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| EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210 | CLASSIFICATION Unemployment Insurance |
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 15-20

TO: STATE WORKFORCE AGENCIES

FROM: JOHN PALLASCH /s/
Assistant Secretary

SUBJECT: Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 –
Federal Pandemic Unemployment Compensation (FPUC) Program Operating,
Financial, and Reporting Instructions

1. **Purpose.** To provide states with operating, financial, and reporting instructions for the FPUC program authorized by Section 2104, Emergency Increase in Unemployment Compensation Benefits, of the CARES Act of 2020, Public Law (Pub. L.) 116-136.
2. **Action Requested.** The Department of Labor’s (Department) Employment and Training Administration (ETA) requests that State Workforce Administrators provide the information in this Unemployment Insurance Program Letter (UIPL) and the Attachments I through V to appropriate program and other staff in state workforce systems as they implement the Unemployment Insurance (UI)-related provisions that respond to the economic effects of the Coronavirus Disease 2019 (COVID-19).
3. **Summary and Background.**
 - a. Summary – On March 27, 2020, the President signed into law the CARES Act, which includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. Section 2104 of the CARES Act provides for a temporary emergency increase in unemployment compensation benefits, referred to as FPUC, and includes funding to states for the administration of the program.
 - b. Background – The CARES Act was designed to mitigate the economic effects of the COVID-19 pandemic in a variety of ways. The CARES Act includes provisions for providing certain benefits to individuals who have exhausted their entitlement to regular unemployment compensation (UC) and who are not eligible for regular UC, such as individuals who are self-employed or have limited recent work history.

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This UIPL focuses on Section 2104 of the CARES Act, which authorizes the temporary FPUC program. This program provides eligible individuals with \$600 per week in addition to the weekly benefit amount they receive from certain other UC programs.

Importance of Program Integrity. The programs and provisions in the CARES Act operate in tandem with the fundamental eligibility requirements of the Federal-State UI program which must be adhered to. In addition, some of the CARES Act programs include new eligibility requirements which states will need to apply. These requirements include that individuals are only entitled to benefits if they are no longer working through no fault of their own and that individuals must be able and available to work.

States play a fundamental role in ensuring the integrity of the UI program. While states have been provided some flexibilities as a result of COVID-19, those flexibilities are generally limited to dealing with the effects of COVID-19, as discussed in UIPL Nos. 10-20 and 13-20. States must ensure that individuals only receive benefits in accordance with these statutory provisions.

Further, quitting work without good cause to obtain additional benefits under the regular UI program or the CARES Act qualifies as fraud. Sections 2104(f) and 2107(e) expressly provide that if an individual has obtained these benefits through fraud, the individual is ineligible for any additional benefit payments, must pay back the benefits, and is subject to criminal prosecution under 18 U.S.C. §1001. States are expected to enforce these provisions.

The Department is actively working with states receiving funding under the Act to provide UI benefits only to those who are entitled to such benefits. The Department will also be actively engaged with its Office of the Inspector General (OIG) to ensure program integrity. The Act includes an appropriation of \$26 million to the Department's OIG (Section 2115) to carry out audits, investigations, and other oversight activities related to states' adherence to existing UI laws and policies, as well as the provisions of the Act.

4. **Guidance.** The following section identifies the types of UC benefits that an individual must be receiving to be entitled to receive FPUC and includes important program dates and details about program administration. Refer to **Attachment I** for implementing and operating instructions and **Attachment II** for general provisions for administering FPUC. Section 2104 of the CARES Act is provided in **Attachment III**. **Attachment IV** and **Attachment V** provide the Supplemental Budget Request (SBR) Application and the Instructions for Completing the SF-424 and SF-424A respectively.
 - a. **Programs which entitle an individual to receive FPUC.** This program provides an additional \$600 per week to individuals who are collecting regular UC (including Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX)), as well as the following unemployment compensation programs:

- Pandemic Emergency Unemployment Compensation (PEUC);
- Pandemic Unemployment Assistance (PUA);
- Extended Benefits (EB);
- Short-Time Compensation (STC);
- Trade Readjustment Allowances (TRA);
- Disaster Unemployment Assistance (DUA); and
- Payments under the Self-Employment Assistance (SEA) program.

A number of state laws include provisions for extending the potential duration of benefits during periods of high unemployment for individuals in approved training who exhaust benefits, or for a variety of other reasons.¹ Although some state laws call these programs “extended benefits,” the Department uses the term “additional benefits” (AB) to avoid confusion with the Federal-State EB program. FPUC is not payable to individuals who are receiving AB payments.

- b. **Important program dates.** FPUC is payable for weeks of unemployment beginning on or after the date on which the state enters into an agreement with the Department. In states where the week of unemployment ends on a Saturday, the first week for which FPUC may be paid is the week ending April 4, 2020, provided an agreement was in place no later than March 28, 2020. In states where the week of unemployment ends on a Sunday, the first week for which FPUC may be paid is the week ending April 5, 2020, provided an agreement was in place no later than March 29, 2020.

FPUC is not payable for any week of unemployment ending after July 31, 2020. Accordingly, in states where the week of unemployment ends on a Saturday, the last week that FPUC may be paid is the week ending July 25, 2020. For states where the week of unemployment ends on a Sunday, the last week that FPUC is payable is the week ending July 26, 2020.

