



AUG 19 2003

The Honorable Rick Perry  
Governor of Texas  
Austin, Texas 78711

Dear Governor Perry:

It is with pleasure that I respond to the State of Texas' request for a waiver 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 WIA section 189(i)(4)(A), and in the implementing regulations at 20 CFR 661.420.

We congratulate the state on the forward-looking plan contained in its waiver request. This is a new concept that offers promise for expanding flexibility for local boards to meet local area needs. We are interested in reviewing and learning from it, particularly with respect to WIA reauthorization. We appreciate the state's cooperation in working with our Dallas Regional Office to provide supplemental information on the waiver submission so that an informed decision could be made on the state's request. We also appreciate the state's patience while we considered the various policy implications. Accordingly, we are pleased to be able to respond positively to your request. The following is the disposition of the state's waiver submission.

***Waiver: Waive the provisions of WIA section 129 (Use of Funds for Youth Activities) and WIA section 134 (Use of Funds for Employment and Training Activities), as well as the WIA regulation at 20 CFR 663.145 regarding the use of WIA title I adult and dislocated workers formula funds.***

The state's waiver submission (copy enclosed) requests a waiver of the provisions of WIA section 129 on "Use of Funds for Youth Activities" and WIA section 134 on "Use of Funds for Employment and Training Activities," as well as the WIA regulation at 20 CFR 663.145 regarding the use of WIA title I adult and dislocated workers formula funds.



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Under the waiver, the state proposes to allow local workforce development boards in the state "to use funds allocated to them under sections 127, 128, 132 and 133 of WIA in the same manner and fashion as Statewide Activity funds are used under WIA sections 129 and 134 and 20 CFR 667.130. " The purpose of the request is to gain additional flexibility for boards in the use of WIA formula funds to meet the demands of local area employers, incumbent workers, job seekers and youth. Under the waiver, local boards with a need for additional flexibility would submit requests to the Governor, under guidelines established by the state, to use a portion of local area adult, dislocated and youth formula allocated funds to conduct any of the specified activities listed under required and allowable statewide activities. The state expects that the waiver will allow boards to respond more quickly and efficiently to immediate local needs.

After reviewing the state's initial waiver submission, we asked for additional information on implementation of the plan. In its supplemental submission of May 27, 2003, the state indicated that it is not seeking to waive its responsibilities related to state activities and rapid response activities. The state provided assurances that it will continue to perform rapid response and statewide activities, and that local boards could conduct such activities on a voluntary basis. According to the state, under the waiver, local boards will still be expected to meet required performance goals for their formula allocations. Additionally, the state committed to ensuring that specific performance outcomes for activities conducted under the waiver are established.

The supplemental submission also clarified activities to be undertaken by local boards if the waiver is granted. It was noted that such activities may include, but are not limited to: the development of exemplary programs; demonstrations for a variety of populations including youth, adult, and dislocated workers; innovative incumbent worker training and employer loan programs; aversion of layoff activities; and other such adult, dislocated worker, and youth activities as determined by the local areas via request to the state for approval.

The waiver is written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c) and appears to meet the standard for approval at 20 CFR 661.420(e). Based on the state's request, we are granting a waiver of the language that limits the authority to provide the activities identified in WIA sections 134(a)(1)(B) and 129(b) to the state. This waiver will permit local areas, on a voluntary basis, to request to use a portion of local area formula allocation funds for adults, dislocated workers and youth to provide certain identified services at WIA sections 129(b) and 134, elaborated below, within the local area under guidelines and procedures provided by the state. While local areas may use local area funds to conduct certain statewide activities under the waiver, these funds must be tracked by funding stream.

Based upon our understanding of the state's request as clarified by the supplemental submission, we are approving the following statewide activities as possible uses for a certain portion of local area formula allocation funds by local boards:

- 1) innovative incumbent worker training programs, including an employer loan program (WIA section 134 (a)(3)(A)(iv)(I));
- 2) innovative programs for displaced homemakers (WIA section 134(a)(3)(A)(vi)(I));
- 3) programs to increase the number of individuals trained for and placed in non-traditional employment (WIA section 134(a)(3)(A)(vi)(II));
- 4) carrying out activities for youth (WIA section 129(b)(3));
- 5) development of exemplary program activities (WIA section 134(a)(3)(A)(ii));
- 6) conduct research and demonstrations for a variety of populations including youth, adult, and dislocated workers (WIA section 134(a)(3)(A)(iii));
- 7) rapid response activities which connect to and support state rapid response activities (WIA section 134(a)(2)(A));
- 8) programs targeted to Empowerment Zones and Enterprise Communities (WIA section 134(a)(3)(A)(iv)(II));
- 9) aversion of layoff activities (20 CFR 665.320(d)(1)); and
- 10) other such adult, dislocated worker and youth activities as determined by the local areas via request to the state for approval, except for the activities excluded below (WIA section 134(a)(3)(A)(vii)).

At this time, we are not applying the waiver to the following activities, which we believe are most appropriately undertaken at the state level:

- 1) the provisions of WIA section 134(a)(2)(B)(i) to (iv) pertaining to disseminating the statewide eligible training provider list, conducting evaluations for the purposes of state workforce activities, providing state incentive grants, and providing technical assistance for local areas that fail to meet performance standards;

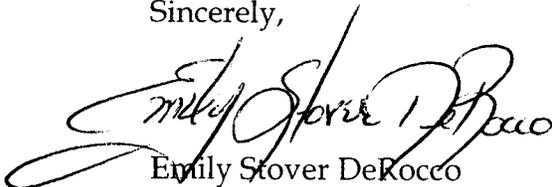
- 2) assisting in the establishment and operation of One-Stop delivery systems (WIA section 134(a)(2)(B)(v)); and
- 3) operating a fiscal and management accountability information system under WIA section 136(f) (WIA section 134(a)(2)(B)(vi)).

Although the state does not indicate a specific amount or percentage of local area formula allocation funds that may be used by local boards to conduct statewide activities, under the granted waiver the state may approve an amount of up to 10 percent of a local area's adult, dislocated worker and youth formula allocated funds to be used by a local board to conduct the approved activities cited above. However, no separate amount may be set aside for administration of such activities. Local areas that choose to conduct these activities will work under the current 10 percent limit on local area administrative costs. In addition, local areas will be responsible for meeting programmatic outcomes that are specific to the nature of the activities they are conducting under the approved waiver, as stipulated in the state's waiver submission. Local areas are still required to meet performance goals for adult, dislocated workers, and youth programs.

The granted waiver 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 Texas's approved five-year strategic plan. 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. The effective date of the waiver is July 1, 2003, to correspond with the beginning of the current program year. The waiver is granted through June 30, 2004, as requested.

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 Texas. We are interested in learning from Texas as it moves forward to implement its approved waiver plan. Furthermore, we are prepared to entertain other state and local-level waiver requests that the state may wish to submit, consistent with the provisions of the Act and regulations.

Sincerely,



Emily Stover DeRocco

Enclosure

# Texas Workforce Commission

Member of the Texas Workforce Network

April 8, 2003

Mr. Joseph C. Juarez  
Regional Administrator, Region IV  
U.S. Department of Labor  
Employment and Training Administration  
A. Maceo Smith Federal Building  
525 Griffin St., Room 317  
Dallas, Texas 75202

Dear Mr. Juarez:

On behalf of the Texas Workforce Commission, the State operational entity for the Title I Workforce Investment Act (WIA), I am respectfully requesting approval of the enclosed proposed WIA waiver for the State of Texas. The proposed waiver request was developed in accordance with WIA, Section 189(i)(4), 20 CFR 661.400 - 661.420, and the draft Training and Employment Guidance Letter referencing the development and submission guidelines for waiver requests.

The request for waiver is from the provisions of Section 129 regarding the Use of Funds for Youth Activities and Section 134 regarding Use of Funds for Employment and Training Activities.

As required, we have also included a description of the process by which notice and opportunity to comment on the proposed waiver request was provided to Local Workforce Development Boards (Boards) and other interested parties. Also enclosed are copies of all 21 comments received on the proposed waiver.

We appreciate the opportunity to submit this waiver request and look forward to receiving the Secretary's approval. We believe that this waiver will provide increased flexibility to the State of Texas and Boards in implementing reforms to our State's workforce system. This waiver is necessary for the State and Boards to continue to meet the demands of area employers for skilled workers, and the workforce needs of area residents seeking employment.

