

<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Unemployment Insurance
	<b>CORRESPONDENCE SYMBOL</b> OUI/DFAS
	<b>DATE</b> January 19, 2024

**ADVISORY:** UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 20-20, Change 1

**TO:** STATE WORKFORCE AGENCIES

**FROM:** LENITA JACOBS-SIMMONS /s/  
Deputy Assistant Secretary

**SUBJECT:** Instructions for Reconciling Funds Made Available to States Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act - Section 2105

1. **Purpose.** To provide states with instructions for reconciling funding under Section 2105 of the CARES Act, as amended: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week.

2. **Action Requested.** The U.S. Department of Labor’s (Department’s) Employment and Training Administration (ETA) requests that State Workforce Agency (SWA) Administrators provide the information in this Unemployment Insurance Program Letter (UIPL) and the Attachment to appropriate program, financial, and other SWA staff to reconcile the funding states received from the Department with the activity that has occurred under CARES Act Section 2105 provisions to date. **States are expected to complete these reconciliation activities and provide all requested supporting documentation back to the Department no later than June 30, 2024.**

3. **Summary and Background.**

- Summary - This UIPL provides direction and instruction to states on the process to reconcile funding associated with certain provisions of the CARES Act Section 2105, as amended, that provided relief to states to help offset the financial impacts of the coronavirus pandemic.

States must complete reconciliation activities, ensure accuracy of ETA 2112 reports, follow instructions to request additional federal funds or return excess federal funds, submit the “Section 2105 Information Collection” form found in Attachment I to this UIPL, and ensure appropriate record maintenance and disposal of records.

States are expected to complete these reconciliation activities and provide all requested supporting documentation including Attachment I of this UIPL, to the Department as

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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described in Section 4.a, no later than June 30, 2024. Any excess funding must be returned prior to the submission of the “Section 2105 Information Collection” form.

- Background – 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 Division A, Title II, Subtitle A. Section 2105 of the CARES Act provided for temporary full federal funding of the first week of regular unemployment compensation (UC) for states with no waiting week. The CARES Act was designed to mitigate the economic effects of the COVID-19 pandemic in a variety of ways. UIPL No. 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, summarizes the various provisions within the CARES Act.

Under Section 2105, a state could voluntarily enter into an agreement with the Department for the Federal Government to provide full reimbursement of regular UC paid to individuals by the state for their first week of regular unemployment, as well as any additional administrative expenses incurred by the state because of the agreement. To enter into such an agreement, Section 2105(b) of the CARES Act requires that compensation be paid to an individual for their first week of regular unemployment without serving a waiting week. States that did not have a waiting week provision in their existing state UC law were eligible to participate. States with a non-compensable waiting week provision in their existing state UC law were eligible to participate if they:

- waived their waiting week provision pursuant to the Families First Coronavirus Response Act, Division D, Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), section 4102(a)<sup>1</sup>, as described in Section 5 of UIPL No. 13-20, or if they amended their state law to provide that compensation be paid to individuals for their first week of regular unemployment without serving a waiting week, and
- they had executed an agreement in effect with the Department providing for the Section 2105 reimbursement. See UIPL No. 20-20, Section 4.b.

States that met these requirements were eligible for full reimbursement of regular UC paid to individuals by the state for their first week of regular unemployment, as well as any additional administrative expenses incurred by the state because of the agreement. Reimbursement was available for weeks of unemployment beginning after the date on which the Department entered into an agreement with the Department and ended with weeks of unemployment ending on or before December 31, 2020.

Section 2105 was modified by the Consolidated Appropriations Act, 2021, which includes the Continued Assistance for Unemployed Workers Act of 2020 (Continued

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<sup>1</sup> Section 4102(a) of EUISSA amended section 903 of the Social Security Act (SSA) (42 U.S.C. § 1103) to add a provision that “[t]he State has demonstrated steps that it has taken or will take to ease eligibility requirements and access to unemployment compensation for claimants, including waiving...the waiting week.” See SSA section 903(h)(3)(B) (42 U.S.C. § 1103(h)(3)(B)).

