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**Summary of Public Comments for “Required Elements for Submission of the Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act”**

**OMB No. 1205-0522**

This document provides a summary of public comments received for the proposed WIOA State Plan data collection request and Departmental responses. Commenters included: National Council of State Directors of Adult Education (NCSDAE), Migration Policy Institute, National Center on Immigrant Integration Policy (MPI), South Carolina Vocational Rehabilitation Department, Texas Department of Assistive and Rehabilitative Services (Texas DARS), Colorado Office of Access and Independence, CLASP, National Association of States United for Aging and Disabilities (NASUAD), Washington State Council of Basic Skills, Washington State Board for Community and Technical Colleges, and Washington State Adult Education Advisory Council, National Immigration Forum, and Workforce Solutions Borderplex.

**Textual Edits**

**1. Title I-B Or vs. And:**

**CLASP:** In the title I-B requirements and assurances, the ICR misquotes the statute by using an “or” instead of “and”. Request for correction. (See pp. 17 and 19 of ICR)

**National Immigration Forum:** Same comment as CLASP above; expression of support for changes;

**Migration Policy Institute:** We recommend that the Department of Labor correct language regarding priority populations wherever it appears to match WIOA’s statutory language by changing “or individuals who are basic skills deficient” to read “and individuals who are basic skills deficient” in accordance with section 134(c)(3)(E) of WIOA. This will clarify that the priority applies to all populations identified in WIOA section 134(c)(3)(E). (same comment as #1)

**Response:** This was an oversight and Departments agree to make a correction from “or” to “and”.

**3. Colorado Office of Access and Community Independence:**

The Vocational Rehabilitation Assurances include duplication of the "Administration of the VR services portion of the Unified or Combined State Plan" assurance, which is identified as both number 3 and number 5.

**RESPONSE:** The Departments concur that there was duplication between the named assurances. We have made the correction to the ICR, and this was done in the January passback to OMB prior to receiving this public comment.

**Requests for Formula Edits**

**1. Workforce Solutions Borderplex—**Commenter requests that additional factors be included in the state formula for Title I programs related to geographic barriers and other factors in a local area.

**Response:** The Title I formula factors are prescribed in the statute. The State Plan ICR is not the appropriate vehicle to prescribe the methods by which states allocate money for within-state allocations, but rather serves as a vehicle to collect the state’s policy for doing so.

**Priority for use of Adult funds**

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**National Immigration Forum:** Expression of support for changes. Request for sub-regulatory guidance to promote transparency on the adult priority of service for customers;

RESPONSE: The Departments note the request for guidance to promote transparency on the adult priority of service for customers. The Departments do not interpret the comment to require a change to any ICR elements.

**2. Migration Policy Institute:**

We recommend that the Workforce Analysis required in section II(a)(1)(B) be expanded to include the following:

**(v) Priority of Service. Provide an analysis of potential clients designated as a priority for services in accordance with WIOA sec. 134(c)(3)(e) including an estimate of the number and share of individuals in the state that are a) recipients of public assistance; b) low-income; c) basic skills deficient including those who lack a high school diploma or equivalent, are limited English proficient, or both.**

This analysis should use the most recent sociodemographic data available from the U.S. Census Bureau in order to ensure fidelity in implementation of the service priority: states and localities should use the most accurate service-priority population estimates possible to plan the initial design of adult training services; to guide implementation of the priority at the local level; and to monitor and appraise the performance of all levels of the system to determine whether those designated for priority under the law were in fact represented in equitable proportions among those served.

RESPONSE: We concur that these populations should be part of the analysis and the requirement, as written, allows for this to occur. The Departments decline to prescribe the data sets states must use for their analysis and believe it is a state decision.

We also recommend that the Assessment required in section II(b)(4) be expanded to include the following language (in bold):

(4) Assessment. Describe how the State will assess the overall effectiveness of the workforce development system in the State in relation to the strategic vision and goals stated above in sections (b)(1), (2), and (3), **and in implementation of priority of service requirements in accordance with WIOA sec. 134(c)(3)(e)** and how it will use the results of this assessment and other feedback to make continuous or quality improvements.

RESPONSE: The Departments decline to include language specifying particular populations for the state assessment. We believe the requirement, as written, is sufficient for states to assess themselves against their own goals which should include a variety of populations.

We recommend that State plans be required to describe how local workforce boards, all one-stop center operators and one-stop delivery system providers will make publicly available the state’s policy regarding the **priority of service** for individuals who are public assistance recipients, other low-income individuals, and individuals who are basic skills deficient.