If you have any questions or require additional information please contact Luis M. Macias, Director, Workforce Development Division at (512) 936-0697 or by e-mail at [luis.macias@twc.state.tx.us](mailto:luis.macias@twc.state.tx.us)

Sincerely,



Cassie Carlson Reed  
Executive Director

Enclosure

mc: Diane Rath, Chair and Commissioner Representing the Public  
T.P. O'Mahoney, Commissioner Representing Labor  
Ron Lehman, Commissioner Representing Employers  
Larry E. Temple, Deputy Executive Director  
Luis M. Macias, Director, Workforce Development

Diane D. Rath, Chair  
Commissioner Representing  
the Public

T. P. O'Mahoney  
Commissioner Representing  
Labor

Ron Lehman  
Commissioner Representing  
Employers

Cassie Carlson Reed  
Executive Director

**STATE OF TEXAS  
WAIVER REQUEST  
WORKFORCE INVESTMENT ACT**

**Local Activity Funds**

**Statutory and Regulatory Provisions to be Waived:**

The Texas Workforce Commission (Commission) requests a waiver under the authority of the Secretary of Labor to waive certain requirements of Workforce Investment Act (WIA), Title I, subtitles B and E and sections 8-10 of the Wagner-Peyser Act. This authority is granted to the Secretary of Labor under Section 189 of WIA and in the implementing regulations at 20 CFR 661.420.

The Texas Workforce Commission is seeking a waiver from the provisions of Sections 129 (regarding Use of Funds for Youth Activities) and 134 (regarding Use of Funds for Employment and Training Activities) of the WIA, as well as a waiver from the provisions of 20 CFR 663.145. This waiver would allow local workforce development Boards (Boards) in Texas to use funds allocated to them under Sections 127, 128, 132 and 133 of WIA in the same manner and fashion as Statewide Activity funds are used under Sections 129 and 134 of WIA and 20 CFR 667.130, in order to meet the changing and emergent needs of Texas employers, incumbent workers, job seekers, and youth.

**Purpose:**

The purpose of the waiver is to gain additional flexibility for Boards in the use of WIA formula funds to meet demands of local workforce development area (local area) employers, incumbent workers, job seekers, and youth.

**Waiver Request:**

To meet the demands of employers, incumbent workers, job seekers, and youth, this waiver seeks additional flexibility critically needed by the Boards, by expanding the allowable uses of formula funds. This expanded use encompasses activities allowed under the uses of Statewide Activity funds authorized in WIA. The Commission is seeking a waiver that allows Boards, upon request, to use a designated portion of their formula funds for these expanded purposes. For clarity, these expanded use funds will be referred to as *Local Activity Funds*.

The Commission expects the following sequence to take place upon implementation of the approved waiver:

1. The Governor would reserve not more than 15 percent of the amount that is allotted to the State to carry out statewide Youth activities and statewide employment and training activities for Adults and Dislocated Workers.
2. The Governor would allocate WIA formula funds for services to Youth, Adults, and Dislocated Workers to the local areas.

3. Boards would analyze changing economic conditions in their areas and the demands of employers, in order to identify a need for additional flexibility.
4. Boards would submit a request, as a plan amendment to the Governor\* for a portion of the area's formula funds to be designated as Local Activity Funds to be used consistent with the activities allowable under Statewide Activity funding.
5. The individual Board's plan amendment would specify a dollar amount or a certain percentage of the formula funds and the type of fund -- Youth, Adult and/or Dislocated Worker -- to be designated as local activity funds.
6. The plan amendment will also describe the project, services or activities to be delivered.
7. The plan amendment will include an assurance from the Board that all services required by the WIA will be provided.
8. The plan amendment will include an acknowledgement from the Board that all performance targets and expenditure benchmarks would be met.
9. The Governor\* would evaluate the Board's plan amendment in conjunction with a review of current performance and expenditure levels.
10. The Governor\* would notify Boards of approved plan amendments, and contract amendments would be initiated to reflect the additional performance expectations.

\*The Governor has delegated this authority to the Commission.

#### **Description of the individuals affected by the waiver:**

This waiver will benefit employers, incumbent workers, job seekers, youth, Boards, service providers, and One-Stop center staff. Since WIA was enacted in 1998, the economy went from being very strong and robust, with employers hiring large numbers of people, to a recession that resulted in large segments of the workforce being laid off and employers drastically reducing their workforce. The flexibility of these funds authorized under this waiver would encourage Boards to increase their services and become more responsive and innovative to meet existing and new customers' needs.

Texas' situation is far different than most States due to the employment and training programs under the purview of the Commission and administered by the Boards. In addition to WIA, Temporary Assistance for Needy Families (TANF) Choices, Food Stamp Employment and Training funds and subsidized child care funds are available to serve low-income individuals. This unique situation positions Texas well to maximize the utilization of WIA for the universal population as intended. The approval of this waiver would help address the current economic downturn; as well as assist customers that do not fit statutorily defined populations under WIA. This waiver would encourage Boards to partner with more employers and labor and community organizations, to promote universal access for any individual to the One-Stop system.

#### **Service Impact/Waiver Benefits:**

To illustrate how the Local Activity Funds may be used; we offer the following scenario:

A Levi-Strauss manufacturing plant in Concho Valley makes a business decision to relocate its garment sector overseas. They do, however, make a commitment to retain all employees possible in the Call Center that they will locate in the Concho Valley area. The situation is

difficult because many of the workers in the garment sector have held their current job for 10-20 years, they are in their mid-thirties to mid-fifties, do not speak English, and have a low literacy level in their native language. These employees have an excellent work history with Levi and have a great work ethic. Their current wages are about \$15-18 per hour.

Due to their income level, they will not be income eligible for training under WIA Adult. However, the employer has made the commitment to utilize the current workers in the Call Center. The Board needs flexibility to use the funding available to provide services that will meet the needs of this employer and its current workforce. This waiver request for Local Activity Funds would provide the vehicle to offer services needed to prevent layoffs and allow these workers to transition into new types of jobs.

The services and training provided to this employer and workers would be reported in The Workforce Information System of Texas (TWIST) using a special code that would designate Local Activity Funds as the funding source. Benefits of this scenario exceed what can be reported in TWIST or on a DOL report. Not only do the employer and the workers benefit, but also the unemployment insurance trust fund is not impacted and payroll dollars remain in the local area.

#### **Programmatic Outcomes:**

Statewide Activity funds can enhance the service delivery of required WIA programs and activities at the local level. Providing additional flexibility for the use of formula funds will enable Boards to use these Local Activity Funds to tailor their programs to meet demands of local employers, and the needs of incumbent workers, job seekers, and youth, and to further reform the state's workforce system. The Commission believes the waiver is consistent with the President's proposal and represents a proactive approach to successful outcomes. These Local Activity Funds may be used to upgrade the skills of incumbent workers thus averting a layoff, serving multiple purposes. The employer benefits by avoiding the high cost of turnover and maintaining its workforce. This scenario would also minimize the negative impact on the state's unemployment insurance trust fund. Workers benefit by retaining their jobs, keeping payroll dollars in the local economy.

In some instances, service delivery is considered too bureaucratic or process-oriented, making it unattractive to our business customers as well as job seekers. Flexibility with the statutory requirements would increase utilization of One-Stops, while maintaining accountability and fiscal integrity.

Enhanced flexibility in the use of formula funds as Local Activity Funds will also create administrative efficiencies for both the Boards and the Commission by requiring fewer contract amendments and modifications to be processed. Although careful fiscal and performance management by the Commission pursuant to the waiver will continue to ensure that the Boards use funds prudently and meet performance, the additional flexibility of the waiver will allow Boards to respond more quickly and efficiently to immediate local needs.

Under this waiver, Boards will still be held accountable for meeting all WIA performance targets. Boards' performance and expenditure of the formula funds must be satisfactory before the expanded use under the waiver will be granted.

The Board's request to use formula funds as Local Activity Funds must include a description of the projects, services and activities that will be provided with these funds. The request must include projected performance outcomes. The Commission will then amend its contracts with the Boards to reflect these additional outcomes.

TWIST is used for service activity tracking and performance reporting. TWIST will continue to be utilized for both formula funds and the Local Activity Funds. Commission contract managers will utilize TWIST to monitor service levels and accomplishment of performance outcomes.

Use of the Local Activity Funds will enhance a Board's ability to meet the workforce needs of the community. These funds will also improve performance by allowing a Board to serve more employers, incumbent workers, job seekers, and youth.

#### **Background:**

In 1995, with the enactment of House Bill 1863, the Texas Workforce Commission was created to administer a multitude of employment and training programs to help adults and youth develop the job skills necessary to meet the occupational demands of employers. Former Governor George W. Bush and the Texas Legislature envisioned a statewide workforce system made up of the Commission, the 28 Boards, their service providers, and other partners forming the Texas Workforce network. As a result, Texas was able to implement WIA in 1999, a full year ahead of the federal mandate. One year later, all 28 Boards were operational under WIA and overseeing service delivery across the state. The Commission block grants funds for workforce services under WIA, Temporary Assistance for Needy Families, Food Stamp Employment and Training, and the Child Care and Development Fund. The Texas Workforce network has three underlying operational principles:

- It is employer-focused to meet the workforce needs of businesses and industries;
- It uses locally designed service delivery plans to serve current workers and individuals entering the labor force for the first time; and
- It promotes integrated service delivery to allow the broadest range of job seekers access to employment assistance.