Assistance Act) set out in Division N, Title II, Subtitle A. This Act extended the reimbursement under Section 2105 through weeks of unemployment ending on or before March 14, 2021, and amended the amount of federal funding reimbursement from 100 percent to 50 percent for weeks of unemployment ending after December 31, 2020. *See* UIPL No. 09-21, Section 4.b.iv.

Section 2105 was further modified by the American Rescue Plan Act of 2021 (ARPA). This Act extended the reimbursement under Section 2105 to weeks of unemployment ending on or before September 6, 2021. It also amended the amount of federal funding to retroactively establish 100 percent reimbursement for weeks of unemployment ending after December 31, 2020. *See* UIPL No. 14-21, Section 4.c.iv.

States that chose to implement CARES Act programs each signed an Agreement Implementing the Relief for Workers Affected by Coronavirus Act (Agreement). Under the Agreement, each state agreed to do the following:

- In paragraph VII of the Agreement, to “use all money paid to the state pursuant to this agreement for the payment of benefits, and related administrative costs, for the purpose for which the money was paid to the state, and [to] return to the United States Treasury, upon request of the Department of Labor, any such money (a) if the Department of Labor finds that the money is not needed for such purpose or that the money has been used for a purpose other than that for which it was paid, or (b) on termination of this Agreement.”
- In paragraph VIII of the Agreement, to “take such action as reasonably may be necessary to recover for the account of the United States all benefit amounts erroneously paid and restore any lost or misapplied funds paid to the state for benefits or the administration of this Agreement.”
- In paragraph IV of the Agreement, to “maintain such records pertaining to the administration of each provision of the Act identified in paragraph XIV<sup>2</sup> as the Department of Labor requires, and [to] make all such records available for inspection, examination, and audit by such federal officials or employees as the Department of Labor may designate or as may be required by law.”

The Department reimburses states through direct transfers based on figures reported on lines 16F, 25, 42d, and 47E in the ETA 2112 UI Financial Transaction Summary report. *See* also UIPL No. 20-20, Section 4.e. States are reminded that the Agreement only permits the state to use the Section 2105 funds for the payment of benefits for the first waiting week. Accordingly, if the state is made whole for the first week payments through a different provision (e.g., Sections 2103, 2108 of the CARES Act), the state cannot also be reimbursed under Section 2105 since these funds may not be used to pay first waiting week benefits a second time.

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<sup>2</sup> Paragraph XIV of the Agreement requires the state to implement the provisions of CARES Act Section 2105 and “to participate in the provision’s program and abide by the requirements in the statute, operating instructions and guidance.”

4. **Guidance.** The funding period for the Department to reimburse states under Section 2105 of the CARES Act is closing. The Department will reconcile its accounts and return any unused funds to Treasury by the end of Fiscal Year (FY) 2024. Therefore, states must ensure that they have appropriately reported deposits and expenditures and that all unused or otherwise recovered funds associated with the identified provisions are returned to the Federal Unemployment Account (FUA) no later than **June 30, 2024**.

States must review the following instructions and take the necessary steps to ensure that they are reimbursed for appropriate weekly benefit amounts and to return unused/recovered balances to support the Department's end of FY 2024 reconciliation of these accounts. This activity includes completing reconciliation activities, ensuring accuracy of ETA 2112 reports, following instructions to request additional federal funds or return excess federal funds, submitting the "Section 2105 Information Collection" form found in Attachment I to this UIPL, and ensuring appropriate record maintenance and disposal of records.

