

BILL OWENS
Governor

JEFFREY M. WELLS
Executive Director

THOMAS J. LOOFF
Director



DEPARTMENT OF LABOR AND EMPLOYMENT
WORKFORCE DEVELOPMENT PROGRAMS

Two Park Central, Suite 400
1515 Arapahoe Street
Denver, Colorado 80202-2117

*Copy sent to
Ann C.*

June 23, 2003

Joseph C. Juarez
Regional Administrator
Employment and Training Administration
525 Griffin Street, Room 317
Dallas, TX 75202

Dear Mr. Juarez:

The State of Colorado requests an extension to the following waiver granted under the Workforce Investment Act (WIA) Youth Program during PY2002.

The waiver was granted for the period of January 1, 2002 through June 30, 2003. Colorado's request was to waive the WIA section 123 requirement to competitively select providers of three youth program elements and offer these as part of the design framework of youth services. The waiver applies to the selection of providers for the youth elements under the following sections:

- Section 129(c)(2)(D) and 20CFR664.410(A)(4) paid and unpaid work experiences, including internships and job shadowing,
- Section 129(c)(G) and 20CFR664.410(a)(7) supportive services, and
- Section 20 CFR 664.410(a)(9) follow-up services for not less than 12 months after the completion of participation.

As an outcome of the waiver, Colorado agreed to exceed its negotiated performance goals in the areas of older and younger youth retention rates. For PY02, recent data illustrates Colorado exceeded the 6 month retention rate for younger youth and is meeting the 80% level for the older youth retention rate.

Local workforce centers would like to continue offering these program elements as part of the framework of services to youth. They are committed to strengthening their youth programs by providing a comprehensive approach of services rather than single-service programming.

Colorado requests an extension of this waiver through June 2004.

If you have further questions please contact Karyn Baylon at 303.318.8809.

Sincerely,

Thomas J. Loeff
Thomas J. Loeff, Director
Workforce Development Programs

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



JUN 21 2002

The Honorable Bill Owens
Governor of Colorado
136 State Capitol
Denver, Colorado 80203-1792

Dear Governor Owens:

It is with pleasure that I respond to your request for waivers of various statutory and regulatory requirements under the Workforce Investment Act (WIA) pursuant to the Secretary's authority to waive certain requirements of WIA Title I, subtitles B and E and sections 8-10 of the Wagner-Peyser Act. This authority is granted to the Secretary by section 189(i)(4)(A) of the Workforce Investment Act (WIA or the Act), and in the implementing regulations at 20 CFR 661.420.

These waivers grant states flexibility in program design for seamless program delivery and improved customer service, in exchange for accountability and agreed-to programmatic outcomes. We hope that these changes will assist your state in meeting its workforce needs and improving programmatic outcomes statewide and at the local level.

We appreciate the state's cooperation in working with our Dallas Regional and Denver Affiliate Offices to provide supplemental information on the waiver submissions, so that an informed decision could be made on the state's requests. After discussions with state staff and review of the additional information provided by the Colorado Department of Labor and Employment with regard to the initial requests for waivers, we are pleased to be able to respond positively, in part, to your requests. The following is the disposition for each of the state's waiver submissions.

Waiver 1: Waive the competitive selection requirements for providers of youth services for work experience, follow-up and supportive service elements (Sec. 129(c)(2)).

The state's request to waive the WIA section 123 requirement to competitively select providers of the three youth program elements requested by the state (copy enclosed) is granted. The waiver applies to the selection of providers for the youth elements under the following sections: section 129(c)(2)(D) and 20 CFR 664.410(A)(4) paid and unpaid work experience, including internships and job shadowing, as appropriate; section 129(c)(2)(E) and 20 CFR 664.410(a)(7) supportive services; and section 129(c)(2)(I) and 20 CFR 664.410(a)(9) follow-up services for not less than 12 months after the completion



A Proud Member of America's Workforce Network

of participation, as appropriate. This waiver does not apply to the selection of providers of summer youth employment opportunities (section 129(c)(2)(C)), which is governed by 20 CFR 664.610. Also, this waiver does not cover the remaining elements at WIA section 129(c)(2), and Colorado must continue to competitively select providers of these services, in accordance with section 123.

In order to provide the state with the opportunity to implement and move toward achieving its goals under this waiver at this point in the current Program Year (PY), the state's request is being granted pursuant to the Secretary's continuing waiver authority for an initial period of 18 months. The duration of this waiver will be January 1, 2002, through June 30, 2003.

Waiver 2: Request to permit the inclusion of local One-Stop Centers as potential youth service providers.

