



COLORADO

Department of Labor and Employment

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Governor

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FY 2016-17 Funding Request | November 1, 2015

Department Priority: R-01

Request Detail: Unemployment Insurance Investigations & Criminal Enforcement

Summary of Incremental Funding Change for FY 2016-17	Total Funds	Cash Funds
Unemployment Insurance Enforcement	\$412,854	\$412,854

Problem or Opportunity:

The Investigations & Criminal Enforcement (ICE) unit was originally established for the purpose of conducting criminal investigations involving crimes affecting the Colorado Department of Labor and Employment (CDLE). Under that directive, ICE has dedicated itself to the detection, investigation, and prosecution of crimes perpetrated against the CDLE – specifically the Division of Unemployment Insurance (UI) – and to the recovery of CDLE’s assets. The current threshold to send fraud cases to ICE is \$10,000 or greater, and is set by the CDLE UI Director.

In addition to investigating individuals for UI fraud, ICE is also responsible for several other duties, which include, but are not limited to: performing law enforcement assists, processing restitution monies ordered by the courts, and reviewing and clearing all background checks for CDLE employees. ICE fills a vital role in helping demonstrate the CDLE’s ongoing commitment to integrity in its programs and accountability to the citizens of the State of Colorado. The following chart illustrates the increasing demands for staffing resources:

Actual	2012	2013	2014	2015	4 Year Average
Actual Cases Received	131	118	149	161	140
Actual Cases filed in District court	68	98	102	107	94
UI Claims per case	5	3	4	4	4
Unassigned Cases	63	83	130	184	140
Minimum Amount of repayment back to the UI Trust Fund from convicted felons per case	\$ 680,000	\$ 980,000	\$ 1,020,000	\$ 1,070,000	

Current number of Criminal Investigators

6

Furthermore, the unit completed 5,141 law enforcement assists, 985 background checks, 19 identity abuse cases, 14 threats, and 172 UI fraud tips from 2012 through June 2015. Even with such numbers, the dramatic increase in UI fraud, caused by the influx of UI claims filed during the economic downturn, has created a large backlog of unassigned cases. On average, the unit as a whole is currently working (active investigations) on average about 55-60 cases during the month. This does not include the cases that have already been referred to the District Attorney's (DA's) offices for prosecution. On average, an investigator works between 10-15 cases per year. Each case on average can have 4 separate claims.

The department is currently unable to provide an average of how long it takes to work an investigation, as it depends on a variety of factors (i.e.: obtaining employer records, preparing and serving court orders on banks (and their turnaround time in giving us the bank records), interviewing witnesses, gathering evidence as well as interviewing the suspect. The Criminal Investigator completes a lengthy process for each case, which includes: reviewing documents, identifying additional claims, running criminal histories, gathering other data, contacting employers, preparing court orders, contacting suspects, contacting witnesses, preparing affidavits and witness statements, and testifying in court. Once a case is complete and ready to send to the DA, on average, the case file (including reports and evidence) is approximately 1,500 - 2,000 pages. Lastly, in addition to all of the above, Criminal Investigators are responsible for handling all law enforcement assists as well as all UI fraud tips that come into the CDLE.

This case work can take several months, and in some large scale ID theft rings, a year or more to investigate. Once the investigator has completed their investigation, they refer their case to the DA's office or AG's office for prosecution. Since many of the cases involve numerous claims, the evidence submitted is very large (often times over a thousand pages of evidence). Once the DA decides to file the case, the person will appear in court. The time a claimant (now defendant) spends in court varies as well, as some plead right away and others have continuances for several months. The majority of cases do not go to trial because the evidence is overwhelmingly conclusive; however, there are times when ICE goes to trial or hearings.

ICE currently holds approximately \$2.3 million in unassigned cases waiting to be investigated, in addition to the normal yearly caseload. Although the ICE unit still has a large back-log of cases, they continually receive cases from the Benefit Payment Control (BPC) unit monthly. As such, the Department is proposing that an additional three Criminal Investigator I positions, one Criminal Investigator III, and a half-time Administrative Assistant II be added to the ICE unit and will be paid out of the Unemployment Revenue Fund.

Proposed Solution:

Currently, the ICE unit is comprised of six full-time Criminal Investigators (CIs), a Chief Criminal Investigator, and one Program Assistant. The Department requests 4.5 FTE and \$412,854 from the Unemployment Revenue Fund to support an additional 3.0 FTE of Criminal Investigator I's, 1.0 FTE of Criminal Investigator III, and 0.5 FTE of an Administrative Assistant. The CI III may investigate the largest cases in addition to overseeing CI I's. Hiring three CI I's allows ICE to work through cases more efficiently and allows some CI II's to work more complex cases and/or become subject matter experts in certain types of investigations. These positions will be funded from the Unemployment Revenue Fund created in Section 8-77-106, C.R.S. Revenue for this cash fund comes from fees applied to delinquent premiums or surcharges pursuant to the provisions of section 8-79-102, all penalties collected by the division pursuant to sections 8-79-104 (1)(a) and (1)(c) and 8-81-101 (4)(a)(II), and all investigative costs collected by the division pursuant to section 8-81-101(4)(a)(III).

