

## **Background Information to the State Wage Interchange System (SWIS)**

The U.S. Departments of Labor and Education (Departments) are issuing this Background Information to the SWIS to provide background information and technical assistance about the SWIS Data Sharing Agreement (SWIS Agreement or Agreement) and the provisions governing interstate exchange of Wage Data for reporting the employment-related performance indicators required by section 116 of the Workforce Innovation and Opportunity Act (WIOA), as well as for research and evaluations. This Background Information does not supersede the terms or conditions of the SWIS Agreement, but rather is intended to provide easy-to-read explanatory information about the content of the SWIS Agreement.

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### **General Information about the SWIS and Its Use**

**1. Question:** *What is the SWIS?*

**Answer:** The SWIS is a mechanism through which States can exchange Wage Data on an interstate basis with other States needing the Wage Data for WIOA performance reporting, as well as for other permitted purposes specified in the SWIS Agreement.

**2. Question:** *What are Wage Data?*

**Answer:** As defined in Section V.EE. of the SWIS Agreement, Wage Data are individually-identifiable information reported quarterly by employers. Wage Data include, but are not limited to, employer and employee names, Social Security numbers (SSNs), Federal Employer Identification Numbers (FEINs), State tax identification numbers, associated wages, and North American Industry Classification System (NAICS) codes. Wage Data are considered confidential Unemployment Compensation (UC) information under 20 CFR part 603.

**3. Question:** *What are Aggregate Data?*

**Answer:** As defined in Section V.B. of the SWIS Agreement, “Aggregate Data” are “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 SSNs or FEINs, and any State tax ID number that have been aggregated into a group(s) containing no fewer than three records, provided that nothing in the SWIS Agreement shall prevent a PACIA from observing a more stringent aggregation policy with regard to its own use and reporting of data.

**4. Question:** *What types of data are exchanged and used under the SWIS Agreement?*

**Answer:** There are four main types of data exchanged under the SWIS Agreement:

- (1) Personally identifiable information (PII) contained in students’ education records from educational agencies and institutions subject to the Family Educational Rights and Privacy Act (FERPA);
- (2) Workforce Data from programs administered and funded by the U.S. Department of Labor (DOL);
- (3) Personal information contained in Vocational Rehabilitation (VR) program records maintained by VR agencies; and
- (4) Confidential UC information contained within wage records (i.e., Wage Data).

The first three types of data described above are program data, consisting of SSNs of current or former participants. Data from these records are exchanged under the SWIS Agreement only for purposes of being matched against State quarterly Wage Data (the fourth type of data listed above) collected and maintained by State Unemployment Insurance Agencies (SUIAs). The matched data are then included in performance reports required by WIOA and other relevant State or Federal statutes and regulations.

**5. Question:** *Can every State and outlying area participate in the SWIS?*

**Answer:** No. The SWIS is available only to those States and outlying areas that have the capability to share Wage Data because they participate in DOL’s Unemployment Insurance (UI) program. Currently, 53 States and outlying areas can participate – the 50

States of the United States, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

6. **Question:** *Can a State use the SWIS Agreement to share intrastate Wage Data between its SUIA and another agency in the State that needs the data to satisfy performance accountability requirements under WIOA?*

**Answer:** No. States may use the SWIS Agreement only for the exchange of interstate Wage Data with other States. It does not cover the exchange of intrastate Wage Data within a State. In other words, the system may not be used to query Wage Data from a State's own SUIA. Entities seeking access to Wage Data from their own SUIA (i.e., intrastate Wage Data sharing) must continue to enter into a data sharing agreement with their State's SUIA for that purpose. These intrastate Wage Data sharing agreements must comply with the requirements of 20 CFR part 603, as well as other applicable Federal and State laws governing the data exchanged under those agreements.

### **General Overview of Performance Accountability and Customer Information Agencies (PACIAs) under the SWIS Agreement**

7. **Question:** *What entities can be designated as a PACIA?*

**Answer:** A PACIA, as defined in Section V.N. of the SWIS Agreement, must be a State agency designated by the State's Governor as the entity responsible for coordinating or facilitating the assessment of one or more of the State's six core programs, as defined in WIOA Section 3(12) and 3(13).

