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STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
830 PUNCHBOWL STREET  
HONOLULU, HAWAII, 96813  
November 20, 2001

Armando Quiroz  
Regional Administrator  
U.S. Department of Labor  
Employment and Training Administration  
P.O. Box 192767  
San Francisco, CA 94119-3767

Dear Mr. Quiroz:

Enclosed is Hawaii's Waiver Request for 2001-2004. If there are questions, please have your staff contact Dorothy Bremner, staff to the Workforce Development Council, or Carol Kanayama, Program Officer for the Workforce Development Division. Their contact numbers are:

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Thank you for your consideration of this request.

Very truly yours,

Leonard Agor  
Director

Enclosure

## STATE OF HAWAII

### Workforce Investment Act Waiver Requests For Program Years 2001-2004

#### Overview

#### Principles

Among Hawaii's principles for the Workforce Investment Act are:

- Maintenance and support of a sizeable list of eligible training providers so that customers will truly have a choice of trainers; and
- Development of a seamless, integrated workforce development system with timely response to customers' and employers' needs.

#### Two Waiver Requests

To support the two principles above, Hawaii seeks waivers of two sections of the Workforce Investment Act of 1998 (WIA).

1. Waive the requirement for performance information on all individuals (both non-WIA and WIA) participating in a provider's program. Specifically, waive Section 122(d)(1)(A)(i).
2. Waive the need for the State agency to double-check the review by the local agencies. Specifically, waive parts of Section 122(e)(2) and (3).

We see the waivers as an interim measure, and we are working with our Congressional delegation to repeal these portions of WIA.

#### Section 122(d)(1)(A)(i)

#### Waiver Request

Waive the requirement for performance information on all individuals (both non-WIA and WIA) participating in a provider's program. Specifically, waive Section 122(d)(1)(A)(i).

#### The Problem

Hawaii's barriers to providing an adequate number of training programs for true consumer choice as intended by WIA Section 122 center on the performance data required for all (both non-WIA and WIA) participants. Specifically:

1. Training providers often have little or no incentive for continuing as training providers. Some may receive few, if any, Individual Training Account (ITA) referrals. For others, data collection is so time-consuming and costly that they prefer to spend their energies cultivating other customers.
2. Consumer choice is severely limited when the non-credit arms of many community colleges are unwilling to seek subsequent eligibility in the face of the data collection burden. This will be especially problematical, because those non-credit programs are often the most appropriate ones for WIA customers. For example, Maui Community College's non-credit arm has been especially active and supportive of WIA, but it cannot and will not afford to collect data for those courses where there are no ITA referrals.
3. By relying on the Unemployment Insurance wage records, the performance data lacks significant meaning and is "old" by the time it is assembled. The attached chart depicts Hawaii's Unemployment Insurance data lag.
4. And, it has to be said, this performance data is not that useful to WIA customers in choosing a training program. It would require a well-trained person to interpret the performance data and understand the data definitions and limits. "Choice" suggests freedom to define what is important to you; e.g., did my friend recommend that training provider? Does the training schedule fit in with my work hours? Has my favorite instructor just been hired by training provider X? Yes, that means the freedom to choose the school that begins with "A" because it shortens the search, or to choose the one with the most attractive model advertising the school's wares.

These barriers are basic flaws in the Act and stand in the way of consumer choice as well as every state's immediate operational need to have a workable Subsequent Eligibility policy in place as of January 1, 2002.

### **What Hawaii has Done to Address the Barriers**

There are no state or local statutory or regulatory barriers to consumer choice.

Prior to the enactment of WIA, Hawaii already had in place an excellent system of comprehensive information to enhance the consumer's ability to choose suitable training. We call this system "Career Kokua" (Career Help). In implementing WIA, we have spent a portion of the 15% funds and considerable time to modify Career Kokua, using it as the platform for building the Consumer Report Card System. Using some 15% WIA funds, Career Kokua has also assisted the training providers to produce the performance data. Career Kokua matches provider-supplied seed data against the Unemployment Insurance wage records.

Hawaii follows a one-year cycle for the application period, receipt of seed data from the training providers, performance calculation, and determination of eligibility. Because we

have attempted to display the performance data from comparable time periods for all training providers, there can never be available data at the end of one year for initially eligible providers. We therefore extended the initial eligibility period for all providers to two years, as allowed by WIA Reg. 663.530 when sufficient performance data cannot be collected in a shorter time.

### **Expected Programmatic Impact of Waiver**

Hawaii expects to maintain consumer choice by retaining the currently eligible training programs. Hawaii also expects to improve the State's WIA performance in the credential measure so that it meets the negotiated level.

### **Expected Impact on Individuals**

WIA customers will benefit, because they will have a wider choice of training programs than they would if training providers voluntarily dropped off the list.

### **Monitoring the Waiver's Implementation**

*Nov. 2001* Start active recruitment, to retain and add providers.

*Nov. 2001* Troubleshoot methods for counting credentials. Disseminate.

