May 15, 2002

Mr. Joseph C. Juarez
Regional Administrator, United States Department of Labor
Employment and Training Administration, Region IV
525 Griffin Street, Room 317
Dallas, Texas 75202

Dear Mr. Juarez:

Job Service North Dakota, the administrative entity for the Workforce Investment Act of 1998 in North Dakota, respectfully submits the enclosed waiver request relating to the Workforce Investment Act's requirement for the subsequent eligibility determination process for eligible providers of training services. Specifically, Job Service North Dakota would like to request a waiver from the Workforce Investment Act Section 122(c)(5) and 20 CFR 663.530, both dealing with the time limit for initial eligibility, and the requirement for subsequent eligibility for eligible providers of training services.

North Dakota, a geographically large state with a small population, has many excellent post-secondary public and private schools that offer a broad range of credentialed training programs. North Dakota is also extremely fortunate to have 850 of these high quality programs listed on Job Service North Dakota's Eligible Training Provider List (ETPL). However, with a small population and a large number of post-secondary school programs to choose from, many of the programs during the first program year had an insufficient number of program completers to adequately utilize performance data for making informed decisions. This lack of sufficient data for performance measuring is the underlying reason why North Dakota is requesting a waiver.

Job Service North Dakota has worked hard to implement the principle of consumer choice by putting together a list of 59 Eligible Training Providers and 850 training programs. In order to preserve the list, the submitted waiver request is an attempt to achieve a balance between fairness and the requirements of the Workforce Investment Act pertaining to subsequent eligibility. Job Service North Dakota is committed to informed consumer choice. However, at this time we believe there is a need for more time to accumulate additional program year completion data before a consumer can truly make an informed decision based on the performance data. Despite the possibility of having more time, there is the extreme likelihood that many programs may not achieve an optimal population base upon which performance measures will lead to an informed decision.

Please consider the waiver as a positive and effective approach to solving a problem inherent with North Dakota's small population. The extra time granted in the waiver will have a significant impact on Job Service North Dakota's ability to fully implement the Workforce Investment Act's concept of consumer choice and program accountability.

Should you or your staff have questions about the waiver, please feel free to contact Shawn Surface at (701) 328-1976. Thank you for time and consideration.

Sincerely,

Maren L. Daley
WIA Liaison

Enclosure

STATE OF NORTH DAKOTA
WAIVER REQUEST TO THE SECRETARY OF LABOR
WORKFORCE INVESTMENT ACT; SUBSEQUENT ELIGIBILITY OF TRAINING PROVIDERS

Job Service North Dakota, the administrative entity for the Workforce Investment Act of 1998 (WIA) in North Dakota, is requesting a waiver to postpone subsequent eligibility determination until January 1, 2004. The reason for the request is to allow North Dakota more time to gather sufficient and relevant performance data. In addition, we are also hoping to avoid losing some of our Eligible Training Providers who might decide against reapplying based on the low volume of WIA participant data for the first year of the program. North Dakota believes the reporting of the performance data would not provide customers with fair and accurate information on the existing programs. North Dakota fully supports the Workforce Investment Act objective of consumer choice and accountability. This waiver will allow North Dakota at least two (2) more program years to accumulate additional data that would enhance the consumer's choice and keep the list of Eligible Training Providers intact, both of which are key components to the successful implementation of the Workforce Investment Act.

Source of Waiver Authority

Workforce Investment Act Section 189 - Administrative Provisions.

WIA Section 189(i)(4)(B) – Requests. – A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that –

(i) identifies the statutory or regulatory requirements that are requested to be waived, and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;
(i) describes the actions that the State or local area, as appropriate, has undertaken to remove the State or local statutory or regulatory barriers;
(i) describes the goals of the waiver, and the expected programmatic outcomes if the request is granted;
(i) describes the individuals impacted by the waiver; and
(i) describes the process used to monitor the progress in implementing such a waiver; and the process by which notice, and an opportunity to comment on such request has been provided to the local board.

Statutory Regulations to be Waived

North Dakota requests a waiver of Section 122(c)(5) of the Workforce Investment Act of 1998 and 20 CFR 663.530, both dealing with the time limit for initial eligibility, and the requirement for subsequent eligibility. This waiver requests an extension of time to January 1, 2004, for the requirement of subsequent eligibility.

State and Local Statutory Barriers

At this time there are no state or local regulatory barriers.

Goals of the Waiver and Expected Programmatic Outcomes

The above statutory regulations requiring the subsequent eligibility process, and dissemination of performance information poses a challenge for North Dakota. For the first program year, July 1, 2000, to June 30, 2001, North Dakota had 199 WIA completers participating in 80 different programs. Within the population of the 199 WIA completers, 156 can be classified as successful completions.

In North Dakota's situation, our analysis of the WIA participant performance data is based on an average of less than 3 WIA completers per program. In actuality, 3 programs had 8-12 WIA completers, and 77 programs had 7 or fewer WIA completers. Determining performance measures based on these low population bases has a significant impact on the results of performance measures. In North Dakota's situation, our ability to report useful and relevant data for the consumer is limited. Arbitrarily eliminating programs based on a low volume of data, in a geographically large and sparsely populated state like North Dakota, would adversely impact the accessibility of training programs within the state.

