

Texas Workforce Commission

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July 18, 2017

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Office of Policy Development and Research
Room N5641
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Docket ID 2017-0002
Federal Register Number 2017-10500

RE: Comments on the Proposed WIOA – Department of Labor Performance Reporting Information Collection Request

Staff of the Texas Workforce Commission appreciate the opportunity to comment on U.S. Department of Labor's (DOL) May 22, 2017 Workforce Innovation and Opportunity Act (WIOA) Information Collection Request (ICR) proposal.

WIOA's vision of an integrated workforce system has been a reality in Texas for nearly two decades. TWC has extensive experience using integrated common measures across both state and federal programs and in using measures to foster innovation and help transform its system. Building from experience with integrated reporting of Common Measures, as well as piloting and redevelopment of the Workforce Investment Streamlined Performance Report (WISPR), TWC raised a number of concerns and recommendations regarding the initial publication of the DOL Reporting ICR in 2015 and the subsequent publication in April 2016. We submitted substantial set of comments both times and though we were gratified to find many suggestions were ultimately adopted, we were disappointed that others were not.

However, we believe that the June 30, 2016 deadline for publication of final WIOA regulations, the Joint Performance Reporting ICR, and other agency/program specific requirements (like the DOL PIRL) may have impacted review of prior comments. The Joint ICR and DOL ICRs came out for 30-day comment periods in late April 2016 with deadlines for comments in late May. This left only one month to review and respond to comments, coordinate with the Department of Education on common issues, brief the Office of Management and Budget (OMB) on the issues and recommendations, and then have OMB complete their review for publication.

There is some evidence of the impact of this challenge because in some cases recommendations that we made on those ICRs were not implemented in the "final" ICRs in June 2016, but have now been proposed by in one or both the new WIOA reporting ICRs. Therefore, you will find some of our attached comments to be similar to some made previously, but we have reviewed your responses to earlier comments so that our input this time can address your published reasoning for prior decisions. It is our hope that with the benefit of additional time and interaction with stakeholders over the last year, you will agree that some of these concerns remain significant issues that should be resolved. In addition, we have raised several entirely new issues related to changes DOL is proposing to make through the ICR.

Thank you again for the opportunity to comment on this proposal. If you have any questions about these comments, please contact Adam Leonard at adam.leonard@twc.state.tx.us or (512) 936-5866.

Sincerely,



Larry Temple
Executive Director
Enclosure

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60 Day DOL Performance Reporting ICR Comments

Texas Workforce Commission (TWC) staff offers the following comments, recommendations, and requests for confirmation of assumptions regarding the U.S. Department of Labor (DOL) Performance Reporting Information Collection Request (DOL-ICR) package published on May 23, 2017 for a 60-day comment period (OMB ICR Reference Number ETA-2017-0002-0001).

1) Federal Register Notice

The Federal Register Notice relating to this ICR included a proposal to radically change the way WIOA participants are reported and the primary basis for the accountability system. Specifically, the FRN says:

“An individual should be considered to have exited after they have gone 90 days without service, and with no future services scheduled. Should they return for additional services after the 90 days—within the same program year and exit in that same program year—the individual's exit date will be changed to reflect only the last exit date in that program year. If the individual exits in a subsequent program year, they would be counted as a new participant for purposes of that subsequent program year. Counting unique individuals in this manner will allow an unduplicated count of participants in the accountability and reporting system.”

This model was also proposed originally as part of the Departments of Labor and Education Joint Performance Reporting ICR in 2015 and was ultimately rejected after strong arguments from the public and careful analysis by federal staff. Staff reached out to DOL to find out why this was back up for discussion AND why it was contained in a DOL-only document when it so clearly would be a “joint” reporting issue. We were told that this was a “copy-and-paste” mistake and was not being proposed. We are pleased that DOL has not re-proposed the combining of POPs both exit in the same year as the Departments of Education and Labor originally proposed in 2015 and reiterate our opposition to such a policy should it ever be considered in the future.

2) General Expansion of Required Data Elements

TWC previously commented on the issue of data elements to be required by DOL. In particular, TWC strongly recommended that each proposed new or modified data element be evaluated to determine whether it is required by statute and if not, to very carefully weigh the cost of gathering that information versus the benefit gained by having it, and to cull the list of non-statutorily-required elements to only those of greatest value to the system. We were not arguing that DOL program grantees should only have to report statutorily-required data; we understand that there are other pieces of information that are of great value to understanding the system.

In response to this input, DOL stated that “most of the data elements were previously required under the WIA Standardized Record Data (WIASRD).” This seems to ignore the fact that the WIASRD only applied to Title I reporting. Wagner-Peyser Participants were reported in the in the Labor Exchange Reporting System (LERS) and it had hundreds fewer data elements. Requiring all WIASRD elements for all Wagner-Peyser participants will be a great increase in the amount of data to be collected in the workforce system, yet that is what DOL did in the PIRL.

