

move technologies in support of community-oriented policing beyond current state of the art. The solicitation seeks proposals representing partnerships between the public and private sectors to support the research and development of new technologies or the innovative adaptation of existing technologies that could be used as tools for community policing. The solicitation is not intended to fund the purchase of currently available commercial off-the-shelf technologies, systems, or products.

The National Institute of Justice anticipates a funding level of up to \$4 million, which will support several awards under this solicitation.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1-800-851-3420 to obtain a copy of NIJ's "Technology Research and Development Partnership Projects for Community Policing." (refer to document no. SL000149).

The solicitation is available electronically via the Justice Technology Information Network (JUSTNET) on the Internet. JUSTNET's address on the World Wide Web is <http://www.nlectc.org>. The solicitation is also available through the NCJRS Bulletin Board, which can also be accessed via Internet. Telnet to [ncjrsbbs.ncjrs.org](http://ncjrsbbs.ncjrs.org), or gopher to [ncjrs.org:71](http://ncjrs.org:71). On World Wide Web, connect to the NCJRS Justice Information Center at <http://www.ncjrs.org>. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301-738-8895. Set modem at 9600 baud, 8-N-1.

Jeremy Travis,

*Director, National Institute of Justice.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation as part of its role in the administration of the Federal-State unemployment compensation program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies (SESAs). The UIPL described below is published in the

Federal Register in order to inform the public.

#### UIPL 23-96

The State agencies which administer the Unemployment Insurance program collect information concerning the wages paid by employers in the State. This information is required to be provided by State law, in accordance with Section 1137(a)(3) of the Social Security Act.

There has been a growing interest by private entities to have electronic access to the wage data collected by the State in order to verify income for individuals who apply for loans. This UIPL advises States to the Department of Labor's interpretation of Federal law in regard to the disclosure of this information to private entities.

Dated: May 29, 1996.

Timothy M. Barnicle,  
*Assistant Secretary of Labor.*

Directive: Unemployment Insurance Program Letter No. 23-96

To: All State Employment Security Agencies  
From: Mary Ann Wyrsh, Director,  
Unemployment Insurance Service  
Subject: Disclosure of Confidential  
Employment Information to Private  
Entities

Rescissions: None

Expiration Date: continuing

1. *Purpose.* To advise States of the Department of Labor's (Department) position regarding the disclosure of certain Unemployment Insurance (UI) information to private entities.

2. *Reference.* Sections 303(a)(1), 303(a)(8) and 303(f) of the Social Security Act (SSA); 20 C.F.R. Part 97; Office of Management and Budget (OMB) Circular No. A-87; ET Handbook No. 336; the Fair Credit Reporting Act (FCRA), P.L. 91-508, 15 U.S.C. 1681 *et seq.*

3. *Background.* Norwest Mortgage, in the form of its subsidiary VIE (Verification of Income & Employment), has signed an agreement with the State of Iowa's Department of Employment Services (IDES) to allow VIE to utilize Iowa wage records in a novel way. It is our understanding that VIE operates as a credit bureau and provides electronic access to employment verification information to credit approving entities covered under the FCRA,<sup>1</sup> such as mortgage lenders which subscribe to its service. VIE requires individuals seeking credit to sign a consent form authorizing release of information pertaining to them. The current consent form does not, however, specify that State records will be accessed. VIE receives requests for verification from its subscribers in the form of the loan applicant's social security number and State and forwards the request electronically to the UI agency which accesses its wage records for the requested

information and returns it to VIE. VIE passes the information back to the requesting subscriber. Only a few minutes elapse between the subscriber's request and receipt of UI information via computer. The UI information available to VIE's subscribers is limited to the employer's name and address, and the employee's quarterly wages. Although the information exchange was originally inspired by mortgage lending, it is applicable to all consumer lending.

The Department has been told that the funds received from VIE as payments by the IDES are kept in a separate account and the VIE will pay for all IDES expenses in setting up the service. IDES will also receive a percentage of the amount VIE charges its subscribers as a processing fee for each transaction.

The procedure is marketed as offering benefits to: lenders, by reducing loan processing costs; loan applicants, by shortening the verification period from weeks to days; employers, who will no longer receive employment verification requests; the UI program, by providing program income; and the economy in general by reducing bad debt expenses.

The Department has examined the issue of disclosure to private entities under the circumstances described above. This UIPL is issued to advise the States that, provided certain conditions are met, no issues are raised with respect to Federal UI law requirements when State law permits the information to be released.

Questions exist when a governmental entity requires reports to be made for a given reason, such as the administration of a State's UI law or the Income Eligibility and Verification System required by Section 303(f), SSA, and subsequently releases the information, even if the release is made with the individual's consent and results in income to the UI program. Because the information comes from employers' private records, employers have an interest in its confidentiality. Therefore, States should seek the input of employers before entering into an agreement to release such information to a private entity.