- **Reconciliation Activities.** If your state waived the waiting week, or did not have a waiting week in effect, and entered into an agreement with the Department for reimbursement, then, as stated in Section 4.e.i. of UIPL No. 20-20, benefit disbursements for the first compensable week which qualified for federal funding under Section 2105 of the CARES Act should be reported separately on the ETA 2112 Financial Transaction Summary report.
  - i. States may generate complete transaction reports through the Department of Treasury's Automated Standard Application for Payments (ASAP) system interface to determine historical drawdown activity from the "WD for 2105 Temporary Comp" sub-account. If the sum of the figures reported as disbursements under Row 42d of the ETA 2112 report does not match the amount drawn by the state in the "WD for 2105 Temporary Comp" sub-account, then ETA will not accept the state's submitted information collection.
    - A. *Double reimbursement scenarios are prohibited.* If the state is made whole for the first week payments through a different provision (e.g., Sections 2103 or 2108 of the CARES Act), the state cannot also be reimbursed under Section 2105 since it may not use the funds for paying first week benefits a second time. The excess funding amount, including any "double reimbursed" funding must be reported on the "2105 Information Collection" form included with this UIPL as Attachment I. The state must also correct the amounts reported on the ETA 2112 and return all excess funding.
    - B. *Federal Employee/Ex-Service-Member Claims.* Claims under the Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX) may be reimbursed only as provided by 5 USC §§ 8509 and 8521(b). Accordingly, CARES Act Section 2105 funds may not be used to reimburse these claims. Additionally, as noted in UIPL No. 18-20, the Federal Government is not an

employer included in Section 3309(a), FUTA (26 U.S.C. § 3309(a)), and, therefore, is not included in the emergency relief under Section 903(i), SSA.<sup>3</sup> Thus, states must reconcile any errors in this regard in accordance with the timeline set forth in the UIPL. Specifically, states must submit the ETA 191, Statement of Expenditures and Adjustments of Federal Funds for Unemployment Compensation for Federal Employees and Ex-Servicemembers, for all UCFE and UCX benefits paid with CARES Act funds and must draw down the reimbursement for the first week of benefits from the Federal Employee Compensation Account (FECA). If the state erroneously reported the first week of UCFE or UCX benefits in row 42d of the ETA 2112 report, these amounts should be subtracted from row 42d and added to the appropriate lines for UCFE (row 46) or UCX (row 36) respectively. The state must return all funding associated with Section 2105 for benefits reimbursable from FECA to avoid double reimbursement for the same benefit payment. See section 4.d. of this UIPL for instructions to return excess funding.

C. *Period of Weeks of Eligibility Subject to Reimbursement.* States may be reimbursed for the first week of regular UI benefits paid for the period set out in Section 2105 of the CARES Act, as amended. This provision provides for federal reimbursement for weeks of unemployment ending between April 4, 2020 (or the week ending date after which the state entered into agreement with the Department) and September 6, 2021. States must ensure that the weeks reimbursed fall within this covered timeframe.

- ii. Amounts in excess of the reconciled Section 2105 provision funding, including overpayment recoveries identified as amounts paid under this provision, must be reported back to ETA on the “Section 2105 Information Collection” form provided as Attachment I of this UIPL.

The amounts reported on the “Section 2105 Information Collection” form must also reconcile with the amounts reported as disbursements and deposits on the ETA 2112 report as outlined below. Excess amounts must then be returned to FUA through the funds return process outlined in Section 4.d. of this UIPL.

If excess funding remains allocated under the “WD for 2105 Temporary Comp” sub-account, but is not drawn as of June 30, 2024 and is in excess of what has been reported as disbursed on the ETA 2112, then ETA will direct Treasury to de-allocate the excess funding.

- iii. Any additional funding required by the state must be reported as an additional funding requirement on the “Section 2105 Information Collection” form provided as Attachment I of this UIPL. See Section 4.c. of this UIPL for additional details.

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<sup>3</sup> CARES Act section 2103(b) amended SSA section 903 (42 U.S.C. § 1103) by adding subsection 903(i).

