



[ETA– 2015– 0001, RIN 1205-AB73]

[ETA-2015-0002, RIN 1205–AB74 and RIN 1830–AA21]

Workforce Innovation and Opportunity Act: Response from America Forward

June 12, 2015

Ms. Adele Gagliardi, Administrator
Office of Policy Development and Research
U.S. Department of Labor
200 Constitution Avenue NW, Room N-5641
Washington, DC 20210.

Dear Ms. Adele Gagliardi,

Thank you for the opportunity to comment on the Department’s April 16, 2015 Federal Notice of Proposed Rulemaking (NPRM) regarding the Workforce Innovation and Opportunity Act (WIOA).

America Forward is New Profit’s nonpartisan policy initiative that unites national policymakers with social entrepreneurs to advance a public policy agenda that champions innovative and effective solutions to our country’s most pressing social problems. America Forward works with policymakers to foster social entrepreneurship, spur innovation, identify more effective and efficient solutions, reward results, and catalyze partnerships across sectors. **New Profit** is a pioneering venture philanthropy fund that aims to break down barriers to opportunity in America by transforming the way we educate our children, propel people towards social and financial stability, and create healthy communities.

America Forward advances its efforts through the leadership of the **America Forward Coalition**, a network of more than 60 innovative, impact-oriented organizations, working in more than 13,000 communities nationwide, dedicated to driving systemic change in workforce development, education, early childhood, youth development, and poverty alleviation. Our Coalition members share a commitment to innovating to achieve better results, using data to track progress and ensure accountability, leveraging resources across silos and sectors to improve the lives of the people they serve, and are achieving measurable outcomes in communities across the country every day.

As a Coalition, we were very engaged in the effort to reauthorize the Workforce Investment Act (WIA) and are very supportive of many of the changes made by the passage of WIOA to our federal workforce system. America Forward is particularly supportive of the focus on career pathways, support for transitional jobs, reserved funding for incumbent worker training, specific reference to the relevance of internships and apprenticeships, the authorized use of prior learning assessments, and the promotion of pay-for-performance. As a result, we appreciate the opportunity to highlight not only areas of support but also to provide recommendations for consideration in the final regulations to various provisions of WIOA (P.L. 113-128).



Section 678: One Stop Partners

Subsection 678.430: What are Career Services?

Congress defined Career Services for individuals served through the one-stop delivery system to include providing information and referrals for child care, child support, medical or child health assistance through Medicaid and the Children's Health Insurance Program (CHIP), the Supplemental Nutrition Assistance Program (SNAP), the Earned Income Tax Credit (EITC), Temporary Assistance for Needy Families (TANF), and transportation services. The definition also requires an "initial assessment" of supportive service needs. However, the services that must be provided as Career Services are "a minimum," which suggests that one-stop providers should be providing more.

The Department of Labor should clarify that an "initial assessment" and "provision of information" within the definition of Career Services are best accomplished when program eligibility is considered. As a result, Career Services should also include a pre-screening for eligibility as well as application assistance that is co-located at the one-stop location. This clarification of Career Services will offer participants the greatest chance of getting the financial and other supports they need for successful employment and educational outcomes, and also supports the Department of Labor's goals of having job seekers access services through a "common front door."

Section 681, Subpart B: Eligibility for Youth Services

The Department of Labor's determination of eligible youth, particularly out-of-school, is clear and reflects the unique needs of those youth who are considered 'out-of-school'. The interpretation of how and when to determine dropout status is especially important to ensuring that this vulnerable population accesses the services they need for the timeframe needed.

However, for the special rule for low-income youth (subsection 681.260), the "high poverty area" definition may not accurately capture the locations and experiences of those youth who are disconnected and thus most in need of services. Here the Department defines high-poverty as a 30% poverty threshold utilizing 5-year data from the American Community Survey. We believe that Congress intended for this special rule to enable providers to target youth services toward the locations in which youth disconnection is concentrated and severe, and can consequently impact all residents regardless of family income levels. In many metropolitan areas, though, there are actually very few census tracts in which a 30% threshold is reached. In 2013, Measure of America, in partnership with Opportunity Nation, mapped rates of youth disconnection by neighborhood in the country's 25 biggest metropolitan areas, using Public Use Microdata Areas (PUMA) data from the American Community Survey. The majority of metro neighborhoods in which youth disconnection is clustered – sometimes as much as 35% of the youth population – do not actually meet the proposed 30% poverty threshold.

