

Michael J. Christiansen, and Donald Huber, pursuant to sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344, to obtain injunctive relief and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants into waters of the United States without complying with the terms and conditions of a permit issued under section 404 of the Clean Water Act, 33 U.S.C. 1344, and for failing to comply with a compliance order regarding the permit violations. The proposed Consent Decree resolves these allegations by requiring Defendant DMH Partners North, LLC to perform mitigation and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Assistant United States Attorney Ann M. Bildtsen, United States Attorney's Office, 600 United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415 and refer to *United States v. DMH Partners North, LLC, et al.*, DJ #90-5-1-1-1904.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Minnesota, 300 South Fourth Street, Minneapolis, MN 55415. In addition, the proposed Consent Decree may be examined electronically at [http://www.justice.gov/enrd/Consent\\_Decrees.html](http://www.justice.gov/enrd/Consent_Decrees.html).

**Cherie L. Rogers,**

*Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.*

[FR Doc. 2013-00284 Filed 1-9-13; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Methodology for Selecting Job Corps Centers for Closure; Comments Request

**AGENCY:** Office of Job Corps, Employment and Training Administration, Labor.

**SUMMARY:** The Department of Labor requests public comment on the methodology for selecting Job Corps centers for closure, outlined in this notice.

**DATES:** Comments are requested February 11, 2013.

**ADDRESSES:** Address comments to the National Director, Office of Job Corps, U.S. Department of Labor, 200 Constitution Avenue NW., Room N4459, Washington, DC 20210. Please note mail

may be delayed because of security procedures.

#### FOR FURTHER INFORMATION CONTACT:

National Director, Office of Job Corps, ETA, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-4459, Washington, DC 20210; Telephone (202) 693-3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD).

*Background:* Established in 1964, the Job Corps program is a national program administered by the Department of Labor (DOL or we), Employment and Training Administration (ETA). It is the nation's largest federally-funded, primarily residential training program for at-risk youth, ages 16-24. With 125 centers in 48 states, Puerto Rico, and the District of Columbia, Job Corps provides economically disadvantaged youth with the academic, career technical, and employability skills to enter the workforce, enroll in post-secondary education, or enlist in the military. Serving approximately 60,000 participants each year, Job Corps emphasizes the attainment of academic credentials, including a high school diploma (HSD) or general educational development (GED), and career technical training credentials, including industry-recognized credentials, state licensures, and pre-apprenticeship credentials.

Large and small businesses, nonprofit organizations, and Native American tribes manage and operate 97 of the Job Corps centers through contractual agreements with the Department of Labor following competitive procurement, while 28 centers are operated through an interagency agreement with the U.S. Department of Agriculture (USDA). Job Corps also contracts with firms and companies, usually small businesses, through competitive procurements, to recruit new students for the program and place graduates and former enrollees into meaningful jobs, education programs, the military, or apprenticeship training. Job Corps also receives annual Construction, Rehabilitation, and Acquisition (CRA) funding to build, maintain, expand, or upgrade new and existing facilities at all 125 centers.

#### Pursuing Program Reform

In Fiscal Year (FY) 2011, we began an ambitious reform agenda aimed at improving the performance of Job Corps centers nationwide. This included setting higher standards for all centers,

identifying historically underperforming centers, and implementing appropriate corrective action.

As part of this reform process, Job Corps continues to undergo a rigorous and comprehensive review of its operations and management to identify changes that can be made to improve the program's effectiveness and efficiency. Job Corps has implemented a National Certification Initiative to strengthen and align existing career technical training programs to technical standards established by industries or trade organizations, which enables students to graduate with industry-recognized credentials. These credentials provide for long-term attachment to the workforce and economic mobility as Job Corps graduates advance through their careers. They also ensure that program graduates have gained the skills and knowledge necessary to compete in today's workforce. Job Corps has also expanded academic opportunities for students with the introduction of evening educational programs, as well as community college partnerships and expanded high school diploma options. Current budgetary constraints make it even more critical to ensure the program's resources are deployed in a way that maximizes results to students and taxpayers.