The state is requesting that all local workforce centers (One-Stop Centers) be given the opportunity to apply for and be considered for inclusion on the youth service provider list, and receive youth program funds. However, some of Colorado's workforce centers are administered by units of local government, which are WIA local area subrecipients for those funds. These entities are required to follow government-wide procurement and subgrant requirements found at 29 CFR Sections 97.36 and 97.37, generally referred to as "The Common Rule." This administrative structure may produce situations of organizational conflicts of interest with regard to procurement and contracts for potential youth service providers where the local government administered local workforce centers are involved.

Although we understand the state's desire to increase service provider choices for youth at the local level, we are denying the request. The request cites the Unified Administrative Requirements applicable to units of local governments, which are the WIA grant sub-recipients. These administrative requirements are not under the Secretary's purview for WIA waiver authority. The decision to deny your request is also being made because the state has not demonstrated that a burden exists in providing services to youth. Furthermore, clarification about the separation of the procurement process from the service component and specific circumstances under which local grant recipients may conduct services themselves was provided in the Training and Employment Guidance Letter 9-00 issued January 23, 2001. The state may resubmit another waiver request for consideration that addresses the issues outlined above. We will gladly provide assistance as needed.

The granted Waiver 1 above is incorporated by reference into the state's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and also constitutes a modification of Colorado's approved five-year strategic plan. A letter is being sent to your WIA state liaison, which supplements this notification letter and spells out the terms and conditions that apply to the granted waivers. A copy of each letter should be filed with the state's WIA Grant Agreement and the state's approved five-year plan, as appropriate.

We look forward to enabling you to achieve better workforce development outcomes and improve the lives of many Colorado residents. We are prepared to entertain other state and local-level waiver requests that Colorado may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,


Emily Stover DeRocco

Enclosures

STATE OF COLORADO'S REQUEST FOR WAIVERS WIA YOUTH PROGRAM

Colorado is requesting two waivers:

- I. An exemption from the competition requirement for the follow-up, work experience, and support services elements and proposing to include these elements in the design framework of youth services.
- II. That all local workforce centers be given the opportunity to apply for and be considered for inclusion on the youth service provider list. Some of Colorado's workforce centers are units of local government which are WIA local area subrecipients, and thereby required to follow contract procurement and sub grant requirements found at 29 CFR Section 97.36 and 97.37.

Some of these workforce centers have not had high response rates to their procurement attempts for youth services. This is a hindrance to providing youth with choice as well as providing Workforce Development Boards' flexibility in the development and design of comprehensive youth services.

Background

Colorado has 64 counties that are divided into nine workforce regions. Within the nine regions are 18 Workforce Centers providing employment and training services throughout Colorado. One of the nine regions is designated for rural Colorado. Of the remaining eight regions, four constitute the Denver metropolitan area. The challenge in providing quality employment and training services to customers throughout the state is how to implement the regulations under WIA in a way that allows for the significant variance in customer needs (urban/suburban vs. rural), local resources, and financial limitations. One-stop regions in Colorado have come together to identify an area currently curtailing that quality of service, and are requesting a waiver of two aspects of competitive procurement of youth services.

Understanding the background of workforce development in Colorado will help frame the waiver request and intended outcomes. Colorado is unique in that local governments have always played a strong role in the structure and delivery of employment and training and welfare programs. As an example, county governments deliver Health and Human Services programs at the local level and 20% of welfare costs are funded with county dollars. The Comprehensive Employment and Training Act (CETA) of 1973, the local government in Colorado, provided "decentralized" employment and training services to targeted individuals. The Act allowed local governments to design programs and services, which best met local needs of customers.

In 1978, the State of Colorado created the "Colorado State-Local Partnership in Human Services" which brought together local service providers under CETA, Job Service of the Colorado Department of Labor and Employment, and the Work Incentive Program (WIN) under the Colorado Department of Labor and Employment and the federal Department of Health and Human Services. This partnership initiative promoted intergovernmental cooperation among federal, state, and local governments and was designed as a reform initiative to increase the local elected officials and local employment and training service provider's involvement in the planning and delivery of services.

Since the early days of employment and training programs, through the One-Stop Career Center initiative, and now the Workforce Investment Act, Colorado has built a system of employment and training programs designed, delivered, and governed at the local level. The driving philosophy is and has always been that local government and local providers know what is needed and what works best for their citizens and customers. To this end, under the One-Stop Career Center initiative, local areas developed provider lists to use as a basis for purchasing needed services for customers, and in some cases, developed in-house services

to meet the needs of customers because services were limited or not available in the local area.

Transitioning from JTPA to WIA, Colorado One-Stop centers released requests for proposals (RFP) to secure youth services. Most regions in Colorado experienced a low response rate to the RFP. In some cases, there were no responses at all; resulting in either small service provider lists (sometimes actually reducing the number of offerings from those under JTPA), and some elements were not bid upon at all, therefore defaulting to the one-stop centers to provide those services.