- c. **Program administration funding for FPUC program.** The cost of these additional \$600 payments to eligible individuals each week is 100% federally funded. States may not charge employers for any FPUC benefits paid.

The FPUC program is administered through a voluntary agreement between a state and the Department. This program is available in the United States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, provided the state/territory signs an agreement with the Department. Implementation costs and ongoing administrative costs for this program are also 100% federally funded.

¹ Reference Table 4-4 of the *Comparison of State Unemployment Insurance Laws* found at <https://oui.doleta.gov/unemploy/statelaws.asp>.

If a state wishes to have the administrative costs for implementation of this program federally funded, the state must submit a SBR detailing such costs. SBRs are limited to one-time costs that are attributable to implementation of FPUC.

Permissible implementation costs include:

- Computer programming and other technology costs;
- Implementation of necessary business processes required for program implementation;
- Training and travel;
- Notices to beneficiaries; and
- Overhead related only to the above.

The basis for these estimated costs must be included in the SBR application. Calculations for costs for state staff and contractors should be shown in accordance with the SBR instructions in ET Handbook No. 336, *Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines*. States must submit the SBR application for implementation of FPUC, along with required SF-424 and SF-424A forms, by **April 21, 2020**. This may be electronically submitted to the National Office at covid-19@dol.gov, with a copy to the appropriate Regional Office. For application submission instructions refer to **Attachment IV**, SBR Application Template, and **Attachment V**, Instructions for Completing the SF-424 and SF-424A.

State agencies will be able to request on-going administrative costs for FPUC via the quarterly UI-3 report. More specific information is included in **Attachment I**, Section G, “Reporting Instructions.”

5. **Inquiries.** States should direct inquiries to the covid-19@dol.gov and copy the appropriate Regional Office.

6. **References.**

- *Coronavirus Aid, Relief, and Economic Security (CARES) Act* (Pub. L. 116-136), including Title II Subtitle A Relief for Workers Affected by Coronavirus Act;
- 5 U.S.C. Chapter 85;
- Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. §3304 note);
- Trade Act of 1974 (19 U.S.C. §2291 et seq.);
- Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. §5121 et seq.);
- Section 3304 of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. §3304);
- Section 3306(v), FUTA (26 U.S.C. §3306(v));
- Section 303 of the Social Security Act (42 U.S.C. §503);
- 20 C.F.R. Part 603;
- ET Handbook No. 336 (18th Edition), *Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines*,

[https://wdr.doleta.gov/directives/attach/ETAHandbook/ET Handbook No.336 18th Edition Change 4 acc.pdf](https://wdr.doleta.gov/directives/attach/ETAHandbook/ET_Handbook_No.336_18th_Edition_Change_4_acc.pdf);

- ET Handbook No. 384, *Unemployment Compensation for Ex-servicemembers*, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=465;
- ET Handbook No. 391, *UCFE Handbook for State Agencies*, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2233;
- ET Handbook No. 401, *UI Report Handbook*, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7774;
- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Temporary Emergency State Staffing Flexibility*, issued on April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390;
- UIPL No. 05-13, *Work Search and Overpayment Offset Provisions Added to Permanent Federal Unemployment Compensation Law by Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012*, issued January 10, 2013, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3698; and
- *Comparison of State Unemployment Insurance Laws* found at <https://oui.doleta.gov/unemploy/statelaws.asp>.

7. **Attachments.**

- Attachment I: Implementing and Operating Instructions for the FPUC Program;
- Attachment II: General Provisions for Administering the FPUC Program;
- Attachment III: Statutory Language of Section 2104 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020;
- Attachment IV: Supplemental Budget Request (SBR) Application; and
- Attachment V: Instructions for Completing the SF-424 and SF-424A.

**Implementing and Operating Instructions for the
Federal Pandemic Unemployment Compensation (FPUC) Program**

A. Introduction.

Section 2104 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 provides for a temporary emergency increase in unemployment compensation (UC) benefits, referred to as the Federal Pandemic Unemployment Compensation (FPUC) program. This program provides an eligible individual with \$600 per week in addition to the weekly benefit amount he or she receives from certain other UC programs.

The cost of these additional \$600 payments to eligible individuals each week is 100% federally funded. States may not charge employers for any FPUC benefits paid so as to impact the employer's experience rating.

The FPUC program is administered through a voluntary agreement between the state and the Department. Implementation costs and ongoing administrative costs for this program are also 100% federally funded.

This guidance explains the eligibility requirements and other administrative functions associated with the program.

B. Definitions.

This section contains the definitions of terms used throughout this document.

1. "Agreement" means the agreement between a state and the Department to administer FPUC. Under the agreement, the state agency makes payments of FPUC as the Department's agent. FPUC payments must be made in accordance with Section 2104 of the CARES Act as interpreted by the Department in these instructions and any other instructions issued by the Department.
2. "Applicable state" means, with respect to an individual, the state from which the individual is receiving compensation.
3. "Applicable state law" means the unemployment compensation law of the applicable state for an individual.
4. "Benefit year" means, with respect to an individual, the benefit year as defined in the applicable state law.
5. "Compensation" means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment. "Compensation" is also referred to as "Unemployment Compensation" or "UC."
6. "Department" means the U.S. Department of Labor.
7. "Extended compensation" means compensation (including additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85) payable for weeks of unemployment beginning in an extended benefit period to an individual under those provisions of the state law which satisfy the requirements of EUCA. This is also referred to as "Extended Benefits" or "EB".

