

UCFE Instructions for Federal Agencies

Unemployment Compensation for Federal Employees

U.S. Department of Labor
Employment and Training Administration
Office of Unemployment Insurance

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Chapter I INTRODUCTION

1. Program Description.

Subchapter I of chapter 85, title 5 of the United States Code (U.S.C.), as amended by Public Law 94-566, 90 Stat. 2667, 5 U.S.C. 8501-8509, provides for a permanent program of unemployment compensation for unemployed Federal civilian employees (UCFE). This program provides a weekly income for a limited period of time to unemployed Federal civilian workers who qualify, to help them meet basic needs while searching for employment.

Benefits are paid by the States, through more than 1700 State employment (ES) and unemployment insurance (UI) claims offices, from funds provided by the Federal Government. No payroll deductions are made for UI protection.

Benefits are provided unemployed Federal civilian workers in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable under the unemployment compensation (UC) law of the State if their Federal service and Federal wages had been included as employment and wages under that State law. All State laws require that an individual have qualifying earnings during a past period specified by the law; file a claim and report regularly as directed; and be able to work and available for work. Denial of benefits until the individual becomes reemployed and earns a specific amount of wages, or a denial of benefits for a period of time specified by State law, will result if the unemployed Federal worker quit his/her job without good cause, was fired for misconduct connected with the work, or refuses a suitable job without good cause. These benefit determinations are made based on wage and separation information and documents provided by the unemployed Federal employee and the Federal agency. Appeal rights are provided the unemployed worker if he/she is denied benefits. If the denial is based on information about the worker's Federal service furnished by the Federal agency employer, the worker may request a review of the information. A Federal agency may also appeal the award of benefits to a former employee. However, all appeals or requests for review must be filed within legal time limits established by State law.

An individual's weekly benefit amount and the number of weeks benefits may be paid are determined by State law based on the individual's prior earnings. Some State laws increase the weekly amount by allowances for dependents. Most States pay a maximum of 26 weeks. Income while unemployed may affect an individual's eligibility for UI. In some States, benefits are reduced or denied if the individual receives pay for unused leave or severance pay. Federal law requires all States to reduce benefits, if the unemployed worker is receiving a pension, retirement pay, or any other periodic payment attributable to a base period employer.

To file a claim, unemployed Federal civilian workers go to their nearest State ES office or UI claims office. Claims may be filed in every State, the District of Columbia, Puerto Rico, and the Virgin Islands. Benefit rights generally are determined by the State where the unemployed Federal civilian worker had his/her last official duty station. However, if the unemployed worker's last official station was outside the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands, the law of the State in which he/she files the first claim will determine his/her benefit

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rights. (There are other rules which can change the assignment to another State, cancel or withdraw the wage assignment when a benefit year is not established. See Appendix B, UCFE Regulations, Section 609.8 for detailed information concerning assignment of UCFE wages.)

While the payment of UCFE benefits in the same amount and under the same terms and conditions as State UI benefits results in different treatment of former Federal employees among the States it permits identical treatment within a State for former Federal employees and former private company/business employees.

2. The Relationship of UCFE to Other Unemployment Insurance (UI) Programs.

The Federal-State UI program, which Congress created in 1935, allows each State to establish its UC laws in conformity with broad Federal requirements. Therefore, State laws are not uniform and the eligibility and disqualification provisions of the various State UI programs vary considerably as State legislatures enact provisions that they consider appropriate for the State.

All State laws provide compensation for wage loss suffered by unemployed individuals who have had an attachment to the labor force and who are not subject to disqualification. The extent of such attachment necessary to meet the minimum requirements for monetary entitlement is established by State law and is measured in terms of total weeks worked and/or wages earned in employment covered by the State law in a recent period (usually 1 year) specified in the state law as the "base period." Under most State laws, the base period is the first four of the last five completed calendar quarters prior to the filing date of the new claim. The amount and duration of benefits to which an individual is entitled varies according to the formula in the law of the State.

To be eligible for benefits, a person must be unemployed, or working less-than-full-time, with earnings less than an amount specified in the state law. In addition, he/she must be ready, willing, and able to work, and, in some States, actively seeking work, and must not be disqualified for any reason specified in the State law.

Generally, all State law provisions apply to claims filed under the UCFE program. However, there are interpretations that may not be made by State officials and must be made by the Secretary of Labor. In such cases, the State Employment Security Agency (SESA) administers the Secretary's decision under its law.

The UCFE claimant may participate in other programs for the payment of benefits. These programs are described below:

a. Federal-State Extended Benefits (EB)

At times of economic downturns when the unemployment rate reaches a specified level as determined by State law, the duration of benefits are extended under the Federal-State EB program. In such event, benefits to individuals filing under the UCFE program will be extended.

The EB program was established by the Federal-State Extended Unemployment Compensation Act of 1970, and is generally financed 50-50 by the Federal and State governments. As a condition of tax offset credit under the Federal Unemployment Tax Act, a State law must provide for the

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payment of EB during periods of high unemployment to eligible individuals as prescribed under the Act.

EB provisions apply to claims under the UCFE program, except, all benefits paid are charged to the Federal agency. The Secretary's regulations which implement the EB program are published at 20 CFR Part 615.

b. Additional Compensation/Benefits (AB)

Additional Compensation/Benefits (AB) is an extension of benefits under State law by reason of high unemployment or other factors. These benefits are totally financed by the State for State covered workers. Federal agencies must reimburse the cost of these benefits to UCFE claimants.

c. Emergency or Temporary Extended Benefit Programs

From time-to-time, special Federal emergency or temporary extended benefit programs are enacted during economic downturns. Such programs differ in their specifics but usually provide for some number of additional weeks of UC to individuals who have exhausted their rights to regular and other extended compensation programs.

d. Interstate Arrangement for Combining Employment and Wages (CWC)

The Combined Wage or CWC arrangement implements the requirements of Section 3304(a) (9) (B) of the Internal Revenue Code of 1986. The Interstate Arrangement for Combining Employment and Wages is published at 20 CFR Part 616.

The CWC arrangement provides a system whereby an unemployed worker with covered employment and wages in more than one State could elect to combine wages from all such States to satisfy the wage qualification (or weeks) requirements of the paying State, or as a means of increasing the weekly or maximum benefit amount (MBA). A condition for State law approval, all "States" are required to participate in the CWC arrangement. Federal wages, both civilian and military, may be combined with State covered wages under this arrangement.

Benefits paid are charged to the State whose covered wages have been used to establish the entitlement. Charges bear the same ratio to the total benefits paid as wages from the transferring State bear to the total wages used in determining the claim.

When Federal wages are transferred, the transferring State is not billed for its share of the benefits. Instead, benefits that otherwise would have been chargeable to the transferring State are charged directly to the Federal account by the paying State.

Claims under this arrangement are filed under the intrastate and interstate programs.

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e. Interstate Benefit Payment Plan (IBPP)

The IBPP is an agreement to which the States voluntarily subscribe. Unlike other programs which describe a type of benefit such as UCFE, Unemployment Compensation for Ex-Servicemembers (UCX), State, etc., the Interstate Benefit Program (IB) describes a method for handling claims filed under all other programs on an interstate basis as opposed to intrastate.

The IBPP provides a method by which States act as agents for each other in taking and forwarding information pertaining to claims to the State (liable) in which the individual had covered employment or has an existing claim on file and who otherwise may be deprived of benefits because of their absence from the State.

For some claims filed under this program, Federal agencies may receive a request for information from one State requesting response to another State. This occurs under a further cooperative arrangement between a few States, with the same base period and similar requirements, to initiate the request for wage and separation information for each other when a claim is filed as a means to reduce the length of time between the date of claim and the receipt of wage and separation information.

Until 1970, the Social Security Act (SSA) contained no provisions relating to the payment of benefits to individuals who no longer resided in the State in which wage and benefit credits were earned. In 1970, a provision was added to the SSA to prohibit the denial or reduction of benefits solely on the basis that the claim is filed from another State (or contiguous country with whom the United States has an agreement). However, the program continues to operate under the voluntary agreement.

By agreement between the governments of Canada and the United States, Canada participates in the IBPP with all States on a reciprocal basis. No other foreign country currently participates in the IBPP.

f. Approved Training

Section 3304(a) (8) of the Social Security Act prohibits the denial of benefits to an individual (for reasons relating to unavailability for work, active search for work, or refusal to accept work) who is in a State approved training program. Therefore, a former Federal employee in benefit status and attending State approved training would not usually be denied benefits for failure to leave training to accept a reinstatement or appointment with the Federal agency.

3. General Administration.

The U.S. Department of Labor (DOL), SESAs, and Federal agencies all have responsibilities for the administration of the UCFE program.

a. Responsibilities of the U.S. Department of Labor

Federal law (5 U.S.C. 8501-8509) establishes the Secretary of Labor as the authority responsible for interpretation of the UCFE law (including the determination of what constitutes Federal service and wages for UCFE purposes), promulgation of regulations to implement and carry out the purposes of the law, and for administration of the program including the payment of benefits, if

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necessary. Therefore, the construction of 5 U.S.C. 8501-8509 is the sole responsibility of the DOL. The Secretary's regulations which implement the UCFE program are set forth at 20 CFR Part 609. The Federal law and regulations are reprinted as an Appendix A and B, respectively, to these instructions. The Secretary's coverage interpretations (Federal service and wages) are addressed in greater detail in CHAPTER III.

Any questions concerning interpretation of the law, the regulations, DOL instructions for the administration of the program, or coverage of Federal service and wages for UCFE purposes should be submitted to:

U.S. Department of Labor
Employment and Training Administration
Unemployment Insurance Service, Attn. TEUMI
200 Constitution Ave., N.W.
Washington, D.C. 20210

Federal law (5 U.S.C. 8502) allows the Secretary of Labor to enter into an agreement with a State, or an agency administering the UC law of a State, to determine and pay compensation claimed under this program in the same amount and under the same terms and conditions' as apply to claims filed under the State law.

The Secretary has agreements with all States and all States and jurisdictions have approved laws. Therefore, State UI offices in each State, the District of Columbia, Puerto Rico and the Virgin Islands take and pay claims filed by former Federal employees and determine their eligibility to receive unemployment benefits.

Federal law (5 U.S.C. 8503) further provides that, in the absence of an agreement with a State or the agency administering such State's UC law, the Secretary will determine and pay benefits, in accordance with such State's law, to individuals who, except for the lack of an agreement, would have been payable under such State's law. "State law" as used in this context means the UC law of a State approved by the Secretary of Labor under Section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)).

The DOL, Employment and Training Administration (ETA), Unemployment Insurance Services (UIS), reviews, on request, Forms ES-931, Request for Wage and Separation Information, and other documents where the Federal agency indicates that the claimant's employment was not "Federal service" for UCFE purposes, when there is no prior DOL coverage ruling. In such instances, DOL examines the relevant facts to determine if coverage is consistent with the applicable UCFE provision and issues a coverage ruling advising the Federal and State agencies' of the Secretary's determination.

In instances where a Secretary's coverage decision has been issued and a Federal agency submits a Form ES-931 with a Federal Service indication that is contrary, to the Secretary's prior coverage decision, the SESA will follow the Secretary's coverage decision. (All facts must be the same as those contained in the coverage decision.)

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The Department also receives, for review, a copy of each judicial or administrative decision ruling on an individual's entitlement to payment of UCFE or credit for a waiting period. This review, along with the coverage reviews discussed above, help to assure, insofar as possible, the uniform interpretation and application of the UCFE Act throughout the United States.

b. Responsibilities of SESAs.

Full responsibility for State administration of the UCFE program lies with the head of the SESA. The Secretary of Labor has agreements with SESAs for the administration of the various UC programs. The DOL provides funds to SESAs for the proper administration of the UC program. Within the DOL's oversight responsibility, the ETA has recommended the designation, within the SESA's Central Office, of an individual responsible for managing UCFE operations within the framework of regular State UC operating units. The individual in charge of this coordination should be delegated sufficient authority and staff assistance to ensure compliance with UCFE instructions, and he/she should be responsible for the following activities:

1. UCFE Activities:

- a.) Ensuring the prompt preparation and distribution of appropriate procedural instructions, both in the Central Office and in local (or area) offices.
- b.) Making on-site appraisals of the effectiveness of the programs, including adherence to procedures, with particular emphasis on local (or area) office operations.
- c.) Developing methods to ensure the proper use of Federal civilian and military wage credits when applicable.
- d.) Making recommendations for the training of claims interviewers and claims-processing personnel, including persons performing monetary and nonmonetary determination functions.
- e.) Ensuring uniformity of interpretation, including the requirement that UCFE claimants be treated the same as other claimants (i.e., State UC) with respect to monetary eligibility, ability to work, availability for work, and disqualifications under the State UI law.
- f.) Ensuring that the central office maintains a listing of Federal agency addresses and keeps them current by updating from Forms ES-931 and/or the issuance of Unemployment Insurance Program Letters (UIPLs) and providing those addresses to their operating facilities.
- g.) Notifying the Louisiana Claims Control Center (LCCC) when a UCFE claim has been filed.

2. UCFE Liaison Activities.

- a.) Cooperating with Federal agencies.

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b.) Following up on requests for wage and separation information when local or area offices have been unable to obtain the information.

c.) Supervising the program for verification of wage and separation information, including coordinating visits to Federal agency installations by appropriate personnel.

c. Responsibilities of Federal Agencies

The Federal agencies are responsible for providing UCFE information to their employees, coordinating with the SESAs to provide timely wage and separation information, and the timely payment of the quarterly billings for UCFE benefits paid to their former employees. Additional information is provided in CHAPTER II - Federal Agency Administration and Management.

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Chapter II FEDERAL AGENCY ADMINISTRATION AND MANAGEMENT

The Federal, agency should establish internal procedures and assign responsibilities for the following UCFE program areas:

- a. Providing information concerning the UCFE program to its employees (CHAPTER V of this Handbook);
- b. Completing and returning correct wage and separation information. to the SESAs in a timely manner (CHAPTER VI of this Handbook);
- c. When warranted, participating in the UCFE appellate process (CHAPTER VIII of this Handbook);
- d. Promptly paying the full amount of the quarterly billings for the reimbursable benefits paid to UCFE claimants (CHAPTER IX of this Handbook);
- e. Assessing the Federal agency's UCFE program operations on a regular basis and taking actions to correct problems noted during reviews/visits conducted by DOL, SESA, and/or Federal agency representatives (CHAPTER X of this Handbook); and
- f. Completing and returning accurate statistical reports in a timely manner (CHAPTER XI of this Handbook).

1. UCFE Program Manager.

The Federal agency should assign responsibility for the overall UCFE program to an appropriate program official (Program Manager). This official should have the authority to make/initiate changes to the agency's internal operations in order to ensure effective administration of the agency's UCFE responsibilities. Program Managers should:

- a. Ensure that instructions issued by the DOL are distributed to and executed by appropriate units at all installations of the agency;
- b. Develop and maintain procedures and operating instructions for the effective administration of all of the agency's UCFE responsibilities (see Part 4. REQUIREMENTS OF FEDERAL AGENCIES);
- c. Assess the agency's UCFE program operations on a regular basis.
- d. Take action to correct problems noted during agency assessments and reviews/visits noted in item e. above.

2. UCFE Liaison.

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In accordance with 20 CFR Part 609.26, each Federal agency shall designate one or more of its officials to be its liaison(s) concerning UCFE matters with the DOL. This position may be combined with the Program Manager position by the Federal agency. The liaison function provides a central point of contact for matters involving coordination/communication between a Federal agency and the DOL and/or a SESA.

3. Annual Notices to DOL.

The Federal agency is to advise the DOL each August 1 concerning the following:

- a. The name(s), title(s), address(es) and telephone number(s) of the designated UCFE Program Manager and the UCFE liaison(s).
- b. The address to which all forms and correspondence pertaining to UCFE claims are to be sent when no SF-8 is presented.
- c. The address to which UCFE bills, detailed listings and related correspondence are to be sent.
- d. Any instructions or informational material prepared by the agency pertaining to the UCFE program. This information is to be submitted in duplicate. Prior approval must be granted by the Department of Labor prior to issuance.

The following address will be used by the Federal agency for providing the above cited information:

U.S. Department of Labor
Employment and Training Administration
Unemployment Insurance Service – Attn: TEUMI
200 Constitution Avenue, N.W.
Washington, D.C. 20210

4. Requirements of Federal Agencies.

Federal agencies are responsible (5 U.S.C. 8506) for:

- a. Furnishing information to their employees (CHAPTER V of this Handbook):
 - (1) At separation, concerning their rights to receive UC. Form SF-8 provides UC benefit information:
 - (2) At hiring or rehiring, explaining their responsibility to notify the SESA, in writing, of their employment if they had been receiving or may have applied for unemployment insurance benefits.

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(3) Some SESAs may provide Federal agencies posters informing employees about the UCFE program. Such posters should be displayed on employee bulletin boards or in other conspicuous locations.

b. Assuring that all records necessary to provide information to SESAs for the proper administration of the UCFE program are accessible for such purpose without consent of the individual to which they pertain (CHAPTER VI of this Handbook).

c. Furnishing information, within 4 workdays, requested by SESAs for the determination of the former Federal employee's entitlement to UC (CHAPTERS VI and VII of this Handbook).

d. Establishing and maintaining a UCFE form control/log and a completed form file (CHAPTER VI of this Handbook).

e. Participating in the administrative appeals process (CHAPTER VIII of this Handbook).

f. Reimbursing the Federal Employee Compensation (FEC) Account in the **full** amount of the quarterly bill for benefits paid **within 30 days of receipt**. Resolving issues pertaining to charges with the appropriate SESA UCFE coordinator. Adjustments, after resolution, will appear on the following quarterly billing report (CHAPTER IX of this Handbook).

g. Furnishing SESAs with such statistical reports of wages and employment as may be required in connection with the administration of the program (CHAPTER XI of this Handbook).

h. Assessing the agency's UCFE program operations through the internal control process on a regular basis, including any contractor's performance if the Federal agency is utilizing the services of a contractor to assist in carrying out its UCFE responsibilities, and taking prompt action to correct problems noted during Agency assessments and reviews/visits conducted by DOL and/or SESA representatives (CHAPTER X of this Handbook).

5. Federal Agencies' Use of Contractors to Handle UCFE Activity.

Use of a contractor does not relieve the Federal agency of its obligation to ensure that information necessary to the UCFE claims process and all other agency activities pertaining to the UCFE program are handled in the manner prescribed by the Secretary of Labor. When a contractor is used, it is the agency's responsibility to monitor the contractor's performance on a regular basis and to review periodically contractor activities as a part of their internal audit procedures.

a. Recordkeeping

In addition to the UCFE form control log and completed form file, the Federal agency should require maintenance of copies of all correspondence between the contractor and the SESA pertaining to the UCFE program for examination during such reviews.

b. Appeals and Hearings

Federal agencies are cautioned that while a contractor can suggest which cases should be appealed, the Federal agency's decision to appeal should represent a belief that the determination issued by

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the SESA is incorrect and/or inconsistent with the policy or precedent decisions of the State. The Federal agency may wish to contact the SESA's UCFE coordinator to discuss the determination.

NOTE: Although a contractor may attend a hearing, the Federal official having first-hand knowledge of the situation must attend to give testimony and present evidence: otherwise, any testimony given would be considered hearsay, if objected to. See CHAPTER VIII for additional information on appeals.

Chapter III FEDERAL SERVICE AND FEDERAL WAGES

1. Introduction.

a. Federal Service.

"Federal service" is not limited to civilian employees who are covered for civil service retirement purposes. The term "Federal service," as used in the UCFE program and these instructions, means work performed in the employ of the United States, or any wholly-owned or partially-owned instrumentality of the United States, with the exception of the specifically excluded services listed in 5 U.S.C. 8501. Federal agencies should anticipate that individuals performing "Federal Civilian Service" will be eligible for benefits upon separation, provided the individuals meet the employment and wages qualifying requirements of State UC law. Benefits paid by the SESA are charged to the Federal agency based on the Federal agency pro rata share of benefit cost.

b. Federal Wages.

The term "Federal wages" is defined in (5 U.S.C. 8501(2)) as "all pay and allowances, in cash or in kind, for Federal service" and thereby includes all payments for sick leave, annual leave (including lump-sum) and severance pay.

c. Secretary's Interpretations.

The Secretary of Labor makes determinations whether specific instances or categories of Federal employment and pay constitute "Federal Service" and/or "Federal Wages" in accordance with 5 U.S.C. 8501. Effective March 20, 1992, the Secretary of Labor delegated this responsibility to the Director of the Unemployment Insurance Service.

Originally, all interpretations were made in response to a specific inquiry and provided to the impacted Federal agency and SESA in the form of a letter (letter interpretations/individual rulings). While conclusionary information was provided system-wide when a category of coverage (e.g., Soil Conservation Service) or non-coverage was identified (e.g., Federal Credit Unions), the basis and rationale for the interpretation contained in the letter response were not available system-wide. Because such information is often needed by all SESAs or is relevant to other Federal Agencies, beginning in 1992, the Department began the additional practice of issuing formal coverage rulings and coverage guidance to disseminate such information system-wide.

(1) Letter Interpretations/Individual Rulings. These case-by-case interpretations are issued by letter to the impacted Federal agency and SESA in response to a specific coverage inquiry dealing with a specific employment situation and/or employee. Because they contain employment information dealing with a specific individual, they are not disseminated system-wide.

(2) Coverage Rulings. Under delegation from the Secretary of Labor, the Director, UIS, makes and issues "blanket" coverage rulings when it is possible to determine whether or not "Federal Service" for UCFE program coverage purposes is performed by a class or category of workers. Such rulings are published in the Federal Register and distributed to SESAs by program letter and to Federal Agencies by memorandum as a handbook update to Appendix C.

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The first such ruling (UCFE Program Coverage Ruling No. 92-1) was published April 17, 1992, and dealt with the Agricultural Promotion Boards and Marketing Agreement and Order Administrative Committees. During 1995 and 1996, all major categories of coverage and non-coverage, which have been identified pursuant letter interpretations, will be issued in the coverage ruling format. These categories are listed below by Federal agency in subchapters 2. and 3. of this CHAPTER.

(3) Coverage Guidance. In some instances where it is not possible to issue a "blanket" coverage ruling concerning a category of employment, it is possible to identify the key decision factors and appropriate conclusion applicable to the coverage determination. UCFE Program Coverage Guidance letters are issued in such instances and provide SESAs with specific coverage guidance which can be applied to the facts present in individual situations. The First Coverage Guidance Letter will be issued during 1995.

UCFE Program Coverage Rulings and Coverage Guidance Letters are located in Appendix C.

2. Secretary's Interpretations: Federal Service/ Federal Wages.

The Secretary of Labor has determined the following types of employment to constitute "Federal service" (civilian) and "Federal wages" (civilian) within the meaning of the Federal UCFE law.

a. Department of Agriculture.

