



SEP 30 2003

Ms. Maria Del Carmen Fuentes
Administrator
Right to Employment Administration
P.O. Box 364452
San Juan, Puerto Rico 00936-4452

Dear Ms. Del Carmen Fuentes:

This is in reference to my December 6, 2002, letter to Governor Calderon (copy enclosed) concerning the Commonwealth of Puerto Rico's 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 WIA section 189(i)(4)(A), and in the implementing regulations at 20 CFR 661.420.

My previous letter indicated that we were deferring a decision on the Commonwealth's request to waive the WIA provisions pertaining to the 10 percent limit on local-level administrative costs at WIA section 128(b)(4) and 20 CFR 667.210(a)(2) pending further review. This is to inform you that we have completed our review and to provide our determination and disposition on that request.

Waiver: Waive the 10 percent local-level administrative cost limitation at WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2) to permit a statewide increase to 15 percent

The Commonwealth requested a waiver, to apply to all local workforce investment areas, to increase the 10 percent local administrative cost limitation set forth in WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2) to 15 percent statewide. The Commonwealth's request to waive the local administrative cost limitation is not approved for the reasons set forth below.

While other states have applied for similar waivers, we have not approved any statewide waivers of the local administrative cost limitation because we do not believe that the limitation generally impedes the ability of local areas to implement their local plans. The definition of administrative costs, described in 20 CFR 667.220, was developed through extensive consultation with our federal, state and local partners and after extensive field-testing. We have consistently believed that this provision presented a reasonable and easy-to-use definition, and expected that experience would show that by applying this definition, local areas have been able



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to provide high-quality services while still meeting the 10 percent administrative cost limitation.

In Program Year 1999 we entertained a small number of requests to waive the 10 percent limit. This was early in the implementation of the WIA program, and it was not clear at that time how the definition of administrative costs would hold up as we moved to full implementation. Thus, we adopted a policy of permitting a limited waiver of the administrative cost limit in special circumstances.

This issue was addressed for four states, not by waiving the 10 percent limit, but rather by providing the Governor authority to apply a waiver of the 10 percent administrative cost limitation to those local areas that demonstrated a compelling need for the waiver. This limited authority was granted on condition that the Governors develop standards or criteria for determining whether special circumstances existed to indicate that a particular local workforce investment area would be unable to meet the 10 percent administrative cost limitation in the absence of the waiver. These standards or criteria were to be included as part of a state's five-year strategic plan, with an informational copy provided to the appropriate Regional Office. The states were directed to notify those offices of which local workforce investment areas received waivers under the granted waiver.

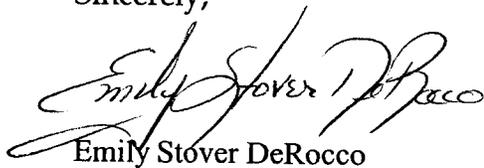
In reviewing this policy, we contacted the four states (i.e., Ohio, Indiana, Montana and Utah) that were granted authority to apply a waiver of the 10 percent limit to ascertain their experience under the granted waiver. These states, which were given the opportunity to waive the local area administration cost limitation in special circumstances, have reported that no local areas have needed relief from the 10 percent limit. To date, no waivers have been granted to waive the 10 percent local-level administrative cost limitation. Thus, we have found that experience has confirmed our belief that the regulatory provision presents a reasonable and easy-to-use definition, and expect that by applying this definition local areas will be able to provide high-quality services while still meeting the 10 percent administrative cost limitation.

In light of this experience, we have reassessed our policy of permitting a limited waiver of the administrative cost limit in special circumstances. Accordingly, the Commonwealth's request to waive the 10 percent limitation is not approved.

This decision notwithstanding, we look forward to continuing our partnership with you and to the achievement of better workforce investment outcomes and the improvement of the lives of many of the residents of Puerto Rico.

We are prepared to entertain other state and local-level waiver requests that the Commonwealth may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Stover DeRocco". The signature is fluid and cursive, with the first name "Emily" being the most prominent.

Emily Stover DeRocco

Enclosure



DEC - 6 2002

The Honorable Sila Calderon
Governor of Puerto Rico
San Juan, Puerto Rico 00902-0082

Dear Governor Calderon:

It is with pleasure that I respond to the Commonwealth of Puerto Rico's request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA), in accordance with 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 the Commonwealth in meeting its workforce needs and improving programmatic outcomes at the local level and statewide.

We have considered the Commonwealth's initial request along with the supplemental information provided by the Commonwealth and we are pleased to be able to respond positively to your requests. The following is the disposition of the Commonwealth's waiver submissions.