8. “Federal Pandemic Unemployment Compensation” means the compensation payable under Section 2104 of the CARES Act and is referred to as FPUC.
9. “Pandemic Unemployment Assistance” means the compensation payable under Section 2102 of the CARES Act and is referred to as PUA.
10. “Pandemic Emergency Unemployment Compensation” means compensation payable under Section 2107 of the CARES Act and is referred to as PEUC.
11. “Regular compensation” means compensation payable to an individual under any state UC laws (including compensation payable pursuant to 5 U.S.C. chapter 85), other than extended compensation and state additional compensation. Throughout this document this is referred to as “regular UC.”
12. “Secretary” means the Secretary of Labor of the United States.
13. “State” means the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.
14. “State Additional Benefits” means compensation totally financed by a state and payable under a state law by reason of conditions of high unemployment or by reason of other special factors. This is also referred to as “AB.”
15. “State agency” means the agency of the state which administers its UC law.
16. “State law” means the UC law of a state, approved by the Secretary under Section 3304 of the Federal Unemployment Tax Act (FUTA). (26 U.S.C. §3304(a)).
17. “Week” means a week as defined in the applicable state law.
18. “Week of Unemployment” means a week of total, part-total, or partial unemployment as defined in the applicable state law, which shall be applied in the same manner to the same extent to claims filed under the requirements of the CARES Act.

C. Operating Instructions.

1. Eligibility for FPUC. For an individual to receive FPUC, the applicable state must have a signed agreement with the Department.

FPUC is payable to individuals who are otherwise entitled under state or federal law to receive regular UC for weeks of unemployment (including Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX)). FPUC is also payable to individuals receiving the following unemployment compensation programs: PEUC, PUA, EB, Short-Time Compensation (STC), Trade Readjustment Allowances (TRA), Disaster Unemployment Assistance (DUA), and payments under the Self-Employment Assistance (SEA) program.

A number of state laws include provisions extending the potential duration of benefits during periods of high unemployment for individuals in approved training who exhaust benefits, or for a variety of other reasons.² Although some state laws call these programs “extended benefits,” the Department uses the term “additional benefits” (AB) to avoid confusion with the Federal-State EB program. FPUC is not payable to individuals receiving AB payments.

² Reference Table 4-4 of the *Comparison of State Unemployment Insurance Laws* found at <https://oui.doleta.gov/unemploy/statelaws.asp>.

2. FPUC Eligibility and Relation to Other Types of Benefit Payments. Individuals receive FPUC payments concurrently with payments under those programs identified above. Refer to UIPL 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, for additional information on how FPUC interacts with other programs authorized under the CARES Act.

States that are unable to immediately pay benefits the week following the execution of the agreement with the Department to operate the program must provide retroactive payments to individuals eligible for FPUC for the weeks they would have been entitled.

3. Beginning and Ending Dates of the FPUC Program in a State. Under Section 2104(e) of the CARES Act, FPUC is payable in a state for weeks of unemployment beginning after the date on which the state enters into an agreement with the Department and ending with weeks of unemployment ending on or before July 31, 2020.

Accordingly, in states where the week of unemployment ends on a Saturday, the last week that FPUC is payable is the week ending July 25, 2020. For states where the week of unemployment ends on a Sunday, the last week that FPUC is payable is the week ending July 26, 2020.

4. Termination of FPUC Agreement. Either party, upon 30-days written notice, may terminate the FPUC agreement. In the case of termination, the FPUC period will end 30 days from the date the state notifies the Secretary of its election to terminate the FPUC program. No FPUC will be payable for weeks which begin after the date the termination of the agreement is effective. However, FPUC is payable to individuals receiving the benefits under section C.1. for any weeks that end prior to the termination.
5. Nonreduction Rule. An agreement will no longer apply and FPUC will not be payable in a state upon the Department’s determination that the state’s method governing the computation of regular UC has been modified in a manner such that the number of weeks (the maximum benefit entitlement), or the average weekly benefit amount of regular UC, which will be payable during the period of the agreement (determined by disregarding any FPUC amount) will be less than the number of weeks, or the average weekly benefit amount, of regular UC which would otherwise have been payable during such period under the state law in effect on January 1, 2020. “Maximum benefit entitlement” means the amount of regular UC payable to an individual with respect to the individual’s benefit year.
6. Disregard of FPUC for Purposes of Medicaid and State Children's Health Insurance Program (SCHIP). Under Section 2104(h) of the CARES Act, the monthly equivalent of any FPUC amount paid to an individual must be disregarded when determining income for any purpose under programs established under Titles XIX and Title XXI of the Social Security Act (SSA) (42 U.S.C. §1396 et seq., §1397aa et seq.).