- iv. The reconciliation of amounts paid for the first compensable week as drawn from or reimbursed through later state drawdowns in the ASAP system under the “WD for 2105 Temporary Comp” sub-account must be maintained as support for the completed reconciliation and supplied as appropriate for any future monitoring or audit activity.
- **ETA 2112 Reporting Requirements.** States must ensure that activities are appropriately reported on the ETA 2112 report. For a state’s reconciliation process to be determined complete, the state must ensure that the amount drawn from ASAP under the “WD for 2105 Temporary Comp” sub-account matches the total amount reported on the ETA 2112 report as deposited to the state unemployment trust fund account and disbursed from the state’s benefit payment account. Due to the timing of the reconciliation process and the 3-year revision window for the ETA 2112 report, states may report updated figures in the September report for each Federal Fiscal Year during which the activity occurred. This means states may report revisions reflecting activity that occurred between March 2020 and September 30, 2020, in the September 2020 ETA 2112 report, FY 2021 activity in the September 2021 report, and FY 2022 activity in the September 2022 report.
  - i. ***Reporting disbursement of benefits for the first week of regular UC.*** As directed in Section 4.e. of UIPL 20-20, disbursements of benefits for the first week of regular UC must be reported on row 42d (columns C and F) of the ETA 2112 report. The amount reported here should not be included in the amount reported on row 31 as net UI benefits so that the total disbursements during the period are not duplicated. Recovered Federal funds for the first week of regular UC (such as overpayment recoveries) should be netted out (subtracted from) of disbursements reported on row 42d.
  - ii. ***Reporting federal funds received for the first week of regular UC.*** Federal funds received for the first week of regular UC must be reported on line 25 of the ETA 2112 Report labeled “Other Sources #1” (columns C and E) and included in the intra-account transfer fields (row 16, column F and row 47, column E) as appropriate. The amount for the first week of regular UC should be identified in the comments section of the report. The total amount reported and identified as deposited on row 25 must match the amount the state has drawn down from ASAP under the “WD for 2105 Temporary Comp” sub-account. Recovered federal funds for the first week of regular UC must be returned to Treasury and should be netted out of (subtracted from) the deposits on row 25 (columns C and E) along with corresponding adjustments to the intra-account transfer lines (row 16, column F and row 47, column E) to account for the funding.
- **Requesting Additional Federal Funds.** If a state determines that additional funding is required following the completion of the reconciliation process, the state must report this information to ETA. The amount of additional funding identified and requested must be outlined on the “Section 2105 Information Collection” form included with this UIPL as Attachment I.

States must ensure that this additional funding amount is supported by the amounts reflected in the ETA 2112 report as described above and the net draws reflected on Treasury's transaction records. Additional funding requests must be submitted to ETA no later than **June 30, 2024**.

Any additional funding to be provided will be subject to sequestration as reimbursement of prior state costs. This will reduce the amount of funding by the rate of sequestration in effect during the Fiscal Year in which the funding is provided. The Department publishes a UIPL providing the rate of sequestration in effect for each Fiscal Year. The FY24 UIPL is currently in development.

- **Returning Excess Federal Funds:** The preferred method to return excess funds is via ACH using the ASAP.gov website. To initiate a return using this method, the state must select the "Return ACH Payment" option under the "Payment Requests" tab of the website. For assistance returning funding through ASAP, states may contact ASAP Customer Support at [asaphelpdesk@fiscal.treasury.gov](mailto:asaphelpdesk@fiscal.treasury.gov).

A return via ACH using the ASAP.gov website will not be possible if the state's drawdown from ASAP was completed using Fedwire or if the state's bank account does not permit debit transactions. If a return via ACH using the ASAP.gov website is not possible, the state must contact the Unemployment Trust Fund team with Treasury's Bureau of Fiscal Service at [UTF@fiscal.treasury.gov](mailto:UTF@fiscal.treasury.gov) to discuss returning the funds via a Fedwire bank-to-bank transaction or completing a book transfer return from the state's UI account to the appropriate program under the FUA account.

**States must have returned all excess funding on or before June 30, 2024, and prior to the submission of the "Section 2105 Information Collection" form.**

- **Submitting the "Section 2105 Information Collection" form.** Once the state has completed the reconciliation process as outlined in Section 4.a. through d. of this UIPL and compiled supporting documentation from those steps, the state should complete the "Section 2105 Information Collection" form included as Attachment I of this UIPL. On this form, the state will indicate if any additional funding is required and include the amount of additional funding needed.

The "Section 2105 Information Collection" form should be submitted by **June 30, 2024** and sent via email to Attention: Division of Fiscal and Actuarial Services through the **OUI EMAIL ADDRESS** at [eta-ui-inquiries@dol.gov](mailto:eta-ui-inquiries@dol.gov).

