The Workforce Investment Act, One Stop Management, and Engaging the Private Sector

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Introduction

The implementation of the Workforce Investment Act of 1998 (WIA) fostered the development of a wide range of solutions to address the problems of unemployment and/or underemployment among selected demographic groups including youth, adults, dislocated (redundant) workers, the disabled, older adults veterans, and, in some cases, those families receiving public assistance under the Temporary Assistance for Needy Families (TANF) program. Many of the employment programs operating through One Stop Career Centers have enjoyed considerable success. Their success, at least in part, appears owing to operational designs based on certain foundational principles set out in the Workforce Investment Act. The principles place a high premium on employer driven strategies and integrated service delivery through co-locating key providers under one roof. The Act envisioned a nationwide network of One Stop Career Centers where jobseekers and employers could access all required resources in a single location. A key feature of *successful* programs has been their capacity to effectively leverage the strengths of this diverse set of partner organizations operating side by side. Still, while many achieved impressive outcomes under this design, many others found the new model unwieldy, difficult to manage, and driven by a disproportionate focus on business.

The foundational principles embodied in the legislation are intended to be institutionalized in the overall design of all program operations. A key differentiator between WIA and its predecessors is the role that business is intended to play in both the creation and on-going management of the One Stop delivery system. The One Stop system was intended to be and is often described as "employer driven." Employers, it is reasoned, understand a community's existing and emerging labor market conditions, occupational needs, and skill sets required for in-demand jobs. The employer is, after all, the consumer who hires well-equipped jobseekers. Employer need should, therefore, define and determine the content of education and training programs to prepare and equip the workforce. By designing a system around employer needs, WIA intended to create a business friendly system.

Under the current operating model, the management of One Stop Centers may be competitively procured, which has spawned the growth of a new, albeit small, industry of "One Stop Operators." These management entities are responsible for organizing and managing twelve mandated and co-located partners, together with various voluntary partners into a seamless employment service system, which will meet specific performance levels established by the Workforce Investment Board. Managing entities come from the private for-profit, non-profit, and public sectors. After some ten years, the number of private, for-profit companies competing for One Stop management opportunities has noticeably dwindled to a relatively small group. Managing entities, for the most part, appear to remain the same from procurement to procurement. The reasons for this are varied and will be discussed in this paper. However, the impact of this withdrawal has been to limit competition, and perhaps, innovative and more effective approaches to achieving better employment outcomes in more efficient and cost effective ways.

The impact of minimal competition on service delivery, arguably, encourages maintenance of the status quo and stimulates little in the way of novel approaches. I personally have spoken with executives from some of the nation's largest Workforce Investment Boards (WIB), who express concern about the diminishing number of qualified bidders competing in their procurements. Some critics of the workforce investment system have called for the elimination of competitive procurements altogether as a means to acquire workforce services.

The discussion presented in this paper assumes that open and fair competition between a diverse set of qualified bidders supports continuous improvement, high performance, and increased transparency. Whether limited participation by the private sector have, in fact, inhibited the creation of more effective programs cannot be established without careful evaluation of empirical data. Overall, this paper aims to encourage the development of policies which facilitate procurement processes and operational models designed to *attract a greater number and more diverse set of qualified bidders from all sectors*. With this in mind, I have attempted to identify some of the factors contributing to the private sector's ambivalence toward the WIA market in the United States. The aim here is to identify several significant practices that discourage private sector participation in procurements to manage One Stop Centers and to briefly comment on what this has meant to the industry. Finally, I will discuss alternative approaches which WIA reauthorization will need to address to support the engagement and retention of a diverse network of providers.

The perspective offered here is one derived principally from observation of many existing WIA-funded One Stop operations, as well as discussions with a wide range of leaders from the field over the past decade. The perspective I bring and contribution I offer is that of an executive from a large for-profit organization that views the current WIA market as one fraught with risk, and in this regard, not viable from a business perspective. Therefore, I have identified selected changes to the current WIA system could increase market desirability, support increased achievement of performance outcomes, and promote greater efforts to economize through efficiency.

Private Sector, Third Sector, Public Sector: The Challenge of Stereotypes

Right or wrong, there exists in every community a tension between business and government. Generally, business wants as little government interference in its affairs as possible. “Why would I go to a government agency for help with my business when their interference always makes my life more difficult?” one business owner asked in a discussion regarding WIA employer services. Again, right or wrong, third sector (non-profit) organizations are commonly perceived as indifferent to the “bottom line” and more focused on jobseeker services than employer hiring needs. And finally, the private, for-profit sector is often viewed as indifferent to everything *but* the bottom line.