7. Record Maintenance and Disposal of Records.
 - a. Record Maintenance. Each state must maintain records during the administration of the FPUC program and will make all such records available for inspection, examination, and audit by such federal officials, employees as the Department may designate, or as may be required by the law. Reference ET Handbook No. 401, *UI Report Handbook* for details.
 - b. Disposal of Records. Each state must maintain records created during the administration of the FPUC program for three years after final action (including appeals or court action) on the payments, or for less than the three-year period if copied by microphotocopy or by an electronic imaging method. At the end of the three-year period, the FPUC records shall be transferred to state accountability under the conditions for the disposal of records that apply to UCFE and UCX records, as explained in Chapter X of ET Handbook No. 391 (1994 Edition) (OMB No. 1205-0179) and Chapter I of ET Handbook No. 384 (1994 Edition) (OMB No. 1205-0176).
8. Disclosure of Information. Information in records made and maintained by the state agency while administering the CARES Act must be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular UC. This information may be disclosed under provisions of the applicable state law meeting the requirements of 20 C.F.R. Part 603. As provided under 20 C.F.R. Part 603.4(b), the confidentiality requirements do not apply when such information is being provided in the aggregate, provided it cannot be combined with other publicly-available information to reveal any such identifying particulars about an individual or the individual's past or present employer.
9. Inviolate Rights to FPUC. Individuals' rights to FPUC must be protected in the same manner and to the same extent as the individuals' rights to regular UC are protected under the applicable state law. Such measures must include protection of individuals' rights to FPUC from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment. In the same manner and to the same extent, individuals must be protected from discrimination and obstruction in regard to seeking, applying for, and receiving FPUC.

D. Processing Payments for FPUC.

1. Notification to Claimants. The state must notify a potentially eligible individual of his or her entitlement to FPUC. Such notification should include both the beginning and ending dates for the FPUC program. As noted above, in states where the week of unemployment ends on a Saturday, the last week that FPUC is payable is the week ending July 25, 2020. For states where the week of unemployment ends on a Sunday, the last week that FPUC is payable is the week ending July 26, 2020. States have flexibility in the method of providing this notification. States will decide eligibility for FPUC based on eligibility for the underlying program eligibility; individuals do not have to separately apply for FPUC.

2. Applicability of State Law and Underlying Eligibility Requirements. Except where inconsistent with the CARES Act or with the operating instructions promulgated to carry out the CARES Act, all terms and conditions of the state UC law or any federal law (related to the programs listed below) applicable to claims for and payment of regular UC or any of the underlying benefits listed below apply to the payment of FPUC. An individual is not entitled to receive FPUC for a week in which the individual is ineligible for regular UC or the underlying benefit from another federal program. Applicable federal law is cited below.

- a. UCFE: 5 U.S. Code CHAPTER 85;
- b. UCX: 5 U.S. Code CHAPTER 85;
- c. PEUC: Section 2107 of the CARES Act;
- d. PUA: Section 2102 of the CARES Act;
- e. EB: Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. §3304 note);
- f. STC: Section 3306(v), FUTA (26 U.S.C. §3306(v));
- g. TRA: Trade Act of 1974 (19 U.S.C. §2291 et seq.);
- h. DUA: Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C. §5121 et seq.); or
- i. SEA: Section 3306(t), FUTA (26 U.S.C. §3306(t)).

3. Allowable Methods of Payment. States must issue payments of FPUC as soon as administratively feasible. States have some flexibility in how they issue FPUC payments; states may pay the additional \$600 either:

- a. as an amount which is paid at the same time and in the same manner as any regular UC otherwise payable for the week involved; or
- b. at the option of the state, by payments which are made separately from, but on the same weekly basis as, any regular UC otherwise payable.

4. Payment Calculations for FPUC.

Section 2104(b)(1) of the CARES Act requires the additional \$600 FPUC to be paid to individuals “in amounts and to the extent that they would be determined if the State law of the State were applied with respect to any week for which the individual is . . . otherwise entitled under the State law to receive regular compensation.” This includes regular UC, PEUC, PUA, EB, STC, TRA, DUA, and SEA.

a. Determining entitlement to FPUC.

- i. States will calculate the weekly benefit amount, for the programs outlined above.
- ii. If the individual is eligible to receive at least one dollar (\$1) of underlying benefits for the claimed week, the claimant will receive the full \$600 FPUC.

- iii. Note: Individuals whose underlying benefit payments are intercepted to pay debts (*e.g.*, overpayments) are eligible for the \$600 FPUC, even if 100% of their weekly benefit amount is intercepted. Benefits intercepted to pay debts are considered to be compensation for the week.
5. Child support. Child support obligations must be deducted from FPUC payments in the same manner and to the same extent as these obligations are deducted from regular UC.
6. Taxable Income. The \$600 FPUC is taxable. Therefore, states must include FPUC when preparing 1099Gs, and must, consistent with Section 3304(a)(18), FUTA (26 U.S.C. §3304(a)(18)), withhold taxes from the weekly benefit amount and from the \$600 FPUC, when an individual elects to have taxes withheld.

E. Appeals and Hearings.

Section 2104(f)(4) of the CARES Act requires that FPUC determinations are subject to review in the same manner and to the same extent as determinations under the state UC law, and only in that manner and to that extent.

Individuals are automatically eligible for FPUC if they are eligible for the underlying benefit. Therefore, the only grounds to deny FPUC to an individual is the individual's ineligibility for one of these benefits. If an individual files an appeal on the state's determination to deny an individual FPUC, all documents relevant to the denial of the underlying benefit determination must be transmitted to the appeals division, in addition to the determination documentation for the state's decision to deny FPUC. The appeals division must consider the merits of the state's denial of the underlying benefit when determining eligibility for FPUC payments.