In the transition to WIA, one major area that has been problematic for regions has been the contracting of youth elements as required by the Act. Although the intent of WIA is to foster innovation and expand customer choice, the requirement to contract out youth services has actually diminished the choices of youth and created an unnecessary burden on the youth customers and the local delivery systems.

(1) Statutory or Regulatory Requirements

Section 129(c)(2) lists the ten youth program elements. The waiver requested - Part I applies to the youth elements under section 129(c)(2)(D) paid and unpaid work experience, including internships and job shadowing, as appropriate; section 129(c)(2)(G) supportive services; and section 129(c)(2)(I) follow-up services for not less than 12 months after the completion of participation, as appropriate.

Section 117(d)(2)(B), Section 117(h)(4)(B)(i) and 123 of the Act reference the requirement that eligible providers of youth activities be selected by awarding grants or contracts on a competitive basis. This relates to the waiver request - Part II.

Colorado is requesting an exemption to the competition requirement of support services, unpaid work experience and follow-up services and to have those services categorized as part of the design framework. In addition, Colorado is requesting an exemption to the exclusion of workforce centers as eligible service providers to ensure the coordination and provision of youth activities.

(2) Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers.

Colorado has implemented WIA under federal law with accompanying state legislation that did not include any additional limitations or requirements. Local workforce regions have generally adopted state policies with regards to youth procurement without additional restrictions or limitations. Since no additional state or local limitations have been imposed, there were no barriers to remove.

(3) Goals of waiver and expected programmatic outcomes.

Part I. Colorado is requesting an exemption from the competition requirement for the follow-up, work experience, and support services elements and proposing to include these elements in the design framework of youth services.

Part II. Colorado is requesting that all local workforce centers be given the opportunity to apply for and be considered for inclusion on the youth service provider list.

Goals for Waiver Part I:

The goal for allowing local workforce center case managers to provide follow-up and support services are to improve the continuity of services and provide a more efficient delivery system. The goal of locally offering work experience is greater effectiveness, to provide a more efficient delivery system and ensure continuity of services.

The case management relationship with participants is based upon a thorough knowledge of the youth, their employment plan, expected outcomes, and barriers. The WIA youth program operates on the premise of long-term participation during which time a strong relationship is likely to be formed. When the youth terminates from the program and enters into the follow-up period, the requirement that follow-up services be provided by a different organization secured through a competitive process is likely to render services less effective. The established relationship with staff will not exist with a new organization contracted to do follow-up. A youth is less likely to take advantage of available services that lead to more stability and longer retention. By allowing the local workforce case manager to continue contact with the participant during the follow-up period, there will be greater effectiveness in quickly identifying the needs of the youth and offering assistance. A new third party conducting the follow-up would have to gather additional information, establish a relationship of trust and communication, and, therefore, be more time intensive and costly than building upon an established relationship between the youth and the case manager.

Likewise, by allowing local workforce center case managers to provide support services, the continuity of service stays in tact. When a youth has to be referred to a third party to secure his/her support service, not only is that an additional party to whom the youth must expose confidential information, but it is a less efficient way to expedite the issuance of a voucher, purchase order, bus pass or other method for disbursing assistance. Due to the relatively small youth allocations for Colorado regions, support services are generally small and used to provide help for transportation, clothing, eyeglasses, tools, physicals, and other small purchases.

Colorado would like to continue with a delivery system that allows case managers at local workforce centers to identify and issue payment authorizations for support services. Those specific services may be a sole source purchase, such as in the case of bus passes, or based upon vendors who are willing to do business through purchase orders. Where there is a choice of vendors, multiple bids are gathered. Again, there are relatively small budgets for support services and the issuance and use is limited. This youth practice would be consistent with the way adult services are provided through the one-stop centers. By creating a separate service provider for these youth elements, it would create a fragmented delivery system.

To address the request for work experience to be offered by the local workforce center rather than securing the element through the competitive process, the goal is also to ensure an efficient, cost-effective delivery system. Most workforce centers throughout Colorado have selected to provide summer employment opportunities internally rather than contracting out the service. This element is very labor intensive with the development of work sites, building relationships with work site supervisors, training staff to monitor sites, and setting up agreements, and processes for payment of youth. With this system capacity developed, it is less cost effective to then contract for a third party agency to go back into the community and develop sites, establish relationships, set up workers' compensation for non-paid employees, and set up agreements. If one-stop centers operating summer youth activities are allowed, to deliver year-round work experience it will result in a more timely delivery of services and stronger ties with work experience host agencies. It is a duplication of effort to offer the same, or very similar, services by two or more organizations in the same community.

Performance Goals for Part I:

The goals for youth enrolled in the program are continuity of services and greater efficiency of service delivery.

