**Slide 1**

Welcome to this webcast on Successor-In-Interest.

**Slide 2**

My Name is Hope Kinglock, and I am the Supervisory Program Analyst, functioning as a Certifying Officer, within the Investigations Division of OTAA.

**Slide 3**

This training is to complement the Successor-In-Interest infographic found within DOL’s website.

Today’s Objectives regarding successor-in-interest will cover: Understanding what it is; What’s the State’s role in establishing Successor-In-Interest; Factors and Strategies for establishing Successor-in-Interest; Post-research options when Successor-in-Interest is unclear; as well as Related Resources and contacts that are available for you.

**Slide 4**

Successor-in-interest is not the same as staffed workers or independent contractors.

When there is a change in ownership over a TAA-certified worker group, states must determine whether the new firm is a successor-in-interest that allows workers newly threatened or separated to still qualify.

So what is successor-in-interest? Successor-in-Interest describes a situation where the same company operates under more than one name in the course of its history.

Some of the situations under which a company may change names include: Mergers, Acquisitions, Bankruptcy, Licensing/trademark.

**Slide 5**

How is successor-in-interest applied to TAA Group Eligibility?

Under the TAA Program, the Department certifies a worker group, not a firm. Members of the worker group consist of those employed by the firm named in the certification, those employed by a staffing agency, those who telework at remote locations, and those employed by a successor-in-interest. In many circumstances, not all of these categories of trade-affected workers will be specifically referenced in the certification, but those workers will nevertheless be included in the worker group.

A group of workers may be employed under an alias for a firm with an active (non-expired) TAA certification.

The alias does not have to be stated in the certification for the group of workers to be covered under the active certification if a successor-in-interest relationship is established.

Provided the group of workers was laid off within the period of certification and a successor-interest relationship is established, the state should consider these workers as part of the worker group covered by the active certification.

**Slide 6**

State role in establishing if a company is a successor-in-interest. Under the current regulations, workers employed by a company that is a successor-in-interest to a firm named in an existing certification may be covered under that certification without requiring that all the company aliases be listed in the public determination. States are empowered to establish if there is a successor-in-interest relationship between a group of workers and an existing certification. This is great news for the participants because there is no lag time waiting for the National Office to make a determination.

**Slide 7**

Seven factors used to determine successor-in-interest.

Seven factors to be used to determine whether or not there is a successor-in-interest are established in the regulations.

(1) There is continuity in business operations.

(2) There is continuity in location.

(3) There is continuity in the workforce.

(4) There is continuity in supervisory personnel.

(5) The same jobs exist under similar conditions.

(6) There is continuity in machinery, equipment, and process.

(7) There is continuity in product/service.

Note that, although the regulations provide for 7 factors, establishing a successor-in-interest relationship does not require that ALL the factors be met. In fact, establishing the minimum number of factors that must be met is a bit of a grey area. The State must determine whether most or all of the following conditions are met.

You will note that there is no mention in the regulatory criteria for having the same Federal Employer Identification Number (FEIN). FEIN has no bearing on establishing successor-in-interest in connection with TAA group eligibility.

SEVEN FACTORS EXAMPLES:

1. Company A on Monday becomes Company B on Tuesday. The activities of the group of workers does not change. They continue.
2. Company B performs the same activities, as Company A, utilizing the same site/location.
3. Company B takes on Company A’s workforce. The workers of Company A become workers of Company B.
4. Lower Level/first line leadership remains in place.
5. No changes in activities/performance of workforce.
6. Company B acquires and utilize the machinery, equipment, and production processes of Company A’s.
7. Company B continues the operations of Company A.

**Slide 8**

What resources can a State use for identifying a Successor-in-Interest?

Strategies for identifying factors…

Include a question about alternate names for company employing worker group in your worker list.

One easy way to establish alternate names applied to the worker group is to include a question as to whether the company is known under other names as part of the collecting of the initial worker list.

**Slide 9**

What resources can a state use for identifying a Successor-in-Interest?

Strategies for identifying factors: Research; Ask the Firm; Talk to Workers.

In many cases, the successor-in-interest relationship may be something that occurs AFTER the certification.

In this case, the state may need to conduct additional research, using the internet – google, predecessor or successor-in-interest websites, press releases, SEC filings, etc.

**Slide 10**

What actions follow successor-in-interest research conducted by the state?

If a majority or all of the factors are met, s*erve the workers under that active certification!*

The beauty of the current regulatory protocols is that the state does not have to wait on OTAA to make an amended certification to serve workers that have been employed under a different company name where there is a successor-in-interest relationship with a workers’ firm named in an existing certification. Instead, they have the authority to serve them under that existing certification.

**Slide 11**

No successor-in-interest or few factors met?

When a successor-in-interest is not readily apparent or if no relationship seems to exist, file a new petition on behalf of the group of workers to request to amend the certification.

* Submit a petition for TAA at our website listed on the slide. (<https://www.dol.gov/agencies/eta/tradeact>)
* Include any of the 7 factors verified in your research.

**Slide 12**

What happens at DOL when a petition is filed that suggests successor-in-interest?

Note, that if a successor-in-interest relationship is indicated on a petition, then DOL as a matter of order will contact the state to confirm that successor-in-interest was intended, as well as determine if the 7 factor research was conducted.

If no response is provided by the state, then DOL will institute the petition with the intent to pursue a regular investigation.

**Slide 13**

Please contact the SMEs listed on this slide if you have any questions. This ends OTAA's webcast on Successor-In-Interest. Have a good day!