F. Fraud and Overpayments.

1. Fraud. Under Section 2104(f)(1) of the CARES Act, an individual commits fraud if he or she knowingly has made or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of FPUC to which such individual was not entitled.

An individual who has committed fraud and was subsequently disqualified for a week that included a payment of FPUC is therefore ineligible for additional FPUC in accordance with the provisions of the applicable state UC law relating to fraud in connection with a claim for UC and is subject to prosecution under 18 U.S.C. §1001.

Section 2104(f) only provides for an individual being ineligible for future benefits in accordance with the applicable provisions of state UC law, it does not permit the establishment of a penalty on FPUC that was fraudulently obtained, so states may not impose fraud penalty provisions on FPUC payments.

2. Overpayments. An FPUC overpayment occurs when an individual has received an FPUC payment to which he or she is not entitled. If an individual is deemed ineligible for regular compensation in a week and the denial creates an overpayment for the entire weekly benefit amount, the FPUC payment for the week will also be denied. And the FPUC overpayment must also be created.

Section 2104(f)(2) of the CARES Act requires individuals who have received FPUC overpayments to repay these amounts to the state agency, except as provided in the Waiver of Overpayments section below.

3. Opportunity for a Hearing. Under 2104(f)(3)(B) of the CARES Act, a state may not require repayment of an FPUC overpayment until it determines that the payment was an overpayment, the individual was provided notice of the determination, the individual had an opportunity for a fair hearing, and the determination is final.
4. Waiver of Overpayments. The state has authority to waive repayments of FPUC if the payment was without fault on the part of the individual and such repayment would be contrary to equity and good conscience.
5. Recovery Provisions. If the overpayment amount is not subject to waiver, the state agency must recover the amount of FPUC to which an individual was not entitled in accordance with the same procedures as apply to recovery of overpayments of regular UC paid by the state.

FPUC benefits may only be offset from other state and federal UC for three years after the date such individual received the FPUC payment to which he or she was not entitled. After three years, a state may continue to recover FPUC overpayments through means other than benefit offsets, according to state law.

6. Benefit Offsets. Consistent with section 2104(f)(3), a state must recover FPUC overpayments from any additional FPUC payments to which the individual is entitled and from any other UC payments under state or federal law (including PEUC and PUA from the CARES Act).

Additionally, FPUC payments must be reduced to recover overpayments from any other state and federal unemployment benefit programs, if the state has a cross-program offset agreement in place under Section 303(g)(2), SSA (42 U.S.C. §503(g)(2)). A state may not offset more than 50% from the FPUC payment to recover overpayments from other state and federal unemployment benefit programs.

A states has significant flexibility in the way they implement the offset requirement. While a state must attempt to recover the full amount of the overpayment, a state may limit the amount that will be deducted from each payment as noted on page 4 of UIPL No. 05-13, *Work Search and Overpayment Offset Provisions Added to Permanent Federal Unemployment Compensation Law by Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012.*

G. Financial Information.

1. **Accessing FPUC Benefit Funds.** Under the CARES Act, each state that has entered into an agreement to pay FPUC will be provided a monthly allotment projected to equal 100% of the estimated amount of FPUC to be paid to individuals by the state under the agreement. A state's drawdown of allotments will be monitored, and monthly amounts will be adjusted as needed. A state will request funds from a general fund account established by the U.S. Treasury to pay all FPUC amounts attributable to all applicable claim types. All requests will go through the Automated Standard Application for Payments (ASAP) system. Drawdown requests must adhere to the funding mechanism stipulated in the Treasury-State Agreement executed under the Cash Management Improvement Act of 1990. Requests will be funded in the same manner as all ASAP transactions elected by the states (Credit Gateway FEDWIRE or ACH to the state benefit payment account).
2. **FPUC Administrative Costs.** On-going FPUC administrative costs will be reimbursed through the quarterly UI-3 report (OMB No. 1205-0132).

H. Reporting Instructions.

1. **ETA 2112.** (OMB No. 1205-0154). Transactions involving FPUC must be reported in the aggregate on the electronic ETA 2112 report. Information reflecting FPUC transactions must be reported as follows:
 - (1) **Line 23b.** Federal Pandemic Unemployment Compensation. Report on line 23b column F the amount of FPUC funds transferred from the general fund account to the state benefit payment account.
 - (2) **Line 42b.** Federal Pandemic Unemployment Compensation. Report on line 42b column F the net amount of FPUC paid.

Transactions should not be reported in column E, Unemployment Trust Fund Account.
2. **ETA 5159.** (OMB No. 1205-0010). Payment amounts reported by states on the ETA 5159 report, for any tier of benefits, should not include the supplemental FPUC payments.
 - (1) **Line 302 on all ETA 5159 reports.** Amounts Paid. Report amounts of UC paid but do not include the supplemental FPUC payments.
 - (2) **Line 402 on all ETA 5159 reports.** Amounts Paid. Report amounts of UC paid but do not include the supplemental FPUC payments.
3. **UI-3.** (OMB No. 1205-0132). Include on line 26 (labeled "Other") any on-going FPUC administrative costs. This amount must be identified in the UI-3 comments section as "FPUC admin = \$\$\$."