1. Agriculture cooperative employees (i.e., State-Federal) serving under Federal appointments including those with the Agriculture Extension Service.
2. Agriculture Stabilization and Conservation Service- employees of county and community committees (local committees are known as ASC committees).
3. Agricultural Boards and Committees- employees only, not members.
4. Soil Conservation Service.

b. Department of Commerce.

1. Census- Census enumerators.
2. Coast and Geodetic Survey- commissioned officers.
3. Public Works and Economic Development Act (PWEDA) of 1965, Public Law 89-136.
4. Regional Fishery Management Councils- Executive directors and subordinate employees who are paid wages/salaries from the following named Councils' funds:
 - a. Caribbean Council,

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- b. Gulf Council,
- c. Mid-Atlantic Council,
- d. New England Council,
- e. North Pacific Council,
- f. Pacific Council,
- g. South Atlantic Council, and
- h. Western Pacific Council.

c. Department of Defense.

- 1. Armed Forces non-appropriated fund activities-
 - a. services performed in the United States in the employ of authorized non-appropriated fund activities by civilian (citizen or non-citizen) employees and U.S. military personnel employed voluntarily during off-duty hours.
 - b. services performed by American citizens and off-duty U.S. military personnel in the employ of authorized non-appropriated fund activities **operating at overseas locations.**
- 2. National Guard and Air National Guard Civilian employees under the National Guard Technicians Act of 1968, Public Law 90-486.

d. Department of Health and Human Services.

Public Health Service commissioned officers.

e. Department of Interior.

- 1. Individuals paid from Congressional appropriations of tribal funds held in trust by the United States and disbursed by Federal Government disbursing officers on the basis of vouchers and payrolls certified by U.S. Government officials.
- 2. Fish and Wildlife Service- Mammal control agents.

f. Department of Justice.

Inmates of correctional institutions appointed by Federal agencies prior to release under the terms of the Prisoner Rehabilitation Act of 1965 (Public Law 89-176).

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g. Department of Transportation.

1. Maritime Administration- administrative enrollees.
2. U.S. Merchant Marine Academy- including Ships Service Store, Junior Officer's Mess, Officer's Club, Petty Officer's Club, Midshipmen Morale Fund, Athletic Fund, Cultural Events Fund, Protestant Chapel Fund, Jewish Chapel Fund, and Catholic Chapel Fund.
3. Wage Marine positions.

h. Miscellaneous- Other.

1. Administrative employees of members of Congress and, congressional committees.
2. Joint Federal/State Commissions- employees paid by the Commission.
3. Joint employees. That portion of joint service performed and the wages earned in the employ of the partially-owned instrumentality of the United States.
4. National Credit Union Administration (NCUA).
5. Partially owned Federal instrumentalities-including any Federal intermediate credit banks, banks for cooperatives, or production credit associations in which the Federal Government owns capital stock.
6. Presidential and Schedule C appointees.
7. Temporary appointments, such as 30, 60, or 90 day temporaries and Postal Service Christmas temporaries or appointments for other short-term or part-time non-career employment.

3. Secretary's Interpretations: Not Federal service/Federal Wages.

The Secretary of Labor has determined that service in the employment of the entities or in the particular categories of employment identified below does not constitute "Federal service" under 5 U.S.C. 8501(1).

a. Departments of Government.

1. Department of Interior. Individuals paid from Indian tribal funds.
2. Department of State. Grantees under the Educational Exchange Program (U.S. Information and Education Act of 1948, Public Law 80-402).
3. District of Columbia Government. Employment covered by District Unemployment Compensation Act.

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4. Peace Corps- Volunteers and Trainees.

5. Trust Territories (such as Guam, American Samoa). Employment provided by Guam and the American Somoa does not constitute Federal civilian employment.

b. Other Institutions.

1. Federal Credit Unions.

2. Federal Intermediate Credit Banks, banks for cooperatives, or production credit associations in which the Federal Government owns **no** capital stock.

3. Federal Home Loan Banks.

4. Federal Land Banks.

5. Federal National Mortgage Association.

6. Federal Reserve Banks.

7. Local Housing Authorities-State, district, county, or municipal.

c. Miscellaneous- Other.

1. Community Service Employment for Older American Workers- enrollees/members.

2. Elective Officials in the Executive or Legislative Branches.

3. Elective State Coverage. When a partially-owned instrumentality of the United States, i.e., Production Credit Association, Intermediate Credit Bank, etc., has elected State coverage.

4. Joint Federal/State Commissions- Employees **not** paid by the Commission.

5. Service Performed Outside The United States. Service performed outside the United States by non-citizens.

6. Temporary Emergency Employment- employment on a temporary basis in cases of fire, storm, earthquake, flood, etc., to take care of a **catastrophic** emergency.

7. Youth Conservation Corps (YCC)- enrollees/members.

UCFE Instructions for Federal Agencies

Chapter IV FORMS/NOTICES USED TO ADMINISTER THE UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEE PROGRAM

The following list of forms/notices used in the UCFE program provides a brief description of each form/notice. The particular forms/notice and their use are explained in further detail throughout this Handbook.

SF-8, Notice to Federal Employee About Unemployment Compensation

Form provided to a separating Federal employee by a Federal agency that explains his/her potential eligibility for UC and provides the name and address of the separating Federal agency where wage and separation information can be obtained.

ES-931, Request For Wage and Separation Information

Form used by SESAs to request wage and separation information from the Federal agency.

ES-931A, Request For Separation Information For Additional Claim-UCFE

Form prepared by SESAs to request separation information from the Federal agency, when a UCFE claim has been previously established.

ES-933, Request for Information Regarding Claims Filed Under the Federal Employees' Compensation Act

Form prepared by the SESA to request information concerning workers,' compensation claims filed by Federal employees.

ES-934, Request for Additional Information or Reconsideration of Federal Findings-UCFE

Form prepared to request additional or clarifying information from the Federal agency by the SESA. This form is utilized when the SESA needs additional information or when a claimant asks for explanation of information previously provided by the Federal agency.

ES-935, Claimant's Affidavit of Federal Civilian Service, Wages and Reason for Separation

Form completed by the claimant providing wage and separation information during the initial claim process. It is forwarded with the ES-931 to the Federal agency. The SESA will use the ES-935 Affidavit to establish benefit eligibility when the ES-931 is not returned by the Federal agency within 12 workdays.

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ES-936, Request For verification of UCFE Wage And Separation Information Furnished on Form ES-931

Form prepared to request verification of information previously received on the ES-931.

ES-939, UCFE Program-Federal Agency Visit Report

Form used to report on a Federal agency visit conducted by the SESA. A DOL representative may also have participated in the visit.

Statement of Expenditures of Federal Funds for Reimbursable Unemployment Benefits Paid to UCFE Claimants

Form used to "Bill" Federal agencies for UCFE benefits paid by the SESAs to UCFE claimants.

Quarterly Listing (also called as Detailed Listing)

The Quarterly Listing or Detailed Listing identifies individuals filing and receiving benefits from a given State in a given calendar quarter which will be charged to the Federal agency account. Adjustments to prior quarters charges are also reflected. The listing should be reviewed upon receipt and, if there are discrepancies or other questions, they should be addressed to the SESA for resolution.

Notice of Financial Determination (also called Monetary Determination)

Form used to notify claimant and employer of the financial eligibility of a claimant and provide information on appeal rights and process. The specific form design will vary among the SESAs. The Federal agency should review the notice to determine if the wages used to determine eligibility of the claimant agree with the completed ES-931. Discrepancies should be reported to the SESA.

Notice of Non-Monetary Determination

Form used to notify claimant and employer of the SESA's determination concerning eligibility or other non-monetary issue(s). Information is also provided on appeal rights and the appeals process. The Federal agency, should review the determination to determine if the decision reflects the information provided by the Federal agency. If the Federal agency disagrees with the determination, a timely appeal of the determination should be filed.

Notice of Benefit Charges

Some SESAs may send notice forms designed for State-covered employers showing benefit charges to all employer accounts in the base period. Since Federal agencies are required to reimburse the FEC Account for the pro rata share of benefits paid based on Federal wages earned to the total amount of compensation paid in the base period, Federal agencies should examine these forms to ensure that all known employment and wages have been reported for each individual.

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Notice of Appeal

A Notice of Appeal form is completed by a claimant or an employer wishing to appeal a determination if the party reports in person to the SESA's office. This form is prepared by the SESA, if an employer or a claimant mails a letter to the SESA indicating a desire to appeal. A copy of the completed form is generally provided to each "interested party" as a means of notifying them that an appeal has been filed.

Notice of Hearing

A Notice of Hearing is mailed to each interested party to the appeal. It will include, among other information, the date, time and place of hearing. If the hearing is to be conducted by telephone, the notice of hearing will so advise.

Referee's Decision, Decision of Administrative Hearing officer, etc.

This form identifies the first level appeal official's findings of fact, reasoning and decision on a determination appealed by either the claimant or the employer. It also provides information on further appeal rights and process. The title given to the first level appeal officer and the specific form design for his/her decision will vary by SESA.

Order, Decision and Order of Appeals Tribunal, Board of Review, etc.

This form identifies the second level appeal body's findings of fact, reasoning and decision on a determination appealed by either the claimant or the employer. It also provides information on further appeal rights and process. The title given to the second level appeal body and the specific form design for its decision will vary by SESA.

Chapter V INFORMATION PROVIDED EMPLOYEES

1. Separation Notices: Notice About Unemployment Insurance, Standard Form 8 (SF-8).

The Standard Form 8 (SF-8), Notice to Federal Employee About Unemployment Insurance, is generally the first form a Federal employee sees concerning UC. It provides the foundation for the individual to file a claim at the nearest Local Public Employment Service Office of the SESA. When this form is given to a separating employee, it will start a chain of events that are meaningful to the separating agency, separated employee and the State UC office.

The Federal agency must provide the separating employee with an explanation of the form and should emphasize the importance for this employee to provide the SF-8 to the SESA local office when filing a claim. The SF-8 will expedite the claims process and assure the payment of benefits promptly.

Prior to the issuance of this form, if this separation is a separate instance (as opposed to a reduction-in-force), no additional action needs to be taken except for assuring the availability of separation information when the other UC forms are received from the SESA. However, if the separation is part of a reduction-in-force, or downsizing, planning with the appropriate SESA is critical to the separation process. Coordination with SESAs will enable streamlined operations such as unemployment forms completion and/or reemployment assistance services under the direction of the SESA. Group meetings may be scheduled for presentation by the SESA of various services, forms completion and other related assistance that could expedite processing both for the Federal agency and SESAs. Coordination for the completion of the SF-8 and the ES-931 will enable all parties to reduce their paperwork.

UCFE Instructions for Federal Agencies

a. Facsimile: Notice to Federal Employee About Unemployment Insurance, Standard Form 8 (Front).

TAKE THIS FORM WITH YOU IF YOU GO TO FILE A CLAIM

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES (UCFE) PROGRAM

NOTICE TO FEDERAL EMPLOYEE ABOUT UNEMPLOYMENT INSURANCE

This form has been given to you because (1) you have been separated from your job, or (2) you were placed in a nonpay status, or (3) your records have been transferred to a different payroll office.

Unemployment insurance (UI) for Federal workers. When unemployed, Federal workers may be entitled to UI benefits similar to those of workers in private industry. If you become unemployed or are in a nonpay status and want to FILE A CLAIM, go to the nearest LOCAL PUBLIC EMPLOYMENT SERVICE OFFICE of the STATE EMPLOYMENT SECURITY AGENCY to register for work and file your claim for UI. Your ELIGIBILITY for UI CANNOT be determined until AFTER you file a claim. DO NOT DELAY filing a UI claim; if you wait, your unemployment benefits may be reduced or you may not qualify for any benefits.

To help EXPEDITE your claim, take THIS FORM with you, your SOCIAL SECURITY ACCOUNT NUMBER CARD, the OFFICIAL NOTICE of your most recent SEPARATION or of your present NONPAY status (Standard Form 50 if available), EARNINGS and LEAVE statements, or similar documents that indicate you were employed by a Federal agency.

<p>FEDERAL AGENCY will insert in the box:</p> <p>1st line - Parent Federal Agency Name and 3 digit code number</p> <p>2nd line - Major Component (if any)</p> <p>3rd and 4th line - complete address to which all forms pertaining to a claim should be sent (ES-931, 931A, 934, 936, and notices of appeal, hearings, and determinations)</p>	<p>3 Digit Identification FEDERAL AGENCY CODE NO.</p>	<p>To be completed by the <i>Federal Agency</i>:</p> <p>Contact Name/Office _____</p> <p>Telephone No. (<i>include area code</i>) _____</p>
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KEEP THIS FORM and TAKE IT WITH YOU if you file a UCFE/UI claim for unemployed Federal workers provided by Federal law (U.S. CODE, Title 5, Chapter 85). For more information about UCFE/UI, read the REVERSE SIDE of this form.

NSN 7540-00-634-3964

STANDARD FORM 8 (Rev. 6-87)
Prescribed by Dept. of Labor
20 CFR 609

UCFE Instructions for Federal Agencies

b. Facsimile: Notice to Federal Employee About Unemployment Insurance, Standard Form 8 (Reverse).

UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES (UCFE) PROGRAM
UNEMPLOYMENT INSURANCE (UI) FOR FEDERAL WORKERS
TAKE THIS FORM WITH YOU IF YOU GO TO FILE A CLAIM

GENERAL INFORMATION:

1. WHO WILL PAY UNEMPLOYMENT BENEFITS?

If you are eligible, you will be paid by a State employment security agency under the provisions of its unemployment insurance (UI) law. The amount of your regular weekly benefits and the period for which benefits will be paid will generally be determined by the law of the State in which you had your last Official Duty Station. This Duty Station will be printed on your final "Notification of Personnel Action", SF-50. If you have received all the regular benefits for which you are eligible, you may, under certain circumstances, become eligible for additional weeks of extended benefits; check with a State local office official. If your last duty station was outside the United States, you will not be eligible until you return to the United States, including the District of Columbia, Puerto Rico, and Virgin Islands. Your benefit rights will then be determined under the law of your State of residence.

UCFE/UI for unemployed Federal workers is paid from U.S. Government funds. No deductions were taken from your pay to finance these benefits.

2. UNDER WHAT CONDITIONS WILL I BE ELIGIBLE?

All State UI laws require that:

- You must be unemployed, able to work, and available for suitable work; (In some cases, you may be eligible if you are employed less than full time);
- You must register for work and file a claim at a local public employment service/UI claim office;
- You must continue to report to the office as directed; and
- You must have had a certain amount of employment/wages within a base period of 1 year specified in the State law and have been separated through no fault of your own.

All State UI laws will deny you benefits for such reasons as:

- Quitting your job voluntarily without good cause or being discharged for misconduct connected with work; or
- Refusing an offer of a suitable job without good cause.

Some State UI laws deny or reduce UI benefits for certain types of payments you may receive (retirement, severance, and/or lump-sum amount for unused, accrued annual leave).

3. DO I HAVE THE RIGHT OF APPEAL?

Yes. If a determination is made denying you benefits, you have the right to appeal as provided in the applicable State law.

4. ARE THERE ANY PENALTIES?

Yes. If you willfully make a false (fraudulent) claim, you may be fined, imprisoned, or both. If you make a mistake in giving information when you file your claim, notify the local UI claim office as soon as you discover the mistake: prompt notification may avoid a penalty.

(The above statements are issued for general information; they do not have the effect of law, regulation, or ruling).

IF YOU BECOME REEMPLOYED and have been collection UCFE/UI benefit payments, it is your RESPONSIBILITY to notify the local office, in writing, to discontinue paying benefits now that you are employed. Failure to do so may result in a penalty such as a fine, imprisonment, or both.

STANDARD FORM 8 (Rev. 6-87 BACK)

c. Purpose and Use.

The SF-8 informs employees of their right to file a claim for UC, explains the basic eligibility requirements, provides general information as to how, when and where to file a claim, and describes the documents which the individual should take when filing a claim (20 CFR Part 609.20). It also identifies the name and address of the separating Federal agency where wage and separation information can be obtained.

Federal agencies are required to issue this form on or before the last day of work to each employee who is:

- separated for any reason, including voluntary retirement;
- placed or will be in a non-pay status for 7 or more consecutive calendar days (voluntary or involuntary); or,
- transferred to the jurisdiction of a different payroll/personnel office.

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A Federal agency **must not** try to determine which separating employee is entitled to UCFE benefits and issue a SF-8 on that basis. All separating employees must be issued a SF-8 except as provided in subchapter (1) below.

Issuance of the SF-8 must not be delayed pending completion and issuance of the SF-50, Notification of Personnel Action (or similar document), or for any other reason.

In addition to issuing the SF-8, the agency's personnel office, or someone that has been designated in the employing office, must explain the purpose of the form to each separating employee. He/she should instruct the separating employee to take the SF-8 to the local SESA office if he/she files a claim for unemployment insurance benefits as it contains information used by the SESA to ensure that all correspondence/inquiries necessary to the claim will be directed to the appropriate Federal agency address/office without delay.

NOTE: The SF--8 is not considered credible evidence of Federal employment.

1. Intermittent, Part-time, Temporary Employees. Individuals whose work or tours of duty are on an "on-call" or intermittent basis (i.e., substitute postal clerks) should be issued an SF-8 only the first time in each calendar year that they are placed in non-pay status. Issuance of an SF-8 is not required for subsequent periods of non-pay status during the year as long as the individual is paid through the same payroll/personnel office.

Temporary, part-time and others employed on a less than full-time permanent basis should be issued an SF-8 on the last day of work when the appointment expires or when the first instance of non-pay status occurs.

2. Employees Stationed Overseas. American citizens who are Federal civilian employees (which includes non-appropriated fund activities of the Armed Forces) who are separated, transferred to the jurisdiction of another payroll office, or are placed in non-pay status while outside of the United States, should be given an SF-8 by such Federal agency no later than on the last day of active duty.

If a Federal civilian employee becomes unemployed while overseas, no claim for benefits under the UCFE program may be filed until he/she: returns to the United States, the District of Columbia, Puerto Rico or the Virgin Islands.

3. Non-Appropriated Fund Activity Employees. Civilian employees in the United States and American citizens overseas and military personnel (in or outside of the United States) who were employed voluntarily during off-duty hours by authorized non-appropriated fund activities are covered for UCFE purposes and should be issued a SF-8 on or before the last day of work prior to separation, transfer or being placed in non-pay status.

d. Content.

The DOL has developed language which meets the notification requirements and has obtained the necessary approvals for the form. This form should be reprinted as published, except, the Federal agency must ensure that, in the space provided, the form is completed with the parent Federal

UCFE Instructions for Federal Agencies

agency name, 3-Digit Federal Agency Code, component name/symbol, and complete address to which all forms and correspondence from SESAs (pertaining to a claim) are to be sent: and a contact person,/organizational unit and complete telephone number for use by SESAs for direct inquiries on a specific claim.

Federal agencies have a continuing responsibility to ensure that each SF-8 issued reflects current, complete and accurate information.

NOTE: The SF-8 identifies the Federal agency address to which all claims related forms and correspondence will be sent if the SF-8 is presented to the SESA by the separating employee.

e. Obtaining Supplies.

Each Federal agency is responsible for maintaining a supply of Forms SF-8 for all of their personnel offices as well as ensuring the form contains the proper information.

Federal agencies must order supplies of the SF-8 from the Federal Supply Service of the General Services Administration (GSA) using the standard FEDSTRIP or MIISTRIP procedures. The administrative office of each Federal agency has the specific information on these procedures. The requisition form should indicate "Standard Form 8 (Rev. 6-87)," stock number 7540-00-634-3964, quantity, and delivery points desired.

If overprinting of agency identifying information (i.e., completed entries; of the parent Federal Agency name, payroll/personnel address, 3-Digit Federal Agency Code, 4-digit Destination Code, contact person/office and telephone number) is desired, a separate SF-1 (Printing and Binding Requisition) must be prepared for submittal to GSA in accordance with 41 CFR 101-26.302.

Forward requests to the following address:

General Services Administration
Regional Office Building
7th & D Streets, S.W.
WF-2FYM
Washington, D.C. 20407

GSA will submit the request to the Government Printing Office (GPO) for approval. Upon GPO approval, the Federal agency may indicate their option to either have the SF-8 returned for duplicating at the Federal agency's facilities or duplicating at GPO's facilities.

2. Hire/Rehire Notices.

The Federal agency must provide each newly hired and rehired employee, the following notice:

“If you have applied for or are receiving unemployment compensation payments, it is your responsibility, under penalty of law, to notify the appropriate local office of your employment. Failure to do so can result in a penalty such as a fine, imprisonment, or both.”

Chapter VI INFORMATION PROVIDED TO SESAS

1. Authorization for Release of Information.

The Privacy Act of 1974 does not preclude a Federal agency from providing a SESA with wage and separation information from general personnel records, including Official Personnel Folders, in connection with the determination of a former Federal employee's entitlement/eligibility for UC. Such disclosure is considered compatible with the purposes of the system of records and is comprised within the routine uses permitted for those records.

However, **separation information pertaining to probationary employees and other employees without appeal rights in cases of removal may not be maintained in the Official Personnel Folders. Therefore, to release such separation information may require a signed consent of disclosure unless the individual Federal agency has included the SESA as a user, and the UC program as a purpose of use, in its annual notice published in the Federal Register concerning the system of records used to maintain such information.** Although the ES-931 provides for obtaining a signed consent from the claimant when necessary, the lack of a signed authorization does not preclude the Federal agency from responding to the SESA's request for information, except as stated above. SESAs are not responsible for identifying when an ex-Federal employee's records may not be kept in a regular system of records, and therefore the need for a consent of disclosure, upon receipt of a claim. **The Federal agency should ensure that all records necessary to the proper administration of the UCFE program are accessible for such purpose without consent of the individual to which they pertain.**

2. Control of UCFE Forms.

a. Mail Room Receipt and Routing of UCFE Forms

Federal agencies should have operational procedures that place priority, on the handling of UCFE Forms (especially the ES-931). Mail room/unit personnel should recognize SESA UCFE forms (e.g., ES-931, ES-931A, ES-934 and ES-936 and notices of determination and appeal hearings) and should route them directly to the agency offices) responsible for their completion (usually the personnel/payroll office(s)).

Providing agency mail rooms with sample copies of all UCFE forms and notices and establishing procedures to expedite interoffice movement of forms (when the Federal agency has located information needed in more than one location or office) should minimize delay in UCFE forms reaching the appropriate office(s) and facilitate agency efforts to complete responses timely.

b. UCFE Forms Control File/Log.

The Federal agency should establish formal controls (20 CFR Part 609.2(c)) to ensure completion and return of UCFE Forms (including Forms ES-931, ES-931A, ES-934, and ES-936) to the SESA without delay. Unless the agency has a regular mail suspense control which is being used for these forms, the Federal agency office responsible for their completion (usually the personnel/payroll office), should immediately upon receipt, establish a control file/log. This control file/log should be reviewed daily to ensure that the forms, or a notice of delayed response, are completed and

UCFE Instructions for Federal Agencies

mailed within 4 workdays. All completed forms should be reflected in the control log with a notation made to indicate date of completion and mailing to SESA.

c. Completed UCFE Forms/ File.