When defining low-income for youth services eligibility, the Department of Education instead uses eligibility for free or reduced price lunch as a certification of eligibility (subsection 681.270). The Elementary and Secondary Education Act's (ESEA) Title I designation may indeed be a more substantive measure of the challenges facing a community's young people but this individual designation is out of reach for out-of-school youth. **The inclusion of an alternative definition of "high poverty area" to include those zip codes and/or contiguous census tracts in which more than 60% of K-12 students are**



eligible for free-and-reduced price lunch should be considered. This threshold would ensure that the highest need neighborhoods would receive this key eligibility waiver, as Congress intended.

Section 683, Subpart E: Pay-for-Performance Contract Strategies

America Forward is supportive of the pay-for-performance authorities in WIOA and believes the language in the regulations is helpful to states and localities interested in exercising this new authority in their workforce systems. In particular, America Forward applauds the Department's explicit determination that the local workforce board may use their 10% pay-for-performance authority as bonus or incentive payments for verified outcomes, both short and long-term, in addition to a comprehensive strategy of performance contracting for specified and verified inputs and outputs.

However, based on our experience in the pay-for-performance space, and the known lack of experience in the workforce system with using pay-for-performance contracting, we would recommend the following additional information and clarification:

- 1) **Clearly identify outcome(s) as requirement of pay-for-performance contract.** Our current federal workforce system has utilized performance-based contracting for many years but those contracts have focused almost exclusively on outputs and inputs. As a result, in order to ensure a clear distinction between current practice and this new authority the Department should require the articulation of clear, measurable outcome(s) that are intended to produce a social benefit and public value by increasing employment and earnings as part of a pay-for-performance contract and the utilization of dollars to fund services through a pay-for-performance contract.
- 2) **Leverage current/pending federally funded feasibility studies.** The requirement of a feasibility study prior to formal implementation of a pay-for-performance contract is a helpful activity for states and localities to conduct. The Department should consider allowing the utilization of federally funded feasibility studies in place of new studies so that states and localities need not undertake a duplicative process to understand how such a contract could be implemented in their area.
- 3) **Provide additional guidance on the use of evaluators and evaluations.** Third party evaluations are critical to ensuring the quality of and trust in pay-for-performance contracts. Utilizing appropriate evaluation methods assures that the proposed outcome(s) are met and thus justify the outcome payments. Additionally, evaluations help to build the evidence base about what works in the workforce system, which helps to move the entire system forward. Evaluators should be a separate entity from the provider engaged in the contract, which could include independent evaluation organizations or intermediary organizations with an affiliate network. The evaluation method used should be as rigorous as needed to determine causal inference but should not be limited to randomized controlled trials. In particular, low-cost randomized controlled trials and the use of administrative data should be encouraged and supported within pay-for-performance contracts.

Lastly, America Forward works with many workforce development and training organizations that are pay-for-performance ready and are examples of the potential of these contracts under WIOA. We are providing here examples of how pay-for-performance contracts could be focused and structured in order to have the greatest impact. It may be helpful for the Department, as part of the final regulations or through technical assistance, to provide examples to states and localities as they consider the utilization of this new pay-for-performance authority.



Example 1: A program that has measured success rates and that is intended to prepare hard-to-employ individuals, such as opportunity youth, for jobs could be expanded to serve additional youth using a Pay-for Performance approach. Funds could be awarded to providers for additional program slots each time a program achieves success against certain previously agreed upon metrics, such as seeing a young person through to program completion, placement in a livable wage job, and retention of that job for a specific period of time.

Example 2: A program focused on individuals who have been chronically unemployed could provide training and support to secure work in a transitional job for those individuals, and provide retention supports when they move into competitive employment. The program would be paid based on achieving placement for the individual at both points.

Thank you for the opportunity to comment on the WIOA NPRM. We would be happy to provide clarification of any of the points raised or to provide any additional information you request. Please do not hesitate to contact Nicole Truhe, Government Affairs Director of America Forward at Nicole_truhe@newprofit.org if you would like to discuss our recommendations further.

Sincerely,

A handwritten signature in black ink that reads "Deborah Smolover".

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A handwritten signature in black ink that reads "Nicole Truhe".

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America Forward Workforce Development and Pay for Success Task Force Members

Workforce Development

Alternative Staffing Alliance
America's Promise Alliance
AppleTree Institute
AVANCE
Bottom Line
City Year, Inc.
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