

SUPPORTING STATEMENT
State Training Provider Eligibility Collection
OMB Control No. 1205-0523
Associated with Rulemaking – RIN: 1205-AB73

A. JUSTIFICATION

This Information Collection Request (ICR) was submitted in association with a Proposed Rule to implement the Workforce Innovation Opportunity Act of 2014. The Department of Labor asks that the Office of Management and Budget conclude its review by filing comment on this ICR in accordance with 5 CFR 1320.11(c).

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Section 122 of Public Law 113–128, the Workforce Innovation and Opportunity Act of 2014 (WIOA), requires training providers to submit performance and cost information in order to become eligible to receive funds through WIOA title 1-B and in order to maintain that eligibility. The Governor or a designated State agency (or State entity) is required to collect this information in order to determine eligibility of training providers and to maintain and to publicly disseminate the State Eligible Training Provider List.

The WIOA implementing regulations at 20 CFR part 680, specifies the following information collection requirements:

20 CFR 680.450 provides the initial eligibility criteria for new providers. Paragraph (a) states that all providers that have not previously been an eligible provider of training services under WIOA sec. 122 or WIA sec. 122, except for registered apprenticeship programs, must submit required information to be considered for initial eligibility in accordance with the Governor’s procedures.

Paragraph (b) states that apprenticeship programs registered under the National Apprenticeship Act are exempt from initial eligibility procedures. Registered apprenticeship programs must be included and maintained on the list of eligible providers of training services as long as the corresponding program remains registered, as described at WIOA Sec. 122(a)(3). Procedures for registered apprenticeship programs to be added and maintained on the list are described in 20 CFR 680.470.

Pursuant to paragraph (c), in establishing State requirements described in paragraph (d), the Governor must, in consultation with the State Board, develop a procedure for determining the eligibility of training providers. This procedure, which must be described in the State Plan, must be developed after:

- (1) Soliciting and taking into consideration recommendations from Local Boards and providers of training services within the State;

- (2) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on the procedure; and
- (3) Designating a specific time period for soliciting and considering the recommendations of Local Boards and providers, and for providing an opportunity for public comment.

Under paragraph (d), for institutions of higher education that provide a program that leads to a recognized post-secondary credential and for other public or private providers of programs of training services, including joint labor-management organizations, and providers of adult education and literacy activities, the Governor must establish criteria and State requirements for providers seeking initial eligibility.

Paragraph (e) requires that the Governor of a State must require providers seeking initial eligibility to provide verifiable program specific performance information. At a minimum, these criteria must require applicant providers to:

- (1) Describe each program of training services to be offered;
- (2) Provide information addressing a factor related to the indicators of performance, as described in WIOA sections 116(b)(2)(A)(i)(I)-(IV) and § 680.460(g)(1) through (4) which include unsubsidized employment during the second quarter after exit, unsubsidized employment during the fourth quarter after exit, median earnings and credentials attainment;
- (3) Describe whether the provider is in a partnership with a business;
- (4) Provide other information the Governor may require in order to demonstrate high quality training services, including a program of training services that leads to a recognized postsecondary credential; and
- (5) Provide information that addresses alignment of the training services with in-demand industry sectors and occupations, to the extent possible.

Paragraph (f) adds that, in establishing the initial eligibility procedures and criteria, the Governor may establish minimum standards, based on the performance information described in paragraph (e) of § 680.450.

Paragraph (g) states that, under WIOA sec. 122(b)(4)(B), providers receive initial eligibility for only 1 fiscal year for a particular program. After the initial eligibility expires, paragraph (h) stipulates that these initially-eligible providers are subject to the Governor's application procedures for continued eligibility, described at § 680.460, in order to remain eligible.

20 CFR 680.460 establishes the application procedure for continued eligibility and provides for the following information collection requirements:

Under paragraph (a), the Governor must establish an application procedure for training providers to maintain their continued eligibility. The application procedure must take into account the provider's prior eligibility status. Training providers that were previously eligible under WIA, as of July 21, 2014, will be subject to the application procedure for continued eligibility after the close of the Governor's transition period for implementation, described in 20 CFR 680.440. Training providers that were not previously eligible under WIA and have been determined to be initially-eligible under WIOA, under the procedures described at § 680.450, will be subject to the application procedure for continued eligibility after their initial eligibility expires. Section

680.460(b) adds that the Governor must develop the procedure after (1) soliciting and considering recommendations from Local Boards and providers of training services within the State; (2) providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure; and (3) designating a specific time period for soliciting and considering the recommendations of Local Boards and providers, and for providing an opportunity for public comment.