The Federal agency copy of completed UCFE program forms and any correspondence should be retained by the Federal agency in a separate file for a period of one year from the date of certification to be available for audit, reference and review purposes. The Federal agency may remove and destroy records from this file on the one year anniversary date.

3. Requests for Wage and Separation information, ES-931.

The Request For Wage and Separation Information, ES-931, is prepared by the SESA when a Federal employee files a claim for UC. If presented, or provided upon SESA request, by the separated employee, the Standard Form 8 (SF-8) is used by the SESA to complete the parent Federal agency name, 3-Digit Federal Agency Code, component name/symbol, and address on the ES-931.

The Form ES-935, Claimant's Affidavit of Federal Civilian Service, Wages and Reason for Separation, is completed as part of the initial claims process and is forwarded to the Federal agency with the ES-931. The ES-935 provides the claimant's statement of the reason for separation and wage information. SESAs using a computer generated Form ES-931 may include the claimant's statement from the Form ES-935 on a computer printout in lieu of attaching the form ES-935.

When the SESA does not receive the Federal agency response within 12 days of the request date, a financial and non-monetary determination will be issued on the basis of the claimant's information as provided on the ES-935. Therefore, the Federal agency should review the information on the ES-935 to be sure that the ES-931 and ES-935 agree. A rebuttal is required if the Federal findings and the ES-935 conflict.

Generally, the period for which wages will be requested will cover approximately six quarters -- the base period (a one-year period specified in State law that precedes the effective date of the claim) and the period subsequent to the base period. However, due to the differences in State laws, it may be necessary for a SESA to request and assign wages covering a period of up to two and one-quarter years. Federal law requires the assignment of all Federal civilian wages preceding the filing of a first claim that establishes a benefit year.

NOTE: Time and leave information on separating employees should be sent to the payroll office on the date of separation or placement in non-pay status instead of at the end of the pay period. This will make this information available to the personnel/payroll office for completion of the Form ES-931 in those cases where the employee files a claim immediately after separation.

UCFE Instructions for Federal Agencies

a. Facsimile (Front) of Form ES-931.

ETA-931

O.M.B. Approval
No. 1205-0179

(STATE AGENCY IDENTIFICATION) REQUEST FOR WAGE AND SEPARATION INFORMATION- UCFE			
1. State Agency Address:		2. Name of Federal Agency, 3 Digit Agency Code, and Address:	
3. Local Office/Call Center ID:	4. Date of Request:	5. Date claim taken:	6. Effective Date of Claim:
7. Name (Last, First, Middle Initial)		8. Social Security Number	
Complete and Return Within 4 Workdays			
9. Location of Official Duty Station. If outside U.S., enter Country: _____			
10. Did this person perform Federal Civilian Service, as defined for UCFE purposes, for your agency at any time on or after the base period begin date shown in Item 11a below? ___ Yes ___ No			
If No, Complete Items a-e below.			
a. Under what legal authority was the individual hired? _____			
b. What funding source was used for salary payments? _____			
c. Were payroll deductions made for Federal and State taxes? ___ Yes ___ No			
d. Was Employee eligible for:			
(1) Annual and Sick leave? ___ Yes ___ No			
(2) Health and Life insurance? ___ Yes ___ No			
(3) Civil Service or FERS retirement? ___ Yes ___ No			
e. Did the Federal agency provide direction and control? ___ Yes ___ No			
11. Are base period wages provided electronically? ___ Yes ___ No		12. Separation, Lump Sum Annual Leave, and Severance Pay Information	
If "Yes," go to Item 12. If "No," report all Wages from base period begin date to separation date.		a. Did this person receive payment for annual leave on or after the date of separation? ___ Yes ___ No	
a. Base period beginning date: _____		If "Yes" or if currently entitled to such a payment, enter below:	
b. Report wages for quarters ending after date in "a" above.		Amt of payment: \$ _____ Date of payment: ___/___/___	
Qtr. Ending	# of Weeks Worked	# of Hours Worked	Gross Wages
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
Print Name: _____		Title: _____	
Signature: _____		Telephone Number (_____) _____	
		Date: ___/___/___	

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UCFE Instructions for Federal Agencies

b. Facsimile (Reverse) of Form ES-931.

ETA-931

Important Notice

If a completed Form ETA-931 is not received by the 12th calendar day from the "date of request," the State agency is authorized by the Department of Labor's Regulation, published at 20 CFR 609.6(e)(2), to pay benefits to the ex-federal civilian employee based on his/her affidavit. Any benefit payments made to the claimant will be charged to the Federal employing agency(ies) in accordance with Section 1023, PL 96-499, Omnibus Reconciliation Act of 1980 (94 Stat. 2599).

INSTRUCTIONS TO FEDERAL AGENCY

As an alternative to completing this form, attaching a computer printout that contains all of the information requested is acceptable if the layout of the print out is cleared with the U.S. Department of Labor, Washington, DC 20210.

Item 9. Enter the name of the state where the ex-federal civilian employee's official duty station is located. If it is outside of the U.S., enter the name of the country.

Item 10. If the federal agency's response is "No" to this question, provide the information requested in questions 10 a - e.

Item 11. The state agency will provide the beginning date of the base period for the unemployment compensation claim filed by the ex-federal civilian employee. All employment and wages from the base period beginning date through the date of separation are reportable in response to this request. Enter the number of weeks worked, number of hours worked and gross wages for the current calendar quarter and all other calendar quarters ending after the base period begin date. **Include as wages** the amount of any lump sum annual leave payment. **Do not include** severance pay as wages (Refer to 5 USC 5595).

Item 12. Agency findings are available from SF 50. If payroll office records are incomplete or inadequate, or if information on SF-50 is not sufficient, check with personnel for additional information and add as part of separation information.

Signature of Official. Form is not complete unless it (or attached computer printout) is signed and dated; also enter signer's title and telephone number.

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UCFE Instructions for Federal Agencies

c. Completion of the ES-931.

When the Form ES-931 is received by the Federal agency the SESA will have already completed Section I, Identification Data, concerning the individual for whom information is requested. This section contains the former employee's name, social security number, date of birth, position title held with the Federal agency, the geographical location of the last place of employment, the date the individual was separated from Federal service, information pertaining to the receipt of an SF-8 and the individual's work schedule (full-time, part-time or intermittent). In addition, in Section II.2.A., Report of Wages, the SESA will have identified the period(s) for which wage information is requested.

All information provided in Section I. should be reviewed against Federal agency records and corrections made in the Section II.2.C., Identification of Incorrect Information Shown in Section I., if necessary. When Section I.7. indicates that an SF-8 was not utilized for the Federal agency address, the Federal agency should take the necessary actions to ensure that, in fact, SF-8's are being provided all separating employees and their importance to facilitating the employee's unemployment claim is emphasized.

1. Section II. Federal Agency Reply. This section asks specific questions so that a determination can be made concerning the claimant's Federal civilian service. Information requested can be obtained from the individual's Standard Form (SF 50) Notice of Personnel Action, other personnel records, and/or payroll records.

(a) Item 1. FEDERAL FINDINGS TO DETERMINE FEDERAL CIVILIAN SERVICE. This item requests the federal agency to complete answers to specific questions concerning the claimant's Federal employment. If the answers require additional space, such information should be provided on a separate attachment.

--Item 1.A. DID THIS PERSON PERFORM "FEDERAL CIVILIAN SERVICE" AS DEFINED FOR UCFE PURPOSES FOR YOUR AGENCY AT ANY TIME DURING THE BASE PERIOD SHOWN IN ITEM 2.A? The answer to this question, if "no," will require responses to questions 1.B. through 1.F. However, if the individual was performing "Federal Civilian Service," no response to questions 1.B. through 1.F. is required.

--Item 1.B. UNDER WHAT LEGAL AUTHORITY WAS INDIVIDUAL HIRED? This information is reflected on the SF-50, Item 5-D, F, Legal Authority.

--Item 1.C. WHAT FUNDING SOURCE WAS USED FOR SALARY PAYMENTS? Provide the appropriation title and appropriation code. The appropriation code is Item 36. on the SF-50.

--Item 1.D. WERE PAYROLL DEDUCTIONS MADE FOR FEDERAL AND STATE TAXES? This information is obtained from payroll records. If "No," explain on a separate attachment.

--Item 1.E. WAS EMPLOYEE ELIGIBLE FOR:

UCFE Instructions for Federal Agencies

(1) ANNUAL AND SICK LEAVE? This information is provided on the SF-50. If the answer is “No,” provide explanation on separate attachment.

(2) HEALTH AND LIFE INSURANCE? Life insurance eligibility is reflected on the SF-50, Item 27. If “No,” explain on a separate attachment.

(3) CIVIL SERVICE OR OTHER FEDERAL RETIREMENT? This question refers to coverage under a Federal retirement plan. Federal retirement plans include the Civil Service Retirement System (CSRS) and the Federal Employees’ Retirement System (FERS) as well as the special Federal retirement plans such as the Civil Service Retirement System for Law Enforcement and Firefighter Personnel (CS-Spec), the Foreign Service Retirement and Disability System (FS), the Foreign Service Pension System (FSPS), the Federal Employees’ Retirement System for National Guard Reserve Technicians (FERS-Reserve), and the Federal Employees’ Retirement System for Air Traffic Controllers (FERS-ATC). The question does not refer to whether an individual is currently eligible for immediate retirement, has applied for, or is receiving Federal retirement. This information is reflected on the SF-50, Item 30, Retirement Plan.

--Item 1.F. DID THE FEDERAL AGENCY PROVIDE DIRECTION AND CONTROL? This information should be obtained from the Federal agency personnel records.

Note: If the answer to 1.D., E(1) through E(3), or F of these questions is “no,” additional information should be provided. The SESA will review the responses provided by the Federal agency and determine if the individual was covered for UCFE purposes as a Federal Civilian Employee.

--Item 1.G., Duty Station. Enter the City and State of the former employee’s official duty station or, if outside the United States, the name of the country (SF-50, Item 39 or equivalent document). This information is necessary to determine the State to which wages are assignable under 5 U.S.C. 8504.

The official duty station is determined by the Federal agency and should be consistent for all employees assigned to the same geographical location.

(b) Item 2., WAGES/SECTION 1. CORRECTIONS. This item requests wage information and correction of Section 1., Identification Data, entries, if any.

Some SESAs may need to expand the information requested in this item from that displayed on the facsimile form. The qualification provisions of some State laws require that claimants must have had some employment in each of a specified minimum number of weeks during the base period and earned at least a specified amount of wages in each of such weeks. Other State laws require that an individual must have worked a specified number of hours with a specified amount of earnings during the base period. Information must be provided to the level of detail requested by the SESA.

--Item 2.A, Report of Wages. Enter the individual’s gross “Federal Wages”, **excluding severance pay and lump-sum payments for terminal annual leave**, by quarter (or as

UCFE Instructions for Federal Agencies

otherwise requested) for the entire period indentified by the SESA. If there are no wages in a quarter/period shown, enter a "0" or "Zero".

Report **wages paid during the period** (through the cutoff date for each calendar quarter or period) requested by the SESA, exactly as shown on the individual's agency payroll record. Do not adjust the quarterly total to include **wages earned by the employee but not paid** for days remaining between the payroll cutoff date and the actual ending date of the calendar quarter.

Any medium other than cash should be reported as "Federal wages", when the Federal agency placed a cash value on what it furnished to the worker in reporting wages for Federal income tax purposes.

If a Form ES-931 is received after a back-pay award has been made, the Federal agency will include the back-pay award as wages in Item 2.A. of the Form ES-931 with any other wages paid for which the request is made.

NOTE: In those instances where a partially-owned instrumentality of the United States, i.e., Production Credit Association, Intermediate Credit Bank, etc., has elected coverage under a State unemployment law, do not report any portion of the State covered service or wages as Federal service or Federal wages on this form. Instead footnote Form ES-931 as follows:

State covered employment – _____ (Name of State) _____ for (indicate all or part of period requested, as appropriate".

--Item 2.B., Report of Duty Hours. Enter the number of hours that represented the normal workday and the basic workweek of the individual required under the terms of the appointment.

--Item 2.C., Identification of Incorrect Data Shown in Section I. When any of the information shown in Section I is in error, identify the erroneous information and provide the correct information in this space. If more space is needed, provide the correct information in an attachment.

(c) Item 3, Terminal Annual Leave, Separation and Severance Pay Information. A number of SESAs deduct lump-sum annual leave and/or severance payments from an individual's weekly benefit amount. These questions may not appear when State law does not require a determination concerning terminal annual leave/severance pay.

--Item 3.A. Terminal Annual Leave. Check "yes" or "no" payment(s) of lump-sum annual leave as appropriate. When the answer is "yes", provide the payment information as requested. Although considered Federal wages, do not include any portion of the lump-sum terminal annual leave payment shown in this section in the amounts reported as gross wages in Item 2.A., Report of Wages.

When terminal leave payment is due but has not been paid, provide all information pertaining to payment and enter the asterisk statement "*Due but not paid."

UCFE Instructions for Federal Agencies

--Item 3.B. Date of Separation. Enter the actual date of final separation (MM/DD/YY). If the employee has been placed on furlough pending recall or is in any other leave without pay status, do not complete this item.

--Item 3.C. Date of Last Day of Active Pay Status. Enter the last day (MM/DD/YY) the individual was in active pay status, including when there has been subsequent final separation.

--Item 3.D. Reason for Separation or Non-pay Status. Enter the official reason for the individual's separation or non-pay status. The brief statement of reason shown on the SF-50 (or equivalent document) may be entered in this section. However, if it is apparent that this statement provides insufficient information on which to base a proper determination, any memoranda and/or other documents pertaining to the separation or non-pay status which may have a bearing on the SESA's determination should be attached to the Form ES-931. (**See also CHAPTER VII, REASON FOR SEPARATION AND NON-PAY STATUS.**)

If the individual has filed a claim under the Federal Employee's Compensation Act (Workers' Compensation), this information should be included in this section.

NOTE: The SESA should be advised whenever an employee is known to be appealing a personnel action to the Federal agency or to the Office of Personnel Management.

--Item 3.E., Severance Pay. Check "yes" or "no" in response to this question, as appropriate. If "yes", provide the weekly and total amounts to be or previously paid to the individual and the number of weeks and the beginning and ending dates of the period covered by the total amount.

Although considered Federal wages, the amounts shown in this section should not be included in the report of gross wages, Item 2.A.

(d) Signature of Official, Date. The Federal agency response must be signed and dated by the person who is responsible for its preparation. Also, type or clearly print the individual's name, title, and telephone number (including area code) in order that this person may be contacted by the SESA if additional or clarification of information is necessary.

(e) Name of Parent Federal Agency, 3-Digit Federal Agency Code and Address of the Federal Agency office (if different from address shown in Section III. As appropriate, specify the correct name, address for claims information, and/or 3-Digit Federal Agency Code.

d. Source of Data to Complete the ES-931:

Sources of information to complete the Forms ES-931 are the personnel record (especially SF-50) and the Individual Earnings Record Card (or equivalent payroll document). Any instructions issued by the Federal agency which support the information provided on the Form ES-931 should be provided.

UCFE Instructions for Federal Agencies

(1) Personnel Record. The individual's personnel record (especially the Notification of Personnel Action, Standard Form SF-50 or its equivalent, issued at separation) is the primary source of information for most of the items requested. Therefore, the prompt preparation and issuance of the SF-50 with a few days following an employee's separation will provide easy availability of information and facilitate an agency's timely completion of the ES-931.

(2) Individual Earnings Record Card. The payroll information necessary to complete Form ES-931 is obtained from the Individual Earnings Record or equivalent payroll document.

If records necessary to complete the Form ES-931 cannot be located because the employee is unknown to the office of the Federal agency receiving the Form ES-931, do not hold the form. It should be immediately returned to the SESA with the notation "No Record of Employment at this installation/agency".

(3) "Subject File": Records for Employees without Appeal Rights. FPM Supplement 396-33, Subchapters 30 and 31, prohibit Federal agencies from recording in personnel folder records the reasons for involuntary separation of employees who have no hearing/appeal rights. Therefore, when an employee is serving an initial appointment probation, or a trial period required by Civil Service or agency regulations, or when he/she is serving under any appointment that does not afford him/her appeal rights, agency comments or findings regarding the employee's resignation will not be found on the SF-52, SF-50, SF-7 in the employee's Employee Performance Folder or the records maintained by the agency as a part of its Employee Performance Files System, or in the employee's Official Personnel Folder/MRPF. However, in cases of agency initiated separations for misconduct and/or performance reasons, the agency retains the background documents in a "subject file" that is separate and apart from the employee's personal records for 2 years from the effective date of the "separation" action.

To make it easier for Federal agency personnel completing ES-931's to obtain this information, the personnel office may wish to note on each such "separation" SF-50: "For information on this action, contact (title/position of official who can provide information on the action), (telephone number)."

(4) Retired Records. If any of the records needed to complete the Form ES-931 (or other UCFE forms) were transferred to the National Personnel Records Center (NPRC), a request for the information should be sent to the NPRC using Standard Form 127, Request for Official Personnel Folder, to obtain an employee's official Personnel Folder and/or Optional Form 11 to obtain an employee's pay records. The NPRC will give priority to these requests.

The following address should be used in requesting data from the Federal Records Center in St. Louis:

National Personnel Records Center, NARA
(Civilian Personnel Records)
111 Winnebago Street
St. Louis, Missouri 63118

UCFE Instructions for Federal Agencies

- 2) Enter the location of the claimant's "duty station"?
- 3) Complete Item 2., reporting all gross wages (excluding terminal annual leave lump sum and severance payments, and **employer** contributions to the Thrift Savings Plan) for the period (s) shown?
- 4) Enter the specific period covered by lump-sum terminal leave payment, the amount of the payment, the date on which payment was made, the hourly rate of pay, the hours of duty, and the basic workweek? If a terminal leave payment is due but has not been paid, did you provide available facts in detail and state "Terminal leave payment due but not paid"?
- 5) Enter information for severance payments as requested? (Not all SESAs require severance pay information.)
- 6) Enter the correct date of final separation?
- 7) Enter the actual last day of active pay status, regardless to the current status of the individual?
- 8) Enter or attach a complete detail of the reason for separation or for non-pay status? (Do you need to check with the personnel office for additional information?)
- 9) Double-check the entries to ensure against erroneous or incomplete entries?
- 10) Type or print your name, title, telephone number (including area code) and sign the form?
- 11) Provide the parent name and the 3-Digit Federal Agency Code of your agency?
- 12) Enter the date of certification?

f. Timely response to Form ES-931.

The Federal agency should complete and return Form ES-931 to the SESA within 4 workdays after its receipt (20 CFR Part 609.21(a)). The completed ES-931 **must** be returned to the SESA address indicated on this request form **and must not be mailed to the U.S. Department of Labor.**

One copy of the completed form should be retained by the Federal agency for its file records.

If a Form ES-931 is received for an individual and the Federal agency cannot locate any records pertaining to such person, the Form ES-931 should be returned to the SESA immediately with a note stating "no record of this person as an employee/former employee of this agency."

If for any reason, the 4-day limit cannot be met, the Federal agency should immediately advise the SESA of the reason for the delay and provide an estimate of a date by which the completed form will be returned. SESAs will defer follow-up in such cases.

UCFE Instructions for Federal Agencies

Completed forms **must** be returned to the appropriate SESA to the address indicated on the Form ES-931. Federal agencies will use their own envelopes for this purpose.

g. SESA Follow-up on Delinquent Form ES-931.

SESAs will send a follow-up Form ES-931 to the Federal agency when a completed form has not been received within 10 days of the mailing date of the request and no notice of a delayed response has been received.

When a follow-up is received after the original form has been completed and returned, a clearly legible copy of the original response should be attached to the follow-up request form ' and forwarded to the SESA immediately. If no clear copy is available, complete the follow-up form and annotate it with the statement "**original previously completed and returned on (date).**"

If the Form ES-931 cannot be returned immediately, and the SESA has not been previously notified of a delayed response or the estimated completion date has passed, notify the SESA promptly as to the reason for the continued delay and indicate the date on which the completed form is expected to be returned.

4. Requests for Separation Information for Additional UCFE Claim: (ES-931A).

This form is used to request separation information or the reason for non-pay status when a claimant has previously established a benefit year under the UCFE program and is reopening his/her claim after an intervening period of employment in a Federal agency.

NOTE: wages are not being assigned to establish financial eligibility at this time. Therefore, it will not be necessary to advise a SESA that subsequently requests such wages to determine financial eligibility of this response.

The Form ES-931A is subject to the same response (4 workdays) and control requirements as the ES-931. Particular attention should be given to completing the reason for separation or non-pay status, to ensure that, in separation cases, the information recorded provides the factual details required by Supplement 296-33 Federal Personnel Manual (FPM).

UCFE Instructions for Federal Agencies

a. Facsimile of Form ES-931A.

ETA-931 A – REQUEST FOR SEPARATION INFORMATION		
(STATE AGENCY IDENTIFICATION)		
REQUEST FOR SEPARATION INFORMATION – ADDITIONAL CLAIM		
1) STATE AGENCY ADDRESS:	2) FEDERAL AGENCY NAME, 3-DIGIT AGENCY CODE, AND ADDRESS	
3) LOCAL OFFICE/CALL CENTER:	4) DATE OF REQUEST:	5) EFFECTIVE DATE:
6) CLAIMANT'S NAME (LAST, FIRST, MIDDLE INITIAL)	7) SOCIAL SECURITY NUMBER	
FEDERAL AGENCY RESPONSE – COMPLETE AND RETURN WITHIN 4 WORKDAYS		
8) SEPARATION, LUMP-SUM ANNUAL LEAVE, AND SEVERANCE PAY INFORMATION		
a) DATE OF SEPARATION ____/____/____		
b) REASON FOR SEPARATION:		

c) DID THIS PERSON RECEIVE PAYMENT FOR ANNUAL LEAVE ON OR AFTER EFFECTIVE DATE OF CLAIM SHOWN IN ITEM 5?		
____ YES ____ NO If "YES," OR IF CURRENTLY ENTITLED TO SUCH A PAYMENT, COMPLETE THE FOLLOWING INFORMATION:		
AMOUNT OF PAYMENT: \$ _____ DATE OF PAYMENT: ____/____/____ NUMBER OF DAYS OF LEAVE: _____		
d) DID THIS PERSON RECEIVE OR IS HE/SHE ENTITLED TO RECEIVE SEVERANCE PAY PROVIDED BY FEDERAL LAW OR AGENCY EMPLOYEE AGREEMENT?		
____ YES ____ NO If "YES," COMPLETE THE FOLLOWING INFORMATION:		
TOTAL AMOUNT OF PAYMENT: \$ _____ BEGINNING DATE: ____/____/____ ENDING DATE: ____/____/____		
9) SIGNATURE OF OFFICIAL:		TITLE:
PRINT NAME:	TELEPHONE NUMBER: () _____	DATE: ____/____/____
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5. Request for Additional Information or Reconsideration of Federal Findings: ES-934.