Job Corps has intensified and reinforced federal oversight of operations and performance outcomes for all centers. Federal program managers supervise centers through monitoring visits, desk audits, and Contractor Performance Assessment Reports during each contractor's performance period. Job Corps regional offices also conduct the Regional Office Center Assessments. Through these oversight activities, Job Corps federal program managers develop Performance Improvement Plans (PIPs) for entire centers that need improvement, or Corrective Action Plans (CAPs) to address specific aspects of operations, such as career technical training. Both PIPs and CAPs are used for continued monitoring and implemented for USDA and contract centers respectively. These oversight actions have strengthened collaboration between Job Corps, contractors, and the USDA to rectify deficiencies, and improve policy compliance and performance outcomes.

While the majority of centers meet program standards, some centers are chronically low-performing and have remained in the bottom cohort of center performance rankings for multiple years despite extensive DOL interventions including corrective measures. Given the resource intensiveness of the Job

Corps model, the Administration has determined that it can no longer continue to expend resources on the small number of chronically low-performing centers that have repeatedly failed to provide participants with high-quality Job Corps programming.

For the purpose of identifying chronically low-performing centers for potential closure, we define "chronically low-performing centers" as those that consistently lagged in overall performance over the past five consecutive program years, covering Program Year 2007 through Program Year 2011, without evidence of recent performance improvement.

We are committed to selecting centers for closure in a manner that is transparent and objective, and are seeking comments on the proposed methodology outlined in this notice in order to inform all interested parties about the selection process. Job Corps' published performance metrics will be the primary consideration in the selection of centers for closure. Provided below is an overview of the program's Outcome Measurement System (OMS) and our planned methodology for using the OMS and, if applicable, other factors we propose to use to select centers for closure.

Upon review of this notice, interested parties may provide DOL with feedback on the methodology, including the outlined criteria and assigned weights. We will consider this feedback as we finalize the methodology for selecting centers for closure.

### Job Corps' Outcome Measurement System

The Workforce Investment Act of 1998 (WIA), the authorizing legislation for the Job Corps program, contains core indicators of performance for recruitment, education and placement rates, wages, and long-term outcomes of graduates after initial placement.

To meet the WIA performance requirements, Job Corps uses a comprehensive performance management system to assess program effectiveness across multiple components of services and programs offered to Job Corps students. This detailed system evaluates the performance of Job Corps center operators, outreach and admissions contractors, and career transition services providers, based on the outcomes of program participants. The performance management system serves three primary purposes:

- To meet accountability requirements by establishing performance measures (also known as metrics) and reporting student outcomes

for the Job Corps system by the WIA legislation, Common Performance Measures for federal youth job training programs, and DOL priorities;

- To assess centers' and agencies' accomplishments in implementing program initiatives and serving students effectively; and

- To implement a management tool that provides useful and relevant feedback on performance, while encouraging continuous program improvement.

Job Corps' performance management system for centers is comprised of an OMS Center Report Card, designed to reflect center-level results in participants' academic and career technical training achievement, as well as post-program placement and earnings. Job Corps centers are rated on their performance of student outcomes in three areas: on-center measures, short-term career transition services, and long-term career transition services. On-center measures include student attainments for General Education Development (GEDs) or High School Diplomas (HSDs), career technical training, literacy and numeracy gains, and industry-recognized credentials. Short-term career transition services include placement in jobs related to career technical training, graduate placement rate, graduate hourly wage, and former enrollee placement rate. Lastly, long-term career transition services include graduate weekly earnings at 6 months, and placement retention at 6 months and 12 months after initial placement.

Each OMS Report Card consists of four basic components: results-oriented measures, goals, weights, and ratings, including an overall rating, described as follows:

- Performance *measures* are the categories of outcomes under evaluation, such as an HSD or GED attainment. Measures reflect the program priorities and objectives important to Job Corps' mission.