*By Jan. 2002* The state work group on Eligible Training Providers is currently amending Hawaii's Manual on Training Provider Procedures. We will lighten the burden for Subsequent Eligibility by adopting some practices from other states.<sup>1</sup>

1. We will consider reducing the number of programs to track by defining a training program as being at least 41-61 hours. We previously had no minimum number of hours to qualify as a training program. This step would decrease the number of programs for which data must be collected, making it more attractive for training providers to seek eligibility.
2. We will waive performance standards when there are fewer than five WIA participants in a program. Although it will allow us to keep programs that don't currently have WIA participants, without the waiver, it does not solve the overwhelming data collection problem that all providers face.
3. We will reduce the number of performance measures that a provider has to meet in order to qualify for Subsequent Eligibility. More

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<sup>1</sup> We learned about some of these strategies from the Preliminary Draft *TA Guide: Addressing Subsequent Eligibility Implementation Issues*, by the WIA Readiness ETPL Work Group, October 23, 2001. Although the draft is not released, these practices appear to be in effect in some states.

providers would "pass" this less stringent test. This also allows us to remove the retention rate of WIA participants, a measure that is not a reasonable reflection on the quality of training because it is diluted by too many factors other than the training provider. We had not realized that WIA does not require us to evaluate all seven measures for which data must be collected.

4. We are refining the Consumer Report Card System program to be sure that it removes from the denominator those students who were already employed and/or are continuing in school and therefore do not seek employment.

*June-Nov. 2002* The work group will consider the benefits and costs to collect supplemental data, to determine the feasibility of providing better information to consumers so they may effectively assess the quality of training by each provider.

**Comments Process - See page 6**

### Section 122(e)(2) and (3)

#### **Waiver Request**

Waive the need for the State agency to double-check the review by the local agencies. Specifically, at Section 122(e)(2), waive "If the agency determines, within 30 days after the date of the submission, that the provider does not meet the performance levels described in subsection (c)(6) for the program (where applicable), the agency may remove the provider from the list for the program. The agency may not remove from the list an agency submitting an application under subsection (b)(1)." Also, at Section 122 (e)(3), waive "and is not removed by the designated State agency under paragraph (2),".

#### **The Problem**

The Local Workforce Investment Boards solicit, review, and approve training providers' applications for WIA eligibility. Then, the information is transmitted to the State DLIR for it to determine if the training provider meets the performance levels. From our experience, the state's review is duplicative and only serves to delay the approval process. Quality control can be achieved through other methods. Again, we see this as a flaw in the Act.

## **What Hawaii has Done to Address the Barrier**

Hawaii has opted to support consumer protection by proactively assisting the State Department of Education (DOE) to get trade, vocational, and technical schools licensed. This state requirement has languished for a number of years, but the active partnership of the State Department of Labor and Industrial Relations (DLIR) and the local Workforce Investment Boards with the State DOE will assure that instructors are qualified, the curriculum is appropriate, the school is insured, and tuition would be reimbursed if the school shut down. When the State DOE licensing process is caught up, DLIR and the local Workforce Investment Boards will be able to re-examine the need for formal contracts for quality control, thus speeding up the eligibility process.

The Oahu Workforce Investment Board obtained a waiver from its county procurement code so it can use a sole source procurement. (being checked)

### **Expected Programmatic Impact of Waiver**

Hawaii expects to improve the State's WIA performance in the credential measure so that it meets the negotiated level.

### **Expected Impact on Individuals**

WIA customers will benefit, because the consumer protection from previously unlicensed programs will be in place. In addition, the time to qualify an eligible training program will be shortened.

### **Monitoring the Waiver's Implementation**

*Nov 2001-  
Jan. 2002* During the next solicitation for both initial and subsequent eligibility, the local Workforce Investment Boards will publicize the State DOE license requirement, include the State DOE license application with the Eligible Training Provider solicitation, and communicate to the State DOE the names of those schools that have not obtained their required licenses.

*Start  
Nov. 2001* The State Department of Labor & Industrial Relations has budgeted funds and will verify the accuracy of the information about training providers on the State list. DLIR will have more resources for this verification when it is no longer responsible for double-checking the work of the local Workforce Investment Boards.

## **Comments Process (for both Waiver Requests)**

"Comment" is an understatement. Support for these waiver requests has grown into a roar.

The statewide work group on Eligible Training Providers, which consists of representatives of community colleges, private training providers, counties, and the State Department of Labor and Industrial Relations (DLIR), started its second review of the Eligible Training Providers procedures in August 2001. The work group plans to complete its work by mid-December 2001.

The work group decided to make its concerns about implementing Section 122 of WIA known to Region VI representatives of the U.S. Department of Labor (USDOL) at the USDOL Focus Group held on October 4, 2001 in Honolulu. Business and labor representatives from the local Workforce Investment Boards and the Workforce Development Council fully participated in the focus group, whose recommendations included:

- Revamp the eligible training provider system.
- Allow local areas to substitute their own criteria to select eligible training providers.
- Eliminate the state's review of decisions by the local areas.
- Seek waivers in order to simplify the eligible training providers procedure.

Encouraged by the "can do" attitude of the USDOL representatives, the work group decided to seek these waivers.

In early October, several local Workforce Investment Boards, the State Department of Labor and Industrial Relations (DLIR), and the State Workforce Development Council wrote Hawaii's Congressional delegation, asking for amendments to WIA that, among other things, would allow simpler eligible training providers procedures. The Workforce Development Council, at its October 13, 2001 meeting, expressed support for these efforts to re-think strategy in the face of changed and needier post-September 11<sup>th</sup> times. Of course, the makeup of the local Workforce Investment Boards and the State Workforce Development Council is broadly representative of the community and includes active business and labor members.