WIA serves as a significant economic development tool both on a state and local level. Because of the dynamics of a global marketplace and advancements in technology, the skill mix demanded by employers is constantly changing, and workers being able to adapt to changing conditions in the workplace is crucial in order for employers to remain competitive. WIA can support this objective by helping to upgrade workers' skills as needed and increasing employers' return-on-investment via increased worker productivity.

One of the problems that Texas has experienced with WIA formula funded programs is that these programs are not always able to provide services that address local employers' demands. This

situation results from the statutory limitations placed on the use of formula funds under WIA. Limited to formula funded programs, Boards often lack the freedom to create innovative programs at the local level that are necessary to meet the emergent needs of employers, incumbent workers, job seekers, and youth.

WIA offers some flexibility to overcome this problem with the use of Statewide Activity funds. These funds give Boards flexibility and resources beyond those of formula funds to design customized solutions to employers, incumbent workers and job seekers. Statewide Activity funds offer an opportunity to further enhance and integrate WIA program activities and to expand existing allowable activities. The amount of Statewide Activities funds, however, is limited under the provisions of WIA. Under WIA Sections 127(b)(1)(C), 128(a), 132(b)(1)(B) and 132(b)(2)(B) and 20 CFR 667.130(b), there is a limit of up to 15 percent on the amount that may be reserved by the Governor for statewide activities. The Commission sought a waiver of the 15 percent limitation on Statewide Activity funds, but the request was denied recently because increasing the maximum statewide reservation would decrease the funds available for allocation to local areas. A waiver of the 85 percent level allocated to local areas is not allowable.

Despite, the 15 percent cap on Statewide Activity funds, in Program Year 2002/Fiscal Year 2003 the Commission was able to distribute \$10.7 million in Statewide Activity funds to local workforce development areas, allowing the Boards the greatest flexibility possible to respond to the unique workforce needs of each local workforce development area. Both the required and allowable activities of Section 134(a) of WIA will be met by either the state or the local Boards.

Texas is fully committed to the WIA concept of devising workforce solutions tailored to meet the particular needs of local and regional labor markets. In order to respond to the unique workforce needs of the 28 diverse workforce development areas in Texas, and to carry out the commitment of the state of Texas to the WIA concept of implementing innovative and comprehensive workforce systems, the Commission is requesting this waiver which, if approved, would allow Texas' local workforce development boards the flexibility they need to address employers' concerns during this period of slow economic activity.

The Commission believes this waiver request aligns with the President's Fiscal Year (FY) 2004 budget proposal to create a single consolidated Adult services grant, because that proposal gives States much greater discretion over the use of those funds. The budget proposal also ties to the Administration's newly announced approach for WIA Reauthorization to build on and improve what works in WIA.

#### **Legal Argument:**

Congress has clearly recognized the need for the Secretary of Labor to have as much flexibility as possible in order to assist the States in accomplishing the goals of WIA. Section 189(i)(4) of WIA allows for general waivers of statutory or regulatory requirements by the Secretary. Section 189(i)(4)(C) states the Secretary shall provide a waiver if it is determined that the requirements requested to be waived impede the ability of the State or local area to implement their plans.

The purpose of the general statutory and regulatory waiver authority is to provide flexibility to States and local areas and to enhance their ability to improve the statewide workforce investment system. The Secretary's waiver authority provides a vehicle to assist States and local areas in situations in which the regulations impede their ability to implement and continue development of a cohesive delivery system.

Waivers may be requested and granted to address impediments to the implementation of a strategic plan, as stated in 189(i)(4)(C), including the continuous improvement strategy, consistent with the key reform principles of WIA.

These key reform principles include the following:

1. Streamlining services and information to participants through a One-Stop delivery system;
2. Empowering individuals to obtain needed services and information to enhance their employment opportunities;
3. Ensuring universal access to core employment-related services;
4. Increasing accountability of States, localities and training providers for performance outcomes;
5. Establishing a stronger role for Local Boards and the private sector;
6. Providing increased State and local flexibility to implement innovative and comprehensive workforce investment systems; and
7. Improving youth programs through services that emphasize academic and occupational learning.

The Commission, in submitting this request for waiver, recognizes the statutory exceptions to the Secretary's authority to approve waivers. The Commission, therefore, is submitting a request for a waiver that does not violate or affect any requirements or provisions of WIA and its related Federal regulations. By requesting a waiver of the use requirements for formula funds under WIA, allocation of funds to local areas will not be affected.

Under this waiver request, allocation of funds to local areas will still follow the provisions described in Sections 128 and 133 of WIA. The Governor will still reserve not more than 15 percent each of the amounts allotted to the State for the statewide activity fund, leaving the remainder of the funds to be allocated by formula to each of the 28 local areas. After the allocation process is complete, under this waiver request, a Board having a need for additional flexibility would then under the guidelines established by the waiver, request to use a portion of its formula funds as Local Activity Funds.

Eligibility of providers or participants will not be affected by the approval of this waiver. The definition of eligibility under WIA is contained in Section 101 of the Act. Under Sections 129 and 134 of WIA, formula funds are required to be used for eligible providers and participants under the Act. Under the waiver being requested, the formula funds determined by a Board to be needed for other services would be used in a manner consistent with Statewide Activity funds. Those funds which would be used, as Local Activity Funds would serve participants who are eligible for Statewide Activity funds. In addition, under this request for waiver, the requirements and provisions set forth by WIA, including performance standards, pertaining to the core,

intensive, and training services will remain the same and would have to be met by the Board that is seeking the Local Activity Funds designation. Approval of this request for waiver will foster the creation of new and/or improved employment and training activities in the local areas that will benefit all customers, including employers, incumbent workers, job seekers, and youth.

Texas' request for waiver would allow the Secretary to waive the use of funds provisions under Sections 129 and 134 of WIA and would allow the funds allocated to the local areas under Sections 128 and 133 of WIA, to be used not only in the manner prescribed under the statute, but also as Local Activity Funds in the same manner and fashion as Statewide Activity funds under Sections 129 and 134 of WIA. Under the waiver requested by the Commission, both required and allowable Statewide Activities would be permissible uses for a certain amount of the formula funds allocated to the local areas. These would include, but are not limited to, the required activities of:

1. Providing rapid response activities; *separate 25%*
2. Assisting in the establishment and operation of One-Stop delivery systems; and
3. Operating a fiscal and management accountability information system.

Allowable activities under this waiver would include, but are not limited to:

1. Conducting research and demonstrations;
2. Establishing and implementing:
  - (a) Innovative incumbent worker training programs; and
  - (b) Programs targeted to Empowerment Zones and Enterprise Communities;
3. Implementing innovative programs for displaced homemakers, and programs to increase the number of individuals trained for and placed in non-traditional employment; and
4. Carrying out youth activities.

The Commission has a strong commitment to the State's responsibility to carry out the required Statewide Activities. The Commission will continue to perform the State level activities, such as disseminating the Eligible Training Provider List, providing incentive grants to local areas, and preparing and submitting the annual performance report.

#### Goals to be achieved by the Waiver:

- Improve the ability of Boards to appropriately and quickly respond to employers, incumbent workers, job seekers, and youth;
- Increase local control for program delivery by encouraging locally designed service delivery plans that support unforeseen economic changes;
- Increase accountability at the state, local and service provider levels; and
- Provide greater flexibility to Boards in designing and implementing WIA programs.

**How those goals relate to the Strategic Plan goals:**

Texas' workforce system goals are:

1. A dynamic, integrated and ever improving, business-driven workforce development system where employers and individuals have ready access to a network of information and services responsive to their unique workforce and employment needs.
2. Texas workers have access to obtain the literacy, education and workplace skills necessary for self-sufficient employment, employment advancement and lifelong learning.
3. Texas workers have the educational and occupational skills for employment advancement in meaningful, challenging and productive higher-skilled, higher-wage careers and the educational foundation for lifelong learning.
4. Texas youth are empowered with the knowledge, skills and behaviors necessary for employment and economic independence in higher-skilled, higher-wage careers and lifelong learning.

The Governor established these statewide goals, objectives and system performance measures for the delivery of quality programs that promote the coordination of employment and training activities at the state and local levels. These goals, objectives, and system performance measures establish common outcome objectives to drive concerted planning and coordinating efforts among state agencies, local education training, employment and support service providers.

Texas prides itself on being among the leaders in WIA implementation. In relation to our goals, the limitation or lack of flexibility on the use of formula funds impedes our ability to streamline services, eliminating duplicative and unnecessary procedures, and implement an integrated plan for service delivery and to be successful in obtaining the State's goals. The goals to be achieved by this waiver would enhance the State's ability to accomplish its workforce system goals.