8. **Question:** *What are the two types of PACIAs?*

**Answer:** Under the SWIS, there are two types of PACIAs – Access PACIAs and Non-Access PACIAs. An Access PACIA is a party to the SWIS Agreement that requests Wage Data from the SWIS Clearinghouse directly, either for its own purpose or for the benefit of another entity as permitted under the SWIS Agreement. A Non-Access PACIA also is a party to the SWIS Agreement, but does not request Wage Data directly from the SWIS Clearinghouse; rather, the Non-Access PACIA obtains Wage Data when a query is made by an Access PACIA on its behalf and a result is transmitted from the SWIS Clearinghouse to the Access PACIA, and subsequently, from the Access PACIA to the Non-Access PACIA.

9. **Question:** *What is the role of an Access PACIA?*

**Answer:** For purposes of the SWIS, an Access PACIA is the party to the Agreement that may request Wage Data from the SWIS Clearinghouse. The roles and responsibilities of a PACIA are outlined in Section VIII.B. of the Agreement.

**10. Question:** *Can a State have just one PACIA?*

**Answer:** Yes. A State may decide to designate only one PACIA. In that situation, the PACIA must be an Access PACIA, as defined in Section V.N. of the SWIS Agreement. While a State must have at least one PACIA, there is no requirement that it have more than one.

**11. Question:** *What is the maximum number of Access PACIAs a State may have under the SWIS Agreement?*

**Answer:** For purposes of the SWIS Agreement, a State's Governor may designate a maximum of six PACIAs and all six may be Access PACIAs. The SWIS Agreement allows a State the flexibility to determine the number and configuration of Access and Non-Access PACIAs so long as each State has at least one Access PACIA.

**12. Question:** *How many Non-Access PACIAs may a State have?*

**Answer:** Under Section V.N. of the SWIS Agreement, a State may designate a maximum of five Non-Access PACIAs. However, there is no requirement under the SWIS Agreement that a State must designate Non-Access PACIAs for purposes of exchanging Wage Data through the SWIS. For example, if a Governor designates six PACIAs as Access PACIAs, the State would have no Non-Access PACIAs because a State may have a maximum of six PACIAs.

**13. Question:** *What procedures should a governor of a State follow when designating PACIAs?*

**Answer:** The Departments consider the procedures by which a governor designates PACIAs to be under the purview of the State. Governors should designate PACIAs in accordance with the policies and procedures a State has in place for establishing responsibility and authority.

**14. Question:** *Can a State agency be both a SUIA and a PACIA?*

**Answer:** Yes. When a State agency is designated as responsible for all, or part, of the responsibilities of a SUIA and of a PACIA under the SWIS, a State agency may be both a SUIA and PACIA if that agency: (1) houses its UI data; and (2) is responsible for coordinating or facilitating the performance accountability requirements for a core program, as defined in WIOA Section 3(12) and 3(13). A State agency that serves as both a SUIA and a PACIA under the SWIS will commit to the roles and responsibilities of both a SUIA and a PACIA when it signs on to the SWIS Agreement.

**15. Question:** *Can a State Educational Authority be a PACIA?*

**Answer:** Yes. In order to constitute a PACIA, a State Educational Authority must meet the definition of and requirements for a PACIA, as set forth in Section V.N. of the SWIS Agreement. While some State Educational Authorities may satisfy this definition and these requirements, not all will do so.

**16. Question:** *If a program is listed in Section IX.B.3. or IX.B.4., allowing it to obtain aggregate Wage Data, can the agency that administers the program be a PACIA?*

**Answer:** No. Only an agency that satisfies the definition of “PACIA” in Section V.N. may be a PACIA under the SWIS. An agency must be a PACIA to be a signatory to the SWIS Agreement. However, an agency that does not meet the required threshold to be a PACIA under the SWIS may enter into a third-party agreement with a State PACIA in order to obtain Aggregate Data for its required performance reporting, as long as the SWIS Agreement covers that program’s reporting. (See Section IX.B.3. or IX.B.4. of the SWIS Agreement for a list of these programs).

