

The two-year plan, in turn, must describe WIAC recommendations and the extent to which the plan incorporates them.

The Department anticipates that the WIAC will accomplish its objectives by, for example: (1) Studying workforce and labor market information issues; (2) seeking and sharing information on innovative approaches, new technologies, and data to inform employment, skills training, and workforce and economic development decision making and policy; and (3) advising the Secretary on how the workforce and labor market information system can best support workforce development, planning, and program development.

Pertinent information about the WIAC, including recommendations, reports, background information, agendas, and meeting minutes, can be accessed at the WIAC's website located at <https://www.dol.gov/agencies/eta/wioa/wiac>.

Section 15(d)(2)(B) of the Wagner-Peyser Act requires the WIAC to have 14 members, appointed by the Secretary, consisting of:

(1) Four members who are representatives of lead State agencies with responsibility for workforce investment activities, or State agencies described in sec. 4 of the Wagner-Peyser Act (an agency designated or authorized by the Governor to cooperate with the Secretary of Labor), who have been nominated by such agencies or by a national organization that represents such agencies;

(2) Four members who are representatives of the State workforce and labor market information directors affiliated with the State agencies responsible for the management and oversight of the workforce and labor market information system, as described in Wagner-Peyser Act sec. 15(e)(2), who have been nominated by the directors;

(3) One member who is a representative of providers of training services under WIOA sec. 122 (Identification of Eligible Providers of Training Services);

(4) One member who is a representative of economic development entities;

(5) One member who is a representative of businesses, who has been nominated by national business organizations or trade associations;

(6) One member who is a representative of labor organizations, who has been nominated by a national labor federation;

(7) One member who is a representative of local workforce development boards, who has been

nominated by a national organization representing such boards; and

(8) One member who is a representative of research entities that use workforce and labor market information.

The Secretary must ensure that the membership of the WIAC is geographically diverse, and that no two members appointed under clauses (1), (2), or (7) above represent the same State. Please note, the members whom the Secretary appoints to fill these vacancies will serve the balance of their predecessors' unexpired terms, in this case from the date of appointment until March 9, 2023. Members of the Council will serve on a voluntary and generally uncompensated basis but will be reimbursed for travel expenses to attend WIAC meetings, including per diem in lieu of subsistence, as authorized by the Federal travel regulations.

The WIAC is a permanent advisory council and, as such, is not governed by the Federal Advisory Committee Act's (FACA) sec. 14, on termination of advisory committees. In other respects, however, WIAC membership will be consistent with the FACA requirement that membership be "fairly balanced in terms of the points of view represented and the functions to be performed" (5 U.S.C. App. 2, sec. 5(b)(2)), as specified in Wagner-Peyser sec. 15(2)(B) & (C), and the requirement that members come from "a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions" of the WIAC (41 CFR 102-3.60(b)(3)). Under the FACA regulation, the composition of the WIAC will, therefore, depend upon several factors, including: (i) The WIAC's mission; (ii) the geographic, ethnic, social, economic, or scientific impact of the WIAC's recommendations; (iii) the types of specific perspectives required; (iv) the need to obtain divergent points of view on the issues before the WIAC, such as those of consumers, technical experts, the public at large, academia, business, or other sectors; and (v) the relevance of State, local, or tribal governments to the development of the WIAC's recommendations (41 CFR 102-3, Subpart B, Appendix A).

To the extent permitted by FACA and other applicable laws, WIAC membership should also be consistent with achieving the greatest impact, scope, and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation, and gender identity.

*Nominations Process:* Nominations for a representative of businesses must be nominated by national business

organizations or trade associations. Please refer to the special requirements listed in the section above regarding the nomination process for the other seven WIAC representative categories.

To nominate an individual for appointment to the WIAC, please submit, to one of the addresses listed below, the following information:

- A copy of the nominee's resume or *curriculum vitae*;
- A cover letter that provides your reason(s) for nominating the individual, the constituency area that they represent (as outlined above in the WIAC membership identification discussion), and their particular expertise for contributing to the national policy discussion on: (1) The evaluation and improvement of the nationwide workforce and labor market information system and statewide systems that comprise the nationwide system; and (2) how the Department of Labor and the States will cooperate in the management of those systems, including programs that produce employment-related statistics and State and local workforce and labor market information; and
- Contact information for the nominee (name, title, business address, business phone, and business email address).

