**Workforce 3One**

**Transcript of Webinar**

**Tracking TAACCCT Employment Outcomes:**

**Obtaining State Wage Record Data**

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*Transcript by*

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BRIAN KEATING: At the top left-hand corner of your screen. All right. Well, welcome, everyone, to today's Tracking TAACCCT Employment Outcomes: Obtaining State Wage Record Data webinar with the TAACCCT Learning Network. To kick things off I'm going to turn things over to Cheryl Martin. Cheryl is a program manager for TAACCCT grants with the Department of Labor. Cheryl, take it away.

CHERYL MARTIN: Thank you, Brian, and welcome, everybody. Glad you could join us today, and glad we have our speakers with us to help elucidate this tricky subject. I wanted to start by just introducing where we are in the map of all the different places that send you information or give you information.

So the TAACCCT Learning Network, these are the people who resource the TAACCCT Learning Network. You are the TAACCCT Learning Network. You are the people learning here today, but at the Department of Labor we work with Jobs for the Future on a technical assistance grant, and they have a couple of partners as well, including AACC.

We also work with CalState/Merlot, as you are probably all very well aware by this point, on SkillsCommons. And then there's a couple of other places that offer technical assistance at various kinds as well. One is NSF offers it through their ATE centers.

There's some technical assistance that they offer around employer relationships and sustainability and that kind of thing, and then outside of the federal government there's also Creative Commons and CAST and The Transformative Change Initiative and all kinds of other things going on like that that you may be familiar with.

So where we are today is we are here representing the Department of Labor, and we have a speaker who is from the UI Office of the Department of Labor and another speaker who is a grantee. And I'd like to introduce them at this time.

So John Heemstra is joining us from South Dakota. Thank you for joining us, John.

JOHN HEEMSTRA: Hello.

MS. MARTIN: Hi. He has had experience with lots of TAACCCT grants and is in the middle of several of those. We also have Suzanne Simonetta who's the chief of the Division of Legislation for the UI office here at DOL. So she'll be explaining some of the ins and outs of wage record data.

Before we get to that, I want to let you know what we're going to be talking about today. So we're going to do a couple of polling questions at the beginning. Then Suzanne will be talking, and then we'll have some time for questions for her. So if you have questions for her while she's speaking, please put them in the chat box.

And then we'll take some of those questions, as many as we have time for. Then we'll pause and come back to John and listen to John's story about how they made wage record data work for themselves at Mitchell State. And then we'll have some time for questions for John. So while he's talking, you can put your questions in the chat box for that. And then we have a little bit about next steps. So let's get started.

With our polling questions, we're going to ask that if there are a number of you in the room or on the line, that you answer the questions once for your college or for your consortium. Now, actually once per consortium is what I guess I need. Or if you're a single state, do it once for that college. So just one person answering is what I'm trying to say here. So your project director, if they're on the phone or somebody else or just choose amongst yourselves somebody who would give your response.

These are not hard questions. It's just that we want to kind of get a better sense for how many colleges are experiencing something rather than how many people in the room are experiencing the same issue at the same college. So to the extent you can, and don't worry about it too much, but to the extent you can, one answer per single institution or one answer per consortium.

So our first question is very simple. Have you been able to get wage record data from your state's UI office?

MR. KEATING: All right. And you may have noticed that you have a yes or no question on your screen. So go ahead, as many of you are doing right now, and click the button on your screen yes or no to answer that question. It's a radio button on your screen, and, like we said, one answer per consortium, please.

All right. So again, just another few seconds. If you haven't already voted, go ahead and make sure you've agreed with your group and then make a choice and we'll go ahead and turn it back to Cheryl. We're getting some context as well in the chat window. So thanks, everybody.

MS. MARTIN: Great. Yeah. Yeah. So looks like about two-thirds are no, and that would – that's why you're on the call; right? Or maybe more like 60 percent, depending on where we go, and another two-thirds are – I mean, another rest – little bit more than a third are yes. You have been able to get it from your state. So good news for the yes folks, and that's why we're here is for the folks that are saying no.

The next polling question that we have is for those of you, the 60 percent or so of you who responded no to the previous question, just let us know are you single-state, single-state consortium, or a multi-state consortium?

MR. KEATING: OK. And you'll notice that, as many of you have discovered, question two is at the top right-hand corner of your screen. So go ahead and make sure you choose single-state institution, single-state consortium, or multi-state consortium. So make sure you vote in that question at the top right-hand corner of your screen. That's what we're addressing at the moment.

MS. MARTIN: So, Brian, can you – do you want to move this, or should I because I can only see their responses for single-state institution? There we go.

MR. KEATING: Sure. Going to make that a bit larger. So hopefully you can see that whole thing now.

MS. MARTIN: Thank you. OK. So we've got 13 multi-state consortiums more or less on the phone, 22 single-state consortiums, and 23 single-state institutions. Great.

So let's go to question number three. Again, if you are one of the folks that said no to question one, which is, no, we're not getting state wage record data right now, let us know kind of what the challenge is or what best describes your situation. Have you found it difficult to reach a data sharing agreement or were you told that there's a state law that does not allow the sharing or other. And I'm sure there are many variations on this.