The final version of the DOL PIRL published in June 2016 was largely similar to the proposal and did not appear to have been prepared following a hard review of expansion of data that DOL was requiring compared to what was required under WIA. Therefore, we’re providing a more specific list of elements that we want DOL to eliminate from the PIRL as part of this review. While these elements may not have all been specifically proposed to be modified by DOL, this ICR presents an opportunity to raise these issues in a more focused manner in the hope that a more detailed request and explanation of our concerns may prove persuasive.

a) **Elements 204 to 209 for those who Identify themselves as Having a Disability**

Originally these elements were in a separate section of the PIRL and in response to previous comments, DOL indicated that it worked to “revise and reduce the number of elements ... resulting in the deletion of some data elements and the combining of other data elements.” That doesn’t quite get to the original comment. While it is true that DOL made changes, the changes amounted to splitting one element into 3 and eliminating 3 elements relating to recent employment which are easy to gather and might have been useful to obtain on all Participants, not only those with disabilities. The following table shows the change between the 30-day draft DOL ICR from April 2016 to the Final DOL PIRL from June 2016:

Element	Draft DOL PIRL from Apr 2016	Final DOL PIRL from June 2016
SDDA, LSMHA, and HCBS Funding	Single Element for all 3 types of funding (2702)	Split into 3 separate elements for SDDA, LSMHA, and HCBS (204, 205, & 206)
Work Setting	2704	207
Customized Employment Services	2708	208
Financial Capability	2709	209
Individualized Education Program	2700	939
Section 504 Plan	2701	940
SSI/SSDI	2703	602
Most Recent Began Work Date	2706	Eliminated
Most Recent End Work Date	2707	Eliminated
Most Recent Hourly Earnings	2708	Eliminated

Front line staff are not likely to easily understand Elements 204-209 which are all highly complicated and that are generally not applicable eligibility determination or service delivery in the context of most DOL programs – even for those individuals with disabilities. Ironically, many of these elements are more complicated than those required of Title IV grantees by the Department of Education in the RSA911 report. Given that this level of detail is not required in the Title IV program, where it would be far more relevant, we recommend that elements 204-209 be removed from the DOL PIRL.

b) **Elements 309 to 314 for Homeless Veterans Grants**

TWC is a strong supporter of veterans and has a number of important initiatives that go well beyond basic job search assistance and training. However, we never heard of the HVRP programs before these elements were proposed in the PIRL. We have been able to locate very little information on them. When we asked DOL staff where we were to get this information we were told that HVRP case worker would provide it with the referral to the Onestop. We’ve not been able to find an instance where we received any such referral. We don’t support IT system changes and additional training to report data on programs that we don’t operate. In particular, we object to the requirement that we provide information on why a Participant is being served by multiple HVRP programs that we don’t operate (Elements 312 and 314) – even if the HVRP grant operators were to give us referrals, why would they tell us why a homeless veteran was served by more than one HVRP grantee? What business is that of ours? If DOL wants to utilize the PIRL for HVRP reporting, then we recommend that they make these elements only applicable for those program grantees and not impose these reporting requirements on Title III grantees who do not administer the grants. It is not reasonable to divert resources needed for programs we are responsible for to report activity in programs we’re not. In addition, it is particularly unreasonable to require this information on Reportable Individuals who are not Participants since most of them will be self-serve-only individuals, who likely won’t know their HVRP grantee’s IDs.

c) **Elements 936-937 for Ex-Offenders and 938 for the H1B Grant #**

As was the case with the HVRP elements, we object to being expected to report information on grants that we're not responsible for and recommend that DOL make these elements only required for those grantees operating the programs.

3) Changing Customer Characteristics

As we did in prior comments, we again raise the question of being able to update some customer characteristics during a POP. In response to earlier comments, regarding states being able to update some customer characteristics during a Period of Participation, the Departments of Education and Labor indicated that it would be too burdensome to require programs to update characteristic data related to barriers to employment. However, DOL also said that they would "continue to discuss the gains and potential downfalls of allowing states to alter this data throughout the participation period."

Therefore, we would like to again advocate in favor of grantees being able to update data when it changes during a POP. To be clear, we're not advocating a system whereby we would continuously poll Participants on their current status on dozens or hundreds of elements. However, some elements could be automatically updated with no cost and others are easily discovered during the normal course of working with a Participant.

For example, if a job seeker hears rumors of layoffs and becomes a Participant in anticipation of that possible eventuality, he would be considered "employed" for reporting even if he is ultimately laid off a few weeks later. If he's working with staff, that change in employment status is likely to come up during natural conversation about their job search efforts. Not only that but if he filed for a UI claim, then that data could easily be updated via data connection to the UI system.

