

Summary of Comments Received from the Initial 60-Day Comment Period and Proposed Dispositions for the “Second-Round” Amendment Proposals to the Wage Record Interchange System (WRIS) Data Sharing Agreement

Amendment Proposal Number 7:

- Comments were received on this amendment proposal during the 60-day comment period suggesting that the views of a state’s Performance Accountability and Customer Information Agency (PACIA) and its State Unemployment Insurance Agency (SUIA) would be more fully represented if a state had the option to designate two Advisory Group members rather than one.
- The preliminary decision on the disposition of this amendment proposal is to incorporate it into the Agreement, using new proposed language intended to address the comments received around state representation on the Advisory Group during the 60-day comment period.

Amendment Proposal Number 8:

- A comment was received on this amendment proposal during the 60-day comment period suggesting that the Confidentiality Compliance Reviews monitor not only the states’ but also ETA’s compliance with the confidentiality requirements of the Agreement.
- The preliminary decision on the disposition of this amendment proposal is to incorporate it into the Agreement, using new proposed language intended to address the comment received during the 60-day comment period regarding the applicability of the Confidentiality Compliance Reviews to the various parties to the Agreement.

Amendment Proposal Number 9:

- No comments were received on this amendment proposal during the 60-day comment period.
- The preliminary decision on the disposition of this amendment proposal is to incorporate the original language proposed on 8/09/07 into the Agreement.

In addition to the three amendment proposals referenced above, a technical change to the Agreement at Section IV. Definitions, Subsection G will also be made as part of the “second round” amendment process. This change will correct a deficiency in the current Agreement - “ICON” being improperly defined as the “Interstate Communications Network”, rather than the “Interstate Connections Network.”

**Wage Record Interchange System (WRIS)
Data Sharing Agreement Amendment Proposal**

Proposal Number: 07

Proposal Title:

WRIS Governance

Reference: *Not applicable – New Section*

Date Submitted: 08/09/07

Sponsoring Entity Information:

Contact Person: Karen Staha

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Statement of Issue:

The WRIS Data Sharing Agreement should provide for a mechanism/forum to serve the role the WRIS Advisory Committee played under the previous WRIS agreement, e.g., gaining state feedback and input on WRIS system improvements and expansions, as well as other WRIS operational and policy-related issues.

Discussion of Issue:

The proposed amendment would establish a framework for the operation of a WRIS Advisory Group (the Advisory Group). The Advisory Group would provide a venue for communication, discussion, and recommendations for improvements related to the WRIS system, its operation, and related policy issues. Through the Advisory Group, members will have the opportunity to provide views and make recommendations on WRIS issues, hear other state perspectives on the issues, and identify potential problems and suggest solutions. Each state would be given the opportunity to designate one representative to serve on the Advisory Group.

The Advisory Group's deliberations and recommendations would be made available for all other interested parties to review, and could result in proposed amendments to the Agreement, or in recommendations regarding the efficient operation of the WRIS.

Statement of Proposed Change/Proposal:

Reference: New Section – Proposed new section would be inserted between existing Section IV. Definitions and existing Section V. Responsibilities of the Parties.

Original Provision:

Not applicable

Proposed Replacement Provision:

Section V. WRIS Governance

A WRIS Advisory Group will be established to provide a venue for communication, discussion of WRIS system operations, recommendations for improvement, and other WRIS-related policy and operational issues.

A. Membership: The Advisory Group shall consist of:

- 1. Signatory states: Each state that is a party to the Agreement may designate one (1) representative to represent its state on the Advisory Group.*
- 2. Employment and Training Administration: ETA shall have one (1) representative appointed to the Advisory Group. Additionally, ETA shall provide up to five (5) staff to support the Advisory Group as part of ETA's roles and responsibilities defined in Subsection C below and elsewhere in the Agreement.*
- 3. Operations Contractor: The WRIS Operations Contractor will be invited to participate in the Advisory Group meetings, but will not be an official member of the Advisory Group.*

B. Meetings and Communication:

- 1. The Advisory Group will convene each calendar quarter. Meetings will be held in person bi-annually and via conference call during the two calendar quarters an in-person meeting isn't scheduled. In-person meetings will be held in conjunction with other meetings to conserve state travel resources to the extent possible.*
- 2. Additional in-person meetings or conference calls may be convened upon the majority concurrence of the Advisory Group.*

C. Roles and Responsibilities:

- 1. Signatory States: Shall be active participants in the Advisory Group, and shall provide timely feedback as requested.*