Paragraph (c) states that apprenticeship programs registered under the National Apprenticeship Act must be included and maintained on the list of eligible providers of training services for as long as the corresponding program remains registered. All registered apprenticeship programs must be informed of their automatic eligibility to be included on the list, and must be provided an opportunity to consent to their inclusion, before being placed on the State list of eligible training providers and programs. The Governor must establish a mechanism for registered apprenticeship program sponsors in the State to be informed of their automatic eligibility and to indicate that the program sponsor wishes to be included on the State list of eligible training providers and programs.

Pursuant to paragraph (d), the application procedure must describe the roles of the State and local areas in receiving and reviewing provider applications and in making eligibility determinations, and paragraph (e) stipulates that the application procedure must be described in the State Plan.

In accordance with paragraph (f), in establishing eligibility criteria, the Governor must take into account: (1) the performance of providers of training services on the performance accountability measures described in WIOA secs. 116(b)(2)(A)(i)(I)-(IV) and required by WIOA sec. 122(b)(2), which may include minimum performance standards, and other appropriate measures of performance outcomes for program participants receiving training under WIOA title I-B, as determined by the Governor. Until data from the conclusion of each performance indicator's first data cycle is available, the Governor may take into account alternate factors related to such performance measure; (2) ensuring access to training services throughout the State including rural areas and through the use of technology; (3) information reported to State agencies on Federal and State training programs other than programs within WIOA title I-B; (4) the degree to which training programs relate to in-demand industry sectors and occupations in the State; (5) State licensure requirements of training providers; (6) encouraging the use of industry-recognized certificates and credentials; (7) the ability of providers to offer programs that lead to post-secondary credentials; (8) the quality of the program of training services including a program that leads to a recognized post-secondary credential; (9) the ability of the providers to provide training services to individuals who are employed and individuals with barriers to employment; (10) whether the providers timely and accurately submitted eligible training provider performance reports as required under WIOA sec. 116(d)(4); and (11) other factors that the Governor determines are appropriate in order to ensure: the accountability of providers; that one-stop centers in the State will meet the needs of local employers and participants; and, that participants will be given an informed choice among providers.

Section 680.460(g) states that the information requirements that the Governor establishes under paragraph (f)(1) must require training providers to submit appropriate, accurate and timely information for participants receiving training under WIOA title I-B. That information must include:

- (1) The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;
- (2) The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;
- (3) The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;
- (4) The percentage of program participants who obtain a recognized post-secondary credential, or a secondary school diploma or its recognized equivalent during participation in or within 1 year after exit from the program;
- (5) Information on recognized post-secondary credentials received by program participants;
- (6) Information on cost of attendance, including costs of tuition and fees, for program participants;
- (7) Information on the program completion rate for such participants.

In addition, paragraph (h) states that the eligibility criteria must require that:

- (1) Providers submit performance and cost information as described in paragraph (g) of this section and in the Governor's procedures for each program of training services for which the provider has been determined to be eligible, in a timeframe and manner determined by the State, but at least every 2 years; and
- (2) That the collection of information required to demonstrate compliance with the criteria is not unduly burdensome or costly to providers (WIOA sec. 122(b)(1)(J)(iv)).

Pursuant to paragraph (i), the procedure for continued eligibility must also provide for the State to review biennially-required provider eligibility information to assess the renewal of training provider eligibility. Such procedures may establish minimum levels of training provider performance as criteria for continued eligibility. In addition, paragraph (j) states that the procedure for biennial review of the provider eligibility must include verification of the registration status of registered apprenticeship programs and removal of any registered apprenticeship programs as described in § 680.470.

Under paragraph (k), the Governor may establish procedures and timeframes for providing technical assistance to eligible providers of training who are not intentionally supplying inaccurate information or who have not substantially violated any of the requirements under § 680.460 but are failing to meet the criteria and information requirements due to undue cost or burden.