In another case, we could have a person who was being served as a transitioning service member, but whose military discharge date was known and being planned for as part of the service plan. If the TSM were to reach her discharge date and become a veteran prior to exit, then she should be reported as a veteran. That information would be easily available and highly relevant to service delivery (as well as of high value to DOL-VETS in ensuring priority of service to veterans).

We also think that WIOA §116's requirements to report data broken out by various characteristics, such as Barriers to Employment, support (and perhaps even would mandate) updating data during a POP. One can easily imagine a case where a person "gains" a barrier to employment during their POP, such as someone who had never had an interaction with the criminal justice system, but who is arrested during their POP and who now has that arrest record be the first thing that shows up in an online search by prospective employers. That is clearly a barrier and should be reported as such and accounted for in the statistical models for setting performance expectations.

4) MSFW

While we support the simplification of the MSFW elements, we don't understand the need for both Element 413 and 808. Element 413 seems to use a looser standard than Element 808 for being considered a Seasonal Farmworker (SFW). Under Element 413, a person is a SFW if they did farmwork on a seasonal or temporary basis in the prior 12 months. Under Element 808, "SFW" status is based on working 12 consecutive months out of the prior 24 months in agriculture (plus a number of other stricter factors). We believe having the 2 different standards creates confusion for staff and needlessly complicates the registration process. We recommend that DOL work with the Department of Education to identify a single, streamlined MSFW data standard and apply it consistently across the programs using a single element (removing Element 413).

5) **Date of First WIOA Youth Service and Date of Program Entry are not well aligned**

The Date of Program Entry is the date on which a person became a Participant under §677.150, while the Date of First WIOA Youth Service is listed as “the date on which the participant began receiving his/her first service funded by the WIOA Youth program following a determination of eligibility to participate in the program.”

Under §677.150, a person becomes a Youth Program Participant after:

- a) Determination of Eligibility;
- b) Completion of an Objective Assessment;
- c) Development of an Individual Service Strategy; AND,
- d) Provision of one of the 14 WIOA Youth elements from WIOA §129(c)(2).

The issue is that these four elements might not all be provided on the same day. For example, if a youth was determined eligible and received their assessment and service strategy on 2/1/18 and then received their first WIOA Youth element on 2/8/18, then the Date of First Youth Service would be 2/1/18 (the date of the first Youth-funded service), while the Date of Program Entry would be the 2/8/18 (the date the required 4th Youth Participation element was met).

If DOL is comfortable with the Date of First Youth service being reported outside of a POP, such as in the above example, then the PIRL elements are fine. However, if DOL envisioned the Date of First WIOA Youth Service always being within a POP, then we recommend that the definition be modified to read:

Record the date on which the participant became a Youth Participant in accordance with 20 CFR 677.150. This date will either match the Date of Program Entry for a Participant whose program was Youth or will be later than the Date of Program Entry if the individual began their Period of Participation in another program.

6) **Removal of “Graduate/Post Graduate” under Type of Recognized Credential, but then Creating “Date Attained Graduate/Post Graduate Degree”**

This change doesn’t seem to make sense. Graduate/Post Graduate is removed as a type of credential assumedly because it is generally not applicable to most WIOA programs. If so, why add a new element for “Date Received Graduate/Post Graduate Degree”? The original PIRL provided for reporting that information by selecting it as the type of credential and then using the date credential achieved fields.

7) **Location of Elements 1902-1908**

These elements are in the “Additional Youth Related Outcome Data” section of the DOL PIRL even though they don’t just apply to Title I Youth or Youth-focused programs. These elements should be moved to the 1800 Series with the other Education and Credential Related data. Or the current section could be renamed “Other Education-Related Outcome Data.”

8) **Quarterly Report Spec**

While the specifications for “Total Covered Entrants Who Reached the End of the Entry Period” is fairly clear, it is not aligned with the label. As written, the specification will deliver the total number of Covered Person Entrants, not the Number of Covered Person Entrants who were not served within 45 Days, which seems to be the intent of the element. We recommend either changing the label to reference “Total Covered Person Entrants” or rewrite the specification to the following:

Count of Unique RECORDs where ((Funding Stream) and (ELIGIBLE VETERAN > 0 and COVERED PERSON ENTRY DATE+45 Days is within the reporting period) and (Date of First Basic

Career Service (Self-Service) is (null or > COVERED PERSON ENTRY DATE +45 Days)) or (Date of Program Entry (WIOA) is (null or > COVERED PERSON ENTRY DATE + 45 Days))

9) **Supported Changes**

We do support a number of changes proposed in this ICR and want to highlight two:

- a) Element 914 now provides for reporting when a Participant receives service from a Local Veterans Employment Representative (LVER), but the element also needs to indicate if the Participant received services from both the LVER and Disabled Veterans Outreach Program. This is something we advocated in response to the original ICR publication in 2015.
- b) We support removal of the reference to “self-service” in elements 1100 and 1101, but wonder whether you need to add another field for “Most Recent Date Received Career Served Accessed via Self-Service.”