- Performance *goals* are quantitative benchmarks for each measure that are set to establish a desired level of performance.

- Relative *weights* are assigned to performance measures to indicate areas of emphasis among responsibilities for serving students. Each weight is expressed as a percentage with the sum of all weights in a Report Card totaling 100%.

- The *rating* is the performance (actual percent of goal achieved) on each measure, expressed as a percentage. The *overall rating* is the aggregate of all individual performance

measure ratings expressed as a percentage.

The overall OMS ratings serve as the basis for ranking Job Corps center performance, and are used in performance-based service contracting to incentivize performance excellence. More information about Job Corps' OMS and center performance results can be found at the Job Corps public Web site: [http://www.jobcorps.gov/AboutJobCorps/performance\\_planning.aspx](http://www.jobcorps.gov/AboutJobCorps/performance_planning.aspx).

In short, Job Corps' performance management system measures effectiveness in executing the program's mission and supporting the Secretary of Labor's vision of "Good Jobs for Everyone." By doing so, this system meets the legislative intent of the WIA and other reporting requirements.

### Factors for Selecting Job Corps Centers for Closure

Provided below is a description of the proposed factors to select a small number of Job Corps centers for closure. On August 14, 2012, the Office of Job Corps hosted a national Job Corps listening session via webinar with the Job Corps community to solicit input on these factors. More than 100 Job Corps stakeholders participated in the session and provided criteria-related suggestions in the areas of performance, geographic location, local economic impact, contract budgets, facilities, and the time period for evaluating chronic low performance.

In addition, we are working collaboratively with the USDA to address the unique qualities of the USDA's operation of 28 Civilian Conservation Centers.

Based on the feedback it has received and its own analysis, we identified the following primary criteria against which all centers will be measured:

- Five-year performance level, including considerations for patterns of demonstrable and recent performance improvement;

- On-Board Strength (OBS);
- Facility condition and physical plant; and

- Continued availability of Job Corps services in each state, the District of Columbia, and Puerto Rico.

While the factors above are the primary ones proposed for determining center closures, additional consideration may be given to Job Corps' continuing commitment to diversity.

#### 1. Five-Year Performance Levels

Given that the Job Corps' performance metrics provide a comprehensive assessment of center performance, allow

for comparison of performance among centers, and supply enough data for decision makers to determine trends over time, the OMS will be the guiding factor in selecting centers for closure. We believe this approach is the most equitable and transparent for both stakeholders and the public, as these published performance metrics have driven center performance and programmatic decisions for over a decade.

We plan to evaluate each center's overall OMS ratings for the last five full program years, Program Years 2007–2011, to derive a weighted five-year average rating. The five-year average for ratings will be critical to guiding the evaluation. We selected the five-year performance period for the following reasons:

- Uses the most recent performance data available;
- Allows enough time to analyze impact of any Performance Improvement Plans (PIPs);
- Provides a stable basis for comparison, since the measurement system had no significant changes over the past five years; and
- Relies on published outcomes that have been transparent to the system over time.

This factor will be assigned a weight of 70%. The original OMS ratings for each of the five program years will be normalized at one hundred percent (100%) so as to be consistent with the OBS and Facility Condition Index (FCI) data. Normalized means the data has been placed on a 100 point scale.

We also plan to weight recent performance more heavily than previous years, to acknowledge cases in which there might be recent improvement trends. To reflect this, weights will be applied to each of the five program years' performance data, with recent years receiving more weight to incorporate performance improvement. The year-by-year weighted structure is as follows:

- PY 2011—30%
- PY 2010—25%
- PY 2009—20%
- PY 2008—15%
- PY 2007—10%
- Total: 100%

The calculation formula for five-year performance is as follows:

$$\text{Center's five-year weighted average rating} \times 70\% = \text{Overall Performance Rating}$$

### 2. On-Board Strength

*On Board Strength* is an efficiency rating that demonstrates the extent to which a center operates at full capacity. Job Corps already uses this measure to assess center performance. The measure is reported as a percentage, calculated by the actual slot capacity divided by the planned slot capacity (daily number of students that a center is authorized to serve). The national goal for OBS is 100% in order to operate the program at full capacity, maximize program resources, and fulfill the mission of serving the underserved student population. Centers operating below 100% OBS create cost inefficiencies, such as underutilization of center staff, equipment, and facilities.

