

Workforce Investment Act Native American Employment and Training Council

Recommendation for Department of Labor Transition Team and Dr. Edward Montgomery

Executive Summary

This Native American Employment and Training Council Paper is presented to the U.S. Department of Labor Transition Team and Dr. Edward Montgomery.

According to WIA Section 166 Law, the purpose of Native American Programs is “*to support employment and training activities for Indian, Alaska Native and Native Hawaiian individuals in order (A) to develop more fully the academic, occupational, and literacy skills of such individuals; (B) to make such individuals more competitive in the workforce; and (C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.*”

The purpose of this Paper is to affirm in writing that the Native American Employment and Training Council (NAETC) desires to work with the Obama Administration to bring into compliance the operation of WIA Section 166 Indian and Native American Programs. Our priority is to bring Labor into compliance with the law.

The previous administration has been non-compliant in WIA, Section 166 as follows:

- Section 166 (a) (1) Purpose
- Section 166 (a) (2) Indian Policy
- Section 166 (d) (1) (B) Funds
- Section 166 (h) Administrative Provisions
- Section 166 (h) (1) Organizational Unit
- Section 166 (h) (2) Regulations
- Section 166 (h) (2) (A) Performance Measures
- Section 166 (h) (2) (B) Funding Distribution Plan
- Section 166 (h) (4) Advisory Council
- Section 166 (h) (4) Advisory Council Consultation
- Section 166 (h) (4) Advisory Council Duties
- Section 166 (h) (4) (ii) Advisory Council Travel Expenses
- Section 166 (h) (4) (iii) Advisory Council Administrative Support

Adverse Effects of Non-Compliance:

- Lack of tribal consultation, in compliance with government to government relations
 - Secretary has been non-responsive to meeting requests and program requests from NAETC
- Decreased funding
- Elimination of the single organizational unit (DINAP) as required in the law
- Lack of timely response to the NAETC and grantees from DOL
- Total emphasis on employment rather than education as stated in the law
- Common measures fail to represent the intent of the law
 - Mandated Common Measures reporting prohibits the grantees ability to fully serve their communities and accurately count services provided and successes achieved

Between 1990 and 2002, the American Indian population increased dramatically, by 25% for reservation-based Indians and 21% for off-reservation Indians. According to Census 2000, unemployment among Native Americans in 2000 was 12.3%, which is more than twice the national average of 5.7%. Native Americans had the highest poverty rate of any ethnic grouping. Under the current administration, the Division of Indian and Native American Programs was reduced from a single, independently managed division to a program with a unit supervisor, and staffing was reduced from 17 to 7. In spite of a minimum funding level that was established by Congress in the WIA of \$55 million, the current funding is \$52,757,931.

There is a 52% high school dropout rate for American Indians. American Indians have not achieved the level of employment the law intended due to the failure to provide services intended by the law. The program as it is now enforced is unable to meet the need of American Indians as well as the global economy.

We must take into account the current economic conditions, dramatically growing populations, increased unemployment and inflation. As service providers, we know that the unemployment and other statistics reported by the states are more than tripled for Indian populations. In spite of all of the above limitations, we continue to serve Native populations as well as finance the NAETC with limited resources and a hostile Administration. The stalled progress of WIA Native programs look toward a new partnership to bring positive change with the new administration.

The Council, therefore, recommends:

- 1. *Native American Employment and Training Council (NAETC) Consultation and Division of Indian and Native American Programs (DINAP) Restoration***
- 2. *Education as a Performance Measure***
- 3. *Community Driven Efforts to Identify Need and Evolution of Programs***
- 4. *Increase Funding Levels***

The following details the issues and recommendations.

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As stated in WIA Law, Section 166(a)(1)(C), the program was created “*to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.*”

NAETC Transition Mission Statement:

In compliance with Section 166 of the Workforce Investment Act (WIA), it is the mission of the Native American Employment and Training Council (NAETC) to provide consultation and advice to the U.S. Secretary of Labor regarding the provision of services and support to the Indian, Alaska Native and Native Hawaiian service populations in addressing employment, training and economic self-sufficiency needs in their communities.

NAETC Transition Vision Statement:

The Indian, Alaska Native and Native Hawaiian Workforce Investment Act (WIA) Section 166 program grantees have a unique historical relationship as sovereign tribal nations within a nation, and share a vision of serving dramatically growing communities within a context that embraces the traditional cultural values, beliefs and ways of our people.

For this fundamental reason, it is our shared vision that the WIA, Section 166 program be administered in a consistent manner conducive to the traditional cultural values, beliefs and ways of the people it is designed to serve.

In order that our shared vision results in policies that respect and honor our partnership at all levels within the Department of Labor, which includes an established policy committed to Indian self-determination that can be fulfilled in a meaningful and measurable way, we pursue government to government relations to collaborate with the Department of Labor.

As members of sovereign tribal nations, we view the ultimate outcome of our programs as the improvement of the economic well-being of all Native People and the economic and social advancement of all Native Communities.

