



Workforce Innovation and Opportunity Act and Pay for Success

On July 22nd, President Obama signed the Workforce Innovation and Opportunity Act (WIOA) into law. WIOA is a product of months of negotiations among leaders in the House and the Senate to reauthorize the Workforce Investment Act (WIA), the law formerly governing the workforce development system in the United States. WIOA updates the current workforce development system to reflect the changed education and training needs of our current workforce, as the original WIA legislation was passed in 1998, a time of nearly full employment. While WIOA preserves the current WIA formula funding streams, it includes new requirements for a more cohesive education and training system through a new unified plan to be submitted by states annually that includes workforce, adult and vocational education programming, along with cross title performance measures to better assess programmatic performance.

WIOA also includes several new provisions that can significantly improve job training and employment for adults and youth. America Forward and the America Forward Coalition championed one of these innovative provisions on Pay for Success, a funding approach that can greatly improve outcomes among government, reward outcomes-based service programs, and save taxpayer dollars.

PAY FOR SUCCESS OVERVIEW

Referred to in the legislation as ‘Pay for Performance,’ the concept allows the federal government to incentivize public-private partnerships to tackle tough social challenges that cost the taxpayers significant resources if they are not addressed. These kinds of payment structures provide funds only to programs that achieve pre-determined outcomes.

At the most basic level, Pay for Success is a performance-based contracting arrangement between government and a social service provider in which impact is measured rigorously for “high bar” outcomes and government only pays ‘for success’ when results are achieved within a specific timeframe. By only paying for programs that are working, these funding models use tax payer dollars more efficiently and direct resources to programs getting real results, instead of only measuring the number of people they serve. Because Pay for Success arrangements do not require pre-determined interventions, local and state governments can be flexible in selecting innovative and effective programs to deliver much needed services in their community and may lean toward strategies that prevent bad outcomes instead of waiting until remediation is necessary. In some cases, private sector funders may provide up-front financing for the delivery of services (an arrangement known as “Social Impact Bonds”), taking on the risk that the intervention will not succeed and receiving success payments only if it does.

PAY FOR SUCCESS IN WIOA

WIOA augments the Pay for Success provisions of the bill beyond what was included or considered in the individual House and Senate WIA bills, including:

1. Restoring states overall portion of formula funds to 15% - for the past three years, the portion of WIA annual formula funding (which totaled \$2.6 billion in FY 14 across three funding streams) allotted for state WIA activities had been reduced by appropriators to 5-10% of overall funding. WIOA restores states’ allotment to 15% of all three WIA formula funding streams, allowing

Governors to have significantly more funding for innovative statewide activities. States could use such funds for Pay for Success approaches.

2. Creation of a permanent Pay for Performance authority – WIOA creates a permanent authority within all three WIA formula funding streams (Adult, Youth, and Dislocated Workers) for Pay for Performance as an eligible use of WIA funds. Local workforce boards could devote up to 10% across all three of WIA formula funding streams for Pay for Performance programming.

Legislative Language

(d) Permissible Local Employment and Training Activities.--

(1) In general.--

(A) Activities.--Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved (and through collaboration with the local board, for the purpose of the activities described in clauses (vii) and (ix))--

...

(iii) implementation of a pay-for-performance contract strategy for training services, for which the local board may reserve and use not more than 10 percent of the total funds allocated to the local area under paragraph (2) or (3) of section 133(b)

3. States given the authority to incentivize locals' use of Pay for Performance – states can use non-federal resources to encourage the use of Pay for Performance by local workforce investment areas.

Legislative Language:

(h) Establishing Pay-for-Performance Contract Strategy Incentives – Using non-Federal funds, the Governor may establish incentives for local boards to implement pay-for-performance contract strategies for the delivery of training services described in section 134(c)(3) or activities described in section 129(c)(2) in the local areas served the local boards.

4. Additional Pay for Success support mechanisms offered by states - states would be newly authorized to use their own WIOA funds to provide technical assistance to help local workforce areas implement Pay for Performance strategies.
5. New service providers eligible for Pay for Success contracts – Pay for Performance contracts authorized under WIOA can be awarded to innovators including intermediaries, community based organizations, and others, which are newly enumerated in the bill. By contrast, winners of Pay for Success funds under the Workforce Innovation Fund, for instance, have been limited by statute to states and local workforce boards.
6. Opportunity to establish straightforward and simplified outcome goals different from past arrangements typical of WIA programs

Legislative Language

Section 116 (b)(2)(K) (K) in the case of a State in which local areas are implementing

pay-for-performance contract strategies for programs— (i) the performance of service providers entering into contracts for such strategies, measured against the levels of performance specified in the contracts for such strategies