So if you do choose other, then let us know in the chat box, and even if you choose A or B, you can tell us information there as well. We are going to be looking through all of this, everything that you're telling us, and seeing what we can do to make life better for you. So that's why we're asking. OK. So most of you are in a situation where you just found it difficult to reach an agreement. Nine of you has – were told that your state law does not allow the sharing of wage records, and five have some other kinds of challenges as well.

OK. Going to move to the next polling question, polling question number four. So this is just for if your grant is a multi-state consortium; OK? So that group of folks who said that. This is to get a sense for what's happening because, obviously, multi-state consortiums have some extra challenges with getting data about states that are outside of the state of the lead grantee.

So give you a little chance to let us know if you can't even access wage record data from your state or from any state. Option B is you can get it from your home state but not from your other states. C is you got some of them. Maybe you got nine states in your consortium or something, and you've got some of those but not all of them. And D, you get the prize if you can say yes on D because that is you can access data from all the states represented in your grant. So again, Brian, if you can make that window so we can see the results a little better. There we go. Thanks.

OK. So a couple of you are having trouble – and this is just the multi-state consortiums. Ooh, we've got one who can access data from all states represented in our grant. That's great. Who is that? We want to know who that is. Type your name in the chat box, and we'll have a little celebration. And most of you are saying you can get some states but not all, but a few of you are in a situation where you cannot even get your home state and – or you can get your home state but not others and some of you not even your home state. So OK. All right. Good.

So then we have one other question, and this one is for all grantees on the call but still answer once per institution. Have you been successful in tracking program completers who were employed in a neighboring state? So this is the issue about you might be able to get your home state, but can you get them from another state?

OK. It's looking dim. Not surprising, though. I mean, this is not of course the first time that we've encountered this, and there are a lot of things in place – or not in place but on the way that relate to getting wage record data and sharing that kind of thing for all kinds of parts of DOL and actually other parts of the federal government as well. It's not just TAACCCT grantees that are having these challenges, of course.

So OK. So 95 percent of you are – 5 percent of you have been able to get some neighboring states. That's three, but really the vast majority have not been able to get neighboring state information. OK. Great. Not great, but thank you very much for your information on that.

So at the end – I'm going to tell you now – if you have some specific challenges that you would like help with, we're going to show you how to pass that on to us, but first, hopefully some of what is said here today will help you. And so first, here to explain the highlights of the finer points of state wage record data, is Suzanne Simonetta. Over to you, Suzanne.

SUZANNE SIMONETTA: Hi, everyone. It really is a pleasure to speak with you this afternoon. It's amazing how UI data touches so many different things. Let's see. I have a college student as an intern, and as she's been learning more and more about what we do, she's like, my goodness. I can't believe that UI is involved with BLS and this and that, and it's just – it really is amazing. But the fun thing for me is it gives me the opportunity to learn a lot more about everything else that everyone is doing and get to know more people, and so that has been definitely wonderful.

So anyhow, I'm going to start by just giving you an overview of the statutory and regulatory requirements that we have with respect to wage records. As you may know, wage records are collected and needed for both UI benefit eligibility determination purposes as well as for tax purposes so employers basically know how many wages are subject to taxation and they can pay the right amount to the federal and state government.

But because wage records are so valuable and useful, it's been broadened for what they are used for, and the the challenge is making it work. And so I'm going to try to share some information so that we can help you to make it work.

Our statutory authority comes from the Social Security Act, methods of administration to insure full payment of unemployment compensation when due. Rationale briefly is that if you can't protect people's information or employers' information, they will not participate fully in the program.

So what we have in statute and regulation, basically, is a general rule that you have to maintain the confidentiality of any UC information that reveals or combined with other publicly available information would reveal the name or any identifying particular about an individual or an employer.

And the basic rule is disclosure is barred unless the disclosure is mandatory or permissible. And then of course, as we all know, many of us are subject to the OPM breaches and data hacks everywhere, that it really is essential to protect confidential UC data from unauthorized disclosures, re-disclosures, hacks, and whatnot. Next slide, please.

OK. So what is confidential? A whole host of things, everything about claims and employers, but for your purposes, what you're most interested in is wage records. All right. Next.

OK. We do have several mandatory disclosures that have been codified in statute but are based – I mean, codified in regs but based in statute, but the one thing I do want to point out is that even though they're mandatory, they won't happen if we don't have properly executed data sharing agreements that meet all of our requirements.

So the classic example, even though it is a required disclosure for child support enforcement purposes, if the agency doesn't pay for the disclosure and do everything else they need to do, they're not going to get the data. But I know for your purposes, you're more interested in these permissible disclosures because that's where you all fall.

And certain disclosures are permitted as long as they don't interfere with efficient operation of the program, and the easiest way to get data under these permissible rules is if you have informed consent of the individual.

Obviously you have to have a properly written informed consent statement but oftentimes we don't have informed consent and so that's where we have to go into the land of disclosure to public officials for use in the performance of their official duties. And where this gets messy and ugly in the workforce world and education world and training world is that not everyone who needs access to the data is a public official.