Introduction

Workforce development programs for Native Americans intersect with many of the plans of the Obama Administration. Our workforce programs serve the goals of:

- Strengthening the American economy and building American competitiveness in the global system;
- Furthering the education and training of Americans with historically very limited access to educational opportunities;
- Building sustainable energy systems and green environmental products and services;
- Supporting healthy and productive family structures;
- Eliminating poverty; and
- Revitalizing rural communities through economic development.

Native American workforce services are rooted in strong cultural values and family aspirations. They provide tools through education, skill training, employment services and support for job creation to address the chronic and severe joblessness in Native American communities on and off Indian reservation areas.

Unleashing the creativity and innovative ideas within our workforce services delivery system is the key to strengthening the programs that are supported in part through Section 166 (the Native American Section) of the Workforce Investment Act (WIA). That creativity and innovative spirit has been stifled in recent years by trying to force workforce services for American Indian, Alaska Native and Native Hawaiian people into a mold designed for a very different cultural and economic environment.

The incoming Administration's agenda for the advancement of Native American workforce services must enable tribal governments including on and off reservation Native American program grantees to use federal resources in ways that fit the cultural, economic, educational and social circumstances of Native American communities. Equally important, there must be sensible standards of accountability, both to Native people, governments and institutions and to the federal government, designed to reflect the specific circumstances of our communities.

The statement of purpose in the current law (Section 166(a) of WIA) provides a good foundation upon which Native American workforce programs can become more effective and efficient. In addition, the provisions relevant to our programs in the bipartisan WIA reauthorization bill reported in the Senate almost four years ago (S. 1021 in the 109th Congress) help to underscore the unique nature of our services.

In addition to the specific measures discussed below, we call on the new Administration to convene a summit of the NAETC and program grantees to review the current state of the Native American workforce and develop additional recommendations for bringing our programs up to their full potential in the 21st century.

Identifying NAETC and WIA Grantee Priorities:

In reviewing recent years' activity and advice of the NAETC to the Secretary of Labor, it is obvious that the current administration's actions and intentions have not been in full compliance with the Workforce Investment Act and the intent of Congress in addressing needs in Indian Country. Our utmost interest and priority is to have the U.S. Department of Labor maximize the effectiveness of federal workforce development programs by positively complying with the letter of law and thus fully implementing and executing the intent of Congress.

Although there are many issues that deserve attention during the next Administration, there are a few key issues where a transformation is needed in the way the Department of Labor interacts with Indian Nations. These priorities should provide direction for short-term, mid-term and long-term actions that will both improve the efficacy of WIA Programs as well as the relationship the DOL has with Indian Nations and grantees.

1. Native American Employment and Training Council (NAETC) and Division of Indian and Native American Programs (DINAP) Restoration

NAETC

Re-institution of NAETC authority and funding as outlined under Section WIA (h). The Native American Employment and Training Advisory Council should be recognized as the vehicle identified in the law with which tribal consultation is initiated. The Council should be fully funded and vacancies immediately addressed.

The WIA established the Native American Employment and Training Council and directed the Secretary to utilize the NAETC to “*advise the Secretary on all aspects of the operation and administration of the programs assisted under this section.*” Congress further directed the Secretary to fund the NAETC and “*provide the Council with such administrative support as may be necessary to perform the functions of the Council.*” In order to survive during the last administration, the NAETC had to turn to grantees for financial support, taking dollars from WIA programs in order to ensure that Native voices were heard. For the most part, NAETC advice, questions and policy development have been ignored by the current administration for the past eight years.

Longer term, working with the NAETC, the DOL should fully comply with the WIA governing Section 166 programs to better align with the original intent of Congress. The Department should recognize the needs of off-reservation Native People, as well as work with Native Communities for a community-driven/culturally-driven program. Effort should be made to diminish competition between reservation and off-reservation programs and people, with recognition that respective programs of these groups may take

radically different approaches to achieve the same objective, given differing economic regions with significant variances in corporate presence.

DINAP

In order to recognize the government-to-government relationship and facilitate the federal trust responsibility to Tribes and individual Natives, NAETC recommends the restoration of DINAP, with a division chief to report directly to the Deputy Assistant Secretary. With this restoration, the Unit Supervisor would return to the position of Division Chief. The position of Chief of DINAP should be given full authority to conduct the business of the DINAP office in consultation with tribal grantees.

The NAETC recommends that within six months the staffing level of the restored DINAP be returned to former numbers. When the Transition Team reviews the number of staff in this division and weighs the proportion of grantees to staff, they will readily see that this program has been reduced in efficacy due to understaffing and the gradual reduction of staff support to the grantee community. With this re-staffing, DINAP will have the human resources to engage in tribal consultation on all issues pertinent to the operation of Section 166 programs in a manner that allows for widespread grantee participation and input as required by the law.

