each state's proportion of total first payments for all states is then multiplied by the amount appropriated for base funding grants. The result is the amount that DOL will make available to the state as its base funding grant subject to the possible modifications described below.

The statutory language requires the Secretary to "consider the importance of avoiding sharp reductions in grant funding to a state over time." To satisfy this requirement, DOL proposes a hold-harmless provision similar to that used for base allocations for UI administration (i.e., no state's funding will be reduced from one fiscal year to the next by more than five percent, with the resources needed to prevent sharper declines obtained by reducing funding to those states gaining the most in the calculation).

Finally, while attempting to distribute resources sufficient to administer one 12-month period's level of RESEA activity and recognizing that the statutory language appropriating these funds allows for obligation beyond the fiscal year in which they are appropriated, DOL is proposing to permit carry over balances of 25 percent from one year to the next. State agencies carrying over amounts in excess of 25 percent will have the excess amount reduced from the subsequent year's allocation, and those additional resources will be included in the distribution to states that are under the 25 percent threshold.

IV. Outcome Payments

Section 306(f)(2)(A), SSA, requires DOL to make “outcome payments” to states that meet or exceed the outcome goals for reducing the average duration of receipt of UC by improving employment outcomes. Specifically, 306(f)(2)(A) states:

IN GENERAL.—Of the amounts made available for grants under this section for each fiscal year after 2020, the Secretary shall reserve a percentage equal to the outcome reservation percentage² for such fiscal year for outcome payments to increase the amount otherwise awarded to a State under paragraph (1). Such outcome payments shall be paid to States conducting reemployment services and eligibility assessments under this section that, during the previous fiscal year, met or exceeded the outcome goals provided in subsection (b)(1) related to reducing the average duration of receipt of unemployment compensation by improving employment outcomes.

The referenced subsection (b)(1) states that one of the goals of the program is “[t]o improve employment outcomes of individuals that receive unemployment compensation and to reduce the average duration of receipt of such compensation through employment.”

DOL will publish a separate Federal Register Notice (FRN) proposing RESEA performance measures that will be used to determine eligibility for outcome payments. These measures will be based on the data sources identified below. It is DOL’s intent to

² Section 306(f)(2)(B), SSA defines the “outcome reservation percentage” as 10 percent for fiscal years 2021 through 2026 and 15 percent for fiscal years thereafter.

distribute funds reserved for outcome payments to eligible states using the same formula methodology applied to the base funding.

It is also DOL's intent to continue current RESEA data collections, including the ETA 9128, *Reemployment Services and Eligibility Assessment Workload*, and ETA 9129, *Reemployment Services and Eligibility Assessment Outcomes*. Additional information about RESEA participants, who are required to be co-enrolled with the Wagner-Peyser Act Employment Service, will be collected and reported through the WIOA Common Performance Reporting System, ETA 9172, *Participant Individual Record Layout*. This information is submitted through ETA's Workforce Integrated Performance System (WIPS). For more information about WIPS, please visit:

<https://www.doleta.gov/performance/wips/>.

V. Questions for Consideration

Section 306(f)(4), SSA, requires consultation with the states and the public in developing the allocation formula for base funding and the criteria for making the outcome payments. It also requires that the allocation formula for base funding and outcome payment criteria be made publicly available. To provide an opportunity for states and the public to submit comments and input regarding the base funding allocation and outcome payments criteria of RESEA funds to states, ETA is publishing this FRN. Below are questions commenters may wish to consider in responding to this FRN; however, responses are not limited to the suggested questions. Respondents are free to provide any input related to RESEA program funding cited in Section 306, SSA.

- What are operational concerns about the RESEA program that the Secretary should consider in developing the funding formula?

- Do you have an alternative recommendation for calculating the base allocation?
- Do you have recommendations for distributing the outcome payments?
- What specific concerns or suggestions do you have regarding the DOL proposed formula, set out in this FRN for allocating RESEA funding?
- What general concerns do you have regarding RESEA administrative funding?

Individuals wishing to provide comments, suggestions, and responses related to this FRN and concerning RESEA program funding must submit them by following the instructions set out in the ADDRESSEE section above. Submitted comments will be a matter of public record and posted on the Internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

Molly E. Conway,

Acting Assistant Secretary for Employment and Training, Labor.
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