We plan to evaluate each center's end of Program Year OBS rating for the last five full program years, specifically Program Years 2007–2011, to derive a five-year average rating.

This factor will be assigned a weight of 20%. The original OBS ratings for each of the five program years will be normalized at one hundred percent (100%) so as to be consistent with the OMS and FCI data.

As with the performance criterion, weights will be applied to each of the five program years' OBS data, with recent years receiving more weight to incorporate performance improvement. The year-by-year weighted structure is as follows:

- PY 2011—30%
- PY 2010—25%
- PY 2009—20%
- PY 2008—15%
- PY 2007—10%
- Total: 100%

The calculation formula for five-year OBS is as follows:

$$\text{Center's five-year weighted average cumulative OBS} \times 20\% = \text{Overall OBS Rating}$$

### 3. Facility Condition and Physical Plant

In a program that operates 24 hours per day, seven days per week and is primarily residential, facility conditions are important. The quality of Job Corps' residential and learning facilities has a direct impact on students' experiences and, ultimately, their educational achievement. Each Job Corps center is a fully operational complex with academic and career technical training facilities, dining and recreation buildings, administrative offices, and

residence halls (with the exception of solely non-residential facilities), including the surrounding owned or leased property on which the center is located.

Job Corps receives an annual appropriation for Construction, Rehabilitation, and Acquisition (CRA) that is used to improve facility conditions at Job Corps centers. To properly manage the program's facility and condition needs, Job Corps uses an FCI and gives each center an annual rating. This rating, which is expressed as a percentage, accounts for the value of a center's construction, rehabilitation, and repair backlog, as compared to the replacement value of the center's facilities. Facility condition affects the outcomes of the Job Corps program because "Good Jobs for Everyone" begins with facilities that contribute to a safe learning environment.

Given funding constraints, we must make strategic decisions about the continued allocation of its CRA resources. For this factor, we will evaluate each center's Program Year 2011 Facility Condition Index, which takes into account all construction projects completed over the same five-year period as the other two factors, specifically Program Years 2007–2011.

This factor will be assigned a weight of 10%.

As with the performance and OBS criteria, weights will be applied to each of the five program years' FCI data, with recent years receiving more weight to incorporate improvement. The year-by-year weighted structure is as follows:

- PY 2011—30%
- PY 2010—25%
- PY 2009—20%
- PY 2008—15%
- PY 2007—10%
- Total: 100%

The calculation formula for FCI is as follows:

$$\text{Center's five-year weighted average FCI rating} \times 10\% = \text{Overall FCI Rating}$$

### Ranking Centers for Closure

The analysis of the factors above will yield an overall rating for each center. This will allow us to create a list that ranks all centers, with the lowest performing centers receiving the lowest ratings. The calculation formula is as follows:

Overall Performance Rating (70%).	+	Overall OBS Rating (20%) ...	+	Overall FCI Rating (10%) .....	=	Overall Rating for Primary Selection Factors.
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#### 4. Job Corps Services Available in Each State, Puerto Rico, and the District of Columbia

In addition to the above three primary criteria with quantifiable data, DOL will also ensure that Job Corps services remain available in each state, Puerto Rico, and the District of Columbia. We believe it is in the best interests of Job Corps' target population to ensure that potential students have access to Job Corps in the geographic areas in which they reside. We intend to maintain at least one Job Corps center in each state, the Commonwealth of Puerto Rico, and the District of Columbia to ensure that training is aligned with local and regional labor market opportunities. The centers of Ottumwa, Milwaukee, Pinellas, Denison, Gulfport and New Orleans are not included for consideration. In each case, there is insufficient data to evaluate each center's performance over the full five-year period.