Section 166 grantees must be allowed to design and operate education and training programs in a manner that addresses individual community needs and best interests of the individuals served. From geography and climate to proximity to urban economies, the needs of individual communities and grantees in Indian Country vary vastly. This emphasizes the need for greater staffing, more individual attention to grantees and their respective needs, and outlines the prohibitive nature of having one “cookie-cutter” program with one set of measures and assuming that model will fit everyone’s needs and objectives.

2. Education as a Performance Measure

The efficacy of WIA programs is in part due to identifying transferable skill sets for positioning individuals in broad labor markets. Under the current administration this was narrowly defined as training, with removal of education as a performance measure for grantee programs. The NAETC was advised that the Department of Education would focus on Indian education. Despite the Administration’s expressed support for Indian education, it proposed eliminating four Indian specific programs in the Department of Education. Effective and culturally relevant educational systems are critical for nurturing strong, prosperous tribal youth and lay the foundation for healthy communities.

For this reason, the NAETC recommends that education be immediately restored as a performance measure and/or included in the definition. Incentives should be built into grantee performance reviews to increase the number of participants pursuing education as well as training. These incentives should focus on collaboration with other educational institutions, including tribal colleges and universities, community colleges and other institutions conducive to achieving the intent of WIA. This collaboration should extend to other federal agencies as well, including DHHS, BIA, DEA, etc. We cannot empha-

size enough the difference between having a job and having a career. It is the intent of tribal grantees to provide access to both for their participant populations.

During the current administration, grantees were held to placement of participants in jobs and industries with diminished growth, many within industries that are quickly being outsourced from the U.S. to cheaper labor markets. Education is the only way to ensure a strong labor market in the U.S. with the push to work smarter and the trends in job development in the U.S. economy.

We recommend immediate effort to work with the new Secretary to establish both realistic performance measures as well as to establish a process for continuous evaluation and negotiation of better and more effective measures.

The Department of Labor's DINAP should review the Indian Self-Determination Act to better focus on tribal consultation moving forward. As new performance measures are negotiated, there should be the option of grantee selection of evaluation standards from a menu of measures, given the aforementioned variance in the location, climate, population, culture, proximity to urban areas and presence of industry for grantees. With this approach, a sustainable process for establishment of measures that change and evolve with the needs and goals of communities will be achieved. In the interim, a "hold harmless" agreement should immediately be put in place on benchmarking current program outcomes as these do not adequately measure the success of the grantee programs and in many instances undercut the efficacy of the grantee organizations in their communities.

3. Community Driven Efforts to Identify Need and Evolution of Programs

Section 166 (a) (2) Indian Policy – All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal government.

For grantees to meet the needs of their respective communities, a process for greater dialogue between DOL, the NAETC, and grantees is needed, including participation from the grantee communities to better identify evolving community needs. The program should be viewed as a constantly evolving process to meet needs at a variety of levels depending on the individual grantee. Working with the NAETC to define community, grantees must be allowed to design programs that reflect the needs of their communities.

In accordance with this, the program must recognize the needs of both reservation and off-reservation Indian and Native People, working to diminish the competition for funding and suitable performance measures between these groups. Community, regardless of reservation or off-reservation, should be inclusive. Equally, grantees and the DOL should strive to eliminate the historic aggression and competition between tribal, state and federal organizations to better serve shared areas and regions for all Americans in those areas and regions.

4. Increase Funding Levels

In spite of a minimum funding level that was established by Congress in the WIA of \$55 million, the current funding is \$52,757,931. Additionally, INAP is currently charged from program funds for work of the Office of Cost Determination. These charges should be paid by DOL and not from Section 166 funds. In an effort to limit or end the existence of the NAETC, the current administration eliminated all funding for the Native American Employment and Training Council, even though it was mandated by Congress. As a result, grantees and INAP have funded NAETC work, meetings and efforts in order to maintain their programs as best they could in a hostile environment.

For these reasons, we recommend immediate restoration of funding as cited in WIA at no less than \$55 million. We request that DOL resume payment of NAETC costs, as well as expenses incurred by the Office of Cost Determination and others. In addition, funding should subsequently be adjusted for inflation as we move forward. Finally, the DOL in collaboration with the NAETC and grantee communities should explore opportunities for job creation and industry development, with earmarks for these efforts in future budget requests.

Conclusion

Per the *Employment and Training Reporter (11-24-08)* “Montgomery estimates in order to keep up with the labor force growth since 1979, workforce development programs should be increased 17 times above current proposals to \$50 billion a year.”

With hope for the future of the WIA and DINAP, the NAETC recommends a complete review of WIA, Subtitle D, Section 166 Native American Programs to bring the Department of Labor back in line with the intent of Congress as specified in the Act. The NAETC and the grantees are eager to work with the new Administration and designated officials to achieve more efficient and successful programs that are of benefit to American Indians, Tribal Governments, the overall workforce, and the economy of the United States.

In addition to the specific measures discussed above, we call on the new administration to convene a summit of the NAETC and grantees to review the current state of Native American workforce and develop additional recommendations for bringing our programs up to their full potential in the 21st Century.