If you're a non-profit or for-profit entity, you often can't get the data. There are some ways you can get the individual level data, but if you don't fit one of those exceptions, that's why aggregate data sometimes is only available. And I can't see all of the comments that came in in the main chat about the problems you all were having, but I saw a few people mentioned I can only get aggregate data. And that may be the reason why.

If you're not a public educational institution and you don't have informed consent of all your participants, all you're allowed to have is de-identified or aggregate data. Now, that doesn't mean you can't get the data in a format that will be usable for your reporting purposes because I know, for example, under WIA and under WIOA in the future there's a mechanism set up for this purpose.

You might not be able to use the data for program management purposes where you really would want to know each individual participant's information, but you can get what you need to meet the reporting requirements.

It may not be just what you want, but as some of you who've heard me give a spiel about UI data in years past might know I always like to quote the Rolling Stones when it comes to UI data. "You can't always get what you want, but if you try, sometimes you just might get what you need." And so I can't promise I'll get you what you want, but I will try to help you get what you need.

OK. I think I've covered a lot of this already, but in recent years or frankly there's been an explosion in the demand for UI wage records, and the reason is very easy when you think about it. It's a combination of better technology so that we're able to use data more efficiently for so many more purposes and this huge emphasis on program accountability and outcomes.

And in our public realm we want to make sure we're investing public dollars well, and earnings and employment is a really easy way to measure success for programs. I've talked to enough people in our broad employment and training world to know the limitations of the data. If someone's working out of state or out of country or if you're self-employed or there's a whole host of limitations to the data where they don't always tell the complete picture of your successes, but honestly, it is a really good tool and a whole lot cheaper than trying to survey participants six months, 12 months after the fact.

So it's definitely become I guess – I don't know – the ambrosia of this performance accountability world. Everybody wants it. It's just it's that big of a deal, and like I said, it's become a much bigger part of my life than I ever would have imagined 5 or 10 years ago.

OK. So just talking a little bit more about disclosures to public officials, our regulation permits that, but at present it has a pretty limited definition of what a public official is, an official agency or public entity in the executive branch of federal, state, or local government who has responsibility for administering or enforcing a law or an elected official in the federal, state, or local government.

And so that's fairly broad, and I think it encompasses most of what we would commonly consider public officials. But another thing that's important to note is that an agent or contractor of a public official may have confidential UI information disclosed to them, and so that often is a way to get data to some of these other types of entities that need it. There are some additional limitations because, if you're getting it as an agent or contractor, you can't re-disclose it.

And the tricky thing which sometimes might happen is just because you're an agent or contractor of a public official for one purpose, doesn't mean you can get the confidential UI data for another purpose when you're not actually that agent or contractor of a public official. So things can get tricky, but this is I think a very important permissible disclosure.

OK. What do our regs currently say about performance of official duties? Pretty basic, administering or enforcing a law or execution of the official responsibilities of a federal, state, or local elected official. The problem I – and this of course, just my own opinion – is – got to always have that important caveat there.

The problem is that on its face it is a little bit limiting when you look very carefully at the actual wording of what performance of official duties means because technically, technically, technically some federal program or grant performance reporting purposes by themselves wouldn't necessarily meet this definition.

But thankfully we have been able to have the flexibility that we need in order to get to the disclosures that we need. To be honest, I think it's whether or not an entity is a public official is frankly more frequently the barrier to access to data than whether or not an individual – or that public official is performing an official duty. Next slide, please.

OK. I want to take a minute or two to talk about WIOA because I would be remiss not to. It's kind of the giant elephant in the room here, but WIOA did have an impact on wage records. And while it's not I guess directly relevant to you, there will be some indirect effects in that we are making some changes to our regulations. WIOA only requires use of wage records for WIOA core program and ETP performance reports.

It does not require the disclosure, however. It is still of course permissible, and we are strongly, strongly, strongly encouraging it, but this is a very, very important distinction. It's in the statute, and I try to remind everyone of that. It's absurd when you think about it. On the one hand you're required to use it, but no one's required to give it. But that is actually how the statute is written.

But as I said, particularly because there are a lot of non-public officials that need access to the data, we do have the WRIS system, which eventually is going to be updated and might have a new name, to facilitate performance reporting when the confidential UC information may not be disclosed. And there's a new required disclosure for it, but Department of Labor, Department of Education for certain evaluation purposes, but I know that's not really germane here.

But what is relevant to you possibly is what we proposed in our Notes of Proposed Rule Making for WIOA about how we're going to change the definition of a public official. We're going to articulate a little bit more clearly some of the additional types of entities that are public officials.

Truthfully, I don't think much of this is revolutionary because many of these types of entities would've been encompassed in our old definition, but it's nice to have it clearly articulated so no one has to read between the lines. But moving to what we propose about the definition of official duties, that will be I think much, much more helpful because it's going to be much broader, including all performance accountability, requirements for discretionary grants, and as otherwise required for education and workforce training.

