

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Grants/Cost Allocation
	CORRESPONDENCE SYMBOL OUI/DL
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 15-09

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
ONE-STOP CENTER SYSTEM LEADS

FROM: JANE OATES *Jane Oates*
Assistant Secretary

SUBJECT: Allocation of Costs of Assessing and Collecting Penalty and Interest under State Unemployment Compensation Laws

1. Purpose. To provide guidance to the states in determining and allocating the costs of assessing and collecting penalties and interest (P&I) that are collected under a state's unemployment compensation (UC) law and used for non-UC purposes.
2. References. Title III of the Social Security Act (SSA); 29 CFR 97.22; Office of Management and Budget (OMB) Circular No. A-87, "Cost Principles for State, Local and Indian Tribal Governments" (as revised May 10, 2004) at 2 CFR Part 225; Training and Employment Guidance Letter (TEGL) No. 6-05; and TEGL No. 4-06.
3. Background. All states assess P&I on delinquent employer UC taxes and deposit the amounts of P&I collected into state P&I funds. Some states also assess P&I on overpayments of UC resulting from fraud and deposit them into similar state funds. There are no Federal requirements regarding the use of these funds, and their use is controlled by state law. Based on information available to the Department of Labor (Department), each state has at least one P&I fund.

Following the issuance of TEGL No. 6-05, which addressed the allocation of state UC agency costs of collecting non-UC taxes, the Department received several inquiries as to the allocation of the costs of collecting P&I that is assessed on UC debts, but used at least in part for non-UC purposes. This TEGL explains that a cost allocation plan is required when the use of moneys in a P&I fund is not limited to UC purposes.

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4. Federal law and cost principles. Section 302(a), SSA, provides that the Secretary of Labor shall certify for payment to a state such amounts as the Secretary determines “to be necessary for the proper and efficient administration” of each state’s UC law. These payments are sometimes referred to as Title III grants. Further, Section 303(a)(8), SSA, provides that, as a condition of receiving a Title III grant, the state may expend its Title III grant “solely... for the proper and efficient administration” of the state’s UC law.

The Department’s regulations at 29 CFR 97.22(b) provide that, for purposes of determining allowable costs under a grant to a state (including the Title III grant), the Department will follow the cost principles in OMB Circular A-87, codified at 2 CFR part 225. Section C.3 of Attachment A of the Circular provides that –

(a) A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

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(d) Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required. . . .

5. Application.

- a. In general. In applying the cost principles in item 4 of this TEGL to Title III grants, a cost allocation plan must be developed whenever a state UC agency incurs costs for a “cost objective” unrelated to the administration of the UC program. Collection of moneys for deposit into a fund from which money may be withdrawn for non-UC purposes is such a cost objective. Therefore, whenever a state UC agency collects P&I on UC debts that are not used entirely for UC purposes, the state must obtain the cognizant Federal agency’s approval of its plan for allocating the costs of assessing, processing, and collecting the P&I, including postage costs. Cost allocation plans addressing P&I funds must be included with the state’s annual submission of its Indirect Cost Rate Proposal when those funds may be used for non-UC purposes.
- b. P&I which *might* be used for UC purposes. How P&I funds will be expended will generally not be known until after the funds are collected. As a result, a benefit received by the UC program, or non-UC program, will not be known in advance of collecting the P&I for the current fiscal year. The state’s cost allocation plan must match current fiscal year costs of collecting the P&I funds against current year obligations of P&I funds for all cost objectives (UC and non-UC) benefiting from the collection of P&I in the current fiscal year. Please note that when actual fiscal year data become available, the state must reconcile the cost allocation plan.
- c. Use of non-UC grants and state financing. Use of funds granted for administering the Wagner-Peyser Act and the Workforce Investment Act are restricted to activities in support of the specific purposes set forth in those Acts. Unlike Federal UC law, these

Acts do not authorize the collection of P&I on unpaid UC debts, even if the P&I revenues enhance program activities performed under either of these Acts. As a result, funds granted under these Acts may not under any circumstances be used to collect P&I.

Aside from any Federal limitations on the use of granted funds, states are otherwise free to determine how to finance the costs of collecting P&I, including using state general revenues or P&I funds.

6. Action Requested.

- a. Administrators should distribute this advisory to appropriate staff.
- b. States are to include separate cost allocation plans addressing P&I with their next annual submission of Indirect Cost Rate Proposals, when those funds may be used for non-UC purposes. The separate cost allocation plan will match the state's current fiscal year P&I revenues against current fiscal year P&I costs. As previously stated, these amounts may not be known until after the end of the State's fiscal year. Given this fact, as is the case with their annual submission of an Indirect Cost Rate Proposal, the State will have six months after the end of its fiscal year to assemble and submit the appropriate information to the Department. The Department may grant extensions of time as may be necessary and appropriate.

7. Inquiries. Please direct questions to the appropriate ETA Regional Office or the assigned cost negotiator in the Division of Cost Determination.