



September 3, 2015

The National Association of Development Organizations (NADO) appreciates the opportunity to submit comments on the U.S. Department of Labor's July 6, 2015 Notice of Proposed Rulemaking (NPRM), [RIN] 1235-AA11, to amend Fair Labor Standards Act (FLSA) regulations implementing the exemption from minimum wage and overtime pay for executive, administrative, professional, outside sales, and computer employees (known as the "white collar" or "EAP" exemptions). The NPRM proposes increasing the minimum weekly salary for EAP exemptions to the 40th percentile of earning for full-time salaried workers nationwide, based on Bureau of Labor Statistics data. In addition, the NPRM proposes automatically adjusting the minimum salary levels on an annual basis to \$50,400, more than double the current minimum salary level for exempt employees.

While NADO appreciates the administration's principle that FLSA regulations need to be modernized and streamlined, we have heard from our association membership serious concerns about the significant impact of the proposed changes included in the NPRM.

Founded in 1967, NADO promotes regional solutions, partnerships, and strategies that enhance the long-term economic competitiveness and quality of life across America's local communities. The association's core membership serves the nation's 520 regional planning and development organizations – known locally as councils of governments, economic development districts, local development districts, and regional councils – who provide valuable professional and technical assistance to over 2,500 counties and 15,000 small towns and cities.

Impact on lower-wage regions and small employers

Most NADO members are located in rural areas and small towns outside of major metropolitan areas. In these areas, wages are substantially lower than the national average. By setting one uniform minimum salary level for the nation, the NPRM disregards regional differences in the level of income needed to achieve a middle-class standard of living.

In addition, regional planning and development organizations generally have a small number of employees. At most, the number of employees reaches 100, but the majority of NADO members employ less than 50 staff members. Regional planning and development organizations depend on professional employees exempt from overtime rules to implement their programs and a disproportionate percentage of staff would be impacted by the change in the overtime pay threshold. Our members have estimated that between 60 and 70 percent of their employees would be subject to overtime pay under the proposed new regulations.

NPRM incompatibility with planning work

Regional planning and development organizations are tasked with working with local communities to develop and implement regional priorities. Much of this work includes evening events such as town council, county commission, and public engagement meetings. In addition, because the communities that regional planning and development organizations represent are spread out over large rural areas, significant travel by

staff is required to implement programs. The proposed salary threshold for overtime pay is incompatible with the evening and after hours work that is required by staff of regional planning and development organizations.

In addition, many NADO members operate human services program, such as Area Agency on Aging services for elderly populations. The nature of a case manager's duties for these long-term elderly care programs requires more than 40 hours a week of work as they communicate and meet with clients and caregivers after work and on weekends.

New overtime threshold would require reduction in services

Faced with the prospect of increasing salaries to bring employees up to a level of pay above the proposed minimum salary threshold of \$50,400, most regional planning and development organizations find the option untenable. One member estimates that out of a \$14 million annual budget, \$476,000 in salary increases would be required to meet the proposed threshold.

Regional planning and development organizations' operating budgets come from federal, state, and local grants and dues from member cities, towns, and counties. With these funding sources, limited administrative resources are available to bring employees up to a level of pay above the minimum salary threshold. If the proposed change in the overtime salary threshold is enacted, NADO members would have to immediately begin reducing the number of hours salaried employees can work and increase monitoring of break and lunch times. Faced with the need to limit employee hours to manage their organization's budget, regional planning and development organizations would be faced with the necessity of jettisoning time consuming projects that cannot be accomplished within a 40-hour work week. A reduction in services is not an alternative that our members relish; however, there may be few other options available. Passing on additional costs to local governments through dues increases is considered a last resort.

Again, we appreciate the opportunity to comment on the U.S. Department of Labor's July 6, 2015 Notice of Proposed Rulemaking (NPRM), [RIN] 1235-AA11, to amend Fair Labor Standards Act (FLSA) regulations implementing the exemption from minimum wage and overtime pay for EAP exceptions. We hope that in your final rule you will take in consideration the concerns of regional planning and development organizations by setting set a lower salary level applicable to all employers or setting the the minimum salary level at a lower percentile of the national average for small employers and employers in low-wage areas.

Sincerely,



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