

Background Information on Proposed Amendments to the SWIS Agreement

Proposed Amendment 1. ETA Use of Wage Data for UI Programs

Background Information: This amendment expands the Department of Labor’s Employment and Training Administration’s (ETA) use of Wage Data reported by states for assessing the performance of state and Federal unemployment insurance (UI) programs including the Reemployment Services and Eligibility Assessment (RESEA) program.

Section 121(b)(1)(B)(xi) of WIOA provides that “[p]rograms authorized under State unemployment compensation [UC] laws (in accordance with applicable federal law)” are required one-stop partners. With the passage of the Bipartisan Budget Act of 2018 (Public Law No. 115-123), the RESEA program was permanently codified in UC law under section 306 of the Social Security Act but remains a voluntary program. States that opt into the RESEA program must operate the program under appropriate state-level authority, which may include state Unemployment Insurance (UI) laws specific to RESEA or general authorities under UI work search or integrity requirements. Because RESEA is a permanent component of the overall UC program it is considered to be a mandatory WIOA partner program.

Under RESEA states assist UI participants with in-person assessments and reemployment services through American Job Centers. A key goal of the RESEA program is to improve employment outcomes of individuals who receive UI compensation and to reduce, through reemployment, the average time such compensation is received. A second key goal is to promote alignment of the RESEA program with the broader vision of WIOA and to establish RESEA as an entry point into other workforce programs.

Section 116 of WIOA establishes performance accountability indicators and performance reporting requirements to assess the effectiveness of state programs in achieving positive outcomes for its participants. Section 116 of WIOA also requires states to use quarterly wage records to measure state progress on the performance accountability measures.

To further this performance management goal, on May 29, 2019, ETA published a notice in the *Federal Register* notifying states and stakeholders of its intent to implement three reemployment-related performance measures for the RESEA program. (The notice in the *Federal Register* can be accessed at 84 FR 24819 (May 29, 2019).) The notice indicated ETA’s intent to use the PIRL files as the data source for the measures and gave states an opportunity to comment on the measures and data sources. States populate the employment-outcome information required in the PIRL, in part, from records states obtain through queries of the SWIS.

Consistent with the Federal Register notice, ETA intends to access aggregate level data collected through the PIRL to assess the state RESEA program performance for reemployment rate and median earnings in the second quarter after program exit. While RESEA performance management is not explicitly identified, ETA interprets the SWIS Agreement to permit the use of aggregate SWIS data for assessing RESEA program performance since this is consistent with the

overarching purpose of the SWIS as expressed in the Agreement – allowing states to assess the performance of their WIOA authorized programs and the WIOA partner programs.

In September 2020, a letter was sent to State Unemployment Insurance Agencies (SUIA) and title I and III SWIS state contacts stating ETA would access aggregate level data collected in the Participant Individual Record Layout (PIRL) to assess the state performance for reemployment rate and median earnings in the second quarter after program exit. Furthermore, Unemployment Insurance Program Letter (UIPL) 07-21 was published in December 2020 announcing the RESEA reemployment core measure; and program performance measures for Median Earnings for RESEA program participants and Reemployment Rate for all UI Eligible participants. These UI and RESEA performance measures align with WIOA primary indicators. This amendment would formalize ETA’s use of the PIRL data for assessing RESEA performance, as well as performance of state and Federal UI programs as a required one-stop partner. As data for these measures are already collected and reported by states to ETA using the PIRL, there is no additional reporting burden to the states (*see* UIPL No. 07-21 for additional description of the calculation used).

Benefiting Parties: Federal Partners

Proposed Amendment 2. ETA, OCTAE, or OSERS/RSA use of Wage Data to create files for Public Use

Background Information: Proposed amendment 2 formalizes federal partners’ use of SWIS Wage Data to create de-identified participant data for public use. In order to clearly describe and distinguish the processes, definitions of the terms “de-identify” and “masking” are part of this proposed amendment.

The Agreement defines “aggregate data” as “wage data” that have been stripped of any information that would identify the individual(s) or the employer(s) to whom the data pertain, including but not limited to, name and Social Security Number or Federal Employer Identification Number, and any state tax ID number, and that have been aggregated into a group(s) containing no fewer than three (3) records. The amendment sets out the additional protections for wage record information that must be implemented when the Departments produce de-identified individual participant records that are not considered “aggregate data.”

Example: The Public Use Data File contains WIOA participant individual performance records. These individual performance records contain detailed information on program exiters, including demographics, types of services received, and outcomes attained as a result of participation in the program. Each file contains a rolling 10 quarters of data and the fourth quarter file is considered the “annual” data for a given year.

As outlined in the letter sent in April 2020 to the SUIA and title I and III SWIS state contacts, ETA takes several steps to de-identify data in the public use data file. There are multiple suppression rules applied and other data cleanup actions performed including: a wage randomization process; modification of certain occupation and industry codes associated with

fewer than three participant records; and the removal of certain elements to avoid disclosure of UI wage record information.

This proposed amendment would formalize the approach to displaying individual records in the file. The Public Use Data File is available for members of the public and it is an excellent resource for individuals/researchers requesting access to individual record level information. ETA currently posts quarterly de-identified Public Use Data Files on the ETA Performance website at <https://www.dol.gov/agencies/eta/performance/results>.