This form is used by the SESA to request additional information when the information provided on Form ES-931 is inadequate. The form is also used by the SESA to obtain additional or reconsidered information at the request of the claimant.

A claimant may give one reason for leaving Federal service to the Federal agency and another to the SESA. The Federal agency may be justified in reaffirming its original statement without comment. However, if there is reason for reconciling a conflict, or for modification of original information, the Federal agency should do so. In any event, whether the Federal agency reaffirms or modifies its original findings, it should do so with the understanding that it is furnishing findings of documented fact, not reporting unverified information.

a. Timely Response to ES-934.

The Form ES-934 should be given priority processing upon receipt as it indicates that the SESA has insufficient information on which to base a determination. The Form ES-934 is subject to the same 4-workday response requirements as the ES-931 including timeliness and should be subjected to the same controls as a Form ES-931.

UCFE Instructions for Federal Agencies

b. Facsimile of Form ES-934.

(STATE AGENCY IDENTIFICATION) REQUEST FOR ADDITIONAL INFORMATION	
1. State Agency Address:	2. Federal Agency Name, 3 Digit Agency Code, and Address:
3. Local Office/Call Center ID: 4. Date of Request: 5. Effective Date: 6. Separation Date:	
7. Claimant's Name (Last, First Middle Initial)	8. Social Security Number
9. State Agency Statement or Questions of Federal Agency: _____ _____ _____ _____	
10. Federal Agency Response: _____ _____ _____ _____	
11. Signature of Official _____ Title: _____ Print Name: _____ Telephone: () _____ Date ____/____/____	
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UCFE Instructions for Federal Agencies

c. Completion of Form ES-934.

The Federal agency must: respond to specific questions and allegations on the Form ES-934; furnish any relevant information regarding the individual's Federal employment; and, promptly correct any errors or omissions previously submitted.

If necessary, the claimant's authorization to release all information needed should accompany this form unless it has been previously signed on the Form ES-931.

When questions involve the amount of wages, terminal leave, or the period of service, the personnel/payroll office should review the information furnished with the request against its file copy of the Form ES-931 and the original Individual Earnings Record Card (or equivalent document).

When the request involves the claimant's performance of "Federal civilian service," the personnel/payroll office should review its file copy of Form ES-931 to see whether any error was made in completing the "Federal Findings To Determine Federal Civilian Service" item on the form. If an error was made, correct this information and return the Form ES-934 to the SESA without delay.

When the question involves the reason for separation, the SF-50 (or its equivalent) should be reviewed. Any error in posting information should be corrected and the Form ES-934 returned promptly.

When there have been no errors in posting information, check for additional or clarifying information. Ensure that all employment and wage information and relevant facts concerning separation are reported. If all facts had been reported and no further information is available the information previously supplied should be reiterated on Form ES-934 and a statement added that "no additional information is available." Return the completed form to the SESA after clearing mail controls and maintain a copy of the completed Form ES-934 in the office files.

6. Claimant's Affidavit of Federal Civilian Service, Wages and Reason for Separation: Form ES-935.

The Form ES-935 is taken as part of the initial claims process by the SESA based on the claimant's certification of Federal civilian service, wages and reason for separation. The SESA will forward the completed ES-935 with forms ES-931, ES-931A and/or ES-934 to the Federal agency. SESAs using a computer generated Form ES-935 may include the claimant's statement from the Form ES-935 on a computer printout in lieu of attaching the form.

The SESA will use the ES-935 to issue a monetary and nonmonetary determination if the completed ES-931, ES-931A, or ES-934 has not been received from the Federal agency by the 12th day after the forms were sent to the Federal agency.

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The Federal agency should review the information on the ES-935 to assure the information agrees with the Federal Agency Findings as indicated on the ES-931, ES-931A, and/or the ES-934. A rebuttal is required if the agency's Federal findings and the ES-935 conflict.

a. Facsimile of Form ES-935.

ETA-935 (STATE AGENCY IDENTIFICATION) CLAIMANT'S AFFIDAVIT OF FEDERAL CIVILIAN SERVICE, WAGES AND REASON FOR SEPARATION, ETA-935			
1. State Agency Address:		2. Claimant's Name and Mailing Address:	
3. Local Office/Call Center ID:	4. Date of Request:	5. Effective Date of Claim:	6. Separation Date
7. Federal Agency Name and Address:			8. Social Security Number
Instructions: Complete and Return Immediately			
9. Affidavit of Federal Wage and Separation Information/Documentary Evidence			
a. Enter the location of your Official Duty Station: (City, State)			
b. Enter your wages with the above named employer below. Show wages by quarter starting with the wages that you earned after (<u>base period begin date</u>) up to the date you separated from this employer. Under Documentary Evidence, enter the source of the information provided and attach a copy. If additional space is needed to explain reason for separation, attach your signed explanation.			
Quarter Ending	Year	Gross Wages	Documentary Evidence
c. Severance Pay. Did you receive or are you entitled to receive severance pay provided by Federal law or agency employee agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes" complete the following information: Total Entitlement: \$ _____ Severance Pay Period Begin date: ___/___/___ Ending Date: ___/___/___			
d. Pension: Are you entitled to receive a pension from any branch of the Federal Government? <input type="checkbox"/> Yes <input type="checkbox"/> No Enter Gross Monthly Pension \$ _____			
e. Reason for Separation:			
I, the claimant, understand that penalties are provided by law for an individual making false statements to obtain benefits and that determinations based on an affidavit are not final; that determinations are subject to correction upon receipt of wage and separation information from the Federal agency, that benefit payments made as a result of such determination may have to be adjusted on the basis of information from the Federal agency, and that any amount overpaid will have to be repaid or offset against future benefits. I, the claimant, swear or affirm, that the above statements, to the best of my knowledge, are true and correct.			
10. Signature of Claimant: _____			Date: ___/___/___

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7. Other Requests for Information.

There are other situations in which SESAs may request information for claim determination. These requests may be made using the ES-931A, ES-934, a SESA form, or by letter or other communication. Upon receipt of such a request, the Federal agency should provide the information requested and respond within 4 workdays.

a. Partial Unemployment.

State laws provide for the payment of partial benefits to a claimant who reports work less than full-time and earnings less than the earnings limit. SESAs will request a verification of such employment, wage and separation information for each such week claimed.

b. Requalifying After Disqualification.

Most disqualifications are imposed in terms of a specific number of weeks and/or until the claimant has earning of a specified amount subsequent to the disqualifying act.

When the claimant has been previously disqualified, the SESA may also request, in connection with this request, wages, and/or weeks of employment pertaining to the period of intervening employment. This information will be used to determine if the claimant has met the requalification requirements previously imposed.

c. Benefit Payment Control (BPC).

In connection with BPC activities, a SESA may request employment and earnings information for a period during which there is reason to believe that a claimant was employed and concurrently claiming/receiving unemployment benefits.

Such earnings information should be reported promptly and in the manner requested. Special care must be taken in providing **employment and/or earnings in the week (s) specified** on the form received.

When an individual is in benefit status, wages are reportable for the week during which they are earned. Therefore, the SESA is primarily interested in knowing whether the individual was employed/working in the specific period, even though the individual has not been paid for the service rendered.

d. Additional Wages to Qualify for a Second Benefit Year.

All States laws provide that in order to receive benefits in a second benefit year, when benefits have been received in the first, a claimant must have earned a specified amount subsequent to the beginning of the first benefit year. (This provision is to prevent an individual from establishing two successive benefit years based on a single separation from work when wages subsequent to the base period of the prior claim are sufficient to meet the State's wage qualification requirement.)

8. Required Notices.

There are several instances when the Federal agency needs to notify a SESA of actions, which impact a former employee's eligibility for UC. The agency control file or other systems should be

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utilized to identify and/or flag instances where final information is not available or anticipated when the original ES-931 is completed.

a. Security Cases.

If the reason for separation concerns a security case (5 U.S.C. 7532), advise the SESA of this fact and provide the content of the final decision. If the claimant has shown the SESA the letter of charges and/or the decision, the Federal agency should confirm or deny that the reason for separation is correctly reflected in the documents and reiterate findings provided on the Form ES-931.

b. Back-Pay Awards.

Whenever a back-pay award is made, check the agency file of Forms ES-931 to determine if the recipient of the award filed a claim for unemployment benefits within the last 52 weeks. If so, inform the SESA of the amount and period covered by the award.

If a Form ES-931 is received after a back-pay award has been made, the Federal agency will include the back-pay award as wages in Item 2.A. of the Form ES-931 with any other wages paid for which the request is made.

1) SESA Determinations. The SESA will review the claim and determine if any of the period covered by the award falls within the base period of the claim or covers any period for which UC has been claimed or paid. If under State law the back pay is considered base period wages, the SESA may request a corrected report of wages, on Form ES-931, to include the amount of the back pay in the claimant's base period wages. In such case, the SESA will issue a redetermination of the claimant's monetary entitlement and adjust benefit payments accordingly.

2) Adjustment of UCFE Payments. When the SESA redetermines the UCFE claim, there may be an underpayment when the back pay is base period wages or an overpayment when it covers a period for which benefits have been paid. Generally, recovery of UCFE overpayment is a matter for SESA action under its law. However, this is not always the case.

The Comptroller General has ruled that the amount of any UCFE benefits paid during the period covered by the **back-pay award should not be deducted** by the employing Federal agency from the award (CG B-125137 dated October 28, 1955 and reaffirmed December 7, 1983, CG B-208097). **However**, a Comptroller General's Decision B-220734 of September 24, 1986, states that unemployment benefits **must be deducted from a back-pay award when State law requires the employer to reimburse the State** for overpayment rather than the claimant. Whenever a back-pay award is being made for a period that the employee collected UCFE benefits, the SESA should be notified so that the appropriate coordination can be accomplished between the Federal agency and the SESA to determine the required action in accordance with State law.

c. Terminal Leave Payments to Employees Terminating Non-pay Status.

Employees in a non-pay status and those employed less than full time, including substitute mail carriers, intermittent workers, and similar non-career employees, may file claims for unemployment benefits and may be entitled to UC under the provisions of some State laws.

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If less-than-full-time non-career employees terminate their employment and are paid lump-sum terminal leave, the Federal agency payroll unit should review its file to determine if it had completed and returned a Form ES-931 to any SESA concerning the employee within the past 52 weeks. If so, the SESA should be advised in writing of the:

- 1) total amount of terminal leave paid;
- 2) date on which payment was made;
- 3) the number of days and hours for which paid: and,
- 4) hourly rate of pay used in computing the payment.

The Federal agency should be sure to include the employee's name and social security number.

The SESA will decide whether the terminal leave payment requires a redetermination of the individual's entitlement or eligibility. If yes, the SESA may request a corrected report of wages on Form ES-931.

d. Refusal of Employment Offer.

Refusal of suitable work/referral without good cause is reason for denial of UC. Federal agencies **must** assist in the proper administration of the UCFE program by providing written notification to the appropriate SESA whenever a former agency employee (claimant) refuses an offer of reemployment.

1) Preparing a Notice of Refusal. A refusal of an offer of employment may be a re-employment offer, re-assignment in lieu of reduction-in-force, etc. There are three major considerations for SESAs in determining a refusal issue:

- (a) Was there a bona fide offer of work or referral to work?
- (b) Was the work suitable?
- (c) Was there good cause for the refusal?

Before a disqualification is considered, it must be established that there was an actual refusal of a bona fide offer of a job.

To determine the suitability of the job, the working conditions of the job are compared to Federal/State standards, to what is prevailing for similar work in the labor market, and to the claimant's experience and/or training. The investigation of the suitability is not restricted to objections regarding the offered work raised by the claimant.

If the job is determined to be unsuitable, a refusal is not disqualifying. If the job is found to be suitable, the SESA must then determine if the claimant had good cause for the refusal.

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2) Factors to be addressed when providing a notice of refusal to the SESA:

(a) Was there a bona fide offer of work? The information that the SESA needs covers two areas:

- (1) Was there a genuine offer of work to a specific job?; and,
- (2) Was the offer successfully conveyed to the claimant?

Therefore, give details of the job offer (i.e., job duties, starting pay, hours of work, etc.) and explain how the job was offered to the claimant.

(b) Was the job suitable? Suitability is determined by considering:

- (1) Claimant's skills, training, experience, and capabilities, and
- (2) Federal/State standards that make the work automatically unsuitable.

The questions that need to be answered are:

(i) Are the wages, hours, or other conditions of the work offered substantially less favorable than those prevailing for similar work in the locality?

(ii) Is the position offered vacant due directly to a strike, lockout, or other labor dispute?

(iii) As a condition of employment, does the individual have to join a union, resign from a union, or refrain from joining any bona fide labor organization?

(c) Did the claimant have good cause to refuse suitable work? When it has been established that work offered was suitable, the claimant's objections are examined for good cause. Personal reasons for refusing suitable work are sometimes considered good cause but may raise questions as to the claimant's availability or capability. Therefore, any reason that an individual gives for not accepting work should be provided to the SESA.

When the claimant's reason(s) are related to the job offered, (i.e., wages, hours, type of work, distance to job, etc.) good cause will be determined based on consideration of the claimant's length of unemployment, prior earnings/working conditions, prospects of other employment, and availability of work in the labor market.

(3) Procedures to Ensure Prompt Notice. Each Federal agency should have established procedures, which require the personnel office which receives a refusal of an offer of employment from a former Federal civilian employee to immediately contact the appropriate agency personnel office to determine if a UCFE claim has been filed during the prior 52 weeks. When there is a UCFE claim on file, the personnel office should prepare and send written notice of

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the refusal to the appropriate SESA. A copy of this notice should be forwarded to the appropriate component personnel office to be included in its files. The individual with first-hand knowledge of the refusal should be identified as that individual's attendance and testimony may be necessary, when an appeals hearing is held.

When a refusal of reemployment has occurred and there is no record of a claim, information pertaining to the refusal should be forwarded to the appropriate personnel office to be maintained and included as part of the separation information if a Form ES-931 is received.

e. Final settlement of an Appealed Personnel Action.

Upon final disposition of an appeal on a personnel action pending before the Federal agency or the OPM at the time of a response for separation information from a SESA, the Federal agency should notify the SESA promptly of the decision whenever the decision requires a change in the findings originally reported by the Federal agency. A letter providing modified findings and a copy of the decision should be forwarded to the SESA.

f. Information on Claims Filed under the Federal Employees' Compensation Act (FECA).

Some State UI laws disqualify claimants from receiving UC who are concurrently receiving worker's compensation under any State or Federal law. Other States, however, deduct such payments from the weekly unemployment benefit amount. The SESA **should** be advised any time a claim is filed under the FECA by an individual that has filed a claim for UCFE benefits.

Chapter VII REASONS FOR SEPARATION AND NON-PAY STATUS

When an individual applies for UC, the reason for the unemployment is very important in determining whether the compensation is payable. A claimant must be out of work through no fault of his/her own: and, for each period claimed, must be available for work, (i.e., ready, willing and able to work), and in most States actively seeking work. Whether the claimant has been permanently separated or is in non-pay status (voluntary or involuntary), the question is the same. Is the claimant out of work through no fault of his or her own?

When providing voluntary leaving or discharge for cause information to the SESA, always provide complete factual information describing the actions or incident(s) which lead to the worker's discharge or state the reasons the worker may have given for quitting his or her job, using personnel folders, subject files, etc. The "nature of action" itself is not usually adequate. Any memoranda and/or other written documents concerning the separation, including the employee's exact statement given the Federal agency, if any, should be provided to the SESA. It is important to include the separating employee's exact statement of his/her reason for leaving a job. The employee's statement is not only important in determining a voluntary separation issue; it may also help the SESA identify other eligibility issues related to availability for work. For instance, an individual may be determined to have separated with good cause and not subject to a disqualification related to such separation, while by their own statement, would be deemed unavailable for employment and thereby determined ineligible.

Federal agencies should be aware that finding of "fault" or "no fault" with respect to a worker's separation from work is a matter of State law. Therefore, the same set of facts may produce different results based on differences in State laws. The information a SESA needs from the Federal agency in making this determination of "fault" or "no fault" is the focus of this CHAPTER.

1. Separations Other than Voluntary Leaving and Discharge.

When an employee has been laid off because of lack of work, lack of funds, reduction-in force, etc., it is not sufficient to simply state the "nature of action" (i.e., "termination/involuntary", "reduction-in-force", etc.). Remember, the question that needs to be answered: "Is the employee out of work through no fault of his/her own?" Provide the detail statement that correlates with the "nature of action." When there is a reduction-in-force, the SESA needs to know if the employee was offered other employment or a change in work assignment.

a. Intermittent Part-time Employees in Non-Pay Status.

If less than full-time employees (i.e., intermittent, part-time, seasonal, etc.) including those employed as substitute mail carriers are temporarily put into a non-pay status, the SESA must be told the reason for their having been put into such status on the date reported as the last day of active pay status. The reason for non-pay status recorded should indicate the specific reason for the non-pay status and the prospects for returning to paid status. For example:

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"Placed in non-pay status on (date) because of (reason) e.g., lack of work - no other work available", lack of work- scheduled to return to work on (date)", or lack of work -will be recalled when needed."

b. Change in Administration.

When employees are separated due to a change in administration, the reason for separation should be "Involuntary Separation Due to Change in Administration." This wording should have been used for the reason for separation on the SF-50, Notification of Personnel Action.

2. Voluntary Separations.

Generally, voluntary separations are adjudicated in terms of with/without "good cause" connected with work. However, some State laws also recognize personal reasons in determining "good cause." Discharges are adjudicated in terms of whether or not the individual provoked or caused their discharge by acts or omissions connected to the employment, which were harmful to the employer's interest, i.e., misconduct.

When an individual is determined to have voluntarily left their employment "with good cause" or to have been discharged for reasons that are not considered misconduct, they are deemed to be "out of work through no fault of their own".

a. Voluntary Leaving.

Voluntarily leaving work without good cause is reason for disqualification. Whether the "Nature of Action" describing the separation is "Resignation", "Resignation-ILIA (In lieu of involuntary action), or "Retirement (any voluntary separation, including ILIA)", the separation issue to be adjudicated is "voluntary leaving."

Some States' laws provide that the worker's reason for leaving must be work related or good cause for leaving cannot be established. In other States, good cause for quitting a job may be established if the leaving was for either personal or work-related reasons as set forth in State law.

In most States' law, regulations or policies dictate that certain situations require a specific result. The following is a list of possible statutory provisions where the adjudicator need only establish the reason for leaving to determine the claimant either eligible or ineligible:

- (1) Voluntarily leaving for domestic or marital reasons:
- (2) Voluntarily leaving to join or accompany a spouse or companion:
- (3) Voluntarily leaving to accept other work;
- (4) Voluntarily leaving to go to school:
- (5) Voluntarily leaving to enter self-employment;
- (6) Voluntarily leaving due to retirement: and,

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(7) Failure to pay union dues or refusal to join a bona fide labor organization when membership was a condition of employment.

Each State has different "statutory" provisions. Such laws, regulations or policies are not statutory if the adjudicator needs additional information, other than the reason for leaving, to make a decision. For example, some States provide that it is good cause to leave work if the claimant is physically unable to perform the work. However, good cause may not be established unless the claimant pursued alternatives prior to leaving (e.g., leave of absence, transfer to a job with less strenuous physical requirements, etc.).

As the adjudicator must investigate the claimant's pursuit of alternatives prior to leaving, this situation is not statutory; i.e., it does not always require a specific result. When the adjudicator determines that a situation is statutory, investigation of additional factors is not necessary. In other words, certain circumstances always lead to a pay decision or always lead to a denial. However, most voluntary leaving cases require investigation of several factors including: the effect of working conditions on the individual, the worker's attempts and efforts to correct the problem prior to leaving his or her job, and the conditions of work.

When providing separation information, Federal agencies should be familiar with and provide the type of information that is necessary to the investigation of the issue with the ES-931 response to avoid the need for an ES-934. This does not mean that the Federal agency should attempt to provide only that information that it deems necessary. Instead, this is an attempt to advise Federal agencies of the type of information necessary to establish fault. Therefore, when providing separation information, the agency should be sure to cover certain points.

Below is a discussion of the basic factors of a voluntary leaving issue:

(1) Why did the claimant quit?

(a) It is necessary to pinpoint the reason that the employee decided to leave work on **that** particular day. Often there will be a "laundry list" of grievances. However, pinpointing the primary reason for separation is necessary.

State laws differ with respect to the treatment of workers who elect voluntary separation prior to an involuntary separation at a later date. Therefore, when there is a voluntary separation prior to a pending action, be sure to provide the date that the separation would have occurred.

The adjudicator is also required to examine the adverse effect of the situation on the claimant. Was the reason for leaving compelling? Would a reasonably prudent person in a similar situation have left work? How severe or immediate were the harmful circumstances?

When it is clear there was little adverse effect ("I left because the job was boring"), there is little need for information beyond the "primary reason for separation."

(b) Was the reason for leaving personal or work related?

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In States in which the reason for leaving must be related to the work to be considered good cause, and the employee left for personal reasons, there is no need for additional information. Benefits will automatically be denied.

(2) What were the conditions of work? If the reason for leaving was work related, the adjudicator will need to examine the conditions of work. What did the employee have a right to expect from the employer? The employment agreement may be verbal or written, a matter of union contract, peculiar to a specific job, or a specific health or safety regulation. The working conditions may also be considered unacceptable due to a violation of commonly accepted employment practices such as fair work assignments, etc.

(3) What steps did the employee take to remedy the situation prior to leaving? The employee should have pursued all reasonable alternatives to leaving. Did the employee ask for a transfer? A leave of absence? Pursue established grievance procedures? Did the employee give the job a fair trial? Or, if alternatives were not pursued, why did the employee believe that such action would be futile?

Even when the work had a serious effect on the employee, good cause may not be established unless reasonable alternatives are pursued. Also, even though working conditions are determined unsuitable, the claimant is expected to attempt to correct the problem prior to leaving.

b. Discharge for misconduct.

Discharge for misconduct in connection with the work is cause for disqualification. Misconduct may be defined as a willful or controllable breach of an employee's duties, responsibilities, or behavior that the employer has a right to expect. Stated another way, the misconduct may be an act or an omission that is deliberately or substantially negligent, which adversely affects the employer's legitimate business interests.

A single act of negligence with no harmful intent is usually not considered to be misconduct, nor is inefficiency, unsatisfactory conduct that is beyond the employee's control, or an isolated good faith error of judgement or discretion.

When providing separation information pertaining to discharges, terminations and removals, details pertaining to the following basic factors should be covered:

(1) Why was the employee discharged?