4. ETA 227. (OMB No. 1205-0173). States will report FPUC overpayments (established and recovered) in the comments section of the ETA 227 report as “FPUC Est. = \$\$\$” and “FPUC Coll. = \$\$\$.”

Office of Management and Budget (OMB) Approval. Section 2116(a), Division B of Title II of the CARES Act provides that “Chapter 35 of Title 44, United States Codes, (commonly referred to as the “Paperwork Reduction Act of 1995”), shall not apply to the provisions of, and the amendments made by, this subtitle.” As the OMB approval process is waived for these reporting instructions, these instructions are considered final.

**General Provisions for Administering the Federal Pandemic Unemployment
Compensation (FPUC) Program**

CERTIFICATIONS AND ASSURANCES

1. **Compliance with Federal Requirements.** States must comply with the provisions contained in the states' Agreements with the Department to administer FPUC and with all applicable FPUC funding instruments. States must perform such duties and functions in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200 and 2 C.F.R. 2900 applicable to all grants and cooperative agreements. Additionally, the Department's administrative requirements for grants and cooperative agreements at 29 C.F.R. Parts 31, 32, 38, and 98 apply to grant funds provided for these activities.
2. **Prohibition on Subsidization of Forced or Indentured Child Labor.** States, consistent with Section 103 of the Further Consolidated Appropriations Act, 2020, Public Law 116-94, and in accordance with Executive Order No. 13126, must not obligate or expend funds made available to administer FPUC for the procurement of goods, mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the U.S. Department of Labor prior to enactment of the Department's 2008 appropriation.
3. **Salary and Bonus Pay Limitations.** States, in compliance with Section 101 of the Further Consolidated Appropriations Act, 2020, Public Law 116-94, must not use funds provided for FPUC administration to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under Section 101 of Public Law 109-149. This limitation shall not apply to vendors providing goods and services as defined in 2 C.F.R. 200, Subpart F – Audit Requirements. Where states are recipients of such funds, states may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from sub recipients of such funds, taking into account FPUC, including the relative cost-of-living in the state, the compensation levels for comparable state or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs. *See* Training and Employment Guidance Letter (TEGL) No. 5-06 for further clarification. The incurrence of costs and receiving reimbursement for these costs under this award certifies that the Grantee has read the above condition and is in compliance.
4. **Veterans' Priority Provisions.** This program, funded by the U.S. Department of Labor, is subject to the provisions of the "Jobs for Veterans Act" (JVA), Public Law 107-288 (38 U.S.C §4215). The JVA provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services. The Veterans' priority is implemented by 20 C.F.R. Part 1010 (73 Fed. Reg. 78132, Sept. 19, 2008). Please note that to obtain priority service a veteran must meet the program's eligibility requirements. TEGL No. 10-09 (November 10, 2009) provided general guidance on the scope of the veterans priority statute and its effect on current employment and training programs. In addition to TEGL 10-

09, a series of questions and answers related to priority of service is posted at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2816 for fifteen (15) programs administered by ETA.

The Workforce Innovation and Opportunity Act (WIOA) State Plan requires states to describe the policies and strategies in place to ensure, pursuant to the JVA, that priority of service is provided to veterans (and certain spouses) who otherwise meet the eligibility requirements for all employment and training programs funded by the U.S. Department of Labor and administered by ETA. See *Required Elements for Submission of the Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act*. OMB Control No. 1205-0522. In addition, the states were required to provide assurances that they will comply with the Veterans' Priority Provisions established by the JVA. States must adhere to JVA requirements, as interpreted by the Department, in administering FPUC.

5. **Certifications and Assurances.** In administering FPUC, states must fully comply with the State Quality Service Plan (SQSP) assurances. These SQSP assurances are detailed in Chapter 1, Part VIII of the "Unemployment Insurance State Quality Service Plan (SQSP) Assurances," ET Handbook No. 336 (18th Edition, Change 4).

- A. **Assurance of Equal Opportunity (EO).**
- B. **Assurance of Administrative Requirements and Allowable Cost Standards.**
- C. **Assurance of Management Systems, Reporting, and Recordkeeping.**
- D. **Assurance of Program Quality.**
- E. **Assurance on Use of Unobligated Funds.**
- F. **Assurance of Prohibition of Lobbying Costs.**
- G. **Drug-Free Workplace.**
- H. **Assurance of Contingency Planning.**
- I. **Assurance of Conformity and Compliance.**
- J. **Assurance of Automated Information Systems Security.**
- K. **Assurance of Confidentiality.**

The Office of Management and Budget (OMB), SF 424 B *Assurances-Non- Construction Programs*, signed and submitted by each state with its State Quality Service Plan annual submission, also apply.

Statutory Language of Section 2104 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020

SEC. 2104. EMERGENCY INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) Federal-State Agreements.--Any State which desires to do so may enter into and participate in an agreement under this section with the Secretary of Labor (in this section referred to as the "Secretary"). Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) Provisions of Agreement.--

(1) Federal pandemic unemployment compensation.--Any agreement under this section shall provide that the State agency of the State will make payments of regular compensation to individuals in amounts and to the extent that they would be determined if the State law of the State were applied, with respect to any week for which the individual is (disregarding this section) otherwise entitled under the State law to receive regular compensation, as if such State law had been modified in a manner such that the amount of regular compensation (including dependents' allowances) payable for any week shall be equal to--

(A) the amount determined under the State law (before the application of this paragraph), plus

(B) an additional amount of \$600 (in this section referred to as "Federal Pandemic Unemployment Compensation").