Texas is seeking opportunities to further integrate the One-Stop delivery system. Enhanced flexibility improves the ability to respond quickly and effectively to the changing needs of the new economy. Restraints placed upon formula funds weaken the local Boards' ability to develop innovative ways to serve businesses and individuals with urgent workforce needs. By eliminating these restraints, the state's entire workforce system would become more dynamic and flexible while maintaining and continuing to enhance service delivery to customers.

**Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers:**

There are no state or local statutory or regulatory barriers to implementing the requested waiver. In fact, the structure of the Texas Workforce network as envisioned by the Texas Legislature is designed to remove as many statutory or regulatory barriers to the creation and maintenance of a seamless workforce system. Commission regulations and policy statements are in compliance with current federal law. Upon notification of the approval of this waiver request, Commission rules and policies will be amended to comply with the terms of the waiver.

**Describes the processes used to monitor the progress in implementing the waiver:**

The Commission has a monitoring and performance accountability system that measures results for employers and other customers using the Texas Workforce network. The Commission continuously analyzes performance reports and compares actual performance with contract targets. The Commission will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met for WIA services, including those programs created through the use of this waiver. The Commission will monitor progress under this waiver by reviewing monthly expenditure and performance reports submitted by Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system.

**Provide notice to any Board affected by the waiver:**

Notice to Boards would occur via working with the Boards through the Workforce Leadership of Texas, which assists the Boards in working with the Commission in its development of policy, by issuance of Workforce Development Letter(s), as well as through provision of training and/or technical assistance. These steps would be taken prior to the effective date of the waiver implementation.

**Provide any Boards affected by the waiver an opportunity to comment on the request:**

This proposed waiver was discussed at a Texas Workforce Commission public meeting on March 18, 2003. The proposed waiver was posted to the Commission's Web site on March 18, 2003. It was published in the *Texas Register* for a 7-day review and comment period beginning on March 28 and ending April 4, 2003.

In addition, the waiver was discussed during the Commission's biweekly conference call with the Boards' Executive Directors. Each Board Executive Director was provided notice of the proposed waiver via e-mail. In addition, the Board Executive Directors and Chairs were provided written notice of the proposed waiver by letter.

**Ensure meaningful public comment, including comment by business and organized labor, on the waiver:**

Over 1000 letters were mailed the week prior to publication in the *Texas Register* to all Chief Elected Officials, Texas Council on Workforce and Economic Competitiveness Board members, and a number of industry associations, labor organizations, and State agencies. This waiver was published in the *Texas Register* for a 7-day review and comment period. In addition, notice of this waiver request was provided to each Board member representing the private sector, organized labor, and community-based organizations.

**TEXAS WORKFORCE COMMISSION**  
**Via Facsimile**

**To:** Mary Z. for Joe Jaurez  
**From:** Debbie Carlson  
**Number of Pages:** 31  
**Date:** April 9, 2003  
**Subject:** Comments to Waiver Request

These are the comments to the waiver  
request sent yesterday. Originals  
will follow.



April 4, 2003

John Moore  
101 East 15th Street, Room 608  
Austin, Texas 78778-0001  
Fax: 512-463-2220  
Email: john.moore@twc.state.tx.us

**RE: Proposed WIA WAIVER REQUEST**

Dear Mr. Moore:

The Work Advantage Board of Tarrant County fully supports the flexibility this waiver would create in determination and implementation of innovative service responses to the changing demands of the local economy on employers, incumbent workers, job seekers, and the youth of Tarrant County. We applaud the Commission for its innovation in seeking this waiver. Specifically, this waiver would allow the Board to assist our business partners, their employees, and Tarrant County residents in the following manner:

- ❖ Assist more businesses in their efforts to train, and upgrade skills of their existing workforce
- ❖ Upgrade skills of incumbent workers, which will allow more accessibility to higher level careers
- ❖ Provide assistance in training front line supervisors in Spanish as a second language
- ❖ Assist in the retention of the current workforce
- ❖ Provide better opportunities for Tarrant County residents through specialized customized training methods
- ❖ Assist in retaining business partners who are considering relocation
- ❖ Assist business located in high unemployment areas of Tarrant with specialized incumbent worker training, and on the job training positions
- ❖ Establish entry level training programs for Tarrant County residents accessing the workforce for the first time, or after a long hiatus from the workforce
- ❖ Provide training assistance to ex-offenders and businesses that will accommodate them
- ❖ Establish more internship positions with local businesses to provide career opportunities for youth, welfare to work, and "hard to serve" Tarrant County residents.

We would also recommend that the following three conditions must exist in order to maximize the use of this waiver for the purposes described above. The Board urges the Commission to ensure the following:

**1. The plan amendment process must be timely in its response to local area requests.**

The system of request through local plan amendments would appear to streamline the process of request and eventual funding of such requests. The Work Advantage Board would encourage the Texas Workforce Commission to keep this process as streamlined as possible to ensure the local area's ability to provide timely responses to employer/employee service needs.

**2. Reporting and Performance required for the Local Activity Funds should remain reasonable and not unduly burdensome.**

BOARD ADMINISTRATIVE OFFICE  
2601 Scott Avenue, Suite 400 • Fort Worth, TX 76103 • (817) 531-6760 • FAX (817) 531-6754

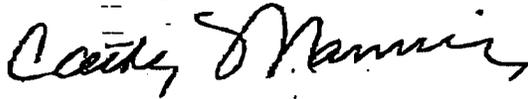
The waiver appears to have adequate and reasonable provisions for performance expectations and reporting. The Work Advantage Board cautions the Commission to avoid adding any additional reporting or performance requirements other than those necessary to ensure that WIA local and state performance measurements are met.

**3. The use of local activity funds should not replace the opportunity to compete for statewide incentive grant opportunities for local area.**

The Work Advantage Board encourages the Commission to continue to provide opportunities for local boards to compete for statewide incentive grants ensuring that the local activity funds are truly an additional service tool and not a replacement of statewide incentive grant funds.

Thank you for this opportunity to provide comment on this proposed waiver.

Sincerely,



Cathy L. Manning  
Bell Helicopter

Apr-04-03 01:51pm From-ALAMO WORKFORCE DEVELOPMENT

2102723283

T-302 P.02 F-341



115 East Travis, Suite 220 - San Antonio, TX 78205 • Phone 210.272.3260 • Fax 210.272.3290 • TDD/Tx Relay (voice) 1 800.735.2989

April 4, 2003

Mr. John Monroe  
Texas Workforce Commission  
101 E. 15<sup>th</sup> Street  
Austin, Texas 78878

Re: Proposed Waiver

Dear Mr. Monroe:

The Alamo Workforce Development Board fully supports the Texas Workforce Commission's proposed waiver requesting additional flexibility for local workforce development boards in the use of Workforce Investment Act (WIA) funds.

Allowing local workforce boards the flexibility to use WIA formula funds in the same manner and fashion as Statewide Activity funds will allow us to better respond to changes in the local workforce environment, and the needs of area employers, incumbent workers, job seekers and youth.

The only aspect of the proposed waiver that we would like to see additional details provided for is the additional performance expectations contemplated by the Commission. We would like to know what specific additional measures are being contemplated and the accompanying performance targets.

Again, we are fully supportive of the Commission and the proposed waiver. We are hopeful that it will be favorably received by the U.S. Department of Labor.

Sincerely,

Alan D. Miller  
Executive Director

04/04/2003 13:49 FAX 8178408480

NCT WORKFORCE

001

NORTH CENTRAL TEXAS  
**WorkForce**

616 Six Flags Drive, P.O. Box 5888  
Arlington, Texas 76005-5888  
817-695-9176 • FAX: 817-640-6460  
email: [workforce@dfwinfo.com](mailto:workforce@dfwinfo.com)

April 4, 2003

Mr. John Moore  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street, Room 608  
Austin, Texas 78778-0001

Re: Proposed Waiver of Certain WIA Requirements

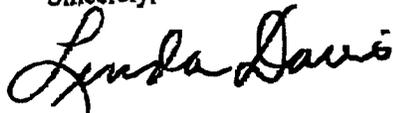
Dear Mr. Moore,

Just recently, TWC provided an opportunity for written public comment concerning a proposed waiver request of certain requirements under WIA, Title I, subtitles B and E and sections 8-10 of the Wagner-Peyser Act. The North Central Texas Workforce Development Board (Board) supports the waiver request.

Granting of this waiver would allow Local Activity Funds to be used to address the needs of population groups who are not statutorily defined under WIA. In short, these funds could be used to advance the skills of incumbent workers, thus allowing them to retain their jobs. Approval of this waiver would indeed make the Texas Workforce Network, as well as each Board area, responsive to the needs of local area businesses.

We appreciate the opportunity to provide input on these issues. I hope that the contributions of the North Central Texas Workforce will help strengthen the workforce system.