An early analysis of the "all individual" completers population reveals many of the same problems associated with the WIA population. Currently, eighteen public, private, and tribal colleges in North Dakota administer 712 training programs; the majority of which have less than 10 "all individual" completers over a program year. From the population of 199 WIA training program completers, 172 participated in 63 programs offered by North Dakota's institutions of higher education. Preliminary information available from the North Dakota University System shows that only 32 of the 63 programs had more than 10 "all individual" completers. Based on the low number of individuals completing the programs, the ability to fairly and equitably determine the performance of these programs becomes difficult to judge

In addition to program completion rates biased with low customer participation, employment and wage rates are also affected. This is due to the large out migration of North Dakotan residents who achieve some form of college education. Currently, North Dakota loses between 37.7 and 42.5[1] percent of all residents who receive a post-secondary education to out migration.

Based on our current analysis, North Dakota lacks a sufficient number of enrollments for both the "all individuals" and "WIA individuals" to allow for well-informed decision-making. A waiver from requiring performance data in the subsequent eligibility process until sufficient enrollment data is available would allow unbiased decision making on

[1] North Dakota University System, *Follow-up Report on 1999 Placements of 1998 North Dakota University System Graduates, November 2000.*

part of the consumer; offer continued access to similar programs in different geographic areas; and allow time to accumulate and evaluate additional performance data.

The goals of this waiver are:

1.) More time to gather and analyze performance data for use by the consumer, and to determine the reasonableness of our current performance benchmarks.

1.) To maximize the number of programs from which the consumer can choose, and to allow for an unbiased decision making process.

1.) More time to work cooperatively with the Eligible Training Providers in developing cost effective procedures and methods for reporting performance data.

1.) To retain current Eligible Training Providers who may not reapply due to perceiving subsequent eligibility reporting requirements to be burdensome and costly based on the low number of WIA participants in their programs.

Description of Individuals Impacted by the Waiver

Those impacted by the waiver will include individuals eligible for training, training providers, the North Dakota Workforce Development Council, and Job Service North Dakota.

Description of Process to Monitor Progress

The process used during the time period allowed by the waiver request will consist of the continued collection of data, the review of that data, and a continued cooperation with all eligible training providers. Discussions have already taken place with the North Dakota University System (NDUS), the agency with oversight of our largest block of training programs, concerning the waiver request. Their response to the proposed waiver request and its purpose was received with a favorable response.

As the process continues, North Dakota intends to have similar contacts and discussions with the remaining training providers on submission of performance data. At this time, the only data available is from North Dakota's institutions of higher education. The next step is to contact and provide the remaining training providers with as much technical assistance as possible in order to obtain the required data.

The additional time allowed by the waiver will allow North Dakota to review its policies and procedures relating to eligibility. One idea to be considered is the establishment of a policy waiving performance standards for programs that have less than ten participants in a program. Presenting performance on programs with less than ten enrollments may lead to unreliable and misleading conclusions about a program.

As more information becomes available, it may be necessary to review our established

levels for performance standards. Currently, one participant can have a significant impact on the performance outcome. At this time, the ability to determine if our performance standards are fair and reasonable is hindered by the lack of sufficient data.

The establishment of a threshold for participant enrollment and review of the current performance standards will be offered to the North Dakota Workforce Development Council for consideration. Also, the North Dakota Workforce Development Council will be kept updated on all progress being made on the accumulation of data during the waiver period.

At the end of the waiver request, the goal is to have accumulated and analyzed a sufficient amount of data that will allow the consumer to make a well-informed decision. The ultimate goal of this process is to have accumulated sufficient data by December 1, 2003 to determine subsequent eligibility, and make the information available to the consumer on January 1, 2004.

Description of Process for Notice and Public Comment

Job Service North Dakota will establish a 30 day comment period by posting the waiver request to the website hosted by Job Service North Dakota. In addition, the waiver request will be made directly available to the ND Workforce Development Council members, current eligible training providers, participating one-stop partners, states that have entered into reciprocal agreements with North Dakota, and other identified stakeholders.

Alfonso fuentes - BSC Waiver Comment.doc

Job Service North Dakota's Proposed Waiver Request - Message (Plain Text)

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Sent: Fri 5/3/2002 11:23 AM

From: Donna Thigpen [THIGPEN@gwmail.nodak.edu]
To: ssurface@state.nd.us
Cc:
Subject: Job Service North Dakota's Proposed Waiver Request

I have reviewed Job Service North Dakota's proposed waiver request.

I believe Job Service North Dakota's approach to accumulate program data from two or more progra years will certainly result in more reliable data and enable us to make better decisions regarding the success North Dakota has had regarding the requirements of the Workforce Investmen Act of 1998.

Donna S. Thigpen
President of Bismarck State College
and
Member of the North Dakota Workforce Development Council