20 CFR 680.490 specifies the kind of performance and cost information an eligible training provider must submit for each training program. Paragraph (a) states that, in accordance with the State procedure and § 680.460(h), eligible providers of training services must submit, at least every 2 years, appropriate, timely and accurate performance and cost information. In addition, paragraph (b) provides that program-specific performance information must include:

- (1) The information described in WIOA sec. 122(b)(2)(A) for individuals participating in the programs of training services who are receiving assistance under WIOA § 134. This information includes indicators of performance as described in WIOA secs. 116(b)(2)(I)-(IV) and § 680.460(g)(1) through (4);

- (2) Information identifying the recognized post-secondary credentials received by such participants;
- (3) Program cost information, including tuition and fees, for WIOA participants in the Program; and
- (4) Information on the program completion rate for WIOA participants.

Paragraph (c) allows a Governor to require any additional performance information (such as the information described at WIOA sec. 122(b)(1)) that the Governor determines to be appropriate to determine or maintain eligibility. In addition, paragraph (d) provides that Governors must establish a procedure by which a provider can demonstrate that providing additional information required under this section would be unduly burdensome or costly. If the Governor determines that providers have demonstrated such extraordinary costs or undue burden:

- (1) The Governor must provide access to cost-effective methods for the collection of the information;
- 2) The Governor may provide additional resources to assist providers in the collection of the information from funds for statewide workforce investment activities reserved under WIOA secs. 128(a) and 133(a)(1); or
- (3) The Governor may take other steps to assist training providers in collecting and supplying required information such as offering technical assistance.

20 CFR 680.500 outlines the method for disseminating the State list of eligible training providers. Paragraph (a) provides that, in order to assist participants in choosing employment and training activities, the Governor or State agency must disseminate the State list of eligible training providers and accompanying performance and cost information to Local Boards in the State and to members of the public online including through Web sites and searchable databases and through whatever other means the State uses to disseminate information to consumers, including the one-stop delivery system and its program partners throughout the State.

In addition, under paragraph (b), the State list and information must be updated regularly and provider eligibility must be reviewed biennially according to the procedures established by the Governor in § 680.460(i). Section 680.500(c) requires, in order to ensure informed consumer choice, the State eligible training provider list and accompanying information must be widely available to the public through electronic means, including Web sites and searchable databases, as well as through any other means the State uses to disseminate information to consumers. The list and accompanying information must be available through the one-stop delivery system and its partners including the State's secondary and post-secondary education systems. The eligible training provider list should be accessible to individuals seeking information on training outcomes, as well as participants in employment and training activities funded under WIOA, including those under § 680.210, and other programs. In accordance with WIOA sec. 188, the State list must also be accessible to individuals with disabilities.

Paragraph (d) clarifies that the State eligible training provider list must be accompanied by appropriate information to assist participants in choosing employment and training activities. Such information must include:

- (1) Recognized post-secondary credential(s) offered;
- (2) Provider information supplied to meet the Governor's eligibility procedure as described in §§ 680.450 and 680.460;
- (3) Performance and cost information as described in § 680.490; and

(4) Additional information as the Governor determines appropriate.

Finally, paragraph (e) requires that the State list and accompanying information must be made available in a manner that does not reveal personally identifiable information about an individual participant. In addition, in developing the information to accompany the State list described in § 680.490(b), disclosure of personally identifiable information from an education record must be carried out in accordance with the Family Educational Rights and Privacy Act, including the circumstances relating to prior written consent.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Individuals seeking training through the use of adult and dislocated worker funds under WIOA use the State list and its accompanying information to make informed decisions about training options. In order to assist participants in choosing employment and training activities, the State must disseminate the State list and accompanying performance and cost information to Local Boards in the State and to members of the public online including through Web sites, searchable databases and through whatever means the State uses to disseminate information to consumers including the one-stop delivery system and its program partners throughout the State.