Sincerely,



Linda K. Davis  
Executive Director

**MARK S. WATSON**  
City Manager  
mwatson@ci.temple.tx.us



**RANDALL E. HOLLY**  
Assistant City Manager  
rholly@ci.temple.tx.us

April 03, 2003

**RECEIVED**

APR 04 2003

LEGAL SERVICES, TWC

Mr. John Moore  
Assistant General Counsel  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street, Room 608  
Austin, Texas 78778-0001

Dear Mr. Moore:

The City of Temple supports the Texas Workforce Commission's "Workforce Investment Act Proposed Waiver". This waiver will allow additional flexibility for the Local Workforce Development Boards to use their Workforce Investment Act formula to meet the demands of the local workforce development area. This will benefit the employers, incumbent workers, job seekers, and youth. Boards will respond more quickly and efficiently to immediate local needs, increase their services, and become more responsive and innovative to meet existing and new customers' needs.

We understand that local conditions may be somewhat differentiated in comparison with the state, region, or county conditions. The challenges and beneficial resources may be very unique to other jurisdictions. The City of Temple is under the realm of influence of Fort Hood and the dynamic changes of the United States military. Construction and improvements along Interstate 35 also affect the workforce component of Temple as well as major expansions to our industries. Scott and White Hospital has consistent work force needs as our largest employer. Additionally, the City of Temple has a steady continual growth pattern. These are only a few of the factors which influence the local workforce.

We are hopeful the Workforce Investment Act Waiver can meet the demands of local jurisdictions while mutually benefiting the employment and economy of counties, regions, and the state of Texas.

Sincerely,

Mark Watson  
City Manager

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** April 04, 2003 5:16 PM  
**To:** Carlson, Debbie  
**Subject:** FW: Comment on Proposed WIA Waiver

*Another WIA WAIVER COMMENT*

---Original Message---

**From:** Susan Tully [SMTP:Susan.Tully@teexmail.tamu.edu]  
**Sent:** Friday, April 04, 2003 4:55 PM  
**To:** john.moore@twc.state.tx.us  
**Subject:** Comment on Proposed WIA Waiver

Mr. John Moore  
Assistant General Counsel  
Texas Workforce Commission  
Via E-mail: john.moore@twc.state.tx.us

Dear Mr. Moore:

I am writing to express my support for the proposed waiver requesting additional flexibility for Local Workforce Development Boards to use Workforce Investment Act formula funds to address the changing needs of local employers, incumbent workers, job seekers and youth.

As the proposed waiver describes, today's economic environment is sharply different than it was just a few years ago. Of particular concern is the loss of some 145,000 manufacturing jobs, which pay significantly more than the average Texas job, since the industry's June 2000 peak. The long-term competitiveness of the state's manufacturing sector depends on upgrading the skills of incumbent workers, and thus retaining jobs, as well as training new job seekers and displaced workers.

Enabling the Boards to better respond to emergent local needs, while retaining accountability for performance, will allow Texas to maximize the effectiveness of its WIA dollars.

Sincerely,

Susan M. Tully  
Director of Business Operations  
Texas Manufacturing Assistance Center  
Texas Engineering Extension Service  
800-625-4876  
512-452-2130 Fax

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** April 04, 2003 3:23 PM  
**To:** Carlson, Debbie  
**Subject:** FW: Comments on Proposed Waiver for WIA

*Another WIA WAIVER Comment*

-----Original Message-----

**From:** Mary Ross [SMTP:MaryR@workforcesystem.org]  
**Sent:** Friday, April 04, 2003 3:19 PM  
**To:** Moore, John  
**Cc:** LWDA Exec Dir  
**Subject:** Comments on Proposed Waiver for WIA

Good Afternoon,  
Please find attached comments from West Central Texas regarding the proposed waiver related to WIA formula funds.

Sincerely,

Mary Ross, Executive Director  
West Central Texas Workforce Development Board  
400 Oak Street  
Abilene, Texas 79602  
(915) 795-4301 - phone  
(915) 795-4300 - fax

  
Waiver Comments.doc

[maryr@workforcesystem.org](mailto:maryr@workforcesystem.org) <<mailto:maryr@workforcesystem.org>>

West Central Texas  
Comments regarding Waiver for Additional WIA Flexibility

West Central Texas is not in support of the proposed waiver for the following reasons:

- The waiver allows increased flexibility in the use of adult and dislocated worker funds similar to the statewide funds, but requires local boards to meet performance measures.
- The description of the waiver implementation process seems to indicate that local boards would no longer receive statewide funds and that only formula allocated funds would be available to continue to support activities that have been initiated with current statewide activity funds.
- A local board would only be eligible to seek a waiver for increased flexibility, if the Board's performance and expenditures are deemed as satisfactory. There is no definition of satisfactory or indication of who, how or when this determination would be made and applied.
- The example regarding Levi Strauss and Concho Valley used in the description of the waiver identifies savings to the UI trust fund and retention of payroll within the region as outcomes. While we support both of these concepts and agree this would be of value to the region, local boards are not measured on these outcomes and in fact, based on the example, there would be little positive performance for WIA performance measurement purposes.
- The requirement to submit a plan amendment that identifies activities, outcomes and individuals to be served limits the flexibility of a local board to address local issues that occur after the initial plan amendment submission. If the funds are intended to be flexible, it is essential that a local board have maximum flexibility to direct funds throughout the year, without the Commission's prior review and approval, to those activities and/or projects that the Board deems to be appropriate. The requirement for the Commission to review and approve a plan amendment creates an additional layer of bureaucracy that does make our system "... too bureaucratic or process-oriented, making it unattractive to our business customers. ...".

**Carlson, Debbie**

From: Moore, John  
Sent: April 04, 2003 3:22 PM  
To: Carlson, Debbie  
Subject: FW:

*Another WIA WAIVER Comment.*

-----Original Message-----

From: Bradshaw, Rodney [SMTP:rodney.bradshaw@h-gac.com]  
Sent: Friday, April 04, 2003 3:10 PM  
To: 'John.moore@twc.state.tx.us'  
Subject:

Dear Mr. Moore:

Thank you for the opportunity to comment on the proposed Workforce Investment Act waiver the Commission is requesting from the U.S. Department of Labor. The Gulf Coast Workforce Development Board has a keen interest in this waiver, which will enable us to better meet the needs of area employers and residents.

Specifically, the proposed waiver will increase our ability to respond quickly to emerging workforce needs. It will do this by allowing local areas to create Local Activity funds that are more flexible than current formula funds available to the Board. We understand that while these funds will be more flexible, they will still be used for the general purposes of the Workforce Investment Act, and that the Board will be responsible for the outcomes associated with funds used under the waiver.

I appreciate the opportunity to offer comment.

Rodney Bradshaw

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** April 04, 2003 7:50 AM  
**To:** Carlson, Debbie  
**Subject:** FW: Letter of Support

*Another Comment on the Waiver.*

-----Original Message-----

**From:** Roger Feagley (SMTP: rfeagley@mansfield-texas.com)  
**Sent:** Friday, April 04, 2003 7:46 AM  
**To:** john.moore@wc.state.tx.us  
**Subject:** Letter of Support

Dear Mr. Moore,

As a board member I want to make you aware of my support of the WIA waiver request. The staff at the Work Advantage has provided information to us and convinced me that this waiver should be approved.

Thanks for your consideration.

Roger Feagley

  
workforce letter  
4-04.DOC



April 4, 2003

John Moore  
101 East 15th Street, Room 608  
Austin, Texas 78778-0001  
Fax: 512-463-2220  
Email: john.moore@twc.state.tx.us

**RE: Proposed WIA WAIVER REQUEST**

Dear Mr. Moore:

The Work Advantage Board of Tarrant County fully supports the flexibility this waiver would create in determination and implementation of innovative service responses to the changing demands of the local economy on employers, incumbent workers, job seekers, and the youth of Tarrant County. We applaud the Commission for its innovation in seeking this waiver. Specifically, this waiver would allow the Board to assist our business partners, their employees, and Tarrant County residents in the following manner:

- ❖ Assist more businesses in their efforts to train, and upgrade skills of their existing workforce
- ❖ Upgrade skills of incumbent workers, which will allow more accessibility to higher level careers
- ❖ Provide assistance in training front line supervisors in Spanish as a second language
- ❖ Assist in the retention of the current workforce
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- ❖ Provide training assistance to ex-offenders and businesses that will accommodate them
- ❖ Establish more internship positions with local businesses to provide career opportunities for youth, welfare to work, and "hard to serve" Tarrant County residents.

We would also recommend that the following three conditions must exist in order to maximize the use of this waiver for the purposes described above. The Board urges the Commission to ensure the following:

**1. The plan amendment process must be timely in its response to local area requests.**

The system of request through local plan amendments would appear to streamline the process of request and eventual funding of such requests. The Work Advantage Board would encourage the Texas Workforce Commission to keep this process as streamlined as possible to ensure the local area's ability to provide timely responses to employer/employee service needs.