#### Additional Considerations

Subordinate to the primary selection criteria listed above, additional consideration may be given to Job Corps' commitment to diversity. Job Corps currently serves a diverse student population and remains committed to serving disadvantaged youth from all backgrounds. We may consider whether a center's closure would have a disproportionate impact on a certain subpopulation of students in making a final closure decision.

#### Timeline for Selecting Job Corps Centers for Closure

We will begin to implement the selection and closure process by Program Year 2013, following the legislatively mandated activities pertaining to center closure required by the WIA and as stipulated in the DOL/USDA Interagency Agreement. We estimate that it will take a minimum of six months to execute closure of a center. If a contract center is selected for closure, we anticipate that the mechanism for closing the contract center will be through a decision not to exercise its option year or to renew a center operator's contract. If a USDA center is selected for closure, we will continue working collaboratively with the USDA to ensure adherence to the existing Interagency Agreement.

#### The Process for Closing Job Corps Centers, as Outlined in the Workforce Investment Act

In addition to the steps outlined above, we will ensure that it follows the legislatively-mandated process for closing a Job Corps center, in Section

159 of the WIA, which includes the following:

- The proposed decision to close the center is announced in advance to the general public through publication in the **Federal Register** or other appropriate means;
- A reasonable comment period, not to exceed 30 days, is established for interested individuals to submit written comments to the Secretary; and
- The Member of Congress who represents the district in which such center is located is notified within a reasonable period of time in advance of any final decision to close the center.

Dated: Signed in Washington, DC, on this 3rd day of January, 2013.

**Jane Oates,**

*Assistant Secretary for the Employment and Training Administration.*

[FR Doc. 2013-00337 Filed 1-9-13; 8:45 am]

**BILLING CODE 4510-FR-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-81,811]

#### **Esselte Corporation, Including On-Site Leased Workers From Onin Staffing, Resource Manufacturing, and Express Employment Professionals, Morristown, TN; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 27, 2012, applicable to workers and former workers of Esselte Corporation, including on-site leased workers from Onin Staffing, Morristown, Tennessee. The Department's Notice of determination was published in the **Federal Register** on August 9, 2012 (77 FR 47673). Workers were engaged in employment related to the production of envelope and legal pads.

At the request of a duly authorized representative, the Department reviewed the certification for workers of the subject firm.

The company reports that workers leased from Resource Manufacturing and Express Employment Professionals were employed on-site at the Morristown, Tennessee location of Esselte Corporation, Morristown, Tennessee. The Department has determined that these workers were sufficiently under the control of the

subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Resource Manufacturing and Express Employment Professionals working on-site at the Morristown, Tennessee location of Esselte Corporation.

The amended notice applicable to TA-W-81,811 is hereby issued as follows:

All workers of Esselte Corporation, including on-site leased workers from Onin Staffing, Resource Manufacturing, and Express Employment Professionals, Morristown, Tennessee, who became totally or partially separated from employment on or after July 17, 2011, through July 27, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, on this 28th day of December, 2012.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2013-00341 Filed 1-9-13; 8:45 am]

**BILLING CODE 4510-FN-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-81,718]

#### **Daimler Buses North America, Inc., a Subsidiary of Daimler North America Corp, Including On-Site Leased Workers From Noramtec, First Choice Staffing, Staff Works, and Mr. Santo Lamarco From Wurth Revcar Fasteners, Inc., Oriskany, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 28, 2012, applicable to workers of Daimler Buses North America, Inc. a subsidiary of Daimler North America Corp., including leased workers from Noramtec, First Choice Staffing, and Staff Works, Oriskany, New York. The workers are engaged in activities related to the production of transit buses. The notice was published in the **Federal Register** on October 12, 2012 (77 FR 62260).