Waiver 1: Waive the title I 20% transfer authority at WIA section 133(b)(4)

The Commonwealth's waiver submission (copy enclosed) requests a general waiver of the 20% transfer authority provision at WIA section 133(b)(4) to provide more flexibility in the transferring of funds between WIA Title I-B funding streams for dislocated workers and adults in order to meet local needs. The Commonwealth's initial April 23, 2002, submission lacked sufficient information concerning programmatic outcomes, monitoring and evaluation plans and the comment process used for the waiver, consistent with 20 CFR 661.420(c). In response to the Regional Office's request for additional clarification on the areas of concern, the Commonwealth submitted supplemental information in letters dated May 16, 2002 and August 9, 2002 (copies enclosed). The Commonwealth indicates that although Puerto Rico has been experiencing a number of plant closings and layoffs, the WIA system's main clientele has been the adult population. The Commonwealth indicates that in order to maintain an accessible system that will provide appropriate services to the adult population, additional funding will be required and that could be accomplished by transferring funds allocated for dislocated workers. Accordingly, the Commonwealth is requesting a waiver to increase the transfer authority between the adult and dislocated funding streams from 20% to 40%.



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The Commonwealth's request, including the supplemental information, appears to meet the requirements for waiver requests at WIA section 189(i)(4)(B) and 20 CFR 661.420(c) and the standard for waiver of requirements relating to key reform principles, as specified at 20 CFR 661.410(c). Accordingly, the Commonwealth's request, to waive the 20% transfer at WIA section 133(b)(4) to permit an increase in the transfer authority between the adult and dislocated worker funding streams to a maximum of 40% at the local level is approved, consistent with the Commonwealth's waiver submissions.

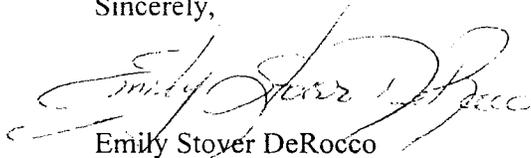
Waiver 2: Waive the 10% local-level administrative cost limitation at WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2) to permit a statewide increase to 15%

The Commonwealth is requesting a waiver, to apply to all local workforce investment areas, to increase the 10% local administrative cost limitation set forth in WIA section 128(b)(4)(A) and 20 CFR 667.210(a)(2) to 15% across the board. The Commonwealth's request to waive the 10% local administrative cost limitation is currently under consideration. Although we expect to complete this review shortly, we did not want to delay the decision to grant the Commonwealth's request on the transfer authority while we resolve the issues on the Commonwealth's second waiver request. Accordingly, we have approved a waiver to increase the transfer authority between the adult and dislocated worker funding streams to a maximum of 40% now, as outlined in Waiver 1 above, and we will address the local-level administrative cost limitation request under separate cover when a decision has been reached.

The above granted waiver is incorporated by reference into the Commonwealth's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and also constitutes a modification of the Commonwealth's approved five-year strategic plan. A copy of this letter should be filed with the Commonwealth's WIA Grant Agreement and the Commonwealth's approved five-year plan, as appropriate. The waiver is approved for the current period of WIA authorization, through Program Year 2003, ending June 30, 2004.

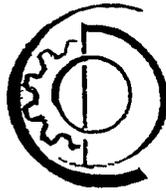
We look forward to continuing our partnership with you and to the achievement of better workforce investment outcomes and the improvement of the lives of many of the residents of Puerto Rico. We are prepared to entertain other state and local-level waiver requests that the Commonwealth may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,



Emily Stoyer DeRocco

Enclosures



Human Resources and Occupational Development Council

Xavier González Calderón
Executive Director

August 9, 2002

Marilyn K. Shea
Regional Administrator
U.S. Department of Labor
Employment and Training Administration
Region I - New York
201 Varick Street
New York, N.Y. 10014

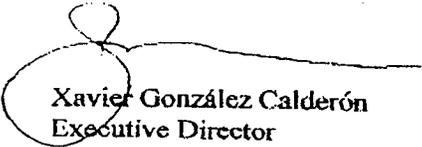
Dear Ms. Shea

The purpose of this letter is to follow up on the Commonwealth of Puerto Rico's request for waivers regarding two provisions under the Workforce Investment Act (WIA). Those provisions are the: 20% limitation to transfer program year allocation for dislocated workers employment and training activities and the 10% limitation of local administrative costs. Such waivers would allow the local areas to carry out effectively the administrative responsibility of the program and provide needed services to the adult population.

In our letter of May 16, 2002, the Human Resources and Occupational Development Council provided additional information on the waiver request. Nonetheless, it has been brought to our attention from your office that there are deficiencies in the request for waivers. Therefore, we are including information needed in order to respond to those concerns.

