



441 G St. N.W.
Washington, DC 20548

B-328374

September 6, 2016

The Honorable Lamar Alexander
Chairman
The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable John Kline
Chairman
The Honorable Robert C. "Bobby" Scott
Ranking Member
Committee on Education and the Workforce
House of Representatives

Subject: *Department of Labor, Employment and Training Administration: Workforce Innovation and Opportunity Act*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Labor (DOL), Employment and Training Administration (ETA) entitled "Workforce Innovation and Opportunity Act" (RIN: 1205-AB73). We received the rule on August 19, 2016. It was published in the *Federal Register* as a final rule on August 19, 2016. 81 Fed. Reg. 56,072.

The final rule implements titles I and III of the Workforce Innovation and Opportunity Act (WIOA). Through these regulations, DOL reforms and modernizes our nation's workforce development system. According to DOL, this rule provides the framework for changes for statewide and local workforce development systems to increase the employment, retention, earnings, and occupational skill attainment of U.S. workers, particularly those individuals with barriers to employment, so they can move into good jobs and careers and provide businesses with the skilled workforce needed to make the United States more competitive in the 21st Century global economy.

Enclosed is our assessment of DOL's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that DOL complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Portia Wu
Assistant Secretary for Employment and Training
Department of Labor

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF LABOR,
EMPLOYMENT AND TRAINING ADMINISTRATION
ENTITLED
“WORKFORCE INNOVATION AND OPPORTUNITY ACT”
(RIN: 1205-AB73)

(i) Cost-benefit analysis

The Department of Labor (DOL), Employment and Training Administration (ETA) performed a cost benefit analysis on the final rule. DOL estimates that this final rule will have an average annual net benefit of \$14,806,210 and a total 10-year net benefit of \$95,836,706 (with 7 percent discounting). DOL estimates that this final rule will have an average annual cost of \$35,037,540 and a total 10-year cost of \$278,750,652 (with 7 percent discounting). The largest contributor to the cost is the requirement related to the development and continuous improvement of the workforce development system, followed by the career pathways development and the colocation of Employment Service (ES) services.

DOL quantified the expected incremental benefits associated with the final rule relative to the baseline of the current practice under the Workforce Investment Act of 1998 (WIA), where possible. Specifically, DOL quantified the benefits expected to result from required competition for all one-stop operators. Competition for all one-stop operators will result in cost reductions for local workforce development boards (WDBs) due to increases in efficiency, which are estimated to amount to approximately \$49,843,750 per year and \$374,587,357 over the 10-year period (with 7 percent discounting). This quantified benefit resulting from increased competition for all one-stop operators, however, does not account for several other important benefits to society that DOL was unable to quantify due to data limitations or lack of existing data or evaluation findings. Based on a review of empirical studies (primarily studies published in peer-reviewed academic publications and studies sponsored by DOL), however, DOL identified a variety of societal benefits: (1) training services increase job placement rates; (2) participants in occupational training experience higher reemployment rates; (3) training is associated with higher earnings; and (4) state performance accountability measures, in combination with the board membership provision requiring employer/business representation, can be expected to improve the quality of the training and, ultimately, the number and caliber of job placements. DOL identified several channels through which these benefits might be achieved: (1) better information about training providers will enable workers to make better informed choices about programs to pursue; (2) sanctions to under-performing states will serve as an incentive for both states and local entities to monitor performance more effectively and to intervene early; and (3) enhanced services for dislocated workers, self-employed individuals, and workers with disabilities will lead to the benefits discussed in the final rule.

In addition, according to DOL, the final rule will result in transfer payments, i.e., a shift in costs or benefits from one group to another that does not affect total resources available to society. DOL estimates that the final rule will result in annual average transfer payments of \$12,887,628 and a total 10-year transfer payment of \$96,853,514 (with 7 percent discounting). These transfers result from increased funding for targeting out-of-school youth.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

DOL certified that this rule will not have a significant economic impact on a substantial number of small entities. DOL states that this finding is supported, in large measure, by the fact that small entities are already receiving financial assistance under the WIOA program and will likely continue to do so under the WIOA program as articulated in the final rule. DOL states that transfer payments are a significant aspect of the analysis in that the majority of WIOA program cost burdens on state and local WDBs will be fully financed through federal transfer payments to states. DOL has highlighted costs that are new to WIOA implementation and the final rule. Therefore, DOL states that it expects that the final rule will have no cost impact on small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