So I think this is going to – assuming nothing changes in the final rule, which obviously we haven't issued that yet but crossing our fingers that will happen in a month or so, that assuming nothing changes in the final rule, this will I think make it a little bit easier to get at not only the required disclosures that are needed for some of the other WIOA purposes but for your purposes. So this is something that I hope you will find very helpful.

OK. I don't really think you need this, but if anyone's curious, I just provided a little bit of information about those required disclosures that states will have to make. So thinking – and I'm totally thinking off the top of my head here – but if, for example, Department of Labor were to conduct an evaluation of these TAACCCT grants, then the states would be required to disclose the data for our evaluation, which, like I said, it would be kind of a weird thing.

Wouldn't necessarily be required for the performance reporting, but it would at least be required for the evaluation. But like I said, this is the first time I've had that lightbulb go off in my head about this. So please don't quote me on it quite yet, but I'm thinking that will be the case.

OK. All right. What else do I want to tell you about? As I had hinted before about the mandatory disclosures, the same things apply for the permissible disclosures that all of the other requirements that are articulated in our regulations at 20 CFR 603 have to be met, which includes executing a data sharing agreement, reimbursement for costs, safeguards, penalties for impermissible re-disclosures, and data breaches.

And I know some of you had said that you were having some trouble with your data sharing agreements. Some of you I think also were having some trouble maybe because your states told you that these disclosures were not permitted under their laws. And the one thing I will cautiously offer, because knowing how many participants there are, I'm afraid of a deluge of these types of inquiries, but we are here to provide technical assistance to help facilitate these types of disclosures.

Sometimes there's a little bit of uncertainty out there in the states about what federal regulations permit, and honestly, sometimes states might not be 100 percent crystal clear about everything that may be permissible under their state's laws. Now, obviously I can't interpret state law, and neither can anyone else on my staff. But we have helped out on occasion not only in explaining what is OK under federal law and regulations but to try to help states navigate their own statutes sometimes to try to get to a disclosure that is necessary.

So I offer that to you all too because I did note that there were several of you that were having lots of problems getting data, and obviously it's important that you get what you need in order to do your performance reports and – while obviously the PII would certainly be ideal, if you can't get that, we could at least try to help you to get what you need to meet your reporting requirements because this is something that is very, very important.

And I guess the last couple things I wanted to mention, I did say that obviously the WRIS and WRIS II agreements are going to be updated. There's I think a state federal work group that's dealing with this issue. But another thing that's been keeping me busier than I ever would have imagined is this long-term collaboration with the Department of Education to work on some guidance that we would issue jointly to facilitate access to wage records generally for educational institution purposes. And I know many of you, if not all of you, are educational institutions.

So this is something not just for TAACCCT purposes but maybe for other purposes that you will find very, very important because this realm has even more challenges because not only do you have to dance around the UI confidentiality and disclosure requirements, but you have FERPA requirements about who's allowed to get student information.

And so what we're trying to do is come up with some kind of very practical information about what's permissible under FERPA, what's permissible under our laws, and who can get what because we know sometimes you're a public official. Sometimes you're not. Sometimes you're an education authority, and sometimes you're not. And so that's something that we also are hoping to get out to the public in a couple of months.

To the extent at which it will help you for TAACCCT grant purposes, I'm not sure, but this is something that we know is going to help facilitate data exchanges to educational institutions immensely. So it's another big thing coming that we're very, very excited about.

OK. I think I have maybe one more substantive slide, and I think this is something that is really important because I think one of the things that WIOA acknowledges is that, while we have all this need to use data, we also need to do a better job of integrating UI and the workforce and education systems to not only to make this performance reporting work better but, honestly, even the service providing better.

And so this is something that is a priority. We are working on it. I know in the UI world we have some reemployment connection tools that are a good first step, but I think this gives us an opportunity of not necessarily something that will solve all of your problems for this round of grants but especially thinking to the future as we are able to come closer to realizing this goal to make access to data whether it's case management or performance reporting purposes, a lot easier.

So hopefully some day we won't have the struggles and angst and frustration that I know unfortunately many of you are facing now.

OK. I think that is basically it for me.

MS. MARTIN: OK. Thank you, Suzanne. If – you're not done yet, though, because we have a number of questions here. So we're going to try to tackle some of those right now.

MS. SIMONETTA: OK. Great.

MS. MARTIN: Let's see. So we're on this slide. We're going to questions. Let me say a couple of things and then I might confer with Suzanne a little bit and we'll go from there. A number of you have mentioned that your – that the wage record databases are two quarters behind, and that is fairly – is that standard, Suzanne, or what's your experience?

MS. SIMONETTA: I think the way it works is that generally employers are supposed to report I believe it's 30 days after the quarter ends. Now, obviously not all employers report timely.

So there definitely will be some lag there, so I'm not sure if that is what you're facing in terms of when you're actually getting access to the most recent completed calendar quarter because I know if you're accessing data from, say, the National Directory of New Hires, which I don't think necessarily for this purpose they're allowed to, the lags are even longer because there's a delay from when the states upload to the directories of new hires because they want to – they don't want to do it five times. They want to wait until it's pretty complete.