(a) First, it is necessary to pinpoint the reason that the employer decided to discharge the employee on that particular day. Often there will be a number of incidents which may have occurred over a period of time. However, the SESA will be looking to pinpoint the incident(s), which actually led to the discharge. Advise the SESA of exactly what happened on that last day to cause the discharge.

(b) Was the employee's behavior a direct adverse effect on the employer's business interests? Explain how the employer's interests were affected. Incidents which occur

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away from the work site and have no direct effect on the employer are generally not misconduct but may have a disqualifying effect.

(c) The discharge must be reasonably related in time to the act causing the separation. Misconduct is not established if a substantial time period has lapsed between the act and the separation. Explain why the worker was not discharged immediately following the act or omission which caused the employer to discharge the worker, if necessary.

(2) What were the conditions of work? This focuses on the behavior the employer has a right to expect from the employee. You should have already explained what the employee did. Now, explain what should have been done.

The expected behavior may be outlined specifically in a verbal or written employer rule, union agreement, practices or conduct peculiar to a particular job, a law or regulation which governs health and safety practices or may be covered by commonly accepted standard practices.

(3) What did the employer do to maintain the employer/employee relationship? This focuses on the efforts of the employer to control or prevent the behavior that resulted in the discharge in order to establish both the reasonableness of the employer's action and the claimant's knowledge of the consequence of the conduct. If warnings were given, the number of warnings, the dates of the warnings and the method used (verbal or written) must be provided. If the employer condoned the behavior in the past, this too must be explained.

The employer's behavior in trying to control employee's actions or prevent discharge for "gross misconduct" or serious violations of common rules of employment (stealing from the employer, etc.) need not be explained.

Chapter VIII DETERMINATION NOTICES, FILING APPEALS, AND STATE APPELATE PROCEDURES

1. SESA Notices Sent to Federal Agencies.

Each SESA uses its own forms and notices in the administration of its unemployment insurance program. For claims filed under the UCFE program, some standard forms are required. However, there is no standardization of all forms used in the administration of the UCFE program. Therefore, Federal agencies will receive SESA forms and notices in connection with claims under the UCFE program, which may differ from State-to-State.

2. Notice of Determination.

A notice of determination will show if benefits have been allowed or denied, the reason for that result and the State statute relied upon to reach that result. A copy of the determination is provided to each "interested party" as defined by State law. An employer, including a Federal agency, can lose its "interested party" status by failing to respond to certain notices in the time allowed by State law. The notice of determination will include instructions about how, where, and when the party aggrieved by it may file an appeal.

a. Notice of Financial Determination (also called Monetary Determination).

When the SESA determines the financial eligibility, of a claimant, the SESA will notify all employers of the claimant's eligibility. The form used will vary among the SESAs. The Federal Agency should review the notice to determine if the wages used to determine eligibility of the claimant agree with the completed ES-931. Discrepancies should be reported to the SESA.

b. Notice of Non-Monetary Determination.

When an eligibility issue is raised, the SESA will issue an appealable determination. The Federal agency should review the determination to determine if the decision reflects the information provided by the Federal agency. If the Federal agency disagrees with the determination, a timely appeal of the determination should be filed as discussed in Subchapter 3. below.

3. Appeals from Determinations.

Federal law requires all State laws to provide for an "opportunity for a fair hearing before an impartial tribunal for all individuals whose claims for UC are denied." Therefore, all State UC laws contain provisions permitting an appeal of a SESA determination. In all States, employers that have protected their "interested party" status have the right to appeal determinations which are adverse to their interests.

All State laws limit the time allowed for an interested party to file an appeal. Therefore, it is important for notices of determinations to be routed to and reviewed immediately by the appropriate Federal agency personnel staff so that any necessary action can be taken within the appeal period.

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SESAs send notices to the address shown on the SF-8, if it was provided by the claimant.

a. Federal Agency Appeal of State Determinations.

Generally, the Federal agency, which was the last employer before the claimant filed a claim for UI is an "interested party" to the initial determination and may appeal a determination that it believes is wrong. It is important that the Federal agency review its copy of the determination against its copies of the Forms ES-931, ES-935 (Claimant Affidavit) and/or Forms ES-934, the claimant's SF-50, SF-52 or other supporting documentation to ensure that the State's "Findings of Fact" or "Reasons for Determination" are based on correct, factual information.

In order to safeguard its funds, a Federal agency is responsible for appealing determinations which it believes are erroneous. There may be errors in the SESA's findings of fact, interpretation of the information supplied by the Federal agency, interpretation of the State UC law, or interpretation of the Federal law and regulations applicable to the UCFE program.

Federal agencies which utilize contractors to respond to SESAs requests for UCFE information are cautioned that while a contractor can suggest which cases should be appealed, the Federal agency's decision to appeal should represent a belief that the determination issued by the SESA is incorrect and/or inconsistent with the policy or precedent decisions of the State. The Federal agency may wish to contact the SESA's UCFE coordinator to discuss the determination.

b. Notice of Appeal.

A Notice of Appeal form is completed by a claimant or an employer wishing to appeal a determination if the party reports in person to the SESA's office. This form is prepared by the SESA, if an employer or a claimant mails a letter to the SESA indicating a desire to appeal. A copy of the completed form is generally provided to each "interested party" as a means of notifying them that an appeal has been filed.

4. Administrative Hearings.

The UI appellate process in most States is two-level. A first level decision can be appealed to the second level. A favorable or adverse decision at the first level may result in a reversal at the second level. Therefore, it is important that the Federal agency participate in the appeals process and make the appropriate individuals available to provide testimony, when necessary, in order to protect its interests.

The first level hearing is before an impartial Hearings Officer (Administrative Law Judge, Referee, etc.). At this hearing sworn testimony is taken and other types of evidence are offered. The decision resulting from this hearing is appealable to the second level. Generally, the second level consists of a review of the evidence from the first level hearing to determine if there has been an erroneous application of State law. If necessary, another hearing will be scheduled and additional evidence taken. However, this is a rare occurrence. Therefore, it is extremely important that an interested party is present at the first level hearing. The second level decision exhausts all administrative recourse available.

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The second-level decision (first level in those States with a one level administrative process) is subject to judicial review in the State courts. Information about how to appeal first and second level decisions is provided with those decisions.

5. Notice of Hearing.

A notice of hearing is mailed to each interested party to the appeal. It will include, among other information, the date, time and place of hearing. If the hearing is to be conducted by telephone, the notice of hearing will so advise.

When the Federal agency receives a notice of hearing, it should immediately determine if the individuals necessary to provide testimony based on first-hand knowledge will be available for the hearing as scheduled. If not, the SESA should be immediately contacted and a request for rescheduling made, because if an interested party fails to appear at a scheduled hearing, the decision is made on the basis of the evidence presented at the hearing, which may be only the other parties' sworn testimony.

6. Federal Agency Participation in the Appeals Hearing.

Upon receipt of a notice of hearing, the Federal agency should take action regardless of who initiated the appeal. Arrangements need to be made for the appropriate person(s) to testify at the hearing. Failure to participate in the hearing frequently results in an adverse decision because there was no sworn testimony from the absent party and no rebuttal of the sworn testimony of the present party. Information previously supplied by the parties may not be considered unless it is properly introduced at the hearing. Thus, it is important that the Federal agency representative(s) be prepared to offer first-hand (not hearsay) testimony about the issues, and to properly authenticate any relevant documentary evidence that is to be offered. Most hearings are conducted in-person, however, some intrastate and all interstate hearings are conducted by telephone conference.

In preparing for a hearing, consider the following:

- a. Preparation is the key to proper presentation of facts.
- b. It may be possible to offer new evidence at the hearing that was not previously considered in the SESA's determination. (This may result in a continuance of the hearing, if the other party is surprised by the new evidence and consequently is not prepared to respond to it.)
- c. Except under rare circumstances, the first-level hearing will be the last opportunity to offer evidence. (Do not assume that there will be an opportunity to again present/provide evidence, before the second level decision is issued).
- d. Agency representative(s) with first-hand knowledge should attend the hearing and testify. They should be aware that they will be subject to cross-examination by the opposing party.

NOTE FOR AGENCIES WHICH UTILIZE CONTRACTORS: Although a contractor may attend a hearing, the Federal official having first-hand knowledge of the situation must attend to

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give testimony and present evidence: otherwise, any testimony given would be considered hearsay, if objected to.

e. Hearsay testimony, even if admitted, will usually not overcome conflicting first-hand testimony.

f. An administrative hearing is a "informal" but structured proceeding.

g. Decisions by other forums (Merit System Protection Board, an arbitrator, etc.), which address rights and duties under different laws, arising from the same event(s) are not binding on the State Hearing Officer, but may, under some circumstances, be offered as part of the evidence at the hearing.

h. In cases of a voluntary leaving of work, the former employee must show, by a preponderance of the evidence, that, under State law, there was good cause for leaving the work. Even though the former employee has this burden, the Federal agency has a responsibility to attend the hearing and be prepared to refute and/or rebut any inaccurate or self-serving evidence offered by the former employee.

In cases of discharge, the employer must show by a preponderance of the evidence that the discharge was for conduct that is, under , State: law, "cause" or "misconduct connected with the work."

In cases involving a controversy about the amount of wages paid to the former employee or the length of that individual's "Federal service," payroll records from the Federal agency may be provided.

Chapter IX STATEMENT OF EXPENDITURES OF FEDERAL FUNDS FOR REIMBURSABLE UNEMPLOYMENT COMPENSATION BENEFITS PAID TO UCFE CLAIMANTS AND REIMBURSEMENT

1. General.

UC paid under the UCFE program is advanced or reimbursed to the SESAs by the DOL. The SESA totals benefits paid by Federal agency and submits the report to the DOL. The DOL sends the "STATEMENT OF EXPENDITURES OF FEDERAL FUNDS FOR REIMBURSABLE UNEMPLOYMENT COMPENSATION BENEFITS PAID TO UCFE CLAIMANTS" quarterly to bill Federal agencies as outlined in 5 U.S.C. 8509. **Such bills are to be paid within 30 days of the billing date.**

SESAs are required to requisition funds from the FEC Account to cover anticipated benefit payment needs for all UCFE claimants. These electronic requests are received by the Financial Management Services, Trust Funds Branch, U.S. Department of the Treasury. The requisitions and transfers of these funds are to be made daily.

2. Providing Information to Federal Agencies.

Pursuant to the Secretary's authority in 5 U.S.C. 8509(f), SESAs provide appropriate personnel/payroll offices of Federal agencies with a copy of all determination notices, including appeals, that are provided to a private employer. The SESA should furnish the Federal agencies, upon their request, with detailed benefit payment data, which supports the charges which will be billed to the Federal agency. Some SESAs may send notice forms designed for State-covered employers. These forms may include information showing benefit charges to all employer accounts in the base period. Federal agencies should examine these forms to ensure that all known employment and wages have been reported for each individual. If improper Federal wages are assigned, the potential pro rata share of charges for the Federal agency could be raised higher than it should. The agency should contact the UCFE coordinator by telephone and/or send a letter to the SESA notifying the SESA of any incorrect assignment. SESAs provide the certified documentation directly to those Federal agencies that have requested the benefit payment data.

3. SESA Reporting.

Each SESA notifies the National Office (NO) on the ETA 191 report (quarterly statement) of the following:

- (a) the quarterly summary of UCFE expenditures and adjustments; and
- (b) the total amount of benefits paid by the SESA to claimants of specific agencies.

4. Quarterly Billing.

After receipt of the ETA 191 report, the UIS/NO aggregates the benefit payments by individual Federal agencies and bills each accordingly. Quarterly, the NO certifies to the U.S. Department of the Treasury the total amounts due from each Federal agency.

Quarterly, the UIS bills the Federal agencies based on the data provided by the SESAs. Each Federal agency deposits into the FEC Account, on a quarterly basis, reimbursements of benefits that have been paid to their employees or former employees.

5. Correction of Errors.

SESAs adjust their reports each quarter to reflect corrections. A timeframe of 2 years, from the time that the error occurred, has been established as the time for adjustments to be made. State agencies are to correct improper charges made to Federal agencies by increasing or decreasing the agency's charges on subsequent reports.

NOTE: Federal agencies are not relieved of charges for benefits paid unless/until benefits deemed to have been overpaid under State law have been recouped.

6. Federal Agency Review – Bills/Detailed Listing.

The Quarterly Detailed Listings can aid the Federal agency in its review of the UCFE bill. The Federal agency should check the quarterly detailed list of charges from the SESA against its payroll records to ensure that claimants are not concurrently employed by the Federal agency and collecting UCFE benefits. If records indicate that an employee is collecting benefits for weeks **during which** work is performed for the agency, the Federal agency should send a written account of the pertinent information to the appropriate SESA for investigation and action. Include the individual's name, SSN, dates of employment and earnings and request a written response from the SESA. **No** action pertaining to possible fraud should be taken by the Federal agency until notification is received from the SESA and potential actions are cleared with the Federal agency's office of the Inspector General.

Chapter X PROGRAM REVIEW AND AUDIT.

Benefits paid under the UCFE program are to be paid when due in accordance with the State's UC law. In order to assure the proper payment of benefits the following procedures are utilized.

1. Introduction to Form ES-936 - Request for Verification of UCFE Wage and Separation Information Furnished on Form ES-931.

This form is used by SESAs to request each Federal personnel/payroll office to verify a sample of the Forms ES-931 submitted by that office and to provide the Federal agency with an opportunity to request technical assistance concerning the UCFE program.

a. Completion Requirements.

The Forms ES-936 shall receive the same prompt attention as Forms ES-931, i.e., completion and return within 4 workdays. If the Individual Earnings Record Card or similar documents on which the original assignment of wages was based have been retired to a records center, they must be obtained by the employing Federal agency, or the successor agency having records maintenance responsibility, to properly complete the Form ES-936.

It is desirable that the Forms ES-936 be completed by someone other than the person who prepared the original Forms ES-931, or that it be reviewed by an authorized certifying officer.

NOTE: The ES-936 verification process involves the use of original documents which are maintained at the Federal agency location. Therefore, when a contractor is handling the UCFE claims process for a Federal agency, the contractor should be required to follow procedures to ensure that each Form ES-936 received is automatically forwarded to the Federal agency immediately for completion (unless the contractor has personnel on-site with access to the agency's original records).

UCFE Instructions for Federal Agencies

b. Facsimile of Front of Form ES-936.

**REQUEST FOR VERIFICATION OF UCFE WAGE
AND SEPARATION INFORMATION FURNISHED ON FORM ES-931**

(Input State Agency Name) Local Office: Contact: Telephone:	Date New Claim Filed: Date of Request:
--	---

SECTION I. IDENTIFICATION

1. Name (Last, First, Middle, Maiden (if any))	2. Social Security Number	3. Birth Date (MM/DD/YY)
4. Position Title	5. Place of Employment (State, City or Country)	6. Separation Date (MM/DD/YY)

TO: (FEDERAL AGENCY, 3 DIGIT FEDERAL AGENCY CODE AND ADDRESS)

SIGNATURE STATE AGENCY REPRESENTATIVE	TITLE	DATE
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INSTRUCTIONS: The U.S. Department of Labor has requested us to verify periodically the accuracy of information previously furnished by Federal Agencies on Form ES-931, Request for Wage and Separation Information-UCFE. Please have an authorized official personally review records from which the Form ES-931 cited above was completed in accordance with your agency's instructions pertaining to the Unemployment Compensation for Federal Employees program (5 U.S.C. 8501 et seq.).

SECTION II. FEDERAL AGENCY TO COMPLETE

1. Post "Total Employee Wages" from payroll record(s); do not copy from file copy of complete Form ES-931. If a pay record for any portion of the period covered has been sent to the National Personnel Records Center, it should be obtained before item 1b is completed and the State agency should be notified concerning the delay.

	<u>Yes</u>	<u>No</u>
a. Do you have payroll record(s) for this employee? If "NO", explain:	___	___
b. For the Base Period beginning _____ and ending _____ provide Total Employee Wages: \$ _____		

2.

a. Do you have a copy of the Form ES-931?	___	___
b. Do you have a file to maintain completed Forms ES-931?	___	___

3. Was the State (or if outside the U.S., country) reported on Form ES-931, the same as shown on SF-50, "Duty Station" or, if SF-50 is not used, the same duty station or equivalent entry as shown on the separation document your agency uses?

	___	___
--	-----	-----

4. Were (a) severance pay, or (b) lump sum payment for terminal annual leave, reported separately on Form ES-931, and not included as base-period wages?

UCFE Instructions for Federal Agencies

c. Reverse of Form ES-936.

5. Were the reasons for separation reported on Form ES-931, at least as complete as the information shown in both the "Nature of Action" and "Remarks" sections of SF-50, or equivalent document, used in the separation of this employee? _____

This is the minimum information required on Form ES-931. If answer is "NO", indicate the source of information you used in completing Form ES-931:

6. Enter date certification was made on Form ES-931 (Date) _____

7. Do you have the instructions issued by your agency's headquarters on the UCFE program? _____
If "NO", you should request instructions through the same channels through which you obtain other payroll or personnel instructions from your agency.

8. In reviewing the payroll record(s) for this employee, did you discover any error in the information previously furnished on Form ES-931? _____
If "YES", give the correct information under "Remarks by Federal Agency" below or on an attached sheet. Any questions you have concerning the operation of the UCFE program may be indicated under remarks.

Certification: The above information has been furnished by someone other than the person who completed the Form ES-931 cited above and based on my review is hereby certified to be a correct and complete report.

SIGNATURE OF OFFICIAL	TITLE	DATE
-----------------------	-------	------

NAME OF PARENT FEDERAL AGENCY	ADDRESS
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REMARKS BY FEDERAL AGENCY

If your office is located in one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands, we shall be pleased to arrange for a visit to discuss your responsibilities in the UCFE program.
If you desire a visit, please indicate. YES NO

RETURN TO:

UCFE Instructions for Federal Agencies

d. Results of Verification Process.

A SESA representative will visit the Federal agency personnel/payroll office if replies to Forms ES-936 indicate that errors are being made due to a lack of understanding of the program, or when the Federal agency requests technical assistance concerning its responsibilities under the UCFE program.

2. Introduction to Form ES-939, UCFE Program – Federal Agency Visit Report.

Periodically, DOL staff reviews and evaluates the operations of all programs for which DOL has administrative responsibility. As a part of this evaluation process, DOL staff will visit Federal agencies.

The Form ES-939 questionnaire covers the Federal agency's basic UCFE program responsibilities and is used during the visit to record information pertaining to the agency's discharge of its duties and to provide a report of findings.

During the review, DOL staff will attempt to determine if the local SESA has adequately assisted the installation with respect to the UCFE Program and will provide technical assistance if necessary.

a. State Employment Security Agencies (SESAs).

Periodically, SESA staff visit Federal agencies. SESA visits are made: as a result of a request by the Federal agency; as a part of the SESA's periodic visiting program; to obtain corrections in wage or separation information reported in specific cases; and to familiarize Federal agency staff with UCFE program requirements whenever the need for a visit is indicated. The Form ES-939 will be used by the SESA staff during the visit to record information pertaining to the Federal agency's discharge of its duties and to provide a report of its findings.

Generally, SESA representatives will not visit a Federal agency's contractor (with UCFE responsibilities) because original records are maintained at the Federal agency location rather than at the contractor's site. Therefore, Federal agencies should closely monitor a contractor's performance as a part of their internal audit procedures to ensure that UCFE program responsibilities are being carried out timely and completely.

UCFE Instructions for Federal Agencies

b. Facsimile of Page 1 of Form ES-939.

(STATE AGENCY NAME)	
UCFE PROGRAM-FEDERAL AGENCY VISIT REPORT	
SECTION I. IDENTIFICATION DATA	
1. FEDERAL AGENCY NAME AND ADDRESS (PER STATE RECORDS)	2. CORRECT NAME AND ADDRESS (IF DIFFERENT)
3. VISIT MADE BY: (NAME, TITLE and DATE)	
4. SPECIFIC REASON FOR VISIT	
5. NAMES AND TITLES OF PERSONS CONTACTED	
SECTION II FEDERAL AGENCY FUNCTIONS	
INSTRUCTIONS: Review the Federal Agencies UCFE Program based on the questions provided below. Any "NO" answers should be fully explained on sheet provided. If additional space is required provide a separate attachment.	
General Administration	
	YES NO
1. Does the Federal agency have a designated UCFE Program Manager responsible for the overall UCFE program?	___ ___
2. Were copies of instructions issued by the U.S. Department of Labor distributed to and executed by appropriate units at installations of the agency	___ ___
3. Were current procedures and operating instructions issued by the Federal agency?	___ ___
4. Did the Federal agency by August 1, provide the name(s), title(s), address(es) and telephone number(s) of the designated UCFE Program Manager and the UCFE Liaison(s)?	___ ___
5. Does the Federal agency have an address to have claims sent when the Form SF-8 has not been presented by the claimant?	___ ___
6. Is the address to send UCFE bills, detailed listings and related correspondence current?	___ ___
7. Had the Federal agency provided copies of instructions and informational material to the U.S. Department of Labor prior to issuance?	___ ___
8. Did the Federal agency cooperate fully during the review?	___ ___
9. Did the Federal Agency administrative offices which prepares UCFE forms have copies of UCFE Instructions for Federal agencies?	___ ___
<u>If no, provide a copy.</u>	

UCFE Instructions for Federal Agencies

c. Page 2 of Form ES-939.

	YES	NO
10. Did the Federal agency have an adequate supply of Forms SF-8?	___	___
11. Were you able to observe a separation briefing where an SF-8 was provided?	___	___
12. Review recently completed forms listed below and indicate the number reviewed. ES-931 ___ ES-931A ___ ES-934 ___ ES-936 ___		
13. Were the above listed forms completed within four workdays of receipt?	___	___
14. Does the agency maintain a control record for incoming and outgoing forms?	___	___
15. Were records requested from the National Personnel Records Center as required to complete UCFE forms?	___	___
ES-931/ES931A/ES-934/ES-936		
	YES	NO
1. Did the agency understand what constitutes Federal Civilian Service?	___	___
2. Did the Federal agency copy of completed Forms ES-931 show the 3-Digit Federal Agency Code?	___	___
3. Was the Duty Station correctly identified?	___	___
4. Was date of separation of last day of active pay status entered correctly?	___	___
5. Was reason for separation shown as complete as the SF-50 or equivalent?	___	___
6. When separation information on the SF-50 is inadequate was adequate information provided on the ES-931?	___	___
7. Are payroll records and the ES-931 consistent?	___	___
8. Was non-pay status (not separated) explained?	___	___
9. When wage reporting (when earned vs. when paid) is inconsistent with State reporting requirements, does the Federal agency advise the State?	___	___
10. Were Forms ES-931 an ES-931A completed correctly?	___	___
11. Did the Federal agency respond timely and accurately to the Form ES-936?	___	___
12. Was the ES-936 completed and verified by other than the individual who completed the ES-931?	___	___
13. Are ES-934's referred to appropriate party?	___	___
14. Does the Federal agency notify the State Employment Security Office when a former federal employee refused an offer of employment?	___	___

UCFE Instructions for Federal Agencies

d. Page 3 of Form ES-939.