**Core Programs, Required Partners, and One-Stop Centers under WIOA as PACIAs**

**17. Question:** *What are the core programs under WIOA?*

**Answer:** As defined by WIOA Sections 3(12) and 3(13), the six core programs of the one-stop service delivery system are:

1. The Adult program authorized under title I of WIOA and administered by DOL;
2. The Dislocated Worker program authorized under title I of WIOA and administered by DOL;
3. The Youth program authorized under title I of WIOA and administered by DOL;
4. The Adult Education and Family Literacy Act (AEFLA) program authorized under title II of WIOA and administered by the U.S. Department of Education (ED);
5. The Employment Service program authorized under the Wagner-Peyser Act, as amended by title III of WIOA and administered by DOL; and
6. The VR program authorized under title I of the Rehabilitation Act of 1973, as amended by title IV of WIOA and administered by ED.

**18. Question:** *What can the core programs do under the SWIS?*

**Answer:** The State Agencies responsible for administering the six core programs may:

1. Sign the SWIS Agreement as Access PACIAs, which allows the State Agency to query the Interstate Connection Network (ICON) system via the SWIS platform on their own behalf for purposes outlined in the Agreement (i.e., for satisfying performance reporting requirements), as well as on behalf of other authorized entities (i.e., non-Access PACIAs or Third-Party Entities) for authorized purposes; or
2. Sign the SWIS Agreement as Non-Access PACIAs, so that they may gain access to the individual-level Wage Data available through the SWIS platform via an Access PACIA for the purposes outlined in the Agreement.

**19. Question:** *Can all required partners of the one-stop system use the SWIS Agreement to obtain Wage Data for performance reporting purposes?*

**Answer:** Yes, but whether a required partner may receive individual-level or Aggregate Data varies.

Under Sections IX.B.1 and 2 of the SWIS Agreement, the following one-stop required partner programs, administered by States or local areas, may receive individual-level Wage Data:

- a. WIOA Title I Adult program;
- b. WIOA Title I Dislocated Worker program;
- c. WIOA Title I Youth program;
- d. WIOA Title I National Dislocated Worker Grants program in which the grantee is a state;
- e. The Wagner-Peyser Act Employment Service program;
- f. The Jobs For Veterans State Grants program [chapter 41 of title 38 of the United States Code];
- g. The Trade Adjustment Assistance program [chapter 2 of title II of the Trade Act of 1974, as amended (19 U.S.C. 2271 et seq.)];
- h. The AEFLA program;
- i. Career and technical education programs authorized under the Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act (20 U.S.C. 2301 et seq.); and
- j. The VR program.

Under Sections IX.B.3 and 4 of the SWIS Agreement, the following one-stop required partner programs, administered by grantees or contractors, may receive Aggregate Data (which is defined at Section V.B. of the SWIS Agreement to include specified de-identification requirements):

- a. The Senior Community Service Employment Program;
- b. The Job Corps program;
- c. The National Farmworker Jobs Program (Migrant Seasonal Farmworkers Program);
- d. The Indian and Native American program(s) (Adult and Youth);
- e. The YouthBuild program;
- f. Employment and training activities carried out under the Community Services Block Grant Act program;
- g. Employment and training programs operated by the U.S. Department of Housing and Urban Development;
- h. The Reentry Employment Opportunities program;
- i. The Temporary Assistance for Needy Families program; and
- j. WIOA Title I National Dislocated Workers Grants program under title I of WIOA, subtitle D, sec. 170, in which the grantee is not a state.

**20. Question:** *Can a one-stop center be a PACIA?*

**Answer:** No. A one-stop center does not meet the definition of, and requirements for, a PACIA, as set forth in Section V.N. of the SWIS Agreement.

### **State Educational Authorities under FERPA as PACIAs**

**21. Question:** *Do State Educational Agencies constitute State educational authorities for purposes of the SWIS Agreement?*

**Answer:** Yes. Under the SWIS Agreement, a “State educational authority” is defined as a State Educational Agency, State postsecondary commission, or any other entity that is responsible for and authorized under State or Federal law to supervise, plan, coordinate, advise, audit, or evaluate elementary, secondary, or postsecondary Federal- or State-supported education programs and services in the State.