(2) Allowable methods of payment.--Any Federal Pandemic

Unemployment Compensation provided for in accordance with paragraph (1) shall be payable either--

(A) as an amount which is paid at the same time and in the same manner as any regular compensation otherwise payable for the week involved; or

(B) at the option of the State, by payments which are made separately from, but on the same weekly basis as, any regular compensation otherwise payable.

(c) Nonreduction Rule.--

(1) In general.--An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that the number of weeks (the maximum benefit entitlement), or the average weekly benefit amount, of regular compensation which will be payable during the period of the agreement (determined disregarding any Federal Pandemic Unemployment Compensation) will be less than the number of weeks, or the average weekly benefit amount, of the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on January 1, 2020.

(2) Maximum benefit entitlement.--In paragraph (1), the term "maximum benefit entitlement" means the amount of regular unemployment compensation payable to an individual with respect to the individual's benefit year.

(d) Payments to States.--

(1) In general.--

(A) Full reimbursement.--There shall be paid to each State which has entered into an

agreement under this section an amount equal to 100 percent of--

(i) the total amount of Federal Pandemic Unemployment Compensation paid to individuals by the State pursuant to such agreement; and

(ii) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(B) Terms of payments.--Sums payable to any State by reason of such State's having an agreement under this section shall be payable, either in advance or by way of reimbursement (as determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(2) Certifications.--The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(3) Appropriation.--There are appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary for purposes of this subsection.

(e) Applicability.--An agreement entered into under this section shall apply to weeks of unemployment--

(1) beginning after the date on which such agreement is entered into; and

(2) ending on or before July 31, 2020.

(f) Fraud and Overpayments.--

(1) In general.--If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal Pandemic Unemployment Compensation to which such individual was not entitled, such individual--

(A) shall be ineligible for further Federal Pandemic Unemployment Compensation in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2) Repayment.--In the case of individuals who have received amounts of Federal Pandemic Unemployment Compensation to which they were not entitled, the State shall require such individuals to repay the amounts of such Federal Pandemic Unemployment Compensation to the State agency, except that the State agency may waive such repayment if it determines that--

(A) the payment of such Federal Pandemic Unemployment Compensation was without fault on the part of any such individual; and

(B) such repayment would be contrary to equity and good conscience.

(3) Recovery by state agency.--

(A) In general.--The State agency shall recover the amount to be repaid, or any part thereof, by deductions from any Federal Pandemic Unemployment Compensation payable to such individual or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the Federal Pandemic Unemployment

Compensation to which they were not entitled, in accordance with the same procedures apply to the recovery of overpayments of regular unemployment benefits paid by the State.

(B) Opportunity for hearing.--No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(4) Review.--Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(g) Application to Other Unemployment Benefits.--Each agreement under this section shall include provisions to provide that the purposes of the preceding provisions of this section shall be applied with respect to unemployment benefits described in subsection (i)(2) to the same extent and in the same manner as if those benefits were regular compensation.

(h) Disregard of Additional Compensation for Purposes of Medicaid and CHIP.--The monthly equivalent of any Federal pandemic unemployment compensation paid to an individual under this section shall be disregarded when determining income for any purpose under the programs established under titles XIX and title XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) .

(i) Definitions.--For purposes of this section--

(1) the terms “compensation”, “regular compensation”, “benefit year”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(2) any reference to unemployment benefits described in this paragraph shall be considered to refer to--

(A) extended compensation (as defined by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970);

(B) regular compensation (as defined by section 85(b) of the Internal Revenue Code of 1986) provided under any program administered by a State under an agreement with the Secretary;

(C) pandemic unemployment assistance under section 2102; and

(D) pandemic emergency unemployment compensation under section 2107.

Supplemental Budget Request (SBR) Application

Instructions: States must complete the application using the suggested format and instructions below for the projects/activities for which the state is seeking funding. This application is to be combined with a completed SF-424 and an SF-424A covering all projects/activities.

| Unemployment Insurance Supplemental Budget Request Abstract | | |
|---|-----------------------|--------------------------|
| State Name: | | |
| Total Funds Requested for All Projects: | | |
| Name, Title, and Address of Grant Notification Contact (<i>Typically the State Workforce Agency Administrator</i>) Name: Title: Address: | | |
| Name, E-Mail Address, and Phone Number of SBR Project or Fiscal Manager Name: E-Mail Address: Telephone Number: | | |
| Provide the following information for each project (<i>add additional rows as needed</i>): | | |
| Project Name | Total Cost of Project | Proposed Completion Date |
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|----------------------------|--|--|--|
| Project Description | | | |
| | | | |
| Project Timeline | | | |
| | | | |

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|---|----------------------|----------------------|--------------|
| Description of Costs | | | |
| State Agency Staff Costs: | | | |
| Type of Position | Total Hours | Cost Per Hour | Total |
| | | | |
| Contract Staff Costs: | | | |
| Type of Position | Total Hours | Cost Per Hour | Total |
| | | | |
| Hardware, Software and Telecommunications Equipment: | | | |
| Item Description | Cost Per Item | Quantity | Total |
| | | | |
| | | | |
| | | | |
| Other Costs: | | | |
| Item | Cost | Explanation | |
| | | | |

SECTION INSTRUCTIONS

Name of Project: Provide the name of the proposed project.