Please feel free to contact Joe Alvarez, Deputy Director, at (787) 754-5500, ext. 311 or joealvarez1@hotmail.com.

Cordially,



Xavier González Calderón
Executive Director

c. Ralph Muñiz, GOTR
Region I



ADDITIONAL INFORMATION FOR WAIVER REQUEST APPROVAL

- ❖ **Programmatic outcomes proposed for the 20% transfer limitation waiver.** It is necessary to point out that Puerto Rico's socioeconomic condition cannot be compared with the other States. With an unemployment rate of 13% and the majority of the islanders below the poverty level, the performance goals that the implementation of WIA requires in order to serve the youth, adults and dislocated workers population is a challenging one. Nonetheless, the population that WIA attracts the most is the adult population and with this in mind the island's workforce development system will continue to improve services in order to achieve our goals and objectives of preparing our clientele to enter the world of work. According to our data regarding participants served in the past two program years, the approval of this waiver will approximately increase the placement rate by 5% for that particular local area's adult program and increase the expenditure rate for both the adult program and dislocated workers programs because of the transfer of funds.
- ❖ **Blanket waivers.** There are 15 local areas in Puerto Rico and each of them will have to submit formally a request justifying their individual needs for the waiver. The Council, as the administrative entity, will evaluate each local area request utilizing information from the Monitoring, Fiscal and Liaison Units in order to ensure that the approval will be made on a case by case basis avoiding across the board waivers.
- ❖ **Process to request waivers.** Once the Commonwealth's request for waiver is approved, the State Workforce Investment Board (SWIB) will proceed to incorporate the waiver in the modified State WIA plan which they are in the process of doing. The Council will draft an administrative memorandum for the approval of the SWIB to establish procedures on specific details required from the local area to request from the state to transfer up to 40% of the fiscal years funds between dislocated workers and adult funding stream. The draft will be shared with the local areas and local boards for their comments and will highlight the need to request the waiver in consultation with the Chief Elected Official. Regarding the process, it will detail the impact of the waivers; consistency of the delivery of services and program design; and, demonstrated needs and accrued expenditure.
- ❖ **Assurance of appropriate services to dislocated workers.** Through the Liaison and Monitoring Units, the Council will provide oversight. The Liaison Unit is constantly keeping up-to-date information regarding the specific needs of the local areas and services being provided to the clientele. Additional support regarding core services to dislocated workers is provided by the State Rapid Response Team and Dislocated Worker and Employer Unit. In addition, when necessary the funds reserved by the Governor will be available to assist the local area in carrying out local employment and training activities.

Commonwealth of Puerto Rico



Department of Labor and Human Resources

Human Resources and Occupational Development CouncilXavier González Calderín
Executive Director

May 16, 2002

Ms. Marilyn K. Shea
Regional Administrator
Employment and Training Administration
U.S. Department of Labor
201 Varick Street - Room 755N
New York, N.Y. 10014-4811

Dear Ms. Shea:

On April 26, 2002 a meeting was held between personnel from your office and the Puerto Rico Department of Labor and Human Resource and Occupational Development Council (HRODC) pertaining to the waivers requested for two provisions under the Workforce Investment Act (WIA) of 1998. In such meeting we were asked to provide additional information on the following waivers:

- ✓ 20% limitation to transfer program year allocation for dislocated worker employment and training activities.
- ✓ 10% limitation of local administrative cost.

As indicated in our letter of April 17, 2002, the approval of these two (2) waivers would facilitate and expedite our goal to expend funds to provide needed services to our adult population and enhance the administrative structure in order to appropriately implement WIA in Puerto Rico. Regarding the 20% limitation waiver to transfer dislocated worker funds, many of our local areas have indicated that they will not have sufficient funds to serve their adult population. Even though Puerto Rico, in the last year and a half has been experiencing a numerous amount of plant closings and layoff; the WIA system main clientele have been the adult population. In order to maintain an accessible system that will provide appropriate services to the adult population, additional funding will be required and that could be accomplished by transferring dislocated workers allocated funds.

One of the most glaring differences between the Job Training Partnership Act and WIA was that one was geared to program and the other was system conceptualization and development. This led to changes in the definition of administrative cost category, thereby reducing the

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Ms. Marilyn K. Shuca
May 15, 2002
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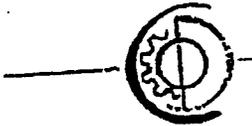
administrative cost limitation from 20 percent to 10 percent. For all of the local workforce areas in Puerto Rico, this particular change was very harsh and encumbering. The implementation of the one stop delivery system in the island entailed the establishment of an infrastructure with the capacity to provide comprehensive levels of services to youth, adults and dislocated workers. Administrative funds are required not only for the physical structure component but also for the installation and connection of high technological hardware and software program necessary to involve key partners into the workforce development system. In addition, each local area needed to recruit essential workforce development professionals to work in their one-stop centers and provide appropriate services to their clients, which also includes employers. This effort would need more administrative funds and the additional increase of 5 percent for a total of 15 percent would assure formidable and effective performance and expenditure rate.

