U.S. Department of Labor

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

OCT -8 2002

The Honorable Michael Leavitt
Governor of Utah
Salt Lake City, Utah 81114

Dear Governor Leavitt:

It is with pleasure that I respond to the State of Utah's 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 section 189(i)(4)(A) of the Workforce Investment Act (WIA or the Act), and in the implementing regulations at 20 CFR 661.420.

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

We are pleased to be able to respond positively to your request. The following is the disposition of the state's waiver submission.

Waiver: Subsequent Eligible Training Provider (ETP) Requirements; 18 month subsequent eligibility requirement (WIA Sec. 122(c)(5) and 20 CFR 663.530)

The state's waiver submission (copy enclosed) requests a waiver of the time limit on the period of initial eligibility of training providers found at 20 CFR 663.530. Under the waiver, the state proposes to postpone the determination of subsequent eligibility of training providers until June 30, 2003. The state indicates that the waiver will provide the opportunity to complete the design and implementation of an online database reporting system for training provider customers. Customers will have access to training information, eligibility status, on-line provider applications, and current performance reports required for subsequent eligibility. The state reports that the implementation of the online database system will provide improvement in the effectiveness and efficiency of statewide service provider information while alleviating the provider's concerns with the cost effectiveness of keeping the types and quantity of production data current.

The stated goals to be achieved by the granted waiver are to:

- Develop and select an efficient and cost effective training provider performance data method that reasonably considers existing "substantially similar" performance data items that may be substituted for required current data items.

- Continue to increase the number of Eligible Training Providers (ETP) and retain those already approved, thereby ensuring maximum customer choice. A measurable outcome will be the monitoring of ETP numbers.

- Maintain the highest level of provider accountability and satisfaction in an error-minimum information system by developing and implementing a customer user-friendly system. Satisfaction level and error rate monitoring are measurable outcomes.