It is the position of Colorado workforce centers that allowing work experience, follow-up and support services to be provided as a part of the design framework by the workforce centers, the outcomes will continue to exceed those negotiated between the State and USDOL.

The younger youth retention negotiated level is 44% and achieved at 61.1%. The negotiated level of retention rate for older youth is 71% and achieved at 77.8%. The PY2000 goals have been achieved through a process of existing partnerships that respond to youth needs.

Upon approval of waiver request, retention rates for younger youth will be 63% and for older youth 81%.

Goals for Waiver Part II:

The goal of the waiver request to allow workforce centers to be included on the youth provider list is to increase customer choice and maximize the resources of the integrated one stop system.

In Colorado, many of the local workforce centers have built highly effective learning centers offering alternative education, tutoring, dropout prevention, and secondary school instruction. These resources were developed under the direction of the One-Stop initiative and will go unused if local workforce centers are not allowed to be included on the youth service provider list.

It is not anticipated, nor requested, that local workforce centers be the exclusive provider of those services, merely that they be allowed as an option to students needing academic services.

Many school districts refer expelled students to the one-stop learning centers since state and local restrictions prohibit expelled students from being on school district campuses. In cases such as these, WIA students would not be able to be referred back to local districts for educational services.

Other such services have been developed locally and by inclusion on the youth service provider list, will provide the youth greater choice in developing an effective plan.

It is not expected that local workforce centers will offer even most of the elements but allowing centers to compete will result in the greatest flexibility for developing an effective youth strategy.

Performance Goals for Part II:

Colorado is requesting that all local workforce centers have the opportunity to apply for and be considered for inclusion on the youth provider list.

The performance outcomes for this area will be focused on the credential/employment rate for older youth and the skill attainment rate for younger youth.

The negotiated level for the credential/employment rate for older youth is 40% and achieved at 48.8%. The negotiated level of the skill attainment rate for younger youth is 60% and achieved at 83.4%. Upon approval of this waiver request, the goal for older youth will be a 51% credential/employment rate and the goal for the skill attainment rate for younger youth will be 85%.

Upon exit from the youth program, the workforce centers applying the waiver will use a customer survey to:

Measure the level of satisfaction of services received by youth enrolled in the program.

Measure that the continuity of services, e.g. follow-up, for youth was not disrupted resulting in long-term retention in the program.

Ensure that 56% of younger youth enrolled attained a diploma or GED. The state achieved a 54.3% diploma/GED rate for PY2000.

Assurance

The State assures that workforce centers applying the waiver will be required to have an arms-length relationship with the entity procuring the providers. The State will also require that the workforce centers applying the waiver, document the selection process for youth services.

Currently some workforce regions have a workable list of youth service providers. Where such a list is extensive, youth and their case managers can choose what they need from those vendors or the workforce center. Youth simply will have a wider choice of services to meet their objectives and will not be restricted in any manner to a workforce delivery system.

(4) Describes the individuals affected by the waiver

The individuals affected by this waiver will be older and younger youth customers, local workforce centers, and community based organizations.

Youth customers will be greatly affected by who offers services. It is expected that this waiver will result in greater choice for youth.

Workforce centers will be affected in that they will be allowed to play a greater role in youth services directly and continue to make available established resources.

Community based organizations will may also feel the effects of this waiver. In some parts of the state the procurement process will continue as before, where most or all of the services are contracted out to CBOs. In other parts of the state CBOs will be able to build services that fill a void or improve quality and efficiency over existing providers. This competitive process can then work to improve the overall system, as intended by WIA.

Those affected by this waiver will have to meet the challenge of improved quality and efficiency to stay competitive in the youth service market.

(5) Describe the process used to provide oversight.

The Colorado Department of Labor and Employment is the State administrative entity for the Workforce Investment Act. As evidence of the States' willingness to meet the needs of local

workforce centers by designing systems that work efficiently, Colorado is seeking a waiver to the requirement to competitively procure certain elements of the youth program and is also requesting that workforce centers be allowed to compete for inclusion on the service provider list. The Colorado Department of Labor and Employment will monitor the implementation and impact of the waivers, through a combination of reporting from the local level, state oversight, and evaluation. Performance measures from the workforce regions will be evaluated quarterly, to determine the impact of the waiver approval. Utilizing the State Operation Network meetings, the State will gather information through discussion on the progress of the implementation of the waivers, performance data, and obstacles encountered, if any. To ensure fiscal integrity, there will be both adequate oversight and complete, consistent reporting. The State will review applicable policies and procedures and modify them accordingly.

Consistent with the general waiver request, the State is adhering to publication requirements to insure the broadest participation possible, including informing appropriate partners and interested parties, such as labor, community based organizations, local workforce boards and the State workforce youth council.

A public comment period was provided from December 31, 2001 through January 4, 2002.