APPEALS		YES	NO
1.	Does the Federal agency appeal State Financial and Non-monetary determinations when the determination(s) are inconsistent with Federal Findings?	—	—
2.	Are determinations and hearing notices referred to the appropriate office?	—	—
3.	When not able to attend a scheduled appeal hearing does the Federal agency provide sufficient information to be included in the record to protect their interests?	—	—

UCFE Instructions for Federal Agencies

e. Page 4 of Form ES-939.

UCFE PROGRAM-FEDERAL AGENCY VISIT REPORT - CONTINUED

REMARKS: For each "NO" answer, list below by item number and indicate action taken by agency to comply with requirements, including correction of previous errors. If Federal agency visited had little or no UCFE activity, insure that agency understands its responsibilities for each requirement and agrees to apply UCFE procedures to future activity.

<u>PREPARED BY: (NAME)</u>	<u>TITLE</u>	<u>DATE</u>
<u>TIME SPENT IN TRAVELING</u>	<u>TIME SPENT IN VISITING</u>	

UCFE Instructions for Federal Agencies

f. Scheduling a Visit.

The DOL/SESA representative will contact the Federal agency to make arrangements for a review prior to the visit.

g. Report of Visit.

DOL and SESA staff will discuss findings with the Federal agency representative(s) and provide a copy of the completed Form ES-939 to the Federal agency official responsible for the operation of the unit visited and to the Federal agency's UCFE Program Manager.

Negative answers on the completed form indicate deficiencies in Federal agency practices. The Federal agency should use the completed report as a basis for correcting any deficiencies.

3. Review by General Accounting Office (GAO).

The GAO will include in its onsite payroll audits, a review of Federal agency personnel and payroll units' compliance with established UCFE instructions and procedures. The GAO will report to the Federal agency and the DOL/UIS when it finds that performance is inadequate or that necessary instructions are not available in a payroll office.

4. Review by U.S. Office of Personnel Management (OPM).

The DOL/UIS will notify OPM and request appropriate follow-up when it finds that a Federal agency's UCFE performance is inadequate in the following areas:

- a. Procedures for informing employees as to their benefits under this program:
- b. Adhering to Federal Personnel Manual requirements (FPM Supplement 296-33, Subchapters 30 and 31);
- c. Furnishing separation information on the SF-50;
- d. Issuing SF-8 on or before the last day of work and explaining its purpose.

5. Internal Inspection or Audit.

Under the Federal Managers' Financial Integrity Act of 1982 (P.L. 97-255) and OMB Circular No. A-123, dated August 16, 1983, Federal agencies are responsible for the adequacy of their UCFE operations by ensuring that a system of internal controls is established and maintained to minimize waste, fraud, and mismanagement.

Policy as stated in OMB Circular No. A-123 is that: "Agencies shall maintain effective systems of accounting and administrative control. All levels of management shall involve themselves in assuring the adequacy of controls. New programs shall incorporate effective systems of internal control. All systems shall be evaluated on an ongoing basis, and weaknesses, when detected, shall be promptly corrected. Reports shall be issued, as required, on internal control activities and the results of evaluations."

UCFE Instructions for Federal Agencies

Therefore, each Federal agency should include a thorough review of its UCFE activities in its internal inspection or audit program.

The review need not be a detailed audit of each pay card entry, but rather a review conducted by the agency's internal inspection or audit team to ensure compliance with UCFE procedures.

The review should cover the following activities: **(Check against listing of Federal agency responsibilities)**

- a. Issuing and explaining purpose of SF-8 in accordance with regulatory requirements.
- b. Preparation of the request for personnel action and the SF-50 in a manner that information is readily available upon receipt of an ES-931.
- c. Furnishing accurate wage and complete separation information promptly to SESAs.
- d. Review of determinations against wage and separation information provided.
- e. Filing appeals and attendance at hearings.
- f. Review and payment of bills.

If the results of a Federal agency's audit of its UCFE program administration indicated that the Federal agency was erroneously billed for UCFE program charges by a SESA or SESAs, the Federal agency auditors should forward such information to that agency's UCFE liaison for resolution. The Federal agency auditors should not contact the SESA(s) directly to resolve potential erroneous UCFE billing issues. All contact with the SESA(s) to resolve billing issues should be from the Federal agency's UCFE Liaison (see page II-2 of this Handbook).

Chapter XI EMPLOYMENT AND PAYROLL REPORTS

1. Statistical Reports.

Each Federal agency with employees covered by the UCFE program is required to report quarterly to the appropriate SESA the monthly employment and quarterly payroll of each of its "reporting units". Such reporting is mandated under 5 U.S.C. 8501-8508, and 20 CFR 609.

Employment and payroll information are needed by the SESAs and the USDOL in preparing workload and benefit cost estimates for appropriation request purposes. The data are also used by the SESA in calculating the total unemployment rates and by the U.S. Bureau of Labor Statistics (BLS) in conjunction with data from all other employers (i.e., State and local governments, and private industry) to develop estimates of employment and wages by geographical areas.

a. Federal Administration.

Federal statistical reporting requirements are administered by the USDOL and BLS. Policy matters are under the direction of:

Associate Commissioner
Bureau of Labor Statistics
Office of Employment and
Unemployment Statistics
2 Massachusetts Avenue
NE suite 4945
Washington, D.C. 20212

Day-to-day operations are performed by:

BLS/UCFE Coordinator
Bureau of Labor Statistics
Office of Employment and
Unemployment Statistics
2 Massachusetts Avenue
NE suite 4840
Washington, D.C 20212
Telephone (202) 606-6497

b. SESA Administration.

Generally, the research section of the SESA is responsible for the day-to-day administration of the statistical reporting requirements. The appropriate office is identified in Appendix D.

c. Designation of UCFE Statistical Officials.

Each Federal agency, is required to identify to BLS a Federal official who is responsible for statistical reports to the SESAs. Federal agencies may also designate an official to be responsible for answering day-to-day questions on the reports.

UCFE Instructions for Federal Agencies

The name(s), title(s), address(s) and telephone number(s) of the individual(s) designated should be forwarded to:

BLS/UCFE Coordinator
Bureau of Labor Statistics
U.S. Department of Labor
Office of Employment and
Unemployment Statistics
2 Massachusetts Avenue
NE suite 4840
Washington, D.C. 20212

Example of memorandum:

TO: BLS/UCFE Coordinator

Subject: UCFE Statistical Reporting

In accordance with the UCFE Instructions For Federal Agencies, the following official has been delegated the responsibility for providing required statistical data to the Department of Labor and/or, SESAs, as required:

(name, title, unit identification, address and telephone number)

Questions concerning these data should be directed to:

(name, title, unit identification, address and telephone number)

d. Definition of a Reporting Unit.

A reporting unit is a single physical location at which an organizational unit of a Federal department, bureau, or agency has civilian employees. These units may be referred to as installations or duty stations.

e. Scope of the Reporting Program.

The UCFE employment and wage reports of each Federal agency will include all Federal civilian, employees located in its reporting units in the 50 States, the: District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. Federal civilian employees at overseas locations are not reported.

All agencies who have at least one employee in a State must report to that State. For non-defense Federal agencies, data should be reported on an installation level. An agency that maintains records by GSA location code (full place code), in its accounting system rather than by installation, may report by GSA location code.

UCFE Instructions for Federal Agencies

In general, employment and wage data and identification information should be collected from multi-installation Federal agencies at the installation level. The specific criteria for identifying a multi-installation agency to be disaggregated is as follows:

An agency that has more than one installation within the State and has a total employment of 10 or more in all of the secondary installations combined is considered a multi-installation employer to be disaggregated.

The primary installation is defined as the installation with the largest employment. Under this definition, the SIC and county codes of the secondary installations are not factors in the determination of the multi-status,. Once the criterion of ten (10) employees is met, each installation should be reported separately, regardless of the size of each installation.

Reports from Cabinet Level Departments should not be aggregated to a Department wide level. The Department should submit separate reports for each bureau or agency (terminology for subdepartmental units may differ) within the Department. On the other hand, independent agencies should report on an agency wide basis. Any questions concerning the level of reporting should be directed to the BLS/UCFE coordinator.

f. Preparation of Initial List of Units.

When the DOL's ETA establishes a new or revised 3-Digit Federal Agency Code for an agency, the Federal agency should contact the ETA's Unemployment Insurance Service, to determine if a revised Initial List of Units is required.

A separate listing must be prepared for each State and BLS in which the Federal agency has employees "officially stationed." The complete name and mailing address (including Zip Code) of each installation in the State should be entered in Columns I and II of the listing (see g. Format of Initial Listing of Units). If the Federal agencies plan to submit a statewide or regional report (see Subchapter e. of this CHAPTER), this should be indicated.

(1) Statement of Functions. A brief but clear statement of the functions carried on by the unit should be entered in Column III. Such descriptions as the following are acceptable: hospital, post office, shell loading plant, agricultural, experiment station, immigration station, Navy yard. For each unit engaged in manufacturing activities, list the principal products, in order of their importance in terms of the number of employees engaged in their production. If a unit is engaged in a "classified" activity, the function should be described in general terms which will not disclose classified information.

(2) Different Reporting Points. If the report for the unit listed in Columns I and II is to be prepared at another point, the name and address (including Zip Code) of the reporting point should be indicated in Column IV.

(3) Distribution. The original of the listing is to be mailed to the appropriate SESA's statistical reporting unit and a copy to the BLS UCFE Coordinator.

UCFE Instructions for Federal Agencies

g. Format for Initial Listing of Units.

INITIAL LISTING OF UNITS

FROM:

(Federal Department or Agency)

(Bureau)

TO: Employment Security Agency

State of _____

(Address) _____

In accordance with the request of the U.S. Department of Labor, listed below are the units operated by this organizational unit (or agency) in your State.

(Date) _____
(Signature and Title)

I	II	III	IV
Agency and Bureau name of each unit	Address & ZIP Code	Type of Activity	Reporting point (if different)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

UCFE Instructions for Federal Agencies

h. Unit Changes.

(1) Preparation. Form BLS 3021, Report of Federal Employment and Wages (RFEW), should be used whenever organizational changes are made which necessitate changes in the original listing of units.

(2) Additions. For each unit to be added, the RFEW should be updated.

(3) Deletions. For each unit to be deleted, the RFEW should be updated.

(4) Changes of Address. When a change of unit address is involved, the RFEW should be amended to clearly indicate the address change for the report period.

i. Agency Closing.

When a Federal agency stops operations, a notice should be sent to the appropriate SESA(s) in which State(s) the Federal agency has units. The notice should identify the payroll office which will service any remaining employees who are closing down the agency.

A notice of agency closing, which includes the name and telephone number of a contact person, should be sent to:

U.S. Department of Labor
Employment and Training Administration
Unemployment Insurance Service, (Attn: TEUMI)
200 Constitution Avenue, N.W.
Washington, D.C. 20210.

2. Quarterly, Employment and Payroll Reports.

Each quarter, the appropriate SESA will forward a RFEW to each Federal agency to report employment and wage data for each installation located in that State. To avoid misdirection and delay Federal agencies should promptly notify the appropriate SESA(s) of any changes in its mailing address(s).

The BLS/UCFE Coordinator may also request that employment and wage data be sent to SESAs or verified for accurateness when a SESA requests assistance.

3. Noncovered Employment.

When the percent of employees of a Federal agency, not covered by the provisions of the UCFE law is not more than 2 percent of total employment, the agency may elect to include all employment and wages for all civilian employees in its report. However, when the percentage exceeds 2 percent, (such as emergency fire fighters), employment and wages for Noncovered employees must be excluded from the report.

4. Reporting Form.

The form used by the SESAs has been standardized nationwide with the approval of the Office of Management and Budget (OMB) and the General Services Administration (GSA). Federal agencies have an option of completing the RFEW or providing a computer generated compilation of all required data. In the near future, electronic or magnetic media reporting of Federal employment and wage data will be accepted. Central collection of these data directly to BLS is an ultimate goal for these reports. The BLS would then provide these employment and wage data to the States.

The computer record format must provide all identifying information as shown in the suggested format. Upon request, the BLS/UCFE Coordinator will supply copies of the RFEW.

a. Number of Employees.

This entry, for each month of the quarter, represents the number of persons on the payroll who worked during or received pay for any part of the pay period, which includes the 12th of the month. This entry represents only persons "officially stationed" at the unit and who are covered for UCFE purposes.

For example:

Assuming the first pay period of 1992 covered the biweekly period December 29, 1991 through January 11, 1992. Therefore, the first quarter report represents a count of employees on the payroll for pay periods ending on January 25, February 22, and March 21 (pay periods including the 12th of the month). The number of payroll periods to which the data applies in a reporting period is most always 6 or 7 (for those agencies paying on a bi-weekly basis).

Employment counts represent the total number of full-time, part-time, and intermittent civilian employees who worked during or received pay for any part of the period reported, including employees on paid sick or annual leave. The count excludes employees on leave without pay for the entire period, persons serving without compensation, and contract staff.

b. Payrolls.

This entry represents the total gross payroll amount for all pay periods ending within the quarter. Amounts for persons not covered under UCFE should not be included. The gross amount should include cash allowances and the cash equivalent of remuneration paid in any medium other than cash that are reportable. Depending upon the method used by the Federal agency in preparing its quarterly summary balance (cash or accrual basis), the gross amount of payroll reported may be either paid or payable.

5. Due Date.

The completed employment and wage report should be mailed to the appropriate SESA within 30 days of the close of the related calendar quarter (i.e., by April 30, July 30, October 30, or January 30, as appropriate).

6. Questionable Reports and Record Retention.

Federal agencies are required to cooperate with SESA officials and/or BLS/UCFE Coordinator for the purpose of answering inquiries about reports with questionable data. All reports must be accurate. Federal agencies are required to resubmit a revised report within 10 working days after a SESA or the BLS/UCFE Coordinator calls attention by mail or telephone to an erroneous original report.

In order to answer inquiries, Federal agencies are required to retain one copy of the five previous quarter's reports. For the "Initial List of Units" report, only the latest version should be kept.

UCFE Instructions for Federal Agencies

b. Report of Federal Service and Wages (Reverse).

U.I. NUMBER:

PAGE 2 OF 2

INSTRUCTIONS

DUE DATE: Please return this form or a computer-generated facsimile by

Please follow these steps to prepare your Multiple Worksite Report. Contact the Agency listed in Step 5 if you have any questions or if you need additional information, or see <http://www.bls.gov/cew/cewmwr00.htm>.

1. Review the business name, contact name, and mailing address and make any necessary corrections (Section 2).
2. The Worksites list (Section 3) shows the individual worksites (business locations) that appear in our files for this U.I. Number. Please read across the row for each worksite and do the following:
 - **NAME/ADDRESS/DESCRIPTION:** Review the name and physical location address for each worksite and make any necessary corrections. Review the description below the physical location to be sure it uniquely identifies each worksite (plant name, store number, etc.). If there is no printed description, please enter a unique identifier for the site.
 - **EMPLOYMENT:** Enter employment for each month of the quarter. Employment is the total number of full- and part-time employees who worked during or received pay for the pay period which includes the 12th of the month. Include all employees who were subject to Unemployment Insurance laws.
 - **WAGES:** Enter wages paid during the quarter that are subject to State Unemployment Insurance laws, including the portion that exceeds the State's taxable wage base. **Round wages to the nearest dollar.**
 - **COMMENTS:** Explain any large changes in employment or wages. Changes might result from store closings, strikes, layoffs, bonuses, seasonal increases or decreases, or similar events.
 - **CLOSED OR SOLD:** If a worksite has been sold, closed, or is otherwise inactive, use the Comments section to show: (a) the date closed or sold; (b) if sold, the name of the company that bought the business at that worksite; and (c) the purchaser's U.I. Number, if you know it.
3. Is the list in Section 3 complete? That is, does the business operate any worksites using this U.I. Number that do not appear on the form, such as newly-opened worksites or newly-acquired worksites?

MISSING WORKSITES: Provide the following information for each additional worksite. You may use available blank lines or attach a separate page. If you are not sure how to report a worksite or employee, please call the office listed in Step 5 of these instructions.

 - a. The business name, street or physical location address (NO POST OFFICE BOXES), city, state, and zip code
 - b. A unique description or identifier for each worksite (e.g., plant name, store number, or similar description)
 - c. The number of employees for each month of the quarter, and quarterly wages
 - d. The county, township, city, independent city, or similar geographic area in which the worksite is located
 - e. The main business activity at the worksite

In addition, if you purchased any of these worksites from another company, please provide:

 - f. The name of the company that sold the worksite
 - g. The effective date of the sale, and
 - h. The seller's U. I. Number, if you know it.
4. Complete the Totals section at the end of the list. For each month, sum the number of employees at all worksites. Then sum the wages for the quarter at all worksites. Except for rounding, **these figures MUST agree with the totals on your Quarterly Contributions Report.**
5. Using the enclosed envelope, return your completed form to:

GENERAL INFORMATION

PURPOSE OF THIS REPORT

This Multiple Worksite Report (MWR) collects employment and wages by individual work location in this State. If you operate businesses from more than one location under the Unemployment Insurance Account Number (U.I. Number) shown above, the MWR supplements your Quarterly Contributions Report. Data from the MWR enable our agency to monitor and analyze conditions of business activities by geographic area and industry in this State. The information collected on this form by the Bureau of Labor Statistics and the State agencies cooperating in its statistical programs will be used for statistical and Unemployment Insurance program purposes, and other purposes in accordance with law.

TIME OF COMPLETION

We estimate that this form will take from 10 minutes to 60 minutes to complete per response, with an average of 22 minutes. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing this information. If you have any comments regarding these estimates or any other aspect of this form, send them to the Bureau of Labor Statistics, Division of Administrative Statistics and Labor Turnover, Room 4840, 2 Massachusetts Avenue N.E., Washington, D.C. 20212. You are not required to respond to the collection of information unless it displays a currently valid OMB number.

APPENDIX A - TITLE 5 - SECTIONS 8501-8509, U.S. CODE AS AMENDED,
UNEMPLOYMENT COMPENSATION FOR FEDERAL AGENCIES

1. Section 8501. Definitions

For the purpose of this subchapter --

(1) "Federal service" means service performed after 1952 in the employ of the United States or an instrumentality of the United States which is wholly or partially owned by the United States, but does not include service (except service to which subchapter II of this chapter applies) performed --

(A) by an elective official in the executive or legislative branch;

(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(C) by members of the Foreign Service for whom payments are provided under Section 609(b)(1) of the Foreign Service Act of 1980;

(D) outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(E) by an individual excluded by regulations of the Office of Personnel Management from the operation of subchapter III of chapter 83 of this title because he is paid on a contract or fee basis;

(F) by an individual receiving nominal pay and allowances of \$12 or less a year;

(G) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(H) by a student-employee as defined by section 5351 ¹of this title;

(I) by an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(J) by an individual employed under a Federal relief program to relieve him from unemployment;

¹ reprinted from section 5351: "student-employee" means --

(a) a student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, and student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency; and

(b) any other student-employee, assigned or attached primarily for training purposes to a hospital, clinic, or medical or dental laboratory operated by an agency, who is designated by the head of the agency with the approval of the Office of Personnel Management.

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(K) as a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless the board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(L) by an officer or a member of the crew on or in connection with an American vessel --

(i) owned by or bareboat chartered to the United States; and

(ii) whose business is conducted by a general agent of the Secretary of Commerce;

if contributions on account of the service are required to be made to an unemployment fund under a State unemployment compensation law under section 3305(g) of title 26;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service;

(3) "Federal employee" means an individual who has performed Federal service;

(4) "compensation" means cash benefits payable to an individual with respect to his unemployment including any portion thereof payable with respect to dependents;

(5) "benefit year" means the benefit year as defined by the applicable State unemployment compensation law, and if not so defined the term means the period prescribed in the agreement under this subchapter with a State or, in the absence of such an agreement, the period prescribed by the Secretary of Labor;

(6) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(7) "United States", when used in a geographical sense, means the States; and

(8) "base period" means the base period as defined by the applicable State unemployment compensation law for the benefit year.

2. Section 8502. Compensation Under State Agreement

(a) The Secretary of Labor, on behalf of the United States, may enter into an agreement with a State, or with an agency administering the unemployment compensation law of a State, under which the State agency shall--

(1) pay, as agent of the United States, compensation under this subchapter to Federal employees; and

(2) otherwise cooperate with the Secretary and with other State agencies in paying compensation under this subchapter.

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(b) The agreement shall provide that compensation will be paid by the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law.

[(c) Repealed.]

(d) A determination by a State agency with respect to entitlement to compensation under an agreement is 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.

(e) Each agreement shall provide the terms and conditions on which it may be amended or terminated.

3. Section 8503. Compensation Absent State Agreement

(a) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to a State which does not have an agreement with the Secretary of Labor, the Secretary, under regulations prescribed by him, shall, on the filing by the Federal employee of a claim for compensation under this subsection, pay compensation to him in the same amount, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the State if his Federal service and Federal wages had been included as employment and wages under that State law. However, if the Federal employee without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.

(b) A Federal employee whose claim for compensation under subsection (a) of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination of the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

4. Section 8504. Assignment of Federal Service and Wages

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However --

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State, and

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(2) if his last official station in Federal service, before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim.

5. Section 8505. Payments to States

(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.

(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this subchapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical sampling, or other method agreed on by the Secretary and the State agency.

(c) The Secretary, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

(d) Money paid a State under this subchapter may be used solely for the purposes for which it is paid. Money so paid which is not used for these purposes shall be returned, at the time specified by the agreement, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this subchapter may be made.

(e) An agreement may --

(1) require each State officer or employee who certifies payments or disburses funds under the agreement or who otherwise participates in its performance, to give a surety bond to the United States in the amount the Secretary considers necessary; and

(2) provide for payment of the cost of the bond from funds for carrying out the purposes of this subchapter.

(f) In the absence of gross negligence or intent to defraud the United States, an individual designated by the Secretary, or designated under an agreement, as a certifying official is not liable for the payment of compensation certified by him under this subchapter.

(g) In the absence of gross negligence or intent to defraud the United States, a disbursing official is not liable for a payment by him under this subchapter if it was based on a voucher signed by a certifying official designated as provided by subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by a State agency under an agreement is deemed a part of the administration of the State unemployment compensation law.

6. Section 8506. Dissemination of Information

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include the findings of the employing agency concerning --

- (1) whether or not the Federal employee has performed Federal service;
- (2) the periods of Federal service;
- (3) the amount of Federal wages; and
- (4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he considers necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

7. Section 8507. False Statements and Misrepresentations

(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual--

(1) 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

(2) as a result of that action has received an amount as compensation under this subchapter to which he was not entitled; the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the amount by deductions from compensation payable to the individual under this subchapter during the 2-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 8502(d) and 8503(b) of this title.