In addition, the cover letter must state the nomination is being made in response to this **Federal Register** Notice and the nominee (if nominating someone other than oneself) has agreed to be nominated and is willing to serve on the WIAC. Nominees will be appointed based on their qualifications, professional experience, and demonstrated knowledge of issues related to the purpose and scope of the WIAC, as well as diversity considerations. The Department will publish a list of the new WIAC members on the WIAC's website at <https://www.dol.gov/agencies/eta/wioa/wiac>.

**Angela Hanks,**

*Acting Assistant Secretary for Employment and Training Administration, Labor.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Agency Information Collection Activities; Comment Request; Benefit Accuracy Measurement (BAM) Program

**ACTION:** Notice.

**SUMMARY:** The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, "Benefit Accuracy Measurement (BAM) Program." This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

**DATES:** Consideration will be given to all written comments received by April 25, 2022.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Rhonda Cowie by telephone at 301-693-3821 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at [cowie.rhonda.m@dol.gov](mailto:cowie.rhonda.m@dol.gov).

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, Room S-4520, 200 Constitution Avenue NW, Washington, DC 20210, by email at [cowie.rhonda.m@dol.gov](mailto:cowie.rhonda.m@dol.gov), or by Fax at 202-693-3975.

**SUPPLEMENTARY INFORMATION:** DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Since 1987, all State Workforce Agencies (SWA), except the U.S. Virgin Islands, have been required by regulation at 20 CFR part 602 to operate BAM programs to assess the accuracy of their unemployment insurance (UI) benefit payments in three programs: State UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-servicemembers (UCX). Beginning in 2001, BAM was modified to include the sampling and investigation of UI claims

denied for monetary, separation, or nonseparation issues.

BAM is one of the tools DOL uses to measure and reduce improper payments in the UI program. By investigating small representative weekly samples of both paid and denied UI claims, each SWA calculates a reliable estimate of the number and dollar value of proper and improper payments; the number of proper and improper denials of claims for UI benefits; the rates of occurrence of these proper and improper payments and denials; and the error types, error causes, and the parties that are responsible for the errors.

**Paid Claims Accuracy.** Each week, SWAs select random samples of both intrastate and interstate original payments (including combined wage claims) made for a week of UI benefits under the State UI, UCX, and UCFE programs. A sample of 360 cases per year are pulled in the 10 SWAs with the smallest UI program workloads (defined as the average annual UI weeks paid during the last five years) and 480 cases per year in the other SWA. SWA BAM staff audit each selected claim, examining all aspects of a claimant's eligibility to receive UI benefits during the sampled week. The findings are entered into an automated database that is maintained on a computer located in each SWA.

**Denied Claims Accuracy (DCA).** Each week, SWAs select random samples from three separate sampling frames constructed from the universes of UI claims for which eligibility was denied for monetary, separation, and nonseparation reasons. All SWAs sample a minimum of 150 cases of each denial type in each calendar year. SWA BAM staff members review agency records and contact claimants, employers, and all other relevant parties to verify information in agency records or obtain additional information pertinent to the determination that denied eligibility for UI benefits. Unlike the investigation of paid claims, in which all prior determinations affecting claimant eligibility for the compensated week selected for the sample are evaluated, the investigation of denied claims is limited to the issue upon which the denial determination is based. The findings are entered into an automated database that is maintained on a computer located in each SWA.

DOL maintains a database of each SWA's BAM paid and denied claims cases, minus any personally identifying information. DOL uses BAM data to measure SWA performance with respect to UI payment integrity and to meet the DOL's reporting requirements of the Payment Integrity Information Act of

2019 and the Government Performance and Results Act. DOL also relies heavily on BAM data for information on UI operations, such as claims filing method, UI wage replacement rates, and claimant characteristics. The results of the BAM survey are reported annually on the ETA website at the following link: <https://oui.doleta.gov/unemploy/bqc.asp>. The Payment Integrity Information Act of 2019 (31 U.S.C. 3352) and Section 303(a)(6) of the Social Security Act authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205-0245. Submitted comments will also be a matter of public record for this ICR 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.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, (e.g., permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Unemployment Insurance Benefit Accuracy Measurement.

Form: BAM State Operations Handbook (ET Handbook 395, 5th edition).

OMB Control Number: 1205–0245.

Affected Public: State Workforce Agencies (Primary), individuals, businesses, and not-for-profit institutions.

Estimated Number of Respondents: 181,633.

Frequency: Varies.

Total Estimated Annual Responses: 228,745.