RESPONSE: While the Departments believe it is important to provide such a policy to one-stop customers, we decline to require a description beyond the current requirement that asks for a

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description of the state’s plan to implement and monitor the Adult priority provision due to undue burden it would impose.

**Youth**

**Out of School Youth:**

**Workforce Solutions Borderplex**—Request for flexibility to decrease the out of school youth (OSY) expenditure requirement.

RESPONSE: The statute requires that 75 percent of youth formula funds be spent on services to out of school youth. The Department of Labor has issued guidance to states on serving OSY and believes requiring less than 75 percent undermines the statutory intent.

**2. NCSDAE (National Council of State Directors of Adult Education):** Section 3164(a)(1)(B) defines Out of School Youth. Our members believe the definition should be clarified, with particular attention to the question of whether a state could define students pursuing a GED in a high school re-engagement program connected to K-12 as Out of School Youth. Our assumption is that the answer to that question is no, because that would enable states to divert OSY funds away from basic education OSY to fund students still attached to the K-12 system, which has access to much more funding and resources.

RESPONSE: The Departments do not interpret this comment as requiring a change to the State Plan ICR. Definitions will be addressed in the regulations and other guidance.

**NCSDAE (National Council of State Directors of Adult Education):** Is it allowable for K-12 re-engagement students to first be enrolled in WIOA and then be enrolled in K-12 re-engagement programs during the same year, so funds from both could be used? We do not believe that this was the intention behind increasing funds to address the needs of OSY.

Finally, this practice requires that K-12 re-engagement students would only be eligible for OSY if pursuing a GED. However, there are multiple options for students to acquire a high school equivalency in addition to the GED, including seeking a high school diploma.

RESPONSE: The Departments do not interpret this comment as requiring a change to the State Plan ICR. This question may be addressed in the regulations and other guidance.

**Integrated English Literacy and Civics Education**

**NCSDAE (National Council of State Directors of Adult Education):** 6. Section 3272(12) defines Integrated English Literacy and Civics Education, but there remains a lack of clarity on the use of these funds. It is not clear whether these funds must be used only for educational services that are delivered in combination with integrated education and training services that lead to a certificate, degree, or job. Would this mean that these students would be required to participate in workforce training leading to certification/degree or job while participating in education? Could this funding be used for individuals in non-certificate/degree, such as an “on-ramp” program to workforce?

RESPONSE: This does not affect the ICR elements. See forthcoming guidance for additional information on this topic.

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**National Immigration Forum** :the Department of Education should provide flexibility in program design and performance calculations so that entities operating IEL/CE programs under section 243 can serve those immigrants who would benefit (and whose careers would benefit) from integrated civics and English programs but who may not need workforce preparation activities or training as defined by statute and the proposed regulations. Further, the Departments of Labor and Education should jointly issue subregulatory guidance and technical assistance regarding how section 243 IEL/CE programs can “integrate with the workforce development system and its functions to carry out the activities” of the IEL/CE programs, as noted in Section 243(c)(2) of WIOA. Effective partnerships between section 243 IEL/CE program operators and title I programs can help these programs meet the requirement for the delivery of IEL/CE activities in combination with integrated education and training activities.

RESPONSE: The Departments note the request for guidance to promote better integration of IEL/CE programs and Title I services. The Departments do not interpret the comments overall to require a change to any ICR elements.

**Education and Skill Levels of the Workforce**

2) **Migration Policy Institute:** *Assessment of Need for Provision of Title II Adult Education Services*

In order to develop data-driven goals and to ensure that adult education services are provided to target populations set forth in the law, we recommend that all unified and combined state plans be required to include a needs assessment in section II(a)(1)(B)(iii) as follows:

(iii) Education and Skill Levels of the Workforce. Provide an analysis of the education and skill levels of the workforce, **and an analysis of key populations that are a focus of WIOA Title II Adult Education and Literacy Services, including: a) adults with less than a high school degree or equivalent; b) individuals with very low levels of education and/or basic skills; c) individuals who are limited English proficient; d) low-educated and/or LEP parents of young children; e) foreign-born individuals who have not attained U.S. citizenship. This analysis should cross-tabulate population characteristics where possible in order to identify the number and share of individuals in need of services to address multiple barriers.**

RESPONSE: We concur that these populations should be part of the analysis and the requirement, as written, allows for this to occur.