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- (b) An amount repaid under subsection (a) of this section shall be --
- (1) deposited in the fund from which payment was made, if the repayment was to a State agency; or
 - (2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

8. Section 8508. Regulations

The Secretary of Labor may prescribe rules and regulations necessary to carry out this subchapter and subchapter II of this Chapter. The Secretary, insofar as practicable, shall consult with representatives of the State unemployment compensation agencies before prescribing rules or regulations which may affect the performance by the State agencies of functions under agreements under this subchapter.

9. Section 8509. Federal Employees Compensation Account

(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the "Account") in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of-

- (1) funds appropriated to or transferred thereto, and
- (2) amounts deposited therein pursuant to subsection (c).

(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

(c) (1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

(3) If any Federal agency does not deposit in the Federal Employees Compensation Account any amount before the date 30 days after the date on which the Secretary of Labor has

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notified such agency that it is required to so deposit such amount, the Secretary of Labor shall notify the Secretary of the Treasury of the failure to make such deposit and the Secretary of the Treasury shall transfer such amount to the Federal Employee Compensation Account from amounts otherwise appropriated to such Federal agency.

(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981) the Secretary of Labor shall estimate -

(1) the amount of expenditures which will be made from the Account during such year, and

(2) the amount of funds which will be available during such year for the making of such expenditures, and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary

(3) to meet the expenditures described in paragraph (1), and

(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1), he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.

(h) For purposes of this section, the term "Federal service" includes Federal service as defined in section 8521(a).

APPENDIX B - 20 CFR PART 609 - UNEMPLOYMENT COMPENSATION FOR FEDERAL AGENCIES EMPLOYEES

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609.1 Purpose and application.

609.2 Definitions of terms

Subpart B—Administration of UCFE Program

609.3 Eligibility requirements for UCFE

609.4 Weekly and maximum benefit amounts

609.5 Claims for UCFE

609.6 Determinations of entitlement; notices to individuals

609.7 Appeal and review

609.8 The applicable State for an individual

609.9 Provisions of state law applicable to UCFE claims

609.10 Restrictions on entitlement

609.11 Overpayments ; penalties for fraud

609.12 Inviolate rights to UCFE

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609.15 Public access to Agreements

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Subpart C—Responsibilities of Federal Agencies

609.20 Information to Federal civilian employees

609.21 Findings of Federal agency

609.22 Correcting Federal findings

609.23 Furnishing additional information

609.24 Reconsideration of Federal findings

609.25 Furnishing other information

609.26 Liaison with Department

1. Subpart A--General Provision

§ 609.1 Purpose and application.

(a) Purpose. Subchapter I of chapter 85, title 5 of the United States Code, as amended by Pub. L. 94-566, 90 Stat. 2667, 5 U.S.C. 8501-8508, provides for a permanent program of unemployment compensation for unemployed Federal civilian employees. The unemployment compensation provided for in subchapter I is hereinafter referred to as unemployment

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compensation for Federal employees, or UCFE. The regulations in this part are issued to implement the UCFE Program.

(b) First rule of construction. The Act and the implementing regulations in this part shall be construed liberally so as to carry out the purposes of the Act.

(c) Second rule of construction. The Act and the implementing regulations in this part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) Effectuating purpose and rules of construction.

(1) In order to effectuate the provisions of this section, each State agency shall forward to the United States Department of Labor (hereafter Department), not later than 10 days after issuance, a copy of each judicial or administrative decision ruling on an individual's entitlement to payment of UCFE or to credit for a waiting period. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to UCFE or waiting period credit.

(2) If the Department believes that a determination, redetermination, or decision is inconsistent with the Department's interpretation of the Act or this part, the Department may at any time notify the State agency of the Department's view. Thereafter the State agency shall issue a redetermination or appeal if possible, and shall not follow such determination, redetermination, or decision as a precedent; and, in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform the claims deputy or hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in an appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) If the Department believes that a determination, redetermination, or decision is patently and flagrantly violative of the Act or this part, the Department may at any time notify the State agency of the Department's view. If the determination, redetermination, or decision in question denies UCFE to a claimant, the steps outlined in paragraph (d)(2) of this section shall be followed by the State agency. If the determination, redetermination, or decision in question awards UCFE to a claimant, the benefits are "due" within the meaning of section 303(a)(1) of the Social Security Act, 42 U.S.C. 503(a)(1), and therefore must be paid promptly to the claimant. However, the State agency shall take the steps outlined in paragraph (d)(2) of this section, and payments to the claimant may be temporarily delayed if redetermination or appeal action is taken not more than one business day following the day on which the first payment otherwise would be issued to the claimant; and the redetermination action is taken or appeal is filed to obtain a reversal of the award of UCFE and a ruling consistent with the Department's view; and the redetermination action or appeal seeks an expedited redetermination or appeal within not more than two weeks after the redetermination action is taken or the appeal is filed. If redetermination action is not taken or appeal is not filed within the above time limit, or a redetermination or decision is not obtained within the two-week limit, or any redetermination or decision or order is issued which affirms the

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determination, redetermination, or decision awarding UCFE or allows it to stand in whole or in part, the benefits awarded must be paid promptly to the claimant.

(4) (i) If any determination, redetermination, or decision, referred to in paragraph (d)(2) or paragraph (d)(3) of this section, is treated as a precedent for any future UCFE claim or claim under the UCX Program (Part 614 of this chapter), the Secretary will decide whether the Agreement with the State entered into under the Act shall be terminated.

(ii) In the case of any determination, redetermination, or decision that is not legally warranted under the Act or this Part, including any determination, redetermination, or decision referred to in paragraph (d)(3) of this section, the Secretary will decide whether the State shall be required to restore the funds of the United States for any sums paid under such a determination, redetermination, or decision, and whether, in the absence of such restoration, the Agreement with the State shall be terminated and whether other action shall be taken to recover such sums for the United States.

(5) A State agency may request reconsideration of a notice issued pursuant to paragraph (d)(2) or paragraph (d)(3) of this section, and shall be given an opportunity to present views and arguments if desired.

(6) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice issued pursuant to this section.

§ 609.2 Definitions of term.

For the purposes of the Act and this part:

(a) Act means subchapter I of chapter 85, title 5, United States Code, 5 U.S.C. 8501-8508.

(b) Agreement means the agreement entered into pursuant to the Act between a State and the Secretary under which the State agency of the State agrees to make payments of unemployment compensation in accordance with the Act and the regulations and procedures thereunder prescribed by the Department.

(c) Based period means the base period as defined by the applicable State law for the benefit year.

(d) Benefit year means the benefit year as defined by the applicable State law, and if not so defined the term means the period prescribed in the agreement with the State or, in the absence of an Agreement, the period prescribed by the Department.

(e) Federal agency means any department, agency, or governmental body of the United States, including any instrumentality wholly or partially owned by the United States, in any branch of the Government of the United States, which employs any individual in Federal civilian service.

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(f) Federal civilian service means service performed in the employ of any Federal agency, except service performed-

(1) By an elective official in the executive or legislative branches of the Government of the United States;

(2) As a member of the Armed Forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(3) By Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22 of the United States Code;

(4) Outside the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia, by an individual who is not a citizen of the United States;

(5) By an individual excluded by regulations of the Office of Personnel Management from civil service retirement coverage provided by subchapter III of chapter 83 of title 5 of the United States Code because the individual is paid on a contract or fee basis;

(6) By an individual receiving nominal pay and allowances of \$12 or less a year;

(7) In a hospital, home, or other institution of the United States by a patient or inmate thereof;

(8) By a student-employee as defined by 5 U.S.C. 5351; that is: (i) A student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, or student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency as defined in section 5351; or (ii) Any other student-employee, assigned or attached primarily for training purposes to such a hospital, clinic, or medical or dental laboratory operated by such an agency, who is designated by the head of the agency with the approval of the Office of Personnel Management;

(9) By an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(10) By an individual employed under a Federal relief program to relieve the individual from unemployment;

(11) As a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless such body is composed exclusively of individuals otherwise in the full-time employ of the United States;

(12) By an officer or member of the crew on or in connection with an American vessel which is:

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- (i) Owned by or bareboat chartered to the United States, and
 - (ii) The business of which is conducted by a general agent of the Secretary of Commerce; and
 - (iii) If contributions on account of such service are required under section 3305(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3305(g)) to be made to an unemployment fund under a State law;
- (13) By an individual excluded by any other Federal law from coverage under the UCFE Program; or
- (14) By an individual whose service is covered by the UCX Program to which Part 614 of this chapter applies.
- (g) Federal employee means an individual who has performed Federal civilian service.
- (h) Federal findings means the facts reported by a Federal agency pertaining to an individual as to:
- (1) Whether or not the individual has performed Federal civilian service for such an agency;
 - (2) The period or periods of such Federal civilian service;
 - (3) The individual's Federal wages; and
 - (4) The reasons for termination of the individual's Federal civilian service.
- (i) Federal wages means all pay and allowances, in cash and in kind, for Federal civilian service.
- (j) First claim means an initial claim for unemployment compensation under the UCFE Program, the UCX Program (Part 614 of this chapter), a State law, or some combination thereof, whereby a benefit year is established under an applicable State law.
- (k) Official station means the State (or country, if outside the United States) designated on a Federal employee's notification of personnel action terminating the individual's Federal civilian service (Standard Form 50 or its equivalent) as the individual's "duty station." If the form of notification does not specify the Federal employee's "duty station", the individual's official station shall be the State or country designated under "name and location of employing office" on such form or designated as the individual's place of employment on an equivalent form.
- (l) Secretary means the Secretary of Labor of the United States.

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(m) State means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(n) State agency means the agency of the State which administers the applicable State law and is administering the UCFE Program in the State pursuant to an Agreement with the Secretary.

(o) (1) State Law means the unemployment compensation law of a State approved by the Secretary under section 3304 of the Internal Revenue Code of 1954, 26 U.S.C. 3304 if the State is certified under section 3304(c) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(c).

(2) Applicable State law means the State law made applicable to a UCFE claimant by § 609.8.

(p) (1) Unemployment compensation means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular, additional, emergency, and extended compensation.

(2) Regular compensation means unemployment compensation payable to an individual under any State law, but not including additional compensation or extended compensation.

(3) Additional compensation means unemployment 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.

(4) Emergency compensation means supplementary unemployment compensation payable under a temporary Federal law after exhaustion of regular and extended compensation.

(5) Extended compensation means unemployment compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, 26 U.S.C. 3304 note, and Part 615 of this chapter, with respect to the payment of extended compensation.

(q) Week means, for purposes of eligibility for and payment of UCFE, a week as defined in the applicable State law.

(r) 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 and to the same extent to all employment and earnings, and in the same manner and to the same extent for the purposes of the UCFE Program, as if the individual filing for UCFE were filing a claim for State unemployment compensation.

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Subpart B--Administration of UCFE Program

§ 609.3 Eligibility requirements for UCFE.

An individual shall be eligible to receive a payment of UCFE or to waiting period credit with respect to a week of unemployment if:

(a) The individual has Federal civilian service and Federal wages in the base period under the applicable State law;

(b) The individual meets the qualifying employment and wage requirements of the applicable State law, either on the basis of Federal civilian service and Federal wages alone or in combination with service and wages covered under a State law or under the UCX Program (Part 614 of this chapter);

(c) The individual has filed an initial claim for UCFE and, as appropriate, has filed a timely claim for waiting period credit or a payment of UCFE with respect to that week of unemployment; and

(d) The individual is totally, part-totally, or partially unemployed, and is able to work, available for work, and seeking work within the meaning of or as required by the applicable State law, and is not subject to disqualification under this Part or the applicable State law, with respect to that week of unemployment.

609.4 Weekly and maximum benefit amounts.

(a) Total unemployment. The weekly amount of UCFE payable to an eligible individual for a week of total unemployment shall be the amount that would be payable to the individual as unemployment compensation for a week of total unemployment as determined under the applicable State law.

(b) Partial and part-total unemployment. The weekly amount of UCFE payable for a week of partial or part-total unemployment shall be the amount that would be payable to the individual as unemployment compensation for a week of partial or part-total unemployment as determined under the applicable State law.

(c) Maximum amount. The maximum amount of UCFE which shall be payable to an eligible individual during and subsequent to the individual's benefit year shall be the maximum amount of all unemployment compensation that would be payable to the individual as determined under the applicable State law.

(d) Computation rules. (1) The weekly and maximum amounts of UCFE payable to an individual under the UCFE Program shall be determined under the applicable State law to be in the same amount, on the same terms, and subject to the same conditions as the State unemployment compensation which would be payable to the individual under the applicable State law if the

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individual's Federal civilian service and Federal wages assigned or transferred under this Part to the State had been included as employment and wages covered by that State law.

(2) All Federal civilian service and Federal wages for all Federal agencies shall be considered employment with a single employer for purposes of the UCFE Program.

§ 609.5. Claims for UCFE.

(a) First claims. A first claim for UCFE shall be filed by an individual in any State agency of any State (or Canada) according to the applicable State law, and on a form prescribed by the Department which shall be furnished to the individual by the State agency where the claim is filed.

(b) Weekly claims. Claims for waiting week credit and payments of UCFE for weeks of unemployment shall be filed in any State agency (or Canada) at the times and in the manner as claims for State unemployment compensation are filed under the applicable State law, and on forms prescribed by the Department which shall be furnished to the individual by the State agency where the claim is filed.

(c) Secretary's standard. The procedure for reporting and filing claims for UCFE and waiting period credit shall be consistent with this Part 609 and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" "Employment Security Manual, Part V, sections 5000 et seq.).

§ 609.6. Determination of entitlement; notices to individual.

(a) Determination of first claim. The State agency whose State law applies to an individual under § 609.8 shall, promptly upon the filing of a first claim for UCFE, determine whether the individual is eligible and whether a disqualification applies, and, if the individual is found to be eligible, the individual's benefit year and the weekly and maximum amounts of UCFE payable to the individual.

(b) Determinations of weekly claims. The State agency promptly shall, upon the filing of a claim for payment of UCFE or waiting period credit with respect to a week, determine whether the individual is entitled to a payment of UCFE or waiting period credit with respect to such week, and, if entitled, the amount of UCFE or waiting period credit to which the individual is entitled.

(c) Redetermination. The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to State unemployment compensation under the applicable State law shall apply to determinations pertaining to UCFE.

(d) Notices to individual. The State agency promptly shall give notice in writing to the individual of any determination or redetermination of a first claim, and, except as may be authorized under paragraph (g) of this section, of any determination or redetermination of any weekly claim which denies UCFE or waiting period credit or reduces the weekly amount or maximum amount initially determined to be payable. Each notice of determination or

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redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and redetermination with respect to claims for State unemployment compensation; and where information furnished by a Federal agency was considered in making the determination, or redetermination, the notice thereof shall include an explanation of the right of the individual to seek additional information pursuant to § 609.23 and/or a reconsideration of Federal findings pursuant to § 609.24.

(e) Obtaining information for claim determinations.

(1) Information required for the determination of claims for UCFE shall be obtained by the State agency from claimants, employers, and others, in the same manner as information is obtained for claim purposes under the applicable State law, but information (including additional and reconsidered Federal findings) shall be obtained from the Federal agency that employed the UCFE claimant as prescribed in §§ 609.21 through 609.25. On request by a UCFE claimant, the State agency shall seek additional information pursuant to § 609.23 and reconsideration of Federal findings pursuant to § 609.24.

(2) If Federal findings have not been received from a Federal agency within 12 days after the request for information was submitted to the Federal agency, the State agency shall determine the individual's entitlement to UCFE on the basis of an affidavit completed by the individual on a form prescribed by the Department. In addition, the individual shall submit for examination by the State agency any documents issued by the Federal agency (for example, Standard Form 50 or W-2) verifying that the individual performed services for and received wages from such Federal agency.

(3) If Federal findings received by a State agency after a determination has been made under this section contain information which would result in a change in the individual's eligibility for or entitlement to UCFE, the State agency promptly shall make a redetermination and notify the individual, as provided in this section. All payments of UCFE made prior to or after such redetermination shall be adjusted in accordance therewith.

(f) Promptness. Full payment of UCFE when due shall be consistent with this Part 609 and shall be made with the greatest promptness that is administratively feasible, but the provisions of Part 640 of this chapter (relating to promptness of benefit payments) shall not be applicable to the UCFE Program.

(g) Secretary's standard. The procedures for making determinations and redeterminations, and furnishing written notices of determinations, redetermination, and rights of appeal to individuals applying for UCFE, shall be consistent with this Part 609 and with the Secretary's "Standard for Claim Determinations-Separation Information" (Employment Security Manual, Part V, sections 6010 et seq.).

609.7 Appeal and review.

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(a) Applicable State Law. The provisions of the applicable State law concerning the right of appeal and fair hearing from a determination or redeterminations of entitlement to State unemployment compensation shall apply to determinations and redetermination of eligibility for or entitlement to UCFE and waiting period credit. Any such determination or redetermination shall be subject to appeal and review only in the manner and to the extent provided in the applicable State law with respect to determinations and redetermination of entitlement to State unemployment compensation.

(b) Rights of appeal and fair hearing. The provisions on right to appeal and opportunity for a fair hearing with respect to claims for UCFE shall be consistent with this Part and with sections 303(a)(1) and 303(a)(3) of the Social Security Act, 42 U.S.C. 503(a)(1) and 503(a)(3).

(c) Promptness on appeals.

(1) Decisions on appeals under the UCFE Program shall accord with the Secretary's "Standard for Appeals Promptness- Unemployment Compensation" in Part 650 of this chapter, and with §609.1(d).

(2) Any provision of an applicable State law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving claims for UCFE.

(d) Appeal and review by Federal agency. If a Federal agency believes that a State agency's determination or redetermination of an individual's eligibility for or entitlement to UCFE is incorrect, the Federal agency may seek appeal and review of such determination or redetermination in the same manner as an interested employer may seek appeal and review under the applicable State law.

§609.8 The applicable State for an individual.

(a) The applicable State. The applicable State for an individual shall be the State to which the individual's Federal civilian service and Federal wages are assigned or transferred under this section. The applicable State law for the individual shall be the State law of such State.

(b) Assignment of service and wages.

(1) An individual's Federal civilian service and Federal wages shall be assigned to the State in which the individual had his or her last official station prior to filing a first claim unless:

(i) At the time a first claim is filed the individual resides in another State in which, after separation from Federal civilian service, the individual performed service covered under the State law, in which case all of the individual's Federal civilian service and wages shall be assigned to the latter State; or

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(ii) Prior to filing a first claim an individual's last official station was outside the States, in which case all of the individual's Federal civilian service and Federal wages shall be assigned to the State in which the individual resides at the time the individual files a first claim, provided the individual is personally present in a State when the individual files the first claim.

(2) Federal civilian service and wages assigned to a State in error shall be reassigned for use by the proper State agency. An appropriate record of a reassignment shall be made by the State agency which makes the reassignment.

(3) Federal civilian service and Federal wages assigned to a State shall be transferred to another State where such transfer is necessary for the purposes of a combined-wage claim filed by an individual.

(c) Assignment deemed complete. All of an individual's Federal civilian service and Federal wages shall be deemed to have been assigned to a State upon the filing of a first claim. Federal civilian service and Federal wages shall be assigned to a State only in accordance with paragraph (b) of this section.

(d) Use of assigned service and wages. All assigned Federal civilian service and Federal wages shall be used only by the State to which assigned or transferred in accordance with paragraph (b) of this section.

§ 609.9 Provisions of State law applicable to UCFE claims.

(a) Particular provisions applicable. Except where the result would be inconsistent with the provisions of the Act or this Part or the procedures thereunder prescribed by the Department, the terms and conditions of the applicable State law which apply to claims for, and the payment of, State unemployment compensation shall apply to claims for, and the payment of, UCFE and claims for waiting period credit. The provisions of the applicable State law which shall apply include, but are not limited to:

(1) Claim filing and reporting;

(2) Information to individuals, as appropriate;

(3) Notices to individuals and Federal agencies, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to UCFE;

(4) Determinations and redetermination;

(5) Ability to work, availability for work, and search for work; and

(6) Disqualifications.

(b) IBPP. The Interstate Benefit Payment Plan shall apply, where appropriate, to individuals filing claims for UCFE.

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(c) Wage combining. The State's provisions complying with the Interstate Arrangement for Combining Employment and Wages (Part 616 of this chapter) shall apply, where appropriate, to individuals filing claims for UCFE.

(d) Procedural requirements. The provisions of the applicable State law which apply hereunder to claims for and the payment of UCFE shall be applied consistently with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of State unemployment compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this part, except as provided in paragraph (f) of § 609.6.

§609.10 Restrictions on Entitlement.

(a) Disqualification. If the week of unemployment for which an individual claims UCFE is a week to which a disqualification for State unemployment compensation applies under the applicable State law, or would apply but for the fact that the individual has no right to such compensation, the individual shall not be entitled to a payment of UCFE for that week.

(b) Allocation of terminal annual leave payments. Lump-sum terminal annual leave payments shall not be allocated by a Federal agency and shall be allocated by a State agency in the same manner as similar payments to individuals employed by private employers are allocated under the applicable State law. In a State in which a private employer has an option as to the period to which such payments shall be allocated, such payments shall be allocated to the date of separation from employment.

§ 609.11 Overpayments; penalties for fraud.

(a) False statements and representations. Section 8507(a) of the Act provides that if a State agency, the Department, or a court of competent jurisdiction finds that an individual--

(1) 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

(2) As a result of that action has received an amount as UCFE to which the individual was not entitled; the individual shall repay the amount to the State agency or the Department. Instead of requiring repayments, the State agency or the Department may recover the amount by deductions from UCFE payable to the individual during the 2-year period after the date of the finding. A finding by a State agency or the Department may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under § 609.7.

(b) Prosecution for fraud. Section 1919 of title 18, United States Code, provides that whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other

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individual any payment authorized to be paid under chapter 85 of title 5, United States Code, or under an agreement thereunder, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) Absence of fraud. If a State agency or court of competent jurisdiction finds that an individual has received a payment of UCFE to which the individual was not entitled under the Act and this part, which was not due to a false statement or representation as provided in paragraph (a) or (b) of this section, the individual shall be liable to repay to the applicable State the total sum of the payment to which the individual was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled.

(d) Recovery by offset.

(1) The State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by deductions from any UCFE payable to the individual under the Act and this Part, or from any unemployment compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(2) A State agency shall also recover, insofar as is possible, the amount of any overpayment of UCFE made to the individual by another State, by deductions from any UCFE payable by the State agency to the individual under the Act and this Part, or from any unemployment compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency.