The department anticipates that the addition of 4.5 FTE will be funded for two years and then be revalidated if the positions are still necessary. The following chart is illustrating the projected case load.

Estimated	Estimated 2016	2017*	2018*	2019*
Cases Received	155	140	140	140
Cases filed in District court	103	160	160	160
UI Claims per case (4 yr avg.)	4	4	4	4
Back logged Cases	236	216	196	176
Minimum Amount of repayment back to the UI Trust Fund from convicted felons per case	\$ 1,030,000	\$ 1,600,000	\$ 1,600,000	\$ 1,600,000
Additional Revenue (Avg restitution/case = \$11,889)		\$ 713,340	\$ 713,340	\$ 713,340

*Adding 4 CI's

Also, the amount of cases that are referred to ICE are based on a monetary threshold and if it is determined at a later date that the threshold needs to be lowered, the Department would see an even larger amount of cases referred to ICE. Unfortunately, there will always be individuals who commit UI fraud, whether there is an economic downturn or not. Although fraud tends to rise during an economic downturn, it has always existed. With the additional FTEs, the Department will not only be able run cases more efficiently, which will increase the amount of money that comes back to the CDLE, but the Department will be able to tackle some of the non-traditional fraud cases that ICE also investigates.

Anticipated Outcomes:

The average restitution ordered in ICE cases reaching criminal disposition in the last two years was \$11,889. Taking the average amount of restitution ordered, and multiplying it by the average number of 15 cases filed per investigator, ICE could expect to have \$713,340 in restitution ordered in a year with four full time investigators filing cases. In addition to the increased revenue, the hiring of additional Criminal Investigators (CIs) and Admin Assistant II would enable the ICE unit to accomplish the following:

- Afford CI's the time to follow-up more frequently with Probation to ensure that the ordered restitution is being collected in a timely manner;
- Address a larger percentage of the overall fraud affecting UI (currently addressing around half);
- Increase the detection of non-traditional fraud;
- Address the anticipated increase in fraud cases with the addition of the new Jail Roster Cross Match Program and the Data Mining project;
- Revisit the referral threshold to potentially lower the amount, and hold more of those committing fraud against the CDLE accountable;

- Allow CIs to specialize in a specific type of UI fraud—such as jail roster cases (collecting benefits while in jail), fictitious business cases, or ID theft crime rings—creating “experts” in those cases which would lead to an increase in productivity;
- The Administrative Assistant II will help with the CIs administrative duties, as well as assisting with follow-up to probation about restitution, conducting law enforcement assists and running background checks;
- The Administrative Assistant II will work with the our internal Integrity and Audits team to set up files on behalf of customers for reviews on cases pending with back premiums owed to the Division; and
- Contribute to the Department’s Performance Plan goal of reducing the amount of overpayments of Unemployment Insurance claims.

Assumptions and Calculations:

Calculation Assumptions:					
Expenditure Detail		FY 2016-17		FY 2017-18	
<i>Personal Services:</i>		FTE	\$	FTE	
Criminal Investigator I	Monthly Salary \$ 4,654	3.0	167,544	3.0	167,544
PERA			17,006		17,006
AED			6,702		7,372
SAED			6,283		7,121
Medicare			2,429		2,429
STD			318		318
Health-Life-Dental			13,263		13,263
Subtotal Position 1, 3.0 FTE		3.0	\$ 213,545	3.0	\$ 215,053
Criminal Investigator III	Monthly Salary \$ 6,547	1.0	78,564	1.0	78,564
PERA			7,974		7,974
AED			3,143		3,457
SAED			2,946		3,339
Medicare					1,139

				1,139		
STD				149		149
Health-Life-Dental				4,421		4,421
Subtotal Position 2, 1.0 FTE			1.0	\$ 98,336	1.0	\$ 99,043
	Monthly Salary					
Admin Assistant II	\$ 2,670		0.5	16,020	0.5	16,020
PERA				1,626		1,626
AED				641		705
SAED				601		681
Medicare				232		232
STD				30		30
Health-Life-Dental				4,421		4,421
Subtotal Position 3, 1.0 FTE			0.5	\$ 23,571	0.5	\$ 23,715
<i>Subtotal Personal Services</i>			4.5	335,452.2	4.5	337,811.2
<i>Operating Expenses</i>						
Regular FTE Operating Expenses	500		4.5	2,250	4.5	2,250
Telephone Expenses	450		4.5	2,025	4.5	2,025
PC, One-Time	1,230		4.5	5,535		-
Office Furniture, One-Time	3,473		4.5	15,629		-
Indirect				46,963		47,294
Other (Software Licenses)			5	5,000	5	5,000
<i>Subtotal Operating Expenses</i>				\$ 77,402		\$ 56,569
<u>TOTAL REQUEST</u>						

	4.5	<u>\$ 412,854</u>	4.5	<u>\$ 394,380</u>
<i>Cash funds:</i>		\$ 412,854		394,380