But I know a lag in availability of data is a challenge for several I guess program purposes, but there's unfortunately not much we can do to ameliorate that.

MS. MARTIN: Right. So I just wanted to get a sense for how normal that was. I think you all have a lot of company in that respect, but with respect to TAACCCT grants in particular, there is one thing that you can do as a work around on that. So say your – go ahead and submit your annual report by the date that it is time to submit it, but then if you get additional wage record information that gives you additional employment placement information about those people – say you're submitting year two; right?

And so you're submitting information about everything that happened from September – I mean, October 1 of one year to September 30 of the next year, but that person who became a participant and completed on September 30, let's just say, then became employed on October 1 or October 15 or November 1 – I'm sorry. No. They became employed on September 30 but you don't get that wage record data for two quarters behind. Sorry. I completely misspoke on that. So they became employed during the period that you're reporting for, but you didn't hear about it until two quarters later.

So you can get that information two quarters later and ask your FPO to unlock your report and go back in and say, yeah. That participant or those participants who were completed and all the other things that they need to be in order to be counted in whatever section you're counting and the employment happened by September 30. I just didn't hear about it until one or two quarters later. You can unlock and update your report with that information. So hopefully that helps a little bit. At least it helps in the midpoint of it.

Once you get to the end, even those of you who are approaching closeout, we're OK with you submit your report on time. Always do that, but then even if you are in closeout and then you got a whole bunch of data right after that and you want to go back and update that report, we will still accept that and allow that to happen to update because we understand that, as long as they were employed by September 30th of that year, it can take a while to get that data. I hope that that helps a little bit on that question.

Another question that people are talking about is being able to access only aggregate data. So, Suzanne, do you have any opening comments about that?

MS. SIMONETTA: Yeah. And this is pretty touch, and I guess, as I had indicated earlier, I'm imaging that most of the entities that are having this problem are not public institutions – educational institutions. And so as a non-profit or for-profit entity, you're just not allowed to get the PII unless you have informed consent of all of your participants. And so unfortunately there is no work around for that.

Obviously it's too late now to even think about informed consent, but I don't know if maybe in future grants if that's something that can even be thrown out there as a possibility. If you have a properly executed informed consent agreement, than any entity would be allowed to get PII – the individual level information, and we can certainly help with maybe a template. I know it can sometimes be tricky because every state has different requirements, but we'd certainly be happy to help with that.

But if you don't have informed consent and you're not a public official, you just can't get the PII. And so aggregate or de-identified data is all you're basically allowed to get. And I'm sorry, but that's just how it goes.

MS. MARTIN: So, I mean, one of the thoughts that I had about that, although I'm not the expert on pulling this kind of data, was whether it works for people to put in a batch of all the kinds of things that you need aggregate data on for field B-10 or something like that in our database and sort of separate those out from the ones where you need B-8. Those of you who are – B-8 would be the – Scott, help me out here on the details.

Q: B-8 would be for – to be – for those that have been employed, but B-10 is for a wage increase.

MS. MARTIN: Right.

Q: But –

MS. MARTIN: So if you put all the folks that would potentially fall into B-8, if you could get wage record data on them, into one batch and got that information back as aggregate, would it tell you – would that aggregate data then tell you, yeah. You sent me 100 people, and I can tell you that 80 of them are employed.

MS. SIMONETTA: And that's a really good point because, honestly, we've given similar advice for other WIA performance purposes, that while obviously you don't want to overburden someone with unnecessary number of disclosure requests, but you can slice and dice your data however you need. Then they can send back the aggregated data so that you can know whether it's by age or gender or whatever, however you need to slice and dice the data, you can get aggregated results back.

It's not as elegant. You can't do any additional manipulations yourself, but whether it's just to meet your basic reporting purposes to fill in all the different cells, these things can be done. You just have to obviously be careful about defining everything properly and making sure that the right request is coming back with the right data.

MS. MARTIN: Right. Right.

MS. SIMONETTA: But that can be done.

MS. MARTIN: OK. And you report to us in aggregate. So as long as what you sent over to them – which is unusual. Most grantees report to DOL at the participant level, but you report to us at the aggregate level. And I know that this isn't going to be particularly useful perhaps for your evaluators or that kind of thing, but as long as you give them the right batch of people and then they tell you, yes, those people are employed or this other batch of people have a wage increase and, yes. Then you can report that to us in aggregate that way.

OK. This one's for you, Suzanne. "Is a director of institutional research for a public community college a public official?"

MS. SIMONETTA: Figures I get put on the spot with something like this. And especially without having my absolute expert sitting next to me, I am going to of course be very cautious in how I answer this question. But I think the general rule is that – just when you think of any public institution here, you look at even the Department of Labor. It says the secretary of Labor shall do X.

Well, the secretary of Labor is not doing everything he shall do because that's impossible. So employees of an agency in some ways become the public official or has a certain amount of authority delegated to them, just as Cheryl sometimes does things on behalf of the secretary, just as many of us do.