**22. Question:** *Does the SWIS limit the number of State educational authorities in a State that may be a PACIA?*

**Answer:** Yes. The SWIS has a limit of six total PACIAs in a State, which includes any State educational authorities designated as PACIAs. Please refer to Section V. of the SWIS Agreement for the definition of “State educational authority” and the applicable State laws and regulations for guidance on the responsibilities of State educational authorities.

## Agents and Contractors of PACIAs and SUIAs under the SWIS

**23. Question:** *May PACIAs and SUIAs use agents and contractors under the SWIS?*

**Answer:** Yes. The SWIS Agreement permits PACIAs and/or SUIAs to use agents and contractors to perform their functions. However, they are not required to do so.

**24. Question:** *Must agents and contractors comply with the terms and conditions of the SWIS Agreement?*

**Answer:** Yes. If a PACIA and/or a SUIA uses agents or contractors, the PACIA or SUIA must enter into agreements with those agents or contractors that incorporate by reference all terms and conditions of the SWIS Agreement, as well as any limitations imposed by that Agreement (e.g., those set forth in Sections IX.D.2. and XI. of the SWIS Agreement).

**25. Question:** *Will States be affected if their PACIAs and SUIAs do not use agents or contractors?*

**Answer:** No. Nothing in the SWIS Agreement requires a PACIA or SUIA to use an agent or contractor, nor does the SWIS Agreement affect States that do not use such agents or contractors.

## PACIAs and Third-Party Entities (TPEs) under the SWIS

**26. Question:** *What is a TPE under the SWIS?*

**Answer:** A TPE, as defined at Section V.CC. of the SWIS Agreement, is any public body, public agency, or private provider of training services required by law to meet State and/or Federal performance measures for such programs as identified in Section IX.B.4. of the Agreement.

**27. Question:** *Can an agency be both a TPE and a PACIA at the same time?*

**Answer:** No. The definition of a TPE, at Section V.CC. of the SWIS Agreement, makes clear that neither a PACIA (regardless of whether it is an Access PACIA or a Non-Access PACIA), nor its agents or contractors, may be designated as a TPE.

**28. Question:** *What is the difference between a PACIA and a TPE?*

**Answer:** A PACIA is the agency(ies) designated by a state's Governor as being responsible for coordinating or facilitating the assessment of certain programs' performance. TPEs, as defined in Section V.CC. of the SWIS Agreement, are entities that are required by law to meet state or Federal performance measures for certain



programs that they implement. TPEs may not access individual-level Wage Data through the SWIS TPEs' access to aggregate data, there should be limited risk of improper disclosure of Wage Data or sharing of other program information.

**29. Question:** *Can all TPEs obtain aggregate Wage Data through the SWIS?*

**Answer:** Yes, so long as there is a third-party agreement between the TPE and a PACIA. TPEs, as defined in Section V.CC. of the SWIS Agreement, may enter into a third-party agreement with a PACIA through which the TPE can obtain aggregate Wage Data necessary to satisfy authorized performance reporting requirements required by Federal or State law or regulations. A TPE is not authorized to receive Wage Data (i.e. individually-identifiable information) obtained through the SWIS, or derived from such information.

**30. Question:** *Must a PACIA enter into agreements with TPEs?*

**Answer:** No. The SWIS Agreement does not require PACIAs to enter into agreements with, and provide data to, TPEs. However, Section IX.B.4. of the SWIS Agreement permits agreements between PACIAs and TPEs in order to extend the benefit of the Wage Data exchange to parties that are covered by an existing authority within the Agreement, but do not meet the threshold for being a PACIA (i.e., TPEs). A PACIA may choose to enter into third-party agreements and provide aggregate results for satisfying performance reporting requirements to the TPEs. The terms and conditions of that agreement must comply with the requirements and limitations of the SWIS Agreement.