**2. Reporting and Performance required for the Local Activity Funds should remain reasonable and not unduly burdensome.**

The waiver appears to have adequate and reasonable provisions for performance expectations and reporting. The Work Advantage Board cautions the Commission to avoid adding any additional reporting or performance requirements other than those necessary to ensure that WIA local and state performance measurements are met.

**3. The use of local activity funds should not replace the opportunity to compete for statewide incentive grant opportunities for local area.**

The Work Advantage Board encourages the Commission to continue to provide opportunities for local boards to compete for statewide incentive grants ensuring that the local activity funds are truly an additional service tool and not a replacement of statewide incentive grant funds.

Thank you for this opportunity to provide comment on this proposed waiver.

Sincerely, ---

Roger Feagley  
Board Member

**Carlson, Debbie**

From: Moore, John  
Sent: April 03, 2003 9:02 PM  
To: Carlson, Debbie  
Subject: FW: Waiver Comments

More Waiver Comments.

*John Moore  
General Counsel  
Texas Workforce Commission  
101 E 15<sup>th</sup> St., Room 614  
Austin, Texas 78778  
512/ 463-8812  
512/ 463-2220 Fax  
email: [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)*

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-----Original Message-----

From: Robbins, Norman B [[SMTP:norman.b.robbins@lmco.com](mailto:norman.b.robbins@lmco.com)] <[mailto:\[SMTP:norman.b.robbins@lmco.com\]](mailto:[SMTP:norman.b.robbins@lmco.com])>  
Sent: Thursday, April 03, 2003 9:01 PM  
To: [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)  
Subject: Waiver Comments

  
LETTERVersion of  
Comments.DD...



April 4, 2003

John Moore  
101 East 15th Street, Room 608  
Austin, Texas 78778-0001  
Fax: 512-463-2220  
Email: john.moore@twc.state.tx.us

**RE: Proposed WIA WAIVER REQUEST**

Dear Mr. Moore:

The Work Advantage Board of Tarrant County fully supports the flexibility this waiver would create in determination and implementation of innovative service responses to the changing demands of the local economy on employers, incumbent workers, job seekers, and the youth of Tarrant County. We applaud the Commission for its innovation in seeking this waiver. Specifically, this waiver would allow the Board to assist our business partners, their employees, and Tarrant County residents in the following manner:

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We would also recommend that the following three conditions must exist in order to maximize the use of this waiver for the purposes described above. The Board urges the Commission to ensure the following:

**1. The plan amendment process must be timely in its response to local area requests.**

The system of request through local plan amendments would appear to streamline the process of request and eventual funding of such requests. The Work Advantage Board would encourage the Texas Workforce Commission to keep this process as streamlined as possible to ensure the local area's ability to provide timely responses to employer/employee service needs.

**2. Reporting and Performance required for the Local Activity Funds should remain reasonable and not unduly burdensome.**

**BOARD ADMINISTRATIVE OFFICE**  
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The waiver appears to have adequate and reasonable provisions for performance expectations and reporting. The Work Advantage Board cautions the Commission to avoid adding any additional reporting or performance requirements other than those necessary to ensure that WIA local and state performance measurements are met.

**3. The use of local activity funds should not replace the opportunity to compete for statewide incentive grant opportunities for local area.**

The Work Advantage Board encourages the Commission to continue to provide opportunities for local boards to compete for statewide incentive grants ensuring that the local activity funds are truly an additional service tool and not a replacement of statewide incentive grant funds.

Thank you for this opportunity to provide comment on this proposed waiver.

Sincerely,

/s/ Norman Robbins

Norman Robbins  
Board Member

**Carlson, Debbie**

From: Moore, John  
Sent: April 03, 2003 8:08 PM  
To: Carlson, Debbie  
Subject: FW: Comment on Proposed Waiver

Another Comment.

*John Moore  
General Counsel  
Texas Workforce Commission  
101 E 15<sup>th</sup> St., Room 614  
Austin, Texas 78778  
512/ 463-8812  
512/ 463-2220 Fax  
email: [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)*

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prohibited.*

-----Original Message-----

From: Meadows, Charlene  
Sent: Thursday, April 03, 2003 5:45 PM  
To: Moore, John  
Subject: Comment on Proposed Waiver

Mr. Moore,

I wish to comment in support of the Workforce Investment Act waiver proposed by the Texas Workforce Commission. The ability to designate a portion of local funds to be used for statewide activities will enable our Board to address a greater scope of local employment issues with less procedural interference.

**Charlene Meadows**  
Executive Director  
Deep East Texas Workforce Board  
1318 S. John Redditt Drive, Suite C  
Lufkin, TX 75904  
Phone: 936-639-8898  
Email: [charlene.meadows@twc.state.tx.us](mailto:charlene.meadows@twc.state.tx.us)  
FAX: 936-633-7491

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** April 03, 2003 5:07 PM  
**To:** Carlson, Debbie  
**Subject:** FW: Comments on TWC WIA Waiver Request

*Another Waiver Comment:*

-----Original Message-----

**From:** Stella [SMTP:sgarcia@camwksinc.org]  
**Sent:** Thursday, April 03, 2003 4:57 PM  
**To:** 'Moore, John'  
**Cc:** 'Nelda'; 'Tuls'; Louis Tatum  
**Subject:** Comments on TWC WIA Waiver Request

Cameron Works, Inc. (CWI), the local workforce development board serving Cameron County, Texas, supports the State of Texas Waiver Request for the WIA Local Activity Funds. CWI supports the additional flexibility offered to local boards to meet the local demands of our employers, incumbent workers, job seekers, and youth. CWI encourages TWC to work out any kinks in the TWIST reporting mechanisms and financial reporting (Youth 70/30) for these funds to ensure that other formula performance requirements are not impacted should a local board opt to expand its option for local activity funds. The example provided in section titled "service impact/waiver benefits" leads one to believe that these workers would decrease their earnings gains (which could negatively impact performance). Appropriate and timely TWIST training for local staff is needed to ensure that performance in our formula programs is not negatively impacted (as could be the case in the example provided).

Thank you for the opportunity to provide comments.

Stella Garcia  
Executive Director  
Cameron Works, Inc.  
245 E. Levee Street  
Brownsville, Texas 78520  
(956) 548-6719

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** April 03, 2003 2:50 PM  
**To:** Carlson, Debbie  
**Subject:** FW: Waiver Comments

*More Waiver Comments.*

-----Original Message-----

**From:** Don Ellis (SMTP:dellis@arlingtontx.com)  
**Sent:** Thursday, April 03, 2003 2:28 PM  
**To:** john.moore@twc.state.tx.us  
**Cc:** Judy McDonald (E-mail)  
**Subject:** Re: Waiver Comments

<<Wia Waiver Version of Comments.DOC>>

Don Ellis  
Vice President  
Workforce Development  
Arlington Chamber of Commerce  
817-543-4294  
817-261-7355 fax  
dellis@arlingtontx.com

  
via waiver version of  
Comments...



April 4, 2003

John Moore  
101 East 15th Street, Room 608  
Austin, Texas 78778-0001  
Fax: 512-463-2220  
Email: john.moore@twc.state.tx.us

**RE: Proposed WIA WAIVER REQUEST**

Dear Mr. Moore:

The Work Advantage Board of Tarrant County fully supports the flexibility this waiver would create in determination and implementation of innovative service responses to the changing demands of the local economy on employers, incumbent workers, job seekers, and the youth of Tarrant County. We applaud the Commission for its innovation in seeking this waiver. Specifically, this waiver would allow the Board to assist our business partners, their employees, and Tarrant County residents in the following manner:

- ❖ Assist more businesses in their efforts to train, and upgrade skills of their existing workforce
- ❖ Upgrade skills of incumbent workers, which will allow more accessibility to higher level careers
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- ❖ Provide training assistance to ex-offenders and businesses that will accommodate them
- ❖ Establish more internship positions with local businesses to provide career opportunities for youth, welfare to work, and "hard to serve" Tarrant County residents.

We would also recommend that the following three conditions must exist in order to maximize the use of this waiver for the purposes described above. The Board urges the Commission to ensure the following:

**1. The plan amendment process must be timely in its response to local area requests.**

The system of request through local plan amendments would appear to streamline the process of request and eventual funding of such requests. The Work Advantage Board would encourage the Texas Workforce Commission to keep this process as streamlined as possible to ensure the local area's ability to provide timely responses to employer/employee service needs.

**2. Reporting and Performance required for the Local Activity Funds should remain reasonable and not unduly burdensome.**

BOARD ADMINISTRATIVE OFFICE  
2601 Scott Avenue, Suite 400 • Fort Worth, TX 76103 • (817) 531-6760 • FAX (817) 531-6754

The waiver appears to have adequate and reasonable provisions for performance expectations and reporting. The Work Advantage Board cautions the Commission to avoid adding any additional reporting or performance requirements other than those necessary to ensure that WIA local and state performance measurements are met.