Definition of Pay for Success in WIOA

The following provision defines pay for performance in the bill:

(47) Pay for Performance Contract Strategy – The term ‘pay-for-performance contract strategy’ means a procurement strategy that uses pay-for-performance contracts in the provision of training services described in section 134(c)(3) or activities described in section 129(c)(2), and includes –

(A) contracts, each of which shall specify a fixed amount that will be paid to an eligible service provider (which may include a local or national community-based organization or intermediary, community college, or other training provider, that is eligible under section 122 or 123, as appropriate) based on the achievement of specified levels of performance on the primary indicators of performance described in section 116(b)(2)(A) for target populations as identified by the local board (including individuals with barriers to employment), within a defined timetable, and which may provide for bonus payments to such service provider to expand capacity to provide effective training;

(B) a strategy for independently validating the achievement of the performance described in subparagraph (A); and

(C) a description of how the State or local area will reallocate funds not paid to a provider because the achievement of the performance described in subparagraph (A) did not occur, for further activities related to such a procurement strategy, subject to section 189(g)(4).

ADDITIONAL CHANGES IN WIOA RELATED TO PAY FOR SUCCESS

Apart from the specific Pay for Success provisions, there are several important changes in WIOA that relate to Pay for Success and have the potential to direct even more resources toward outcomes related programs for youth and others. These include:

1) Pay-for-performance training contracts for adults and youth

- WIOA creates a permanent authority within all three WIA formula funding streams (Adult, Youth, and Dislocated Workers) for Pay for Performance as an eligible use of WIA funds.
- Local workforce could devote up to 10% across all three of WIA formula funding streams for Pay for Performance programming (about \$240M-\$300M of potential resources devoted to outcomes-based programs).

2) Eliminates the “sequence of services” and merges “core and intensive activities” into a combined “career services”

- This enables local boards and providers, including new providers authorized for Pay for Success strategies, to develop holistic strategies that can train workers and job seekers for in demand careers rather than simply providing them job search, summer work experience, or other limited assistance.

3) Increases the ability to use on-the-job training (reimbursement rates up to 75 percent for eligible employers), incumbent worker training (may use up to 20 percent of local funds), and customized training

- Low skilled and other incumbent workers were not eligible for assistance under WIA and on the job training for eligible trainees was extremely limited. WIOA opens up strategies for incumbent workers and on the job training trainees and better incentivizes employers.

4) New opportunities to utilize prior learning assessments (PLA)

- America Forward has advocated successfully for prior learning assessments to be used by the Veterans Administration so that veterans do not have to use their limited education benefits for classroom training in college level skill areas that they have already mastered in the military. This WIOA provision is a “next step” in advocacy for PLA approaches. Under WIOA, the use of PLAs can obviate the need for students, workers, and job seekers to consume limited WIOA dollars for those parts of a workforce training curriculum where they can demonstrate mastery through assessment.

5) Requirements for implementation of industry or sector partnerships and career pathway strategies

- The new law directs more resources toward programs that support disconnected/opportunity youth (out of school youth, youth not employed or not in vocational training, etc.). It requires 75 percent of all youth funding to support out-of-school youth, of which 20 percent is prioritized for work-based activities such as internships.
- The shift toward prioritizing out of school youth and work-based activities could result in close to \$600M in refocused youth resources.

6) Restores the 15 percent funding reservation at the state level to allow states the flexibility to address specific needs and promote innovations such as Pay for Performance

- This flexibility can be used to fund evaluations of programs, explore new data approaches, etc.
- Nationwide, these resources approximates \$400M.

7) Incorporates more desirable and effective statistical techniques, such as regression analyses, that can help minimize disincentives for delivering services to populations with significant barriers, particularly in light of the common measures implemented across target groups under WIOA

- WIOA establishes common measures for each target population (youth, dislocated workers, adults) which, unadjusted, could lead to disincentives to serving more disadvantaged populations. Examples of this include:
 - Older low income individuals often seek up-skilling for part time employment. Common measures for adults focused only on full time work and earnings and unadjusted for the employment needs of this population could mean that few low income older workers would be served under WIOA.
 - Very low income migrant workers have work-related needs which job training providers address through transportation, housing and emergency assistance services. These help them get and keep employment after WIA-funded training. And, of course, their work is usually seasonal. Individuals with disabilities have other special needs that must be addressed by providers for them to be successful in training and job placements. Common measures related only to full time employment and wage gains and unadjusted for the costs of addressing such special needs could cause providers to avoid serving them and/or actually work against them remaining employed.