**Individuals with Limited English Proficiency**

3) **Migration Policy Institute:** Accessibility of WIOA Services for Individuals with Limited English Proficiency

Section III(b)(9) requires that states describe how they will ensure that one-stop centers are able to meet the needs of limited English proficient individuals, a population that has historically comprised an extremely low share of those receiving Title I intensive and training services.<sup>3</sup> We applaud the Department for recognizing the importance of access to services for limited English proficient individuals. However, in order to ensure implementation of new provisions in WIOA that

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provide an automatic priority of service for LEP individuals (among others) we recommend the addition of the following policy to section III(b):

***(10) Addressing the Accessibility of Title I Career and Training Services for Individuals with Limited English Proficiency. Describe how the State will ensure that all Title I career and training services are accessible to individuals who are limited English proficient. States should also describe how limited English proficient individuals will be identified and provided priority access to training services for which they are otherwise eligible, in accordance with WIOA section 134(c)(3)(E).***

Response: The Departments believe the State Plan ICR adequately requires the same information as requested by the commenter. See requirements at III(b)(9) and VI(b)(4).

**Vocational Rehabilitation**

**1. Colorado Office of Access and Community and Independence:**

**VR Specific portion:** additional guidance on the fiscal reporting and data elements that will be utilized to determine what is expended under the PETS funding set-aside is needed. This will also require adequate time for systems and fiscal reporting changes to be made to ensure the correct identifying data is collected. Furthermore, latitude is requested in the reporting provided until such additional guidance is issued. An adequate period of time to implement changes to the 911 data collection requirements, once finalized, will also be needed.

RESPONSE: This comment will be addressed through the RSA-911 ICR as well as in guidance.

**Appendix 1 (Baseline Measures)**

1. **TX Dept of Assistive and Rehabilitative Services (DARS):** DARS supports the proposal to identify some measures as “baseline” measures on which states would report, but not be held accountable for meeting specific targets for Program Year (PY) 2016 and PY 2017. However, DARS recommends that pre-WIOA (Workforce Investment Act) measures not be extended to PY 2016 or PY 2017. Congress revised and replaced the pre-WIOA program-specific measures with measures of workforce system performance. The pre-WIOA measures are not comparable to the WIOA measures, and use of them would result in duplication of effort by requiring agencies to keep and track two sets of measures.

RESPONSE: Regarding the first comment, OMB recommended a change to us during passback that we incorporated that will address this comment. RSA will be using all six indicators as baseline measures for program year 2016-2017.

The pre-WIOA measurements are not applicable here. Refer to performance ICR.

2. **DARS:** DARS recommends revising the proposal so that the Credential Attainment Rate and Measurable Skills Gain measures are treated as baseline measures for PY 2016 and PY 2017 for the Title IV VR program. The ICR indicates that the determination as to whether a measure is made baseline or not is tied to the likelihood of states having the data necessary to propose reasonable targets. As discussed in further detail in the enclosure, states are unlikely to have such information.

- DARS does not believe that states have adequate data to make such determinations regarding Measurable Skills Gain and Credential Rate Attainment within the Title IV Vocational Rehabilitation program.

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- Neither Title I nor Title IV has historically required Measurable Skills Gain information on participants to be tracked. The Departments seemingly recognized this in proposing that Measurable Skills Gain would be a baseline measure for Title I programs, but did not make this exception for Title IV (VR).
- States have also not been required to capture the information needed to report Credential Attainment Measures.
- Texas Workforce Commission Staff emailed ED for clarification on how to map RSA-19 date to the new measure requirements, but received no reply. ( Response: this will be addressed through the RSA-911 ICR)
- DARS recommends that the Plan measures designated as baseline measures not carry specific targets in PY 2016 and PY 2017.

Response: OMB recommended a change to us during passback that we incorporated that will address this comment. RSA will be using all six indicators as baseline measures for program year 2016-2017.

**3. Colorado Office of Access and Community Independence:** DVR also believes each of the performance measures will require vocational rehabilitation agencies to gather and report information in a manner which significantly differs from prior reporting on historic standards and indicators. Of particular concern, "Credential Attainment Rate" and "Measurable Skills Gain" reflect data elements that have not been defined or collected by vocational rehabilitation programs in the manner anticipated to be required through the Workforce Innovation and Opportunity Act. The data currently available does not provide agencies the level of specificity needed to identify meaningful targets. At a minimum, including the "Credential Attainment Rate" and "Measurable Skills Gain" as baseline measures will provide agencies with an adequate opportunity to ensure systems and processes are in place to accurately evaluate these measures, development meaningful targets and demonstrate reasonable levels of performance.

Response: OMB recommended a change to us during passback that we incorporated that will address this comment. RSA will be using all six indicators as baseline measures for program year 2016-2017.