Regarding the process to ensure meaningful public comments on the waivers requested, the Council holds regular meetings with the 15 local areas, which also includes the local boards, and details on the waivers is disseminated to all interested parties within this forum. Public notices in all the major newspaper regarding the waivers requested would be published if deemed necessary.

The Council as the administrative entity will oversee the process in monitoring the implementation of the waivers. Through the Liaison and Monitoring Unit, oversight and follow up will be provided on the waivers. The Liaison Unit is constantly in the field visiting the local areas in order to respond to specific needs that they may have and to provide technical assistance. The Monitoring Unit is responsible for evaluating the administrative, fiscal and operational systems implemented by the local areas to develop their workforce delivery network. The following constitute specific objectives of the Monitoring Unit concerning the waivers:

- Determine the impact of the waivers
- Evaluate that the delivery of services is consistent with statutory requirement and program design.
- Examine expenditure against cost categories and cost limitations
- Follow up corrective actions required to solve administrative and operational issues arising from monitoring review relating to the waivers.
- Provide technical assistance pertaining to the waivers.

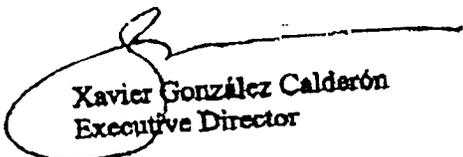
We hope that the additional information provided will be helpful in expediting the process for approving Puerto Rico's waiver request. This is important since we are in the second month of the last quarter of program year 2001 and would appreciate implementing the waivers as soon as possible.



Ms. Marilyn K. Shea
May 15, 2002
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Please feel free to call Mr. Joe Alvarez, Deputy Director of the Human Resources and Occupational Development Council, at (787) 754-5510, ext. 311, if you have any questions or concerns.

Sincerely,


Xavier González Calderón
Executive Director

c. Ralph Muñoz, GOTR
Region 1



COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF LABOR AND HUMAN RESOURCES

Víctor Rivera Hernández
Secretary

April 23, 2002

Ms. Marilyn K. Shea
Regional Administrator
Employment and Training Administration
U.S. Department of Labor
201 Varick Street
Room 755 N
New York, N.Y. 10014-4811

Dear Ms. Shea:

One of the seven key principles embodied in the Workforce Investment Act (WIA) of 1998 is to provide States and local areas with increased flexibility in order to implement an innovated and comprehensive workforce system customized to meet the needs of our labor market. With this in mind, on behalf of the Governor and as designated WIA grantee for the Commonwealth of Puerto Rico, I am formally requesting waivers regarding two provisions under WIA. The following are the provisions the Commonwealth is requesting authority to waive:

- 20% limitation to transfer program year allocation for dislocated worker employment and training activities.
- 10% limitation of local administrative costs.

The approval of these two (2) requested waivers would provide flexibility in our goal to expend funds to provide needed services to our adult population and therefore meet our labor market needs. Even though Puerto Rico has experience an incredible amount of plant closing and layoffs, the definition of a dislocated worker is such more delineated under WIA, therefore,

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Ms. Marilyn Shea
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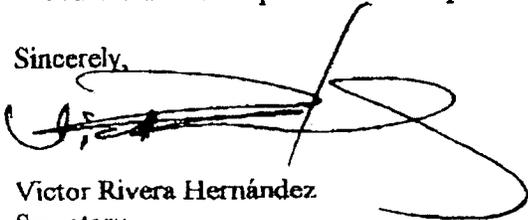
making it more difficult to recruit and provide services to them. We are requesting an additional 20% transfer of dislocated workers allocation for adult training and activity.

As for the 10% limitation for local areas administration cost, the waiver will be approve only for those local areas that have demonstrated good performance regarding expenditure of funds and/or on meeting their standards. We are requesting an additional 5% increase for local administration.

We look forward to hearing from you as soon as possible since we are in the last quarter of this program year and are developing strategies to confront under expenditure issues.

If you have any question or need additional information please feel free to call the Human Resources and Occupational Development Council at (787) 754-5510.

Sincerely,



Victor Rivera Hernández
Secretary
Department of Labor and Human Resources

c. Ralph Muñiz, GOTR
Region I