The overall aim of keeping the private sector engaged is to support competition that improves quality of service while creating greater economies and efficiencies for the government and taxpayer. The same, of course, might be argued in favor of retaining third-sector, organized labor, and public sector approaches all of which bring unique solutions that offer varying degrees of value. Setting aside stereotypes and promoting policies which encourage a diverse pool of bidders supports the government’s goal of obtaining “best value.”

Who Drives the System?

Under WIA, emphasis has been directed toward creating and operating an employer-driven system. The thinking is based on the notion that business leader’s best understand the unique emerging labor market needs of the communities in which they operate. Many Workforce Investment Boards (WIBs) appear to have been unclear, or had only a vague sense of what “employer driven” meant and the changes it was intended to facilitate that differentiated WIA from its predecessor, the Job Training Partnership Act (JTPA). Following the passage of WIA, some WIBs actively engaged employers to help reshape their service delivery model, while others argued that greater emphasis should be placed on jobseeker needs.

A broad look at the changes in the workforce delivery system suggest that relatively few WIBs have truly created an employer driven service delivery system, instead, doing what long-time providers have frequently done— build a service-rich environment to meet *jobseeker* desires even when these are at odds with the realities of the existing market . A recent conversation with the Labor Commissioner from a Midwest State illustrated the challenge of supporting an employer-driven system. She explained, WIA’s promotion of *customer choice* as a guiding principle has unintentionally created an opportunity for unnecessarily expensive training providers to exploit jobseeker interests while turning a blind eye to employer hiring needs. Jobseekers are encouraged to assert their right to choose, too often selecting trainers with the best television commercial but poor employment placement rates.

Visits to scores of major One Stops further illustrate this point; while jobseeker resource centers appear consistently active, many newly created Employer Services Business Centers, designed to serve employers, remain underutilized. It is true that some employers have taken advantage of One Stop hiring assistance, but it also true that many WIA industry observers worry that such employers often offer unsustainable employment.

Striking a balance between employer and jobseeker-focused service delivery models seems obvious but has proven difficult to achieve. Such a balance requires the right mix of stakeholder partners engaged in service delivery. To be useful to a broader range of employers, the One Stop Employer Services function may require a level of sophistication on par with services provided by human resources, outplacement, staffing, and consulting firms. This perhaps means better resourcing and significantly greater efforts to reach the large number of employers who do not use and, indeed remain unaware of the services and benefits offered by the nation's One Stop Career Center network. Policies to support business participation, such as requiring the Board to be weighted in favor of business leadership have done relatively little to promote greater interest in the one stop's capacity to help build and effectively serve their labor force.

As it stands, to portray the current workforce system as employer-driven system appears inaccurate. WIA policy needs to underscore the interdependent relationship between employer and jobseeker. While WIA policy should clearly reflect a commitment to both jobseeker and employer interests, to meet the needs of both groups, it too should facilitate the creation of service models to capture the interests of a wider range of providers who possess the appropriate expertise to meet the needs of the community's business leadership.

Fiscal Considerations: Administrative and Profit Caps

The inclusion of private, for-profits in the management of any public program inevitably raises concerns about whether profit is appropriate when using public monies and, if it is, what constitutes a fair and reasonable profit. The ambivalence felt by many WIBs is expressed in policies that include profit caps, holdbacks, administrative caps, and disproportionate risk and reward ratios.

Administrative costs are typically capped at what are often perceived to be unrealistic levels, forcing many organizations to broaden the interpretation of what can be classified as a program cost. In some ways related to stereotyping, local policy restrictions placed on a One Stop operator's ability to earn profit and the imposition of administrative caps reflect a fundamental and pervasive ambivalence regarding the private sector's role in the workforce delivery system. On the one hand, WIA legislation was intended to engage the private sector in a leadership role, mandating that the majority of WIB members be *from* the private sector. On the other hand, policies that cap both profit and administrative costs can, and do, discourage private sector interest in WIA opportunities.

Caps on profit and administrative costs are intended to protect the public's interest by requiring contractors to allocate a specified percentage of the total contract value to direct service. However, when profit rules are viewed within the context of the growing demand for outcome-based, pay-for-performance contracting, risk and reward are generally disproportionate. In other words, if profit is capped at 6%-8% (which it commonly is) and is contingent upon meeting all performance targets, then *failure* to meet targets should, too, be capped at 6%-8%, instead of not compensating a provider at all.