**3. The use of local activity funds should not replace the opportunity to compete for statewide incentive grant opportunities for local area.**

The Work Advantage Board encourages the Commission to continue to provide opportunities for local boards to compete for statewide incentive grants ensuring that the local activity funds are truly an additional service tool and not a replacement of statewide incentive grant funds.

Thank you for this opportunity to provide comment on this proposed waiver.

Sincerely,



Chairman of Board

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** April 02, 2003 4:59 PM  
**To:** Carlson, Debbie  
**Subject:** FW: WIA proposed waiver

*Another Comment*

-----Original Message-----  
**From:** BOURDIER, KAREN J (SMTP:KBOURDI@entergy.com)  
**Sent:** Wednesday, April 02, 2003 4:58 PM  
**To:** 'John.moore@twc.state.tx.us'  
**Subject:** WIA proposed waiver

Mr. Moore - Being a Southeast Texas Workforce Development Board member, I received a letter requesting my review and comments to the WIA proposed waiver.

I have reviewed the waiver and have just a brief comment. I believe that the allocation for the state fund should remain at 5% rather than being increased to 15%.

Thank you for asking for our comments.

Karen Bourdier

Entergy Texas Economic Development

409-981-2467

409-981-2805 (fax)



**ADMINISTRATIVE OFFICE**

P. O. Box 1936 • Victoria, Texas 77902 • (361)576-5872 • Fax: 361-573-0225

March 27, 2003

**RECEIVED**

**APR 02 2003**

**LEGAL SERVICES, TWC**

John Moore  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street, Room 608  
Austin, TX 78778-0001

Dear Mr. Moore:

This is in response to Cassie Carlson Reed's letter of March 19, 2003, regarding the proposed waiver for additional flexibility in the use of WIA formula funds to meet the demands of local workforce development area employers, incumbent workers, job seekers, and youth.

As members of the Golden Crescent Workforce Development Board, we are support of this proposed waiver. We particularly welcome the increased flexibility it affords in meeting the needs of employers during this economically challenged period of time. We find the proposed strategy for implementation reasonable and conducive to increased effectiveness and timeliness in responding to the demands the local labor market.

Sincerely,

Golden Crescent Workforce Development Board

	Darwin Koyas
	Ben G. W.
Dorothy Stoeber	Rennie E. Mott
	Linda Pullipin
Jay DeLoach	Jeri Dannhaus
Marie Lebus	Estelle D. Gyl
Garrett Churchman	Lynn W.
Dorinda Williams	Justin D. Dunge
Jon Wigh	Jan Bentley Smith



# BRAZOS VALLEY WORKFORCE BOARD

March 28, 2003

RECEIVED

MAR 31 2003

LEGAL SERVICES, TWC

Mr. John Moore  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street, Room 608  
Austin, Texas 78778

Re: Workforce Investment Act Proposed Waiver

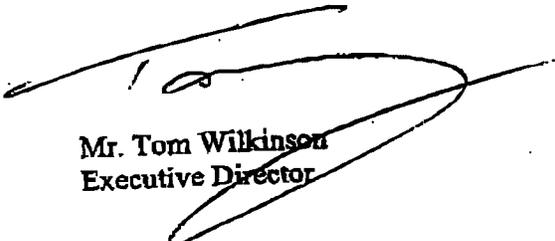
Dear Mr. Moore

On behalf of the Brazos Valley Workforce Development Board (BVWDB) I am letting you know that the Board does not favor the proposed waiver and would rather have the funds distributed to each Board as part of their regular WIA allocation. This would allow each Board the flexibility to designate these funds in the areas needed.

Although the Statewide Activity Funds have been helpful in the past we have found them to become more restrictive over the last two years as they dictate what is acceptable use of these funds. We would like that to be a local decision without additional guidelines.

Thank you for this opportunity to comment. If you have any questions please let me know.

Sincerely,



Mr. Tom Wilkinson  
Executive Director

cc Mr. Bill Whitaker, Chair

P. O. DRAWER 4128  
BRYAN, TEXAS 77805-4128

PHONE: 979/775-4244  
FAX: 979/775-3466

**Carlson, Debbie**

From: Moore, John  
Sent: March 28, 2003 11:02 AM  
To: Carlson, Debbie  
Subject: FW: Waiver Request

Another Comment

John Moore  
Assistant General Counsel  
Texas Workforce Commission  
101 E. 15<sup>th</sup> Street, Room 608  
Austin, TX 78701  
(512) 463-3041  
FAX (512) 463-2220  
Email: [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)

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-----Original Message-----

From: cinnamon ashford [[SMTP:scribblestick@hotmail.com](mailto:scribblestick@hotmail.com)] <<mailto:scribblestick@hotmail.com>>  
Sent: Friday, March 28, 2003 11:01 AM  
To: [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)  
Subject: Waiver Request

I am writing to let you know that I agree with the State of Texas Waiver Request Workforce Investment Act.

Jerry D. Ashford, Jr.  
Bus. Man./Fin. Secr.  
IBEW LU 20  
[jerry\\_ashford@hotmail.com](mailto:jerry_ashford@hotmail.com)

The new MSN 8: smart spam protection and 2 months FREE\*  
<http://join.msn.com/?page=features/funkmail>

**Carlson, Debbie**

From: Moore, John  
Sent: March 28, 2003 10:36 AM  
To: Carlson, Debbie  
Subject: FW: Proposed TWC Waiver

More comments on the Waiver.

John Moore  
Assistant General Counsel  
Texas Workforce Commission  
101 E. 15<sup>th</sup> Street, Room 608  
Austin, TX 78701  
(512) 463-3041  
FAX (512) 463-2220  
Email: [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)

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-----Original Message-----

From: Ivan Bullock [[SMTP:ivan.bullock.bn0h@statefarm.com](mailto:SMTP:ivan.bullock.bn0h@statefarm.com)] <<mailto:SMTP:ivan.bullock.bn0h@statefarm.com>>  
Sent: Friday, March 28, 2003 10:20 AM  
To: 'john.moore@twc.state.tx.us'  
Cc: 'herman\_lassard@aaul.org'; Thelma Martinez  
Subject: Proposed TWC Waiver

John Moore  
Texas Workforce Commission  
101 East 15th Street, Room 608  
Austin, TX 78778-0001

Dear Mr. Moore:

This is in reply to Executive Director Cassie Carlson Reed's letter of March 19, seeking comment on TWC's proposed waiver "requesting additional flexibility for Local Workforce Development Boards to use their WIA formula funds to meet the demands of local workforce development area employers, incumbent workers, job seekers, and youth".

Without a doubt, the events of the past three years in Central Texas point to the need for the type of flexibility proposed. Changes in economic conditions were evidenced by a shift from historically low unemployment rates, to current trends of wide-spread layoffs. The Austin Area Urban League has, along with many other non-profit entities, sought to adapt to the needs of constituents through programmatic focus.

Allowing Local Workforce Development Boards to similarly respond to local workforce development

needs can only expedite service delivery to those in need.

My employer's mission statement concludes with the reminder...."Our customers needs will determine our path". I believe this philosophy provides appropriate guidance on this issue as well.

Thanks for the opportunity to provide a perspective on the proposal. I am available at 512.918.5702 should you have questions or need additional clarification.

Best Regards,

Ivan Bullock, Vice Chair  
Board of Directors  
Austin Area Urban League

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** March 27, 2003 11:00 AM  
**To:** Carlson, Debbie  
**Cc:** Maclas, Luis M  
**Subject:** FW: Comments

*Comments from Texoma on the WIA WAIVER.*

John Moore  
Assistant General Counsel  
Texas Workforce Commission  
101 W. 15th Street, Room 608  
Austin, Texas 78778-0001  
(512) 463-3041  
(512) 463-2220 (FAX)

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-----Original Message-----

**From:** Bates, Janie N  
**Sent:** Thursday, March 27, 2003 9:47 AM  
**To:** Moore, John  
**Subject:** Comments

John:

Comments on Workforce Investment Act Waiver

Texoma is in favor of the waiver that would provide local flexibility of the use of WIA formula funds. The area of incumbent worker training is of particular interest for Texoma. In the past 24 months we have lost 3000 jobs, many of those due to plant closures. Our economic development professionals are now focussing on keeping the primary employers we have. Incumbent worker training could be key to their success.

Golden Crescent  
**Workforce  
Center**

**ADMINISTRATIVE OFFICE**

P. O. Box 1936 • Victoria, Texas 77902 • (361)576-5872 • Fax: (361)573-0225

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**MAR 26 2003**

**LEGAL SERVICES, TWC**

March 24, 2003

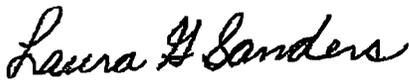
John Moore  
Texas Workforce Commission  
101 East 15<sup>th</sup> Street, Room 608  
Austin, TX 78778-0001

Dear Mr. Moore:

I am writing in response to Cassie Carlson Reed's letter of March 19, 2003, regarding the proposed waiver for additional flexibility in the use of WIA formula funds to meet the demands of local workforce development area employers, incumbent workers, job seekers, and youth.