- **Record Maintenance and Disposal of Records.** The state must maintain CARES Act program payment data as required by the Department.
  - i. **Record Maintenance.** Each state will maintain records on the administration of CARES Act programs 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 (5th edition), UI Report Handbook for details.

ii. **Disposal of Records.** The electronic/paper records created in the administration of the CARES Act programs must be maintained by the state 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 micro photocopy or by an electronic imaging method. At the end of the three-year period, CARES Act program 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).

- **OMB Information Collection Statement.** In general, under the Paperwork Reduction Act of 1995 (PRA), no person is required to respond to a collection of information unless such collection displays a valid OMB control number. However, Section 2116 of the CARES Act provides that the PRA does not apply to Subtitle A of Title II of Division A of the CARES Act.

5. **Inquiries.** Please direct inquiries to the appropriate ETA Regional Office.

6. **References.**

- Sections 2105, 2103, and 2108 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. 116-136, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (<https://www.congress.gov/116/plaws/publ136/PLAW-116publ136.pdf>);
- Consolidated Appropriations Act, 2021 (Pub. L. 116-260), including Division H, Title II, Subtitle A, Chapter 1 (“Continued Assistance to Unemployed Workers”) (<https://www.congress.gov/116/plaws/publ260/PLAW-116publ260.pdf>);
- Families First Coronavirus Response Act (Pub. L. 116-127), including Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) (<https://www.congress.gov/116/plaws/publ127/PLAW-116publ127.pdf>);
- Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) (<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title26-section3304&num=0&edition=prelim>);
- Federal Unemployment Tax Act (FUTA), 26 U.S.C. § 3301 et seq. (<https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title26-chapter23&saved=%7CZ3JhbnVsZWlkOIVTQy1wcmVsaW0tdGl0bGUyNi1zZWN0aW9uMzMwMQ%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim>);
- Social Security Act (SSA), 42 U.S.C. § 1103 ([https://www.govinfo.gov/app/details/USCODE-1996-title42/USCODE-1996-title42-chap6-subchapIX\\_2-sec1103](https://www.govinfo.gov/app/details/USCODE-1996-title42/USCODE-1996-title42-chap6-subchapIX_2-sec1103));
- 5 U.S.C. Chapter 85, Subchapter II, Unemployment Compensation for Ex-Servicemembers (5 U.S.C. §§ 8521-8525) (the UCX law))



<https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title5-chapter85&edition=prelim>);

- 5 U.S.C. Chapter 85, Subchapter I, Unemployment Compensation for Federal Employees (5 U.S.C. §§ 8501-8509);  
[https://uscode.house.gov/view.xhtml?req=\(title:5%20section:8501%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title5-section8501\)&f=treesort&edition=prelim&num=0&jumpTo=true](https://uscode.house.gov/view.xhtml?req=(title:5%20section:8501%20edition:prelim)%20OR%20(granuleid:USC-prelim-title5-section8501)&f=treesort&edition=prelim&num=0&jumpTo=true));
- UIPL No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-14-21>;
- UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) – Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-09-21>;
- UIPL No. 20-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Operating, Financial, and Reporting Instructions for Section 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week*, issued April 30, 2020, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-20-20>;
- UIPL No. 18-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes*, issued April 27, 2020, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-18-20>;
- UIPL No. 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, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-14-20>;
- UIPL 13-20, *Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020*, issued March 22, 2020, <https://www.dol.gov/agencies/eta/advisories/unemployment-insurance-program-letter-no-13-20>.
- ET Handbook No. 384, *Handbook on Unemployment Compensation for Ex-Servicemembers (UCX) (1994 edition)*, <https://www.dol.gov/agencies/eta/advisories/handbooks/et-handbook-no-384>;
- ET Handbook No. 391, *Unemployment Compensation for Federal Employees (UCFE) Instructions for State Agencies (1994 edition)*, <https://www.dol.gov/agencies/eta/advisories/handbooks/et-handbook-no-391>; and
- ET Handbook No. 401, 5<sup>th</sup> Edition Revised *ETA Handbook No. 401, Unemployment Insurance Reports Handbook*, <https://www.dol.gov/agencies/eta/advisories/handbooks/et-handbook-no-401-5th-edition>.

7. **Attachment(s).**

- **Attachment I:** Section 2105 Information Collection Form