Alternatively, if the contracting agency is concerned with not simply achieving but *exceeding* specific outcomes, creating a much broader upside-downside spread is likely to drive greater innovation and better outcomes. There is no reason to believe that highly prescriptive rules regarding administrative and profit limits have led to better outcomes. Instead, such restrictions may have limited competition and squelched innovative approaches by shrinking the pool of potential providers.

Unrealistically low administrative caps force bidders to "back into" their solutions. Instead of allocating time and necessary resources based on the best solution to meet contract targets, solutions must be tailored to conform to the required allocation formula. Artificial allocation formulas result in decreased transparency and accountability.

It also seems appropriate to ask what end is actually served by imposing caps. When an organization purchases say, computer hardware through a competitive procurement, "best value" is generally tied to some combination of *best product* and *best price.* A government agency does not make a decision to buy 100 Dell PC's on the basis of administrative costs and profit margins associated with the production of those 100 PCs. Rather, the decision is based on the quality of the product, available funding, and the price.

If performance measures are carefully constructed, risk and profit limits can both be more expansive. Allowing bidding organizations to design and price their proposals based on their risk/reward tolerance levels should be explored. Such freedom creates a more diverse collection of bidders. At one end of the spectrum are entrepreneurs and risk takers whose solutions are designed to *exceed* targets, and at the other are those whose tolerance for risk is low but whose performance is deemed adequate to *meet* performance targets.

WIA rules might better reflect a commitment to both business and jobseeker by seeking providers who will raise the bar for performance, quality, economy, and efficiency. The good news is these improvements can be accomplished without additional funds, but simply fewer prescriptive accounting rules. Transparency and accountability are not compromised when *actual* administrative costs are reported, and profit earned is a consequence of performance against targets.

Governance and Management

The diverse array of WIA partners creates significant challenges. The composition of the local WIBs requires participation by representatives from a wide range of stakeholder groups including, business, labor, education, economic development, each of the One Stops, and community-based organizations. At least 51percent of the Board must be comprised of representatives from the business community. Additionally, the Board Chair must be from the business community. There are, of course, trade-offs inherent in such broad representation. Predictably, the ability to make decisions on urgent matters is frequently achieved through consensus and compromises that ultimately please no one. Critics complain WIA representation requirements create an unnecessarily large, unwieldy, and ineffective board. The ideal of broad representation, collaborative program design, and consensus-driven leadership has created still more unintended consequences that impact participation particularly among those who derive no clear return on their investment of time and energy. This is particularly important at the local level where local Board decisions directly impact service delivery.

The managing entity responsible for day-to-day oversight of the local One Stop Career Center struggles with the same challenges posed by the broad participation requirements at the WIB level. The requirement for co-location of different agencies and organizations serving the same customer is intended to promote better service through easy access to services. However, both strategic and day-to-day operational management is a complicated affair where building consensus among mandated partners can make even relatively simple organizational decisions difficult. Without clear lines of authority, especially as they relate to uniform standards for quality, customer service, and performance management, the managing partner absorbs all risk without a defined path for mitigation. This is a particular challenge to for-profits where some portion of total revenue may be tied to the achievement of targets.

The degree to which One Stop partners organize around common goals with a clear management structure directly impacts the capacity to generate revenue. Still, disparity in compensation schemes, work hours, and organizational cultures cannot all be resolved by institutionalizing the managing partner's authority. Generally, because risks and rewards tied to revenue cannot be flowed down to all partner organizations, the managing partner, whose earnings and profits are tied to performance, bears the brunt of responsibility. Failure or success regarding target achievement simply does not drive performance with the same degree of urgency as when targets are tied to revenues. The policy challenge here is daunting. How, or *should*, policy align the interests of all participating partner organizations so that risks and rewards are genuinely shared? How, for example, can incentive and bonus programs, generally an integral component of successful for-profit approaches, be equitably implemented across multiple organizations providing integrated services under one roof? How does a One Stop offer extended hours (often a contractual requirement) when labor contracts and organizational policies make it difficult, if not impossible, to meet this obligation?

While current policy has created challenges for both WIBs and comprehensive One Stops, failure to preserve broad representation at the State, local, and One Stop levels would be regressive and counter-productive. Clarification of the One Stop managing entity's role as managing partner with authority to make decisions regarding performance, quality, and corrective actions would facilitate the development of a more seamless service delivery model as was envisioned by the WIA legislation. Additionally, identification of best practices regarding effective governance and management models, including targeted technical assistance for new managing partners, will help generalize more successful approaches.