Amount of Funding Request for this Project: Provide the total amount of funds requested in this individual project.

State Contact: Provide name, telephone number, and e-mail address of the individual who can answer any questions relating to the proposal.

Project Description: Provide a brief description of the projects/activities for which the state seeking funding.

Project Timeline: Provide a list of the dates and the milestones for this project.

Description of Costs: Provide an explanation of all costs included in the project.

- **State Agency Staff Costs:** Use the table format provided in this attachment to request state staff to support project implementation.
- **Contract Staff Costs:** Use the table format provided in this attachment to request contract staff to support project implementation.
- **Hardware, Software, and Telecommunications Equipment:** Provide an itemized list of hardware, software, and telecommunications equipment including the cost per item and the number of each item requested. A description of each item must provide any information needed to identify the specific item and a description of the size and capacity of each item if applicable.
- **Other:** Identify each item of cost not covered elsewhere and provide the expected cost per item. The need for each item must be explained.

Instructions for Completing the SF-424 and SF-424A

I. Application for Federal Assistance (SF-424)

Use the current version of the form for submission. Expired forms will not be accepted. SF-424, Expiration Date 12/31/2022, Office of Management and Budget (OMB) Control No. 4040-0004 (Grants.gov).

<http://www.grants.gov/web/grants/forms/sf-424-family.html>.

Section # 8, APPLICANT INFORMATION:

- Legal Name: The legal name must match the name submitted with the System for Award Management (SAM). Please refer to instructions at <https://www.sam.gov>.
- Employer/Tax Identification Number (EIN/TIN) : Input your correct 9-digit EIN and ensure that it is recorded within SAM.
- Organizational DUNS: All applicants for Federal grant and funding opportunities are required to have a 9-digit Data Universal Numbering System (D-U-N-S®) number, and must supply their D-U-N-S® number on the SF-424. Please ensure that your state is registered with the SAM. Instructions for registering with SAM can be found at <https://www.sam.gov>. Additionally, the state must maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration. To remain registered in the SAM database after the initial registration, there is a requirement to review and update the registration at least every 12 months from the date of initial registration or subsequently update the information in the SAM database to ensure it is current, accurate, and complete. Failure to register with SAM and maintain an active account will result in a rejection of your submission.
- Address: Input your complete address including Zipcode+4; Example: 20110-831. For lookup, use link at <https://tools.usps.com/go/ZipLookupAction!input.action>.
- Organizational Unit: Input appropriate Department Name and Division Name, if applicable.
- Name and contact information of person to be contacted on matters involving this application. Provide complete and accurate contact information including telephone number and email address for the point of contact.

Section # 9, Type of Applicant 1: Select Applicant Type: Input “State Government”.

Section # 10, Name of the Federal Agency: Input “Employment and Training Administration”.

Section # 11, Catalog of Federal Domestic Assistance Number: Input “17.225”; **CFDA Title:** Input “Unemployment Insurance”.

Section # 12, Funding Opportunity Number and Title: Input “UIPL No. 15-20, Federal Pandemic Unemployment Compensation Implementation Administrative Grants”.

Section # 13, Competition Identification Number: Leave Blank.

Section # 14, Areas Affected by Project: Input the place of performance for the project implementation; Example “NY” for New York.

Section # 15, Descriptive Title of Applicant’s Project: Input Federal Pandemic Unemployment Compensation Implementation Administrative Grants.

Section # 16, Congressional Districts of:

- a. Applicant: Input the Congressional District of your home office. For lookup, use link at www.house.gov with Zipcode + 4.
- b. Program/Project: Input the Congressional District where the project work is performed. If it’s the same place as your home office, input the congressional district for your home office. For lookup, use link at www.house.gov with Zipcode+4.

Section # 17, Proposed Project:

- a. Start Date: Input a valid start date for the project (earliest start date will be March 27, 2020);
- b. End Date: Input a valid end date for the project.

Section # 18, Estimated Funding (\$): Input the estimated funding requested. Ensure that the funding requested matches the TOTALS in Section B – Budget Categories of the SF-424A.

Section #s 19 – 20: Complete as per instructions for Form SF-424.

Section # 21, Authorized Representative: Please select the “I AGREE” check box and provide complete information for your authorized signatory including contact information such as telephone number and email address. If your Authorized Representative has changed from your previous application submission for this program, please include a letter from a higher level leadership authorizing the new signatory for the application submission.

Remember to get the SF-424 signed and dated by the Authorized representative.

II. **Budget Information -Non-Construction Programs (SF-424A)**

Use the current version of the form for the submission. Expired forms will not be accepted. SF 424A, Expiration Date 02/28/2022, OMB Control No. 4040-0006
<https://apply07.grants.gov/apply/forms/readonly/SF424A-V1.0.pdf>.

Section B – Budget Categories: Ensure that TOTALS in Section 6, Object Class Categories matches the Estimated Funding requested in the SF-424.