So as a general rule I would say that an employee of a public educational institution that has the authority to do whatever function is being asked can be a public official. It just couldn't be maybe someone who's working there under contract. If you're not even a genuine employee of that public institution, then – well, then you'd have a whole host of possible issues, but if you are a genuine employee, not a contractor, and it is your authority to do this function, in many ways you are like the proxy for that public official because of course whoever the head of the college is is not going to be the one that is literally going to get the data and do all of that work.

MS. MARTIN: In all their spare time.

MS. SIMONETTA: Right. Of course. But of course it doesn't mean that if your – the receptionist can have access to the data, and I think this is an important distinction to make because whenever a disclosure is permissible, access really needs to be limited to the employees who need the data.

It can't be broadly available to everyone who works there obviously for both protection from inappropriate use and re-disclosure and breaches and what not, but yes. I mean, I don't know what institution you're talking about, but if you are an employee of a public institution, you can see the data because life couldn't function without that.

MS. MARTIN: OK. All right. Good. So we have a number of other questions here, but I also want to make sure we have time to hear from John. And then some of these we might be able to fit in with that.

MS. SIMONETTA: I just want to mention one thing about cost because I know that's the kind of very, very sensitive issue.

MS. MARTIN: OK. The question that was asked is, "Will there be guidance for us submitting reimbursements of costs?"

MS. SIMONETTA: And the short answer is on the guidance part, I'm not 100 percent sure we will ever get to that. But it's a very tricky issue because different UI agencies have different levels of technological modernization. So frankly, it genuinely will cost a different amount to get data from different states, depending on whether they have a 1970s computer mainframe that still uses Cobalt or whether they actually have something modern.

So it would really be impossible for us to say what the right cost would be because some states are all over the map about their technological development. But one thing we have been consistently telling states is that while, sure, you can try to generate program income from maybe other types of activities, but when you're doing disclosures for public officials for these types of purposes, be as reasonable as you can with the cost because we – you don't want to fleece your public partners here. But we don't have an easy answer to the cost issue.

MS. MARTIN: OK. So a couple of other questions that will be short, and then we'll go to John. Suzanne, could – if one institution – these are – many of these groups are in consortiums. So, "If one institution gets the data, can they share it with the consortium, or does each member of the consortium have to get their own data?"

MS. SIMONETTA: Well, I think it really depends on if the data sharing agreement provides for the re-disclosure, number one, because if it's in the data sharing agreement, then it can be permissible. But then this gets to some of the tricky things where if the – if state one that's getting it is, say, getting it because they're an agent or a contractor of a public official, then they're not really allowed to re-disclose it.

But if you're a public official getting data, you are permitted to re-disclose that data under certain circumstances as long as the data sharing agreement provides for it. So I don't know. It really depends on who's involved, but the main thing is, if you want something to happen, you got to provide for it in the data sharing agreement.

MS. MARTIN: OK. OK. That's helpful. And then another question for you, Suzanne. "If a program participant is an incumbent worker and not on UI, how could we or would we match data? Is that even possible?"

MS. SIMONETTA: OK. This is a really good question because it's – I think might be a common misperception. State UI agencies get wage records for everybody who is working in covered employment. If you're self-employed, you're not going to get that. If you're working for the feds or maybe for the state, you're not going to get that.

But generally speaking, anyone who is getting paid in a job will get reported to the UI agency because, as you may know, employers pay unemployment taxes to the states and to the federal government for all of their employees. So that's why every quarter employers say, OK. Here's everyone who's working for me. Here's how much they all earned, and here's my tax payment with respect to all of these wages.

Of course all of those people will not eventually be getting UI, but the employers have to report on everybody because they have to pay taxes on everybody. And that universe of data has to be available because, if that person does file for benefits someday, we need their wage information. So I'm really glad this question was asked so we can clear up any misconceptions that might be out there that the wage information is there for everyone, not just for UI claimants.

MS. MARTIN: But there are a couple of main categories of exceptions, self-employed and feds, you're saying?

MS. SIMONETTA: Generally speaking. So it's not a –

MS. MARTIN: It's not 100 percent.

MS. SIMONETTA: No data set is perfect, and of course we can't swear that the accuracy of employers can transpose SSNs, but it is what it is.

MS. MARTIN: OK. All right. Good. So I'm going to go to John and – because we want to hear from you as well. So, John – whoops. Sorry. We're clicking on slides on top of each other here. So, John, thank you so much for being here with us today. Tell me briefly how many TAACCCT grants is your institution involved in, and are they consortium, single state, et cetera, that part of things?

MR. HEEMSTRA: Sure. Mitchell Technical Institute, we've actually been part of all four rounds. We were part of a consortium, a statewide consortium for round one and round three. We are a single institution grantee for rounds two and round four. We are a public governed institution, two-year college in the state of South Dakota.

MS. MARTIN: OK. So now you know to answer that question first. And so your consortium is only within your state. So that of course has some implications for what we're talking about here, but still it is – that's important information. So how big of an issue is – well, let me get to that one a little bit later.

So your consortium is inside the state of South Dakota. Did you already have an agreement in place with the state of South Dakota before TAACCCT, or did you put yours into place for TAACCCT?