## **Querying and Accessing Wage Data under the SWIS**

**31. Question:** *To whom may SUIAs send matched Wage Data?*

**Answer:** After an Access PACIA submits a Request to the SWIS Clearinghouse for Wage Data and the SWIS Clearinghouse subsequently submits a Query to the SUIA in a participating State identified as having Wage Data associated with the SSNs contained in the Request, the SUIA responds by sending the matched Wage Data back to the SWIS Clearinghouse (the term used in the SWIS Agreement for this is a "Reply"). After verifying the source of the Reply and extracting and temporarily storing the Wage Data, the SWIS Clearinghouse transmits the matching Wage Data only (defined as a "Result") to the Access PACIA that submitted the Request. Please see Section X. for information on how data is destroyed.

**32. Question:** *Can all PACIAs in a State receive a copy of the Result?*

**Answer:** No. The SWIS Clearinghouse sends the Result only to the employee account of the Access PACIA that submitted the Request, not to multiple accounts.

**33. Question:** *Who operates the SWIS Clearinghouse?*

**Answer:** The SWIS Clearinghouse, which plays an integral role in the exchange of Wage Data under the SWIS, is operated by either the ICON grantee or its Operations Contractor.

### **Confidentiality Compliance Reviews (CCRs) and other State Compliance Audits**

**34. Question:** *How often are Federal CCRs conducted?*

**Answer:** Federal CCRs typically are conducted annually. Each PACIA (Access and Non-Access) is subject to up to one jointly conducted Federal CCR per 12-month period. Federal CCRs may occur more frequently where there is good cause to believe a violation of the Agreement has occurred, such as if there was a data breach.

**35. Question:** *Why are there no limits on how often State signatories may audit other State signatories for compliance?*

**Answer:** The provision is consistent with the requirements of the UC regulations in 20 CFR part 603, which govern the exchange of Wage Data and does not place a limit on how often a state may conduct an audit. See 20 CFR 603.10(b)(1)(vi). Please note that the provision governing State compliance audits in the SWIS Agreement is the same as that under WRIS and WRIS2 Agreements.

**36. Question:** *Do CCRs review data or other sensitive information?*

**Answer:** No. CCRs do not directly involve the review of data or other sensitive information. Rather, these reviews focus on evaluating a party's adherence to the processes and proper operations required by the SWIS Agreement.

### **PII and Its Use under the SWIS**

**37. Question:** *Can PII be present in either individual- or aggregate-level records?*

**Answer:** Yes. Unless de-identified, PII can be present in either individual- or aggregate-level records.

**38. Question:** *Are data that have been aggregated considered to be de-identified?*

**Answer:** No. Data that have been aggregated are not automatically de-identified. PII includes more than just direct identifiers, and removal of direct identifiers from FERPA-protected education records would not generally constitute adequate de-identification. While it is often harder to identify specific individuals in aggregate data because the individuals' direct identifiers have been removed, aggregate data, as that term is commonly used, may still be considered personally identifiable if they contain information about small groups or individuals with uncommon characteristics (e.g., small cells). However, the SWIS Agreement uses the term "Aggregate Data," which is defined at Section V.B. of the SWIS Agreement, to mean Wage Data that has been "stripped of any information that would identify the individual(s) or the employer(s) to whom the data pertain... and aggregated into a group(s) containing no fewer than three (3) records..." Thus, when the term "Aggregate Data" is referenced in the SWIS Agreement, it means data that have had adequate de-identification procedures applied.

**39. Question:** *What does it mean to de-identify PII?*

**Answer:** Properly performed, de-identification involves removing or obscuring all identifiable information until all data that can lead to individual identification, directly or indirectly, have been expunged or masked.

**40. Question:** *Where can I find information on how to de-identify data?*

**Answer:** Guidance on the proper de-identification of data is available from a number of sources. The National Institute of Standards and Technology's NISTIR 8053 "[Deidentification of Personal Information](#)" is a good overview of the issue and techniques that may be utilized, as is the ED Technical Assistance Center (PTAC) document "[Frequently Asked Questions on Disclosure Avoidance](#)". Additional assistance for the de-identification of PII contained in FERPA-protected education records is also available through PTAC's Student Privacy Help Desk at [PrivacyTA@ed.gov](mailto:PrivacyTA@ed.gov).