**4. SC VRD (South Carolina Vocational Rehabilitation Department)**

**Attachment I (pg. 41 – 44):** SCVRD appreciates the added flexibility extended with regard to “baseline” measures. This acknowledges the need to collect adequate data with which to establish proposed performance levels. Although the proposed levels are not final and only serve to start the negotiation process, we recommend that the flexibility to establish a baseline be extended to additional measures.

OMB recommended a change to us during passback that we incorporated that will address this comment. RSA will be using all six indicators as baseline measures for program year 2016-2017.

**State Boards**

**Membership Guidelines**

1. **NCSDAE (National Council of State Directors of Adult Education):** Section 3111 (b)(1)(C) (iii)(aa) states that The State Board “shall include the lead state officials with primary responsibility for the core programs” and (b)(3) states that “no person shall serve as a member

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for more than 1 of the category described in paragraph (1)(C)(i). Our members request clarification as to whether a single board member can represent both the Community and Technical College system and Title II or must each have its own representative on the Board.

**RESPONSE: This comment will be addressed in regulations and does not impact the ICR elements.**

**2. NCSDAE:** 3. Section 3122 (b)(2)(C)(i-iii) states that “each local board shall include representatives of entities administering education and training activities in the local area ...” Our members request clarification as to whether a local board member can represent more than one area (for example, could the same person represent adult education and literacy activities and an institution of higher education).

**RESPONSE: This comment will be addressed in regulations and does not impact the ICR elements.**

**3. NCSDAE:** Section 3122(b)(6) the Special Rule states “If there are multiple eligible providers serving the local area by administering adult education and literacy activities under subchapter II, ore multiple institutions of higher education serving the local area by providing workforce investment activities, each representative on the local board described in clause (i) or (ii) of paragraph (2)(C), respectively, shall be appointed from among the individuals nominated by the local providers representing such providers or institutions, respectively.

We understand this to allow local providers to nominate representatives to the local board and that the local board must appoint an individual from those nominations. Is this a correct interpretation?

**RESPONSE: This comment will be addressed in regulations and does not impact the ICR elements.**

**Cost-Sharing**

Section 3112 (b)(2)(E)(ix) (Assurances) states “that the State will pay an appropriate share) as defined by the State board) of the costs of carrying out section 31412 of this title, from funds made available through each of the core programs. Our members request clarification as to whether there are cost limitations for such contributions, whether such contributions are to be factored into infrastructure costs of one-stops.

**RESPONSE: This comment will be addressed in regulations and does not impact the ICR elements.**

**Miscellaneous**

**1. Three identical sets of comments were received from WA state entities on various aspects of the statute.**

While the comments are about WIOA, they do not appear to map directly to elements in the State Plan ICR—it is unclear to the Departments what commenters are recommending in regard to the ICR itself. Section references in the documents do not match the layout of the ICR.

**2. NSUAD (National Association of States United for Aging and Disabilities)**— Comments related to incorporation of SCSEP Plans into the WIOA plan, complaints about due dates, request for extended deadline, and a complaint about lack of time and Federal guidance on planning.

**Response:** The Departments announced that they will consider timely an April 1 submission. The comments are related to the state plan submission process rather than the information requirements for the WIOA state plans. Therefore, the Departments do not interpret the comment to require a change to any ICR elements.

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**3. South Carolina Vocational Rehabilitation Department:**

**Eligible Training Provider List (ETPL): Section III (a) (2) (F)** requires a description of state strategies to engage education and training partners. Consideration and further guidance is requested as to the potential impact of reporting requirements for the Eligible Training Provider List (ETPL) under Title I programs as it relates to the other core WIOA programs. For instance, if the ETPL becomes more limited due to enhanced reporting requirements, the states will need to plan for potential programmatic impact on the other core WIOA programs approved vendor lists.

RESPONSE: The Departments note the request for guidance on the eligible training provider provisions in WIOA. The Departments do not interpret the comment to require a change to any ICR elements.

**Infrastructure Funding**

**Section III (b) (5)** requires a description of guidelines for determining equitable and stable methods of funding infrastructure. SCVRD recommend, as it appears in the final sentence referring to state plan modification in 2018, that this description be accepted as a general framework until such time as policy guidance is issued to define “infrastructure” and the definitions associated with the cap on infrastructure costs for VR programs.

RESPONSE: The Departments note the request for guidance on the infrastructure funding provisions in WIOA. The Departments do not interpret the comment to require a change to any ICR elements.