2. *Employment and Training Administration:*

a. *Will provide timely logistical support to the Advisory Group: e.g., notice of meetings, draft agendas, meeting minutes.*

b. *After each meeting or call, ETA shall provide a draft of the meeting report or conference call no later than five (5) business days after the meeting or call. Advisory Group members will have five (5) business days to comment on the draft, or provide their concurrence.*

Supporting Documentation:

Not applicable

Preliminary Decision on Disposition of Amendment Proposal: 12/05/2007

Disposition Discussion:

During the initial 60-day comment period, ETA received comments from two states suggesting that the views and concerns of a state's Performance Accountability and Customer Information Agency (PACIA) and its State Unemployment Insurance Agency (SUIA) would be more fully represented if a state had the option to designate two Advisory Group representatives, rather than one. This appears to be a valid comment, especially in states where the PACIA and SUIA reside in two different state agencies. As such, the proposed disposition includes new language to allow states to have the option of designating up to two representatives, who must be state employees, to the Advisory Group.

An additional comment was received during the comment period suggesting that, at proposed Section V. B. 1., the word 'semiannually' (every six months) be substituted for the word 'biannually' (twice per year) in outlining the schedule of the proposed in-person quarterly meetings. The proposed disposition of this amendment proposal does not incorporate any changes to Section V. B. 1., in order to retain the additional flexibility provided by the word 'biannually' for the Advisory Group to schedule in-person meetings twice per year without regard to the number of months in the intervening interval.

Proposed Disposition:

The preliminary decision on the disposition of this amendment proposal is to incorporate it into the Agreement, using new proposed language for Section V. A. 1., to address the two comments received during the 60-day comment period, as follows:

Section V. WRIS Governance

A WRIS Advisory Group will be established to provide a venue for communication, discussion of WRIS operations, recommendations for improvement, and other WRIS-related policy and operational issues.

A. Membership: The Advisory Group shall consist of:

- 1. Signatory states: Each state that is a party to the Agreement may designate up to two (2) representatives, who must be state employees, to represent its state on the Advisory Group.*
- 2. Employment and Training Administration: ETA shall designate one (1) officer or employee representative to the Advisory Group. Additionally, ETA shall provide up to five (5) staff to support the Advisory Group as part of ETA's roles and responsibilities defined in Subsection C below and elsewhere in the Agreement.*
- 3. Operations Contractor: The WRIS Operations Contractor will be invited to participate in the Advisory Group meetings, but will not be an official member of the Advisory Group.*

B. Meetings and Communication:

- 1. The Advisory Group will convene each calendar quarter. Meetings will be held in-person biannually and via conference call during the two calendar quarters an in-person meeting isn't scheduled. In-person meetings will be held in conjunction with other meetings to conserve state travel resources to the extent possible.*
- 2. Additional in-person meetings or conference calls may be convened upon the majority concurrence of the Advisory Group.*

C. Roles and Responsibilities:

- 1. Signatory States: Shall be active participants in the Advisory Group, and shall provide timely feedback as requested.*
- 2. Employment and Training Administration:*
 - a. Will provide timely logistical support to the Advisory Group: e.g., notice of meetings, draft agendas, meeting minutes.*
 - b. After each meeting or call, ETA shall provide a draft of the meeting report or conference call no later than five (5) business days after the meeting or call. Advisory Group members will have five (5) business days to comment on the draft, or provide their concurrence.*

**Wage Record Interchange System (WRIS)
Data Sharing Agreement Amendment Proposal**

Proposal Number: 08

Proposal Title:

Confidentiality Compliance Reviews

Reference: *Section V. Responsibilities of the Parties, Subsection C, Paragraph 2*

Date Submitted: 08/09/07

Sponsoring Entity Information:

Contact Person: Karen Staha

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Statement of Issue:

Some states have expressed concern about the current provision in the Agreement related to the conduct of Confidentiality Compliance Reviews. The Agreement currently provides that Confidentiality Compliance Reviews to assess states' compliance with the data confidentiality terms and conditions of the WRIS Data Sharing Agreement would be conducted as part of ETA's regular program reviews. ETA's regional office staff conducts periodic reviews of the Workforce Investment Act (WIA) and Unemployment Insurance (UI) programs.

Concerned states indicated that this approach makes these reviews a part of the "federal monitoring process," which subjects the state to a level of scrutiny that is appropriate for programs where they are receiving federal funds, but that is inappropriate for a voluntary system, such as the WRIS. Concerned states further note that the current arrangement unduly expands the grantor-grantee relationship to an area where it is not applicable.

Discussion of Issue:

ETA's goal in drafting the Agreement was to carry over the intent and purpose of the Confidentiality Compliance Reviews from the previous data sharing agreement; to provide all of the states that are parties to the current Agreement the needed level of confidence that the other parties to the Agreement are handling the Wage Data in accordance with the provisions of the Agreement. ETA did not intend to make these confidentiality reviews part of the "Federal monitoring process" for WIA and UI programs. The provision in question was seen as an administratively efficient way to conduct Confidentiality Compliance Reviews. However, in reviewing the Agreement, ETA recognizes that some states could read the provision other than as intended. Further, because state confidentiality laws are often more strict than federal laws, and vary by state, the argument that a comprehensive review should be done by an expert in data confidentiality, rather than Federal staff, is persuasive.

As such, the proposed amendment would modify the current provision to stipulate that ETA will retain a contractor to conduct Confidentiality Compliance Reviews, at ETA's expense, as part of ETA's responsibility for the overall administration and management of the WRIS.

Statement of Proposed Change/Proposal:

Reference: Section V. Responsibilities of the Parties, Subsection C, Paragraph 2

Original Provision:

2. Facilitating the confidentiality of Wage Data exchanged through the WRIS by obtaining executed WRIS Data Sharing Agreements from participating states, enforcing requirements regarding employee passwords and usernames, revising the WRIS Data Sharing Agreement, monitoring the confidentiality of WRIS data - as part of its regular program reviews, training WRIS staff in confidentiality requirements, and responding to questions and complaints about the confidentiality of WRIS data. ETA shall also notify the participating WRIS states of agreed upon changes to the WRIS Data Sharing Agreement.

Proposed Replacement Provision:

2. Facilitating the confidentiality of Wage Data exchanged through the WRIS by obtaining executed WRIS Data Sharing Agreements from participating states, enforcing requirements regarding employee passwords and usernames, revising the WRIS Data Sharing Agreement as appropriate, and notifying the participating states of agreed-upon changes to the WRIS Data Sharing Agreement, training WRIS staff in confidentiality requirements, and responding to questions and complaints about the confidentiality of the Wage Data exchanged through the WRIS. To further ensure the confidentiality of the Wage Data exchanged through the WRIS, ETA shall contract for an outside party to conduct Confidentiality Compliance Reviews to monitor the states' compliance with the confidentiality requirements of the Agreement and to provide feedback and findings to the subject state on how they can improve their processes to better safeguard the Wage Data as required.

Supporting Documentation:

Not applicable

Preliminary Decision on Disposition of Amendment Proposal: 12/05/2007

Disposition Discussion:

During the initial 60-day comment period, ETA received a comment from a state suggesting that the second sentence of the proposed amendment for Confidentiality Compliance Reviews be revised to read: *“To further ensure the confidentiality of the Wage Data exchanged through the WRIS, ETA shall contract for an outside party to conduct Confidentiality Compliance Reviews to monitor the states’ and ETA’s compliance with the confidentiality requirements of the Agreement and to provide feedback and findings to the subject state or ETA on how they can improve their processes to better safeguard the Wage Data as required.* The state’s second comment suggested that the Agreement provision at Section VII.C.2. (Confidentiality/Restrictions on Use of Information) should be deleted to conform with revised language at Section V.C. 2.

It is agreed that all parties who have access to the Wage Data obtained through the WRIS should be monitored for compliance with the confidentiality requirements of the Agreement they have signed. Although ETA does not have routine access to the Wage Data available through the WRIS, if ETA did obtain Wage Data under the specific research and evaluation procedures set forth elsewhere in the Agreement, ETA necessarily would be subject to the same compliance monitoring that applies to all other parties to the Agreement.

While Section VII.C.2. should not be deleted as it references more than just ETA’s role in Confidentiality Compliance Reviews, it should be amended to reflect that the Agreement will now require an outside contractor, and not ETA directly, to conduct Confidentiality Compliance Reviews.

Proposed Disposition:

The preliminary decision on the disposition of this amendment proposal is to incorporate it into the Agreement, using new proposed language for the second sentence at Section V. C. 2., intended to address the comment received during the 60-day comment period, as follows:

Delete the language currently contained in the Agreement at Section V.C.2. and replace it with the following:

2. Facilitating the confidentiality of Wage Data exchanged through the WRIS by obtaining executed WRIS Data Sharing Agreements from participating states, enforcing requirements regarding employee passwords and usernames, revising the WRIS Data Sharing Agreement as appropriate, and notifying the participating states of agreed-upon changes to the WRIS Data Sharing Agreement, training WRIS staff

in confidentiality requirements, and responding to questions and complaints about the confidentiality of the Wage Data exchanged through the WRIS. To further ensure the confidentiality of the Wage Data exchanged through the WRIS, ETA shall contract for an outside party to conduct Confidentiality Compliance Reviews to monitor the parties' compliance with the confidentiality requirements of the Agreement and to provide feedback and findings to the subject party on how its processes can be improved to better safeguard the Wage Data as required.

Further, to conform with the changes to Section V.C.2.:

Delete the language currently contained in the Agreement at Section VII.C.2. and replace it with the following:

Any reports produced as a result of Confidentiality Compliance Reviews conducted by an outside party under a contract with ETA in accordance with V.C. 2. shall not contain any references to personally identifiable information obtained from the WRIS.

**Wage Record Interchange System (WRIS)
Data Sharing Agreement Amendment Proposal**

Proposal Number: 09

Proposal Title:

Programmatic Access to Wage Data Available Through the WRIS

Reference: *Section VI. Operation of the WRIS, Subsection C, Paragraph 1*

Date Submitted: 08/09/07

Sponsoring Entity Information:

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Statement of Issue:

Some states have indicated that the language currently contained in Section VI. Operation of the WRIS, Subsection C, Paragraph 1, does not appropriately limit the access to Wage Data available through the WRIS to the programs delineated in said paragraph and paragraph 3 of this same Subsection, due to the use of the language "including those" prior to the statute citations. These states are concerned that the language as currently written leaves the door open for Wage Data to be accessed through the WRIS to determine outcomes for additional programs and would like the language to clearly delineate that access to Wage Data is only available to the programs currently listed in the Agreement.

Access to Wage Data for the national programs was initially raised as a related concern. However, information regarding ETA's arrangement with the State of Kansas -- where ETA will only receive quarterly aggregate outcome reports for each grantee (no individual outcomes or Wage Data will be shared with ETA or any of the national grantees) -- appears to have addressed this issue. Further discussion on this arrangement can be found in the Frequently Asked Question (FAQ) Number 17 on the WRIS website at: http://www.doleta.gov/performance/WRIS_FAQ.cfm#q17.

Discussion of Issue:

In reviewing the Agreement, ETA recognizes that the language as currently written could be interpreted by some as “leaving the door open” for additional programs to have access to the Wage Data available through the WRIS, without having to go through the process of making an amendment to the Agreement to add such program to the scope of the Wage Data exchanged through the WRIS.

To address this concern, the proposed amendment would edit the language to be specific about what programs can access Wage Data through the WRIS.

Statement of Proposed Change/Proposal:

Reference: Section VI. Operation of the WRIS, Subsection C, Paragraph 1

Original Provision:

1. To obtain Wage Data for performance and reporting requirements for state and local programs within the jurisdiction of the Department of Labor, including those authorized under: (i) Title I of the Workforce Investment Act; (ii) Section 403(a)(5) of the Social Security Act (42 USC 603(a)(5)); (iii) Chapter 2 of Title II of the Trade Act of 1974 (19 USC 2271 et seq.); (iv) Wagner-Peyser Act programs, and (v) Chapter 41 of Title 38 of the United States Code;

Proposed Replacement Provision:

1. To obtain Wage Data for performance and reporting requirements for state and local programs within the jurisdiction of the Department of Labor authorized under: (i) Title I of the Workforce Investment Act; (ii) Section 403(a)(5) of the Social Security Act (42 USC 603(a)(5)); (iii) Chapter 2 of Title II of the Trade Act of 1974 (19 USC 2271 et seq.); (iv) Wagner-Peyser Act programs, and (v) Chapter 41 of Title 38 of the United States Code;

Supporting Documentation:

Not applicable

Preliminary Decision on Disposition of Amendment Proposal: 12/05/2007

Disposition Discussion:

No comments were received on this amendment proposal during the 60-day comment period.

Proposed Disposition:

The preliminary decision on the disposition of this amendment proposal is to incorporate the original language proposed on 8/09/2007 into the Agreement.