(3) Recoupment of fraudulent overpayments referred to in paragraph (a) of this section shall be limited to the 2-year period stated in that paragraph. Recoupment of fraudulent overpayments referred to in paragraph (b) of this section, and nonfraudulent overpayments referred to in paragraph (c) of this section shall be subject to any time limitation on recoupment provided for in the State law that applies to the case.

(e) Debts due the United States. UCFE payable to an individual shall be applied by the State agency for the recovery by offset of any debt due to the United States from the individual but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person except pursuant to a court order for child support or alimony in accordance with the law of the State and Section 459 of the Social Security Act, 42 U.S.C. 659.

(f) Application of State law.

(1) Except as indicated in paragraph (a) of this section, any provision of State law that may be applied for the recovery of overpayment or prosecution for fraud, and any provision of State law authorizing waiver of recovery of overpayment of unemployment compensation, shall be applicable to UCFE.

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(2) In the case of any finding of false statement or representation under the Act and paragraph (a) of this section, or prosecution for fraud under 18 U.S.C. 1919 or pursuant to paragraph (f)(1) of this section, the individual shall be disqualified or penalized in accordance with the provisions of the applicable State law relating to fraud in connection with a claim for State unemployment compensation.

(g) Final decision. Recovery of any overpayment of UCFE shall not be enforced by the State agency until the determination or redetermination establishing the overpayment has become final, or if appeal is taken from the determination or redetermination, until the decision after opportunity for a fair hearing has become final.

(h) Procedural requirements.

(1) The provisions of paragraphs (c), (d), and (g) of § 609.6 shall apply to determinations and redetermination made pursuant to this section.

(2) The provisions of § 609.7 shall apply to determinations and redetermination made pursuant to this section.

(i) Fraud detection and prevention. Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayment of UCFE shall be, as a minimum, commensurate with the procedures adopted by the State with respect to State unemployment compensation and consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (Employment Security Manual, Part V, section 7510 et seq.).

(j) Recovered overpayment. An amount repaid or recouped under this section shall be-

(1) Deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) Returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Department.

§609.12 Inviolate right to UCFE.

Except as specifically provided in this part, the rights of individuals to UCFE shall be protected in the same manner and to the same extent as the rights of persons to State unemployment compensation are protected under the applicable State law. Such measures shall include protection of applicants for UCFE from waiver, release, assignment, pledge, encumbrance, levy, execution, attachment, and garnishment of their rights to UCFE, except as provided in § 609.11. In the same manner and to the same extent, individuals shall be protected from discrimination and obstruction in regard to seeking, applying for, and receiving any right to UCFE.

§ 609.13 Record keeping; disclosure of information.

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(a) Record keeping. Each State agency will make and maintain records pertaining to the administration of the UCFE Program as the Department requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Department may designate or as may be required by law.

(b) Disclosure of Information. Information in records maintained by a State agency in administering the UCFE Program shall 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 State unemployment compensation and the entitlement of individuals thereto may be disclosed under the applicable State law. This provision on the confidentiality of information maintained in the administration of the UCFE Program shall not apply, however, to the Department or for the purposes of §§ 609.11 or 609.13, or in the case of information, reports and studies required pursuant to §§609.17 or 609.25, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), or regulations of the Department promulgated thereunder.

§609.14 Payments to States.

(a) State entitlement. Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages, an amount bearing the same ratio to the total amount of compensation paid to such individual as the amount of the individual's Federal wages in the individual's base period bears to the total amount of the individual's base period wages.

(b) Payment. Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Department, the sum that the Department estimates the State is entitled to receive under the Act and this Part for each calendar month. The sum shall be reduced or increased by the amount which the Department finds that its estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical sampling, or other method agreed on by the Department and the State agency.

(c) Certification by the Department. The Department, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of the Act and this part.

(d) Use of money. Money paid a State under the Act and this Part may be used solely for the purposes for which it is paid. Money so paid which is not used solely for these purposes shall be returned, at the time specified the Agreement, to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payments to States under the Act and this part may be made.

§ 609.15 Public access to Agreements.

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The State agency of a State will make available to any individual or organization a true copy of the Agreement with the State for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

§609.16 Administration in absence of an Agreement.

(a) Administering Program. The Department shall administer the UCFE Program through personnel of the Department or through other arrangements under procedures prescribed by the Department, in the case of any State which does not have an Agreement with the Secretary as provided for in 5 U.S.C. 8502. The procedures prescribed by the Department under this section shall be consistent with the Act and this part.

(b) Applicable State law. On the filing by an individual of a claim for UCFE in accordance with arrangements under this section, UCFE shall be paid to the individual, if eligible, in the same amount, on the same terms, and subject to the same conditions as would be paid to the individual under the applicable State law if the individual's Federal civilian service and Federal wages had been included as employment and wages under the State law. Any such claim shall include the individual's Federal civilian service and Federal wages, combined with any service and wages covered by State law. However, if the individual, without regard to his or her Federal civilian service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of UCFE under this section may be made only on the basis of the individual's Federal civilian service and Federal wages.

(c) Fair hearing. An individual whose claim for UCFE is denied under this section is entitled to a fair hearing under rules of procedure prescribed by the Department. A final determination by the Department with respect to entitlement to UCFE under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act, 42 U.S.C. 405(g).

§609.17 Information, reports, and studies.

State agencies shall furnish to the Department such information and reports and conduct such studies as the Department determines are necessary or appropriate for carrying out the purposes of the UCFE Program.

Subpart C - Responsibilities of Federal Agencies

§ 609.20 Information to Federal civilian employees.

Each Federal agency shall:

(a) Furnish information to its employees as to their rights and responsibilities under the UCFE Program and 18 U.S.C. 1919; and

(b) Furnish a completed copy of a form approved by the Department, "Notice to Federal Employee About Unemployment Compensation," in accordance with instructions thereon, to each

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employee at the time of separation from Federal civilian service, when transferred from one payroll office to another, or when the office responsible for distribution of the form is advised that an individual is in nonpay status for seven consecutive days or more.

§ 609.21 Findings of Federal agency.

(a) Answering request. Within four workdays after receipt from a State agency of a request for Federal findings on a form furnished by the State agency, and prescribed by the Department, a Federal agency shall make such Federal findings, complete all copies of the form, and transmit the completed copies to the State agency. If documents necessary for completion of the form have been assigned to an agency records center or the Federal Records Center in St. Louis, the Federal agency shall obtain the necessary information from the records center. Any records center shall give priority to such a request.

(b) Failure to meet time limit. If a completed form containing the Federal agency's findings cannot be returned within four workdays of receipt, the Federal agency immediately shall inform the State agency, and shall include an estimated date by which the completed form will be returned.

(c) Administrative control. Each Federal agency shall maintain a control of all requests for Federal findings received by it, and the Federal agency's response to each request. The records shall be maintained so as to enable the Federal agency to ascertain at any time the number of such forms that have not been returned to State agencies, and the dates of the Federal agency's receipt of such unreturned forms.

§ 609.22 Correcting Federal findings.

If a Federal agency ascertains at any time within one year after it has returned a completed form reporting its findings, that any of its findings were erroneous, it shall promptly correct its error and forward its corrected findings to the State agency.

§609.23 Furnishing additional information.

On receipt of a request for additional information from a State agency, a Federal agency shall consider the information it supplied initially in connection with such request and shall review its findings. The Federal agency promptly shall forward to the State agency such additional findings as will respond to the request. The Federal agency shall, if possible, respond within four workdays after the receipt of a request under this section.

§609.24 Reconsideration of Federal findings.

On receipt of a request for reconsideration of Federal findings from a State agency, the Federal agency shall consider the initial information supplied in connection with such request and shall review its findings. The Federal agency shall correct any errors or omissions in its findings and shall affirm, modify, or reverse any or all of its findings in writing. The Federal agency promptly

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shall forward its reconsidered findings to the requesting authority. The Federal agency shall, if possible, respond within four workdays after the receipt of a request under this section.

609.25. Furnishing other information.

(a) Additional Information. In addition to the information required by §§ 609.21, 609.22, 609.23, and 609.24, a Federal agency shall furnish to a State agency or the Department within the time requested, any information which it is not otherwise prohibited from releasing by law, which the Department determines is necessary for the administration of the UCFE Program.

(b) Reports. Federal agencies shall furnish to the Department or State agencies such reports containing such information as the Department determines are necessary or appropriate for carrying out the purposes of the UCFE Program.

§ 609.26. Liaison with Department.

To facilitate the Department's administration of the UCFE Program, each Federal agency shall designate one or more of its officials to be the liaison with the Department. Each Federal agency will inform the Department of its designation(s) and of any change in a designation.

APPENDIX C - COVERAGE RULINGS

UCFE Program Coverage Ruling No. 92-1

Agricultural Promotion Boards and Marketing Agreement
and Order Administrative Committees

Ruling: Each of the below listed boards and committees is an "instrumentality of the United States" and services performed in the employ of all such boards and committees is "Federal service" within the meaning of 5 U.S.C. 8501(1): the National Dairy Promotion and Research Board (7 U.S.C. 4501-4513; 7 CFR Part 1150), the Honey Board (7 U.S.C. 4601-4612; 7 CFR Part 1240), the National Potato Promotion Board (7 U.S.C. 2611-2627; 7 CFR Part 1207), the Cotton Board (7 U.S.C. 2101-2118; 7 CFR Part 1205), the National Pork Board (7 U.S.C. 4801-4819; 7 CFR Part 1250), the Cattlemen's Beef Promotion and Research Board (7 U.S.C. 2901-2911; 7 CFR Part 1260), the Egg Board (7 U.S.C. 2701-2718; 7 CFR Part 1250) and 44 marketing agreement and order administrative committees (see enclosed list) established under 7 U.S.C. 601-674 (7 CFR Parts 905-998). Members of such boards and committees who are appointed by the Secretary of Agriculture are excluded from program coverage by 5 U.S.C. 8501(1)(K).

Prior Ruling: A ruling on UCFE program coverage of marketing agreement and order administrative committees was issued on June 20, 1957. This 1992 ruling supersedes the 1957 ruling and is now controlling for UCFE program coverage purposes of these agricultural promotion boards and marketing agreement and order administrative committees. No subsequent amendments to title 7 of the United States Code have altered the nature or characteristics of these boards and committees upon which our ruling was based. Nor have there been any amendments to 5 U.S.C. 8501(1) which are relevant to the coverage of such boards and committees. The addition of Section 8509 by Section 1023(b) of the Omnibus Reconciliation Act of 1980 (P.L. 96-499) did not affect coverage of the UCFE program.

Statement of Facts: In holding that employees of such committees perform "Federal service," I have relied on the following factors:

1. The primary function of these committees is to act as agents for the Secretary of Agriculture in carrying out the policy declared by Congress at 7 U.S.C. 602.
2. Such committees have the authority to appoint employees, agents, and representatives, and to determine the salaries and duties of such individuals.
3. The members of such committees, as well as employees and agents, are subject to removal by the Secretary of Agriculture.
4. Every act of such committees is subject to approval by the Secretary of Agriculture.
5. On November 29, 1945, the Internal Revenue Service ruled that services performed in the employ of certain administrative committees established by the Secretary of Agriculture under the

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Agricultural Marketing Agreement Act were exempt from the provisions of the Federal Unemployment Tax Act by reason of the exclusion from the definition of "employment" in 26 U.S.C. 1607(c) (now, without relevant change, Section 3306(c)(6) of the Internal Revenue Code of 1986). Also, on October 15, 1952, the Director of the Bureau of Employees' Compensation (now the Office of Workers' Compensation Programs) ruled that personnel of the Federal Milk Market Administrators are "employees" within the meaning of the Federal Employees' Compensation Act.

6. Such committees are authorized to incur such expenses as the Secretary of Agriculture finds reasonable.

7. The funds to cover the expenses of such committees are raised by assessments, paid to the committees by the covered industries and enforceable by the Secretary of Agriculture in the District Courts of the United States.

8. The decision in United States v. Levine, 129 F.2d 745 (2d Cir. 1942) found that a Market Administrator (established by order of the Secretary of Agriculture under the Agricultural Marketing Agreement Act) was an agency of the United States. Further, as recently as 1984, the Supreme Court cited with approval the Levine opinion finding that a Market Administrator was an agency of the United States (Dixon v. United States, 104 S.Ct. 1172, 1179-1180 (1984)).

9. The Internal Revenue Service affirmed, in a letter from Jerry E. Holmes to Mary Ann Wyrsh, dated November 26, 1990, that there is no change in the positions taken in the above cited rulings.

Discussion/Analysis: With regard to the promotion boards, the purpose of these entities is to carry out coordinated programs of research and promotion designed to strengthen the competitive position of each covered commodity and to maintain and expand domestic and foreign markets for American producers of each such commodity (*e.g.*, 7 U.S.C. 2101 with respect to the Cotton Board). Although the purpose and authorizing statutes of these entities are different from the marketing committees, their manner of creation and method of operation are nearly identical. As with the marketing committees, the promotion boards are created by order of the Secretary of Agriculture (*e.g.*, 7 U.S.C. 2104 and 2106(a) with respect to the Cotton Board). Their members are selected by the Secretary of Agriculture (*e.g.*, 7 U.S.C. 2106(b) and are subject to removal by the Secretary (*e.g.*, 7 CFR 1205.323). The boards have authority to appoint employees and to determine the salaries and duties of such individuals (*e.g.*, 7 CFR 1205.328(b)). The actions of these boards are subject to the approval of the Secretary of Agriculture (*e.g.*, 7 U.S.C. 2106(c)). These boards are authorized to incur such expenses as the Secretary of Agriculture finds reasonable (*e.g.*, 7 CFR 1205.330(a)). The funds to cover the expenses of these boards are raised by assessments paid to the boards by the covered industry and enforceable by the Secretary of Agriculture in the District Courts of the United States (*e.g.*, 7 U.S.C. 2106(e) and 2112(b); 7 CFR 1205.515(d)).

In the Internal Revenue Service's letter of November 26, 1990, referenced above, the Department of Labor was informed that:

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. . . it appears that an administrative committee established under the Agricultural Marketing Agreement Act of 1937 would qualify as a wholly owned instrumentality of the United States Government under current law. Under section 3306(c)(6) of the Internal Revenue Code of 1986 . . . , services performed in the employ of an instrumentality of the United States wholly or partially owned by the United States are excepted from the definition of employment for FUTA [Federal Unemployment Tax Act] purposes. If a committee is similar to the committee described in the 1945 ruling, it appears that the committee would constitute a wholly or partially owned instrumentality of the United States under section 3306(c)(6). . . . An examination of the relevant Code of Federal Regulations provisions discloses that organizations created under the Agricultural Marketing Agreement Act of 1937 are subject to the same overriding authority of the Secretary of Agriculture. In addition to the factors enumerated in the 1945 ruling, we note the extensive control over the assets of the committees that the Secretary of Agriculture may exercise under the applicable regulations. Therefore, . . . it appears that service performed in the employ of such committees are excepted from employment as service performed in the employ of an instrumentality of the United States Government. Thus, with regard to the conclusions in the 1945 ruling, our conclusion with respect to entities similar to the entity described in the ruling would appear to be that services for the entities would be excepted from employment by section 3306(c)(6) of the Internal Revenue Code as services performed for a wholly or partially owned instrumentality of the United States.

The reasons stated above support the conclusion stated in the first paragraph of this ruling that employees hired by the boards and committees (as distinguished from members) of all of the agricultural boards and committees referred to herein are covered by the UCFE program. The employing agency may not participate in the UCFE program for the board and committee members due to the exclusion at 5 U.S.C. 8501(1)(K).

This coverage ruling is issued pursuant to redelegation of authority from the Assistant Secretary of Labor, in Employment and Training Order No. 2-92, dated March 20, 1992, which is authorized by Section 6 of Secretary's Order No. 4-75 (40 Fed Reg. 18515) (as amended by Secretary's Order No. 14-75).

MARY ANN WYRSCH DATE March 24, 1992
Director
Unemployment Insurance Service

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Agricultural Promotion Boards and Marketing Agreement And Order Administrative Committee As of September 1993

Listed below are the six additional boards where it has been determined that the employees perform “Federal service” for UCFE program purposes within the meaning of 5 U.S.C. 8501(1).

1. Lime Board
2. Mushroom Council
3. National Fluid Milk Processor Promotion Board
4. National Watermelon Promotion Board
5. Pecan Marketing Board
6. United Soybean Board

The following boards were previously contained in UCFE Program Coverage Ruling No. 92-1 and attached to UIPL No. 23-92 and No. 23-92, Change 1.

1. National Dairy Promotion and Research Board
2. Honey Board
3. National Potato Promotion Board
4. Cotton Board
5. National Pork Board
6. Cattlemen’s Beef Promotion and Research Board
7. Egg Board

The following committees were previously contained in UCFE Program Coverage Ruling No. 92-1 as an attachment to UIPL No. 23-92 and No. 23-92, Change 1, and are established under 7 U.S.C. 601-674; 7 CFR Parts 905-998.

1. Citrus Administrative Committee - Florida
2. Texas Valley Citrus Committee
3. Navel Orange Administrative Committee - California & Arizona
4. Valencia Orange Administrative Committee - California and Arizona
5. Lemon Administrative Committee - California and Arizona
6. Florida Lime Administrative
7. Florida Avocado Administrative Committee
8. Nectarine Administrative Committee - California
9. Control Committee – California
 - Pear Commodity Committee
 - Plum Commodity Committee
 - Peach Commodity Committee
10. Georgia Peach Industry Committee
11. Colorado Peach Administrative Committee
12. Kiwifruit Administrative Committee - California
13. Washington Fresh Peach Marketing Committee
14. Washington Apricot Marketing Committee
15. Washington Cherry Marketing Committee

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16. Washington-Oregon Fresh Prune Marketing Committee
17. California Desert Grape Administrative Committee
18. Tokay Grape Industry Committee - California
19. Winter Pear Control Committee - Oregon, Washington, and California
20. Papaya Administrative Committee - Hawaii
21. Cranberry Marketing Committee - Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Oregon, Minnesota, Washington, and Long Island, New York
22. Northwest Fresh Bartlett Marketing Committee - Oregon and Washington
23. California Olive Committee
24. Idaho Eastern Oregon Potato Committee
25. State of Washington Potato Committee
26. Oregon-California Potato Committee
27. Colorado Potato Administrative Committee
28. Maine Potato Committee (currently inactive)
29. Southeastern Potato Committee - Virginia and North Carolina
30. Vidalia Onion Committee - Georgia
31. Idaho-Eastern Oregon Onion Committee
32. South Texas Onion Committee
33. Texas Valley Tomato Committee
34. Florida Tomato Committee
35. Florida Celery Committee
36. South Texas Lettuce Committee<
37. South Texas Melon Committee
38. Almond Board of California
39. Filbert/Hazelnut Marketing Board - Oregon and Washington
40. Walnut Marketing Board - California
41. Far West Spearmint Oil Administrative Committee
42. California Date Administrative Committee
43. Raisin Administrative Committee - California
44. Prune Marketing Committee California
45. Peanut Administrative Committee - Georgia

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**APPENDIX D - ADDRESSES OF STATE ADMINISTRATION OFFICES AND AGENCY UNITS
WHICH ADMINISTER UCFE STATISTICAL REPORTING REQUIREMENTS**

This section has been deleted

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APPENDIX E - DIRECTORY OF STATE AGENCY FEDERAL PROGRAM COORDINATORS

This section has been deleted

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APPENDIX F - LIST OF FEDERAL AGENCY INSTRUCTIONS SUPERSEDED BY THIS HANDBOOK

The following instructions issued to Federal agencies are superseded by the issuance of this Handbook:

1. How to Reduce Unemployment Insurance Overpayments and Benefit Costs for Federal Employees. Issued March 24, 1983.
2. Procedures for the Unemployment Compensation for Federal Employees (UCFE) Program. Issued October 6, 1986.
3. Issuance of Revised Standard Form 8 (SF-8). Notice to Federal Employee About Unemployment Insurance. Issued September 22, 1987.
4. Changes in Billing Policy for Unemployment Insurance Benefit Costs Payable by Federal Employing Agencies. Issued February 17, 1988.
5. Backpay Award (Comptroller General , 's Decision). Issued April 17, 1988.
6. Privacy Act Release Statements. Issued May 18, 1988.
7. Effect: of Backpay Awards on Unemployment Compensation Benefit Amounts (State Laws). Issued May 15, 1990.
8. Procedures Relating to Federal Civilian Employee Furloughs. Issued September 11, 1990.
9. Complexion of Wage Information on Claims Inquiries. Issued November 16•, 1992.

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APPENDIX G - SUGGESTED OUTLINE FOR THE REVIEW OF PAYROLL AND PERSONNEL OFFICE OPERATIONS

1. Management and Control.

- a. Has the-agency appointed a UCFE Program Manager?
- b. Does the Manager have the authority to implement program improvements?
- c. Has the agency appointed a UCFE Program Liaison?
- d. Is the Liaison identified to and available to answer questions of separating employees?
- e. Does the agency have written internal procedures for handling UCFE inquiries from SESAs?
- f. Has the agency established quality control procedures to ensure accurate and complete information is provided to SESAs?
- g. Does the agency conduct training for personnel handling UCFE activities?
- h. Are agency and DOL instructions issued immediately and available to staff handling UCFE activities?
- i. Is a mail control established on each incoming Form ES-931, ES-934, ES-931A, and ES-936 to ensure response within the required 4 working days?
- j. What percent of ES forms are returned to SESAs within the 4 working day time limit?
- k. Does the agency furnish statistical information requested in a timely and accurate manner?
- l. Does the agency follow established procedures to ensure that each employee is provided with an SF-8 on or before the last day of active duty prior to separation, transfer, or being placed in non-pay status for 7 or more consecutive days?
- m. Does the agency follow established procedures to ensure that the authorized staff members) responsible for issuing the SF-8, explains its purpose and instructs the employee to present it to the local office when filing a claim for UCFE benefits?
- n. Does the agency's SF-8 provide the name of the parent Federal agency, the 3-Digit Federal Agency Code, the correct and complete personnel/payroll office address, and the name of a contact person/office and telephone number?

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2. Quality of Responses to Forms ES-931.

- o. Is Section II. Federal Agency Reply, Item 1., "Federal Findings To Determine Federal Civilian Service" properly completed?
- p. When the entry in Section II. Item 1., is answered **no**, is a complete explanation given?
- q. Is there a "duty station" entry in Section II. Item 1.G.?
- r. Is the "duty station" entry in Section II. Item 1.G. consistent for each employee permanently assigned to the same place of employment?
- s. Does the location of the "duty station," or place of last employment with agency conform with that shown on SF-50 (or equivalent document)?
- t. Are the wages shown in Section II. Item 2.A. consistent with the wages posted on the pay card for the same period(s)?
- u. Are the duty hours shown in Section II. Item 2.B. correctly stated?
- v. Is information pertaining to lump-sum payment correctly reflected in Section II. Item 3.A.?
- w. Is the date of separation accurately reflected in Section II. Item 3.B.

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