Estimated Average Time per Response: Varies.

Estimated Total Annual Burden Hours: 618,084 hours.

Total Estimated Annual Other Cost Burden: \$0.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Angela Hanks,

Acting Assistant Secretary for Employment and Training, Labor.

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Labor Certification Process for the Temporary Employment of H–2A and H–2B Foreign Workers in the United States: Annual Update to Allowable Monetary Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

**SUMMARY:** The Employment and Training Administration (ETA) of the Department of Labor (DOL) is issuing this notice to announce the annual updates to allowable monetary charges employers of H–2A workers, in occupations other than herding or production of livestock on the range, may charge these workers when the employer provides three meals per day. This notice also announces the maximum travel subsistence meal reimbursement a worker with receipts may claim under the H–2A and H–2B programs. Finally, this notice includes a

reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence.

**DATES:** This notice is effective on February 23, 2022.

#### FOR FURTHER INFORMATION CONTACT:

Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

**SUPPLEMENTARY INFORMATION:** The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A or H–2B nonimmigrant temporary workers in the U.S. unless the petitioner has received an H–2A or H–2B labor certification from DOL. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. See 8 U.S.C. 1101(a)(15)(H)(ii)(a) and (b), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5) and (6); 20 CFR 655.1(a) and 655.100.

#### Allowable Meal Charge

H–2A agricultural employers who are employing workers in occupations other than herding or production of livestock on the range must offer and provide each worker three meals per day or provide the workers free and convenient cooking facilities.<sup>1</sup> See 20 CFR 655.122(g). Where the employer provides the meals, the job offer must state the charge, if any, to the worker for such meals. See *id.* The amount of meal charges is governed by 20 CFR 655.173.

By regulation, DOL has established the methodology for determining the maximum amount that H–2A agricultural employers may charge workers for providing them with three meals per day. See 20 CFR 655.173(a). This methodology allows for annual

<sup>1</sup> H–2A employers must provide workers engaged in herding or the production of livestock on the range meals or food to prepare meals without charge or deposit charge. See 20 CFR 655.210(e).

adjustments of the previous year's maximum allowable charge based on the updated Consumer Price Index for All Urban Consumers for Food (CPI–U for Food), not seasonally adjusted. See *id.* The maximum amount employers may charge workers for providing meals is adjusted annually by the 12-month percentage change in the CPI–U for Food for the prior year (*i.e.*, between December of the year just concluded and December of the prior year). See *id.* The Office of Foreign Labor Certification (OFLC) Certifying Officer may also permit an employer to charge workers a higher amount for providing them with three meals a day if the higher amount is justified and sufficiently documented by the employer, as set forth in 20 CFR 655.173(b).

The percentage change in the CPI–U for Food between December 2020 and December 2021 was 6.3 percent.<sup>2</sup> Thus, the annual update to the H–2A allowable meal charge is calculated by multiplying the current allowable meal charge (\$13.17) by the 12-month percentage change in the CPI–U for Food between December 2020 and December 2021 ( $\$13.17 \times 1.063 = \$14.00$ ). Accordingly, the updated maximum allowable charge under 20 CFR 655.122(g) and 655.173 is \$14.00 per day, and an employer is not permitted to charge a worker more than \$14.00 per day unless the OFLC Certifying Officer approves a higher charge, as authorized under 20 CFR 655.173(b).<sup>3</sup>

#### Reimbursement for Travel-Related Subsistence

H–2B and H–2A employers must pay reasonable travel and subsistence costs, including the costs of meals and lodging, incurred by workers during travel to the worksite from the place from which the worker has come to work for the employer and from the place of employment to the place from which the worker departed to work for the employer, as well as any such costs incurred by the worker incident to obtaining a visa authorizing entry to the United States for the purpose of H–2A or H–2B employment. See 20 CFR 655.122(h)(1) and (2) and 655.20(j)(1)(i) and (ii).

Specifically, an H–2A employer is responsible for providing, paying in advance, or reimbursing a worker for the reasonable costs of daily travel-related subsistence between the employer's

<sup>2</sup> Consumer Price Index—December 2021, published January 12, 2022, at [https://www.bls.gov/news.release/archives/cpi\\_01122022.pdf](https://www.bls.gov/news.release/archives/cpi_01122022.pdf).

<sup>3</sup> In 2021, the maximum allowable charge under 20 CFR 655.122(g) and 655.173 was \$13.17 per day. See 86 FR 13756 (Mar. 10, 2021).