The Golden Crescent Workforce Development Board would like to express its support of this proposed waiver. We particularly welcome the increased flexibility it affords in meeting the needs of employers during this economically challenged period of time. We found the proposed strategy for implementation reasonable and conducive to increased effectiveness and timeliness in responding to the demands the local labor market.

Sincerely,



Laura G. Sanders  
Executive Director

sh

Together...we will make a difference

*Member of Texas and America's Workforce*

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** March 22, 2003 5:29 PM  
**To:** Carlson, Debbie  
**Cc:** Macias, Luis M  
**Subject:** FW: Waiver Request - Workforce Reinforcement Act

Here is another comment on the Waiver.

*John Moore*  
*Assistant General Counsel*  
*Texas Workforce Commission*  
*101 E. 15<sup>th</sup> Street, Room 608*  
*Austin, TX 78701*  
*(512) 463-3041*  
*FAX (512) 463-2220*  
*Email: [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)*

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-----Original Message-----

**From:** [shamlin22@netzero.com](mailto:shamlin22@netzero.com) [SMTP:shamlin22@netzero.com] <<mailto:SMTP:shamlin22@netzero.com>>  
**Sent:** Saturday, March 22, 2003 9:10 AM  
**To:** [john.moore@twc.state.tx.us](mailto:john.moore@twc.state.tx.us)  
**Subject:** Waiver Request - Workforce Reinforcement Act

Dear Mr. Moore,

In this document, I can't find any language that will assist displaced workers to locate gainful employment in their own field. As you know the landscape of the Texas economy is either boom, or bust. This document only lends another layer to the thousands of already worded definitions, and further create more administration costs that the already over worked TWC must face.

To whit, I have read through the content of the Texas Workforce Labor Laws, and presented Chapters, Sub-Chapters, Paragraphs, and Sub-Paragraphs to my Appeal Officers, and credence was given to my employer solely on the transcripts of the hearing. Ignoring the definition of law. Thusly, decisions were based on opinion, rather than law.

Why impose another layer of definitions for those that can't administer current definitions?

Rather than placing more language into an ineffective administration, I am committed to 'Clean Up' the existing one.

Sincerely,  
Scott Hamlin

**Carlson, Debbie**

**From:** Moore, John  
**Sent:** March 21, 2003 2:01 PM  
**To:** Carlson, Debbie  
**Subject:** FW: Additional Flexibility for Local Workforce Development Boards (LWD Boards) to use their Workforce Investment Act (WIA) Formula Funds

*My first comment on the Waiver request.*

John Moore  
Assistant General Counsel  
Texas Workforce Commission  
101 W. 15th Street, Room 608  
Austin, Texas 78778-0001  
(512) 463-3041  
(512) 463-2220 (FAX)

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-----Original Message-----

**From:** Fred Cox [SMTP:HamiltonCountyJudge@htcomp.net]  
**Sent:** Friday, March 21, 2003 1:43 PM  
**To:** john.moore@twc.state.tx.us  
**Subject:** Additional Flexibility for Local Workforce Development Boards (LWD Boards) to use their Workforce Investment Act (WIA) Formula Funds

Dear Mr. Moore:

Allowing LWD Boards to place funds where the needs are greatest in each community makes good business sense. I am certain that different counties have different priorities, and, for our LWD Boards to come closer to meeting their needs, additional flexibility would be a positive approach in the allocation of funds. I applaud your efforts to make LWD Boards more effective in their efforts to better meet local needs. Keep up the good work!

Fred Cox  
Hamilton County Judge

-----Original Message-----

From: Macias, Luis M [mailto:luis.macias@twc.state.tx.us]

Sent: Tuesday, May 27, 2003 12:32 PM

To: 'Cole, Ann - ETA'

Cc: Carlson, Debbie

Subject: FW: WIA Waiver Clarification

Ann thanks for the clarification this am. Here is our submission

> -----Original Message-----

>

> <<Clarification to DOL.doc>>

>

>

**Clarification Regarding Waiver Request for the State of Texas:**  
(Received May 28,2003)

**Based upon our meeting with the Texas Workforce Commission (TWC), the State offers the following clarifications regarding their waiver request:**

**TWC is not seeking approval to waive its requirements under §665.200, §665.210, §665.300, and §665.310;**

The State is not seeking approval to waive its requirements under the sections cited above. 665.200 discusses the required Statewide workforce investment activities; 665.210 is a discussion of allowable Statewide workforce activities; 665.300 is a discussion of Rapid Response services and who is required to provide them; 665.310 discusses the required activities under rapid response. The State reaffirms its responsibility to perform activities under these sections. We wish to clarify that our waiver request relates to an innovative use of formula funds. Receipt of the waiver would in no way be used as a vehicle to circumvent our requirements under the sections cited above.

**TWC, based on local board request and TWC approval, is seeking approval to allow local boards the flexibility to use local formula funds to conduct statewide and rapid response activities under §665.200, §665.210, §665.300, §665.300 and §665.310. Activities may include, but is not limited to:**

- o the development of exemplary programs;**
- o demonstrations for a variety of populations including youth, adult and dislocated workers;**
- o innovative incumbent worker training and employer loan programs;**
- o aversion of layoff activities; and**
- o other such adult, dislocated worker and youth activities as determined by the local areas via request to the State for approval;**

While this list is not totally inclusive of all allowable uses for Statewide funds, you are correct that the State seeks to make available to the boards maximum flexibility in utilization of their formula funds. We believe that flexibility is found under the allowable uses of Statewide Activity funding.

**TWC would approve such requests by the local area as an incentive and reward based upon successful performance under §666.300 and §666.310;**

The State envisions a process where the requested flexibility will enhance the ability of the Boards to meet specific requirements for performance. In

this process, Boards would still be expected to meet their required performance under their formula allocations. We would also reasonably expect to see improvements in performance either in terms of the number of persons served and accompanying positive outcomes and/or increased performance against required performance because of a substantive improvement to the quality of service.

**The decision regarding what local funding streams are used would be a local decision based upon the needs of the local labor market.**

As indicated in the waiver document, the process to request local activity funds begins with a request from the local workforce board. The board-initiated request would provide the necessary detail on the needs to be addressed in the local area.

**TWC will revise its request to include envisioned performance outcomes.**

Because of the expectation for increased flexibility in how local boards would utilize their local activity funds, it is difficult for the State to anticipate all the possibilities for performance outcomes. The expectation is that each Board will tailor its use to specific identified needs in the Board area. Such tailoring will allow us to establish specific performance outcomes. When you ask us to modify our request to include anticipated outcomes, we are concerned that arbitrarily establishing outcomes prior to identification of the needs to be addressed with the use of the local activity funds limits the ability of the Boards to respond to the needs of their local employers, workers and communities. We envision that performance outcomes are specific to the request submitted by the Boards. One Board may wish to create a demonstration project to assist nurses trained in other countries with ESL in order to become certified/registered as a nurse in the US. The outcome for this project may be the number of nurses provided ESL services and entering employment. Another Board may wish to improve operations in the workforce center by providing staff development/training and establishing exemplary program activities. The outcome for this project may be the number of staff provided training, improved operations--which could have long-term positive effects on formula funded program performance, and the addition of the exemplary program activities resulting. Another Board may need to establish innovative incumbent worker programs to meet the needs of the community. The outcome for this project may be the number of employers served, the number of layoffs averted, and the number of incumbent workers trained. With a State as large and diverse as Texas, it would be extremely difficult to identify performance outcomes in advance of identifying the needs outlined in the specific requests.

**The State has agreed to address the comments attached to the waiver request and to include the anticipated outcomes of the waiver.**

With regard to addressing the comments received, the overwhelming majority of comments received were in full support of the waiver request and encouraged DOL's approval. A couple of the commentors clearly did not have an understanding of the waiver request. One commentor indicated that he could not locate any language to assist dislocated workers locate gainful employment. He went on to discuss issues with an appeal hearing. Another commentor indicated that he preferred that the funds be distributed as part of the regular WIA allocation. This is in fact exactly what is proposed. The waiver in no way affects the statutory formula distribution. Another commentor indicated that he preferred the "allocation for the state fund remain at 5% rather than being increased to 15%." Again, the proposed waiver in no way alters the statutory authority for the Governor's reserve. Another commentor expressed concern that Boards seeking the flexibility of local activity funds would be required to meet performance measures. TWC believes that although flexibility for the Boards is desired, accountability is required. This commentor also expressed concern over the expectation that a Board would only be eligible to seek the flexibility of local activity funds if the Board's performance and expenditures were deemed satisfactory and concern over the requirement to submit a plan amendment in order to be allowed this flexibility. Again, while we appreciate this commentor's concerns, TWC believes that accountability with all program funds is absolutely necessary.