## **Costs and Reimbursements under the SWIS**

**41. Question:** *How do SUIAs pay for the costs associated with Wage Data sharing through the SWIS?*

**Answer:** The SUIA must ensure that the costs of disclosing Wage Data will be paid from a source other than the State's UC grant. Therefore, the SUIA must seek reimbursement from the PACIA for costs incurred in the disclosure of Wage Data, except when the Wage Data disclosure involves only incidental staff time or nominal processing costs. The SUIA must follow State policies and procedures when seeking reimbursement of such costs. Under the WRIS and WRIS2 Agreements, SUIAs have used intrastate agreements to establish cost parameters. The SUIAs may do the same under the SWIS.

**42. Question:** *Does the SWIS Agreement define “incidental staff time” and “nominal costs”?*

**Answer:** No. The SWIS Agreement does not define these terms. SUIAs must continue to determine what is considered “incidental staff time” and “nominal costs.” The provision regarding remuneration of costs under the SWIS Agreement is consistent with a similar provision contained in both the WRIS and WRIS2 Agreements.

**43. Question:** *How should Non-Access PACIAs reimburse Access PACIAs for querying Wage Data on their behalf?*

**Answer:** The SWIS Agreement does not establish requirements governing reimbursements between Access and Non-Access PACIAs. The policies and procedures for reimbursement between Access and Non-Access PACIAs are matters that fall under each State’s purview, consistent with the requirements set forth in the Federal cost principles in 2 CFR §§200.403 through 200.405 when federal funds are used.

## **Research and Evaluations under the SWIS**

**44. Question:** *Can an entity access Wage Data directly for research and evaluation if it is not a PACIA?*

**Answer:** No. Only PACIAs may access Wage Data directly under the SWIS Agreement. While an entity need not be a PACIA to conduct research and evaluation, only an Access PACIA may query and conduct analysis of Wage Data under the SWIS Agreement.

**45. Question:** *May a PACIA request data for research on behalf of another entity?*

**Answer:** Yes. An Access PACIA may query, conduct all analyses, and provide aggregate information to the TPE, or any other entity, that is conducting an authorized research study consistent with the authorization requirements in the SWIS Agreement at IX.E. Only a PACIA is authorized to receive individual-level data from Wage Data obtained through the SWIS.

## **Miscellaneous**

**46. Question:** *How can I learn more about other laws and regulations applicable to the SWIS Agreement?*

**Answer:** The SWIS Agreement provides relevant citations for all federal laws and regulations applicable to various requirements of the SWIS Agreement (see Section III. of the SWIS Agreement). However, some State laws and regulations may also be relevant, such as those related to data privacy. Please consult with your agency’s attorney or the State Attorney General for more information about State laws and regulations applicable to the SWIS Agreement and your participation in the SWIS.

**47. Question:** *Can education records be used under the SWIS to fulfill performance-reporting requirements related to credential attainment?*

**Answer:** No. The SWIS Agreement does not permit the use of education records by non-owners of these records for purposes related to credential attainment reporting. Rather, the SWIS Agreement permits only the exchange of SSNs for purposes of Wage Data matching for WIOA performance reporting purposes (specifically, those performance indicators related to a participant’s employment and wages earned), as well as other discrete purposes relevant to Wage Data.

**48. Question:** *What is the time period for reviewing amendments to the SWIS Agreement?*

**Answer:** All parties to the SWIS Agreement will have 15 business days to review any amendment proposal and submit comments in writing to ETA, OCTAE, and OSERS/RSA on the proposed change. Please note that 15 business days is roughly equivalent to three calendar weeks. In addition, parties will be given a second review period to submit comments. The second comment period will be an additional 15 business days. Therefore, the two comment periods together equal approximately six calendar weeks. Please see Section XV. “Amendment of Agreement” of the SWIS Agreement for more detailed information about the process of amending the Agreement.