DOL determined that the final rule will have no cost impact on small entities and will not impose an unfunded mandate on federal, state, local, or tribal governments as defined by the Unfunded Mandates Reform Act of 1995. DOL determined that the final rule contains no unfunded federal mandates, which include either a federal intergovernmental mandate or a federal private sector mandate.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On April 16, 2015, DOL published a Notice of Proposed Rulemaking (NPRM) to implement titles I and III of WIOA. 80 Fed. Reg. 20,690. According to DOL, during the 60-day public comment period, it received a total of 767 public comments on the WIOA NPRM. In addition to these submissions, DOL states that it also considered portions of 84 public comment submissions from the Joint DOL-Education (ED) WIOA NPRM docket that DOL determined were related to the DOL WIOA NPRM. The Joint DOL-ED WIOA NPRM, which proposed regulations to implement jointly administered activities authorized under WIOA title I, was also published on April 16, 2015. 80 Fed. Reg. 20,574.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

According to DOL, there are two new Information Collection Requests (ICRs) which have not yet been approved, and six existing OMB-approved information collections that are being revised as part of this final rule. DOL summarized all of them in the final rule.

The first new ICR addresses State Training Provider Eligibility Collection; the OMB Control Number is 1205-0523. The ICR would affect state, local, and tribal governments, and private sector, and 11,457 respondents would be obligated to respond annually to obtain or retain a benefit (WIOA sec. 122). The total estimated annual time burden would be 8,835 hours, while the total estimated annual other costs burden is estimated to be \$0. The applicable regulation sections for this ICR are: § 680.450, § 680.460, § 680.490, § 680.500. The second new ICR addresses the ETA Workforce Innovation and Opportunity Act Performance Accountability, Information, and Reporting System; the OMB Control Number is 1205-0521. The ICR would affect state, local, and tribal governments, and individuals or households in order to obtain or retain benefits, and 17,262,375 respondents would be obligated to respond. There would be an

estimated total of 34,526,494 annual responses. The total estimated annual time burden is 8,881,228 hours, while the total estimated annual other costs burden is \$6,791,395. The applicable regulations sections for this ICR are: § 684.420, § 684.610, § 684.700, § 684.800, § 685.210, § 685.400, § 688.420, § 688.610. The six remaining revised ICRs have been submitted to OMB for review as well. They cover: Work Application and Job Order Recordkeeping (OMB Control No. 1205-0001); Migrant and Seasonal Farmworker Monitoring Report and Complaint/Apparent Violation Form (OMB Control No. 1205-0039); Standard Job Corps Contractor Gathering Information (OMB Control No. 1205-0219); Placement Verification and Follow-up of Job Corps Participants (OMB Control No. 1205-0426); National Dislocated Workers Emergency Grant Application and Reporting Procedures (OMB Control No. 1205-0439); and Employment and Training Administration Financial Reporting Form ETA-9130 (OMB Control No. 1205-0461).

Statutory authorization for the rule

The final rule was promulgated under the authority of secs. 2, 3, 101, 102, 106, 107, 108, 116, 121, 122, 123, 127, 128, 129, 132, 133, 134, 142, 144, 146, 147, 159, 166, 167, 169, 170, 171, 181, 185, 189, 195, and 503, Pub. L. No. 113-128, 128 Stat. 1425 (July 22, 2014). 20 U.S.C. § 1232g; 29 U.S.C. § 49a; 38 U.S.C. part III, §§ 4101, 4211; 29 U.S.C. § 49I-2; 29 U.S.C. chapter 4B; 38 U.S.C. part III, chapters 41 and 42; 29 U.S.C. § 49k; 8 U.S.C. § 1188(c)(4); 29 U.S.C. chapter 4B.

Executive Order No. 12,866 (Regulatory Planning and Review)

DOL states that this final rule has been designated an economically significant rule under the Order. Therefore, OMB has reviewed the final rule, and DOL has conducted a regulatory impact analysis to estimate the costs, benefits, and transfers associated with the final rule.

Executive Order No. 13,132 (Federalism)

DOL states that it has reviewed this final rule and has determined that the rulemaking has no federalism implications. According to DOL, the final rule has no substantial direct effects on states, on the relationships between the states, or on the distribution of power and responsibilities among the various levels of government as described by the Order. DOL has determined that this final rule does not have a sufficient federalism implication to warrant the preparation of a summary impact statement.