In developing and maintaining the list, the State must determine the eligibility of each training program and review eligibility on a biennial basis. For determining eligibility and for reviewing eligibility, the State must take into account a set of statutory factors which includes performance and cost information. The State must also verify the accuracy of information submitted, remove programs that do not meet State-established criteria and take appropriate enforcement actions against providers that intentionally provide inaccurate information.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

States are continually improving program operations and information handling technologies and, where feasible, new methods are used for taking applications and for collecting and transmitting the data for the Eligible Training Provider List. For examples, States may use individual participant records to collect and verify performance outcomes or may use automated systems to populate searchable online databases as a means for disseminating the information. Reduction of burden through increased automation is always encouraged and supported.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

There is no duplication.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

Some training providers are small businesses or small non-profit organizations which offer targeted programs. In establishing the procedures for eligibility and for collecting information, the State must ensure that the collection of information required to demonstrate compliance with the criteria, is not unduly burdensome or costly to providers. Further, the Governor may establish procedures for providing technical assistance to eligible providers of training who are failing to meet the information requirements due to undue cost or burden.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

The State must determine the eligibility of every training program to be on the list and must update the list regularly. WIOA requires the State to review and renew the eligibility of training providers at least every two years. If the list were not maintained or if the list were updated less frequently this would negatively impact individuals seeking training by limiting training options with adult or dislocated worker funds and by interfering with informed consumer choice.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

There are no special circumstances.

8. *If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

Concurrent with submission of this ICR submission on April 16, 2015, ETA issued a Notice of Proposed Rulemaking (80 FR 20689) that provided a 60-day period for the public to comment on the change to the collection of information. The Department received no public comments.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

No payments or gifts to respondents are being given in exchange for collecting, maintaining, or disseminating this information.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

There is no assurance of confidentiality.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.*

There are no questions of a sensitive nature.

12. *Provide estimates of the hour burden of the collection of information.*

Recordkeeping:

The total estimated number of annual respondents were based on an estimated 200 training providers per state across 57 States and outlying areas (200 training providers X 57 States and outlying areas = 11,400 respondents). The annual burden hours for eligible training provider recordkeeping were determined based on the estimated number of training providers (the total estimated number of annual responses) and the time it will take to complete the submission.

ETA estimates 11,400 respondents will each make one submission that takes 45 minutes to complete. 11,400 responses X 0.75 hours = 8,550 hours.

Third-Party Disclosures:

The Governor or State agency must disseminate the State list of eligible training providers and programs and accompanying performance and cost information to Local Boards in the State and to members of the public online, including through Web sites and searchable databases, and through whatever other means the State uses to disseminate information to consumers, including the one-stop delivery system and its program partners throughout the State.

ETA estimates that it will take each State and outlying area 5 hours to compile and publicly disseminate this information. 57 States and outlying areas X 5 hours = 285 hours.

Table 1: Estimated Annualized Respondent Hour and Cost Burdens

Report Item	Number of Respondents	Responses Per Year	Total Responses	Average Hours Per Response ¹	Annual Burden Hours	Average Hourly Wage	Annual Cost
Recordkeeping	11,400	1	11,400	.75	8,550	\$45.88	\$392,274
3 rd Party Disclosure	57	1	57	5	285	\$57.02	\$16,251
Unduplicated Totals	11,457		11,457		8,835		\$408,525.00

ETA has used the Bureau of Labor Statistics, Occupational Employment Statistics, May 2015, median hourly wage for Management Analysts (http://www.bls.gov/oes/current/oes_nat.htm) of \$29.22, which we adjust the wage rates using a loaded wage factor of 1.57 to reflect total compensation and includes non-wage factors such as health and retirement benefits for a total of \$45.88. To monetize this burden, we multiplied 8,550 hours X \$45.88 = \$392,274.

ETA has used the Bureau of Labor Statistics, Occupational Employment Statistics, May 2015, median hourly wage for Database Administrators (http://www.bls.gov/oes/current/oes_nat.htm) of \$36.32, which we adjust the wage rates using a loaded wage factor of 1.57 to reflect total compensation and includes non-wage factors such as health and retirement benefits for a total of \$57.02. To monetize this burden, we multiplied 285 hours X \$57.02 = \$16,250.70.

The State list and information are updated on occasion.

13. *Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).*

ETA associates no start-up/capital or maintenance/operations costs with this information collection. No new additional costs will be needed since the maintenance and dissemination of this information was done under WIA.

14. *Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 in a single table.*

This information is not reported to the Federal government; therefore, there are no Federal costs.

15. *Explain the reasons for any program changes or adjustments reported on the burden worksheet.*

This is a new information collection.

¹ Specific hourly burden per response is delineated in the tables above. For the purposes of Table 9, the average hourly burden per response is calculated by dividing the annual burden hours for the report item by the total responses.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The Governor or State agency is responsible for maintaining and disseminating the list.

17. If seeking approval not to display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Approval is not being sought.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions,”

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.