4. *Discussion.* a. *Federal Law Requirements in General.* Section 303(a)(1), SSA, has long been interpreted to prohibit disclosure of claimant and employer UI information. The rationale is that the disclosure of UI information may deter individuals from filing claims or employers from filing reports and will impede the proper and effective administration of the UI program. Individuals/consumers have an interest in confidentiality. Confidentiality of UI records avoid publicity about individuals and employers, and possible notoriety resulting from publicity. Publicity could have disrupting effects on the operations of the State agency, would be likely to discourage many individuals from claiming a statutory entitlement, and may act as a disincentive for employers to cooperate with the State agency in the administration of the State UI law.

Further, Section 303(a)(8), SSA, limits grants use to purposes necessary for the proper and efficient administration of the Federal-State UI program. Since individuals have an interest in a release of sensitive

<sup>1</sup> The FCRA regulates the operations of consumer credit reporting agencies and users of consumer reports.

information about themselves, it would not be proper administration of the UI program to release such information without the individual's informed consent. Confidentiality of UI records is, therefore, an elementary factor necessary in the proper administration of the UI program, since the release of UI information without the individual's informed consent would bring notoriety upon the UI program.

Certain types of disclosure have, however, been permitted. Disclosure of claimant and employer information to public officials in the performance of their official duties has been permitted if the cost of providing the information is paid for by the requesting public official. States have also been permitted to disclose information relating to an individual to such individual or the individual's agent. The Department has now concluded that States may disclose employment and wage information to a private entity under a written agreement which (1) requires informed consent from the individual to whom the information pertains, (2) continues to safeguard the information once in the hands of the private entity, and (3) requires the private entity to pay all costs associated with disclosure.

b. *Informed Consent.* States choosing to disclose employment and wage information to credit companies must require the individual to sign a release. The release must contain the following: (1) a specific statement indicating that the individual's employment history will be released, (2) a statement that the release is only for that particular credit transaction, (3) a clear statement informing the individual that the credit company may use information from State governmental files, and (4) a statement indicating all the parties who may receive the information released. Consent is not informed if an individual is not told that governmental records may be released and to whom the information may be provided. States must assure that all statements or forms provided under the terms of any agreements require the informed consent of the individual to use the State's records.

c. *Safeguards.* States must safeguard the confidentiality of the UI information once a private entity has been granted access to it. In cases where the private entity is acting as a gateway and passes the information along to a subscriber or client, States must obtain written assurances from the private entity that such subscribers will also safeguard the confidentiality of the information and that the information may be used only for the specific credit transaction authorized by the individual's release.

States must periodically audit a sample of transactions accessing the wage records to assure that the private entity has on file a written release authorizing each access and that the information is not being misused or stored in a database for resale or other unauthorized purpose to assure that no access is made to the wage records without authorization. If the private entity acts as a gateway and audits its subscribers, it will be sufficient for the State to periodically audit the gateway's audit process. A State must ensure that any agreement permits it to exercise control over the UI records even after they are shared with private entities.

The State must be able to terminate the agreement if it determines that the confidentiality provisions are not adhered to. The Department also recommends that the agreement contain a definite expiration date so that the State is assured an opportunity to periodically evaluate such disclosure.

While it is recognized that no system is foolproof, system security through increased audits and other means must be such that any breach will be easily detected. All employees of private entities must be subject to the same confidentiality requirements—and State criminal penalties for violation of those requirements—as are employees of the State UI agency.

d. *Income and Costs.* Under Section 303(a)(8), SSA, funds received for the administration of a State's UI program may be used only as necessary for the "proper and efficient" administration of the State's UI law. Departmental regulations at 29 CFR 97.22(b) provide that OMB Circular No. A-87 is used to determine whether an expenditure of granted funds is an allowable cost. Under both the SSA and the Circular, costs of disclosing information for non-UI purposes are not allowable because such costs items are not necessary or reasonable for proper and efficient performance and administration of the Federal award allocated to carry out the State's UI program. The OMB Circular also provides at paragraph 20 of Attachment B that certain costs are not allowable under a grant. These include fines, penalties, damages and other settlements resulting from violations (or alleged violations) or failure to comply with law. As a result, the Department recommends that any agreement with a private entity provide protection to the State for claims that may arise from any unauthorized use of UI records obtained under the agreement.

It is the Department's position that income generated by a State UI agency from the sale of its wage records must be used only as necessary for the proper and efficient administration of the UI program pursuant to administrative requirements for grants to the States. (See 29 CFR 97.25(g)(2) and ET Handbook No. 336, the "Program and Budget Plan.") Therefore, States may not use any money generated by the disclosure authorized under this UIPL for any non-UI purposes. For example, income from sales may not benefit a State's general fund or another program.

5. *Action Required.* State administrators are requested to provide the above information to appropriate staff.

6. *Inquiries.* Direct questions to the appropriate Regional Office.

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BILLING CODE 4510-30-M

## Pension and Welfare Benefits Administration

[Application No. D-10171, et al.]

### Proposed Exemptions; The Everett Clinic Profit Sharing Plan

AGENCY: Pension and Welfare Benefits Administration, Labor.

**ACTION:** Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

### Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section