Benefiting Parties: Federal Partners

Proposed Amendment 3. Grants Under ETA Purview when the Grantee is a State

Background: ETA has received multiple requests from registered apprenticeship state grantees asking whether they may, as a state grantee (that is also a PACIA), request Wage Data for their required registered apprenticeship performance reporting. The registered apprenticeship grants are grants that have been directly awarded to a state workforce agency.

This proposed amendment would allow ETA-administered employment and training programs, in which the grantee is a state, to access Wage Data through SWIS for performance reporting purposes. This amendment would modify the list of programs contained in subsection B of Section IX (Disclosures under SWIS) of the Agreement.

Benefiting Parties: Federal Partners and Title I

Proposed Amendment 4. Employment Flag Disclosure

Background: Originally proposed by Texas, Georgia, Tennessee, and Illinois, this amendment would allow for the disclosure of a participant's employment status obtained through SWIS (Employment Flag, yes/no). This proposal will allow PACIAs to share program participants' employment status as derived from SWIS Wage Data with staff responsible for service delivery when the required conditions are met. The purpose of this amendment is to improve transparency, accountability, efficiency, and to increase the return on investment of federal funds. In the absence of this information, local workforce and service provider staff expend limited resources trying to document employment outcomes that are available through data obtained through SWIS. In other words, local service providers will spend less time trying to verify outcomes and can spend more time conducting follow up activities with participants who do not have a SWIS wage record match. The employment flag may help with achieving their performance measures when staff performance standards are tied to the federal measures (as they sometimes are).

Under this proposal, the PACIA may provide a yes/no notification to staff responsible for service delivery and program outcomes indicating that Wage Data received from the SWIS

Clearinghouse reveals reported wages for a program participant during a specific calendar quarter. There are several requirements that must be met to implement the Employment Flag Disclosure, as detailed in the amendment text.

Benefiting Parties: Title I, II, III and IV

Proposed Amendment 5. Longitudinal Data System

Background Information: Each state maintains a state administrative longitudinal database that connects workforce data with education data contained in the Statewide Longitudinal Data System (SLDS), assesses the performance of federally and state-supported education and job training programs, and provides information to help customers select the education and training programs that best suit their needs. The state administrative longitudinal database in each state is operated and maintained by PACIAs and other entities that meet the definition of a “public official” in 20 CFR 603.2.

Notwithstanding any other provision of this Agreement, a PACIA that has obtained Wage Data for a participant in a program listed in Section IX.B.1 or IX.B.2 may upload such Wage Data or the Participant Individual Record Layout (PIRL) to the state’s administrative longitudinal database, provided that a public official continues to maintain legal responsibility and operational authority, and if the system is operated and maintained by an agent or contractor of such public official, a 20 CFR 603.10 compliant agreement must be in place. It is important to note:

- Wage Data may only be uploaded into one administrative longitudinal database within a state.
- Wage Data from SWIS may not be kept in perpetuity; the amendment requires such data used in a state administrative longitudinal database be deleted within 15 years of downloading the SWIS return file from the Clearinghouse.

There are several requirements that must be met to implement a Longitudinal Data System, as detailed in the amendment text.

Benefiting Parties: Title I, II, III and IV

Proposed Amendment 6. Section XV. Amendment of the Agreement. Revise section F. Effectiveness of Amendments

Background Information: Section XV of the SWIS Agreement outlines the procedures for amending the Agreement. Section XV.F addresses the requirements for ratifying the amendments and provides that amendments “will be adopted when all parties to [the SWIS] Agreement have signed and delivered [the] signature page.”

Given the purpose of the SWIS Agreement, multiple parties from each state are signatories to the Agreement. Each state is represented by a State Unemployment Insurance Agency (SUIA) and at least one Performance Accountability and Customer Information Agency (PACIA) such as a state educational authority, a state workforce agency, or a state vocational rehabilitation agency. The SWIS Agreement distinguishes between Access PACIAs and Non-Access PACIAs, and a Governor may designate up to six PACIAs in a state, at least one of which must be an Access PACIA. The SWIS Agreement currently has 61 SUIA signatories and 306 PACIA signatories.

Consistent with the purpose of Section XV.F, and to promote the efficient administration of the SWIS Agreement, the Departments interpret XV.F. to permit additional uses and disclosures of SWIS Wage Data in Section IX (Data Use/Disclosure Amendment) when all federal partners, the ICON grantee, all SUIAs (61), and all PACIAs from at least one state have signed and returned their signature page to make Data Use/Disclosure amendment effective. PACIAs in additional states will be deemed parties to the new Section IX terms in the amended version of the Agreement once the foregoing conditions are met, and on a state-by-state basis, once all PACIAs in a state have signed and delivered the signature page for the amendment.

This approach ensures that the SUIAs, whose confidential information is being exchanged through the SWIS system, have consented to the use of the Wage Data for purposes outlined in the amendments. A PACIA, representing the “demand side” of the SWIS system, will be permitted to access Wage Data pursuant to the terms of the amended Agreement once all other PACIAs within the same state have submitted signature pages.

Benefiting Parties: Federal Partners, Title I, II, III and IV