Program Sequence

Rules that leave the provider with little discretionary authority undermine creative engagement of both jobseekers and employers. The WIA requirement of sequencing movement through the "core, intensive, individual training account" tiers frustrates all parties who may clearly discern a path that leads to a desired outcome. Policies that offer providers greater discretionary authority regarding the level of service appropriate to an individual customer will improve the pace of re-employment by allowing direct service providers to route customers in a timely fashion to the best resource(s) available. Limitations on discretion and the corresponding development of prescriptive procedure is designed to ensure that services are fairly, equitably, and consistently provided. If the provider and the customer's interests are aligned, allowing greater levels of discretion supports seeking the most direct route to most favorable outcome. Limitations on discretion in favor of highly prescribed program sequences are generally most critical when a provider is able to achieve some benefit by acting in a manner not in accord with the customer's best interest. As long as both party's interests are aligned, allowing greater discretionary authority encourages providers to redesign cumbersome business processes that offer improved customer service, capture greater efficiencies and cost savings.

Performance Measures

Performance measures are designed to reflect whether a jobseeker has succeeded in upgrading skills, securing employment, retaining a job, and progressing satisfactorily along a determined career track. Many critics have described these performance measures as burdensome, arguing they should be streamlined. From the perspective of managing operations, timely availability of performance data is most critical. Major gaps between a key event and the provider's ability to track that event have dramatic performance implications. The stakes are still greater where provider payments are tied to measures which are reported months after the fact. When a provider is unable to obtain information they require to manage the achievement of successful outcomes tied to payment, the program is fatally flawed. Re-examining the model to determine where the fix must be applied needs to be embodied in policy- change the performance measure, how the data element is captured, who captures the data element, or the means for reporting critical data.

An equally formidable challenge has to do with vaguely defined rules that apply to program enrollment. Provider performance is measured against those whom the provider enters into the performance denominator. It is well-known that the "gatekeeper" role played by the One Stop managing entity is essential to meeting targets. Program designs which keep those with more complex needs out of the denominator undermine the overall purpose of the One Stop. On the other hand, an employer driven approach is clearly at odds with enrolling ill-equipped jobseekers. Performance measures need to reflect enrollment in distinct service-level tracks. Additionally, policies should establish standardized assessment tools designed to help determine the most appropriate service-level track for jobseeker customers. The Australian Department of Education, Employment, and Workplace Relations (DEWR), which administers similar employment programs, has devised such a tool and deployed it nationwide. The level of service is

determined by an independently administered assessment. Providers are paid according to a payment schedule designed to reflect the level of effort. An appeals process allows the provider to present evidence to demonstrate that the initial level of service determination may have been inadequate.
The adoption of a similar approach would support both better service and offer more useful data. It also may help better define the role of certain upfront services as distinct and independent from post-enrollment activities.

Conclusion

The foundational principles upon which the workforce delivery system in the United States is built are sound, but large-scale efforts to operationalize them are flawed. There is a significant disconnect between the aim of creating a business-driven One Stop system and a procurement process and service delivery model which creates an environment in which it is difficult to be even marginally successful. Subtle prejudices are played out in ways that inhibit a more successful integration of mandated and voluntary partners. Fiscal rules and practices frustrate participation by for-profits and perpetuate the problems created by a limited pool of qualified bidders. Governance, management, and operations, in general, are heavily prescriptive and at odds with the common practice adopted by most government agencies over the past decade of paying for performance and tying profit to target achievements. Having said that, pay for performance schemes should be linked to outcomes only where operators have the flexibility to refine existing approaches as they go and change out those that simply do not work in favor of more effective practices. Performance measures need to take account of the entire population requiring service and provide meaningful information for continuous improvement.

While there exists a number of challenges to keeping the private sector engaged in ongoing One Stop center management procurements, a major redesign would be significantly less productive than relatively minor changes to existing program rules. The Workforce Investment Act of 1998 included language requiring a comprehensive evaluation by 2005. Regrettably, this did not happen. The result is that relatively little information exists on what employment and training services really work and for whom. Reauthorization of WIA, therefore, should proceed with some degree of caution. Proposals that call for dismantling or radically redesigning the workforce delivery system without such an evaluation appear reckless and conflict with the current administration's promotion of evidence-based practices. Rather, continuous improvement practices (a concept that lies at the heart of WIA approaches) suggest the opportunity still exists to review the evidence we have, to highlight best (and worst) practices, to create additional forums such as this conference for the exchange of ideas, and to make an intentional effort to re-engage the business community at all levels through easily improved policies derived from the right principles that support the evolution of a stronger workforce delivery system.