MR. HEEMSTRA: Kind of two parts. There had been a precedence. One of the colleges had a previous agreement with our state Department of Labor and Regulation, as it's called in South Dakota. So there was a little bit of a precedence, but that didn't go far enough. It didn't meet all the requirements to obtain the data we needed for TAACCCT.

So when we started the process, at first we thought this was going to be easy. There's already been a precedence. We found out that there were questions at the state level from attorneys right away on why we needed the information, what we're going to do with it. So that kind of launched us on our process to develop a specific agreement for TAACCCT.

MS. MARTIN: OK. And what agency in your state covers this kind of thing?

MR. HEEMSTRA: South Dakota is a consolidated workforce agency. It's the South Dakota Department of Labor and Regulation. Specifically we worked with their Division of Unemployment Insurance. We were fortunate one of my colleagues, after some calling, found the right contact, and dealing with a single entity in that office certainly helped in trying to put this together.

MS. MARTIN: Now, just to pause here, if people are having trouble figuring out who to talk to in a state, that is definitely something we can help them with.

Susan Simonetta: Right. Yeah. And one of the few tricky things is that in a couple of states it's actually not the UI agency that has the wage records. It might be the Department of Revenue or Taxation, which may be understandable. But yeah. One of the things that I think often has happened is that they'll talk to the workforce agency, which is not always the same as the UI agency.

Now, one would hope that they would be aware of who – how to properly direct you, but if you're having that kind of trouble about I don't even know the right entity to talk to, we can certainly help with that.

MS. MARTIN: Yeah. And the only thing you can do is you could start with your FPO in your region. They can talk to your FPO and talk to their UI counterpart in the regional office about who to talk to in your state.

So if that is where you stand with it, start with them. And we're having some challenges with it, that is another route that you might want to try taking is ask your FPO to talk to their UI counterpart and have the UI counterpart talk to the person in the state. So in other words, we can sort of help you get some of that together. Sometimes that helps. Sometimes it doesn't.

So, John, when you started down this road, what kind of challenges did you encounter, and how did you address them?

MR. HEEMSTRA: I think the biggest challenge initially was the concern of student privacy, why we needed the data, and really what authority was there to provide that. And we provided a series of I guess extract from the SGA for the particular TAACCCT grants which indicated the requirement for us to be able to report on entering employment, incumbent worker, and wage increase. So we provided some extracts from the SGAs to our folks we were working with.

We also provided I think a contact name from ETA at the Department of Labor if they wanted to verify more specific information on the TAACCCT grants. And yeah. I think as we pulled that together and then sent that to the Department of Labor and Regulation, they reviewed that. I think there were some questions back and forth, and we talked about – the other key part was the security, how we would do the file transfer, secure file transfer of information.

We did provide information on our protection of PII, all our anyone involved in the grant. Anyone who's dealing with that signs a form indicating the protection of PII, and we talked about the disclosure to the individual participants. So I think with a combination of all of that, it went back to the state. They drafted the agreement, and we were able to move forward from there.

MS. MARTIN: OK. So do you do informed consent with your TAACCCT grantees?

MR. HEEMSTRA: Yes. Yes. We do.

MS. MARTIN: OK. And so you're getting information back then at an individual level, not at an aggregate level?

MR. HEEMSTRA: That's correct.

MS. MARTIN: OK. All right. And other challenges that you found? I mean, how long did this process take you?

MR. HEEMSTRA: I think that doing the agreement itself was probably a course of less than eight weeks from the time we got launched on that until we got it completed. We did – this was actually – we executed the agreement for our consortium, and identical agreements were prepared for each of the consortia members.

Again, they're all in state, and then each consortia member signed their own agreement. So that's data is done individually from each grantee with the state, not getting that at a consolidated level, having to break it out.

MS. MARTIN: OK. OK. So is there anything about your process or promising practices that you would recommend for other grantees? Challenges that you encountered and figured out how to overcome?

MR. HEEMSTRA: I think it's very helpful now having heard Suzanne talk about some of the background and information there, I think that being able to address some of those concerns that may come up at the state level. And I see now we kind of addressed those probably more by chance than by design, limiting the number of people who have access to the information.

I think we probably have no more than four who have access to the actual data. And then trying to identify a single point of contact and work with that contact as we continue forward, we – that's been a great help at the state so we know who we're dealing with.

MS. MARTIN: Great. Thanks. So I'm going to move to some of the questions that are coming in here, and what I want to say is that I'm seeing a number of comments about specific states. We're having challenges in this state or that state, and I think for that let me actually just move to the last slide right now and let you know – or the second to the last slide. Yeah. Go ahead, Scott. That – so this is where this comes in. Go to the next one. There we go.

So I hesitate to say this, but we want to know your specific wage record challenges. And so like some of this conversation that's been going on about Massachusetts here.

If you all could get together on that and put one e-mail together, if you can, that has the answers to the questions that are up here on the screen right now and send us an e-mail, if you could put wage record data for Massachusetts in the subject line or something, that would be very helpful and then tell us, OK. For Massachusetts, these are the specific challenges that we're encountering. These are the reasons that we were given for being denied access or whatever the challenges that you have. What have you tried so far to resolve the issue? And then we'll take that and go one of several different directions with it.

One is we might go the route, like we said, where our regional UI point of contact gets in touch with the state, but another one might be that, if it feels like something that our folks here, Suzanne and her shop, can help us with, we will try to help you move that forward. So if we get 45 out of 50 states with these, it's going to take us a little while, but we'll work through that and try to see what we can do to help you because I know this is a really significant issue for a number of you.

MS. SIMONETTA: Yeah. And I think as I mentioned earlier, obviously I don't know Massachusetts' laws off the top of my head. So I can't tell you whether or not it is very restrictive or not, but sometimes all that's necessary is a relatively short conversation to clarify that this type of disclosure is permissible to this entity, particularly if you are a public educational institution.

And sometimes that's really all that's needed, a little reassurance, a little clarity about what they're allowed to do, and sometimes that's enough. And we're certainly happy to help with that, if we need to do that.

MS. MARTIN: Right. Yeah. And we appreciate that. And then I suppose sometimes that's not enough and there's other challenges.

MS. SIMONETTA: Right.

MS. MARTIN: But certainly if that's the obstacle, that's one that we can help with. Really quick answer to a question. Somebody asked what an SGA is. That's the Solicitation for Grants Application. That's the document that you wrote your proposal in response to. So it's kind of got all the this is what you have to do to get this grant. So it's what you would quote if you're telling people in your state why you should have this information.

Suzanne, I want to go to the question of number – well, on our screen it shows 25. This issue about sharing UI data with your external evaluators, how does that –

MS. SIMONETTA: OK. I guess I'm thinking how to – who is you? Is you DOL? I guess I don't know who you is.

MS. MARTIN: No. The grantee. Each grantee in this situation had to have their own evaluation. So we've got 207 grantees with 207 evaluators. So how would that work?

MS. SIMONETTA: OK. Well, one would certainly hope that the data sharing agreements that were executed to get the data on the students I guess provided for this disclosure to their evaluators for this purpose. So that would be I guess how I would imagine it has happened because that would be the proper way to do that.

MS. MARTIN: OK. OK. So and that's indeed what somebody commented too. "Our third-party evaluator was included in our state wage data agreement." So that would be the best way to do that.

This reminds me that I forgot to mention that – and maybe we already mentioned that before, but that in the file share box on your screen you can see a copy of today's slides, but you can also see John's wage record – wage sharing record batch, that document. You can actually see his agreement with all the signatures and everything that he has shared with us. And I believe that we also have a few other examples of copies like that that JFF has.

So if that's something that, Jenny, why don't we figure out a way to put that on our – we will do a announcement or something like that on our new WorkforceGPS website for TAACCCT, the TAACCCT Learning Network there, that has a link to whatever we have in terms of wage record data agreements. And even if that just means we attach them to this webinar, I'm not quite sure where we'll put them on this new site. But we'll figure out a way, and we'll send you the link.

MS. SIMONETTA: Yeah. One quick thing. I know someone was asking about templates for whether to informed consent or data sharing agreements. And part of the challenge is that we could articulate the elements that are required under federal regulations, and so obviously that would be a minimum requirement that these types of things get addressed. However, there's no way we could really give a genuine template that would meet any particular state's requirements because some states might have additional elements that are necessary for a data sharing agreement.

So that's something that is tricky for us. Like I said, we could say, at least from a federal perspective, what's required, but we can't really create a one size fits all when we actually have 53 different entities from whom the data would be coming and their laws play a big role as well.

MS. MARTIN: Yes. So this is a complicated topic. We have not I realize answered all of your questions on this call, and we are out of time for this call. But we are going to look very closely at those questions, and we are going to come up with a way to do a part two or something like that.

MS. SIMONETTA: Very quick on that last FERPA question, I know there's an audit and eval- –

MS. MARTIN: Read the question.

MS. SIMONETTA: OK. "Is it against FERPA to share student data with the evaluators without informed consent from the student?"

Now, I am far, far, far from an expert on FERPA, but I do know there is an audit and evaluation exception where student data can be disclosed under certain limited circumstances. The guidance that we're working on with Department of Education will address some of the stuff broadly.

So that might be relevant to this since – and we're dealing with educational institutions. So they've got FERPA overlaying with UI, which makes things really messy.

MS. MARTIN: Yes. Indeed. One mess on top of another one.

MS. SIMONETTA: Keeps us all gainfully employed, though.

MS. MARTIN: I guess. Yeah. Exactly. So anyway, I was starting to say there that we will figure out a way to do a follow up to this for you, whether it's to send out some information or to do another conference call or a follow-up webinar, that kind of thing to get some more of the answers to these questions to folks.

But for now, since we're out of time, I'm going to turn it back over to Brian and just tell everybody on the call – Suzanne, thank you. John, thank you for your time. Really appreciate that. Brian, thank you for facilitating, and most of all thank you all, you the TAACCCT Learning Network, for joining us. We hope that you've learned a little bit of something today that will get you started and that we will keep this going. So thanks, everybody. Brian, back to you.

MR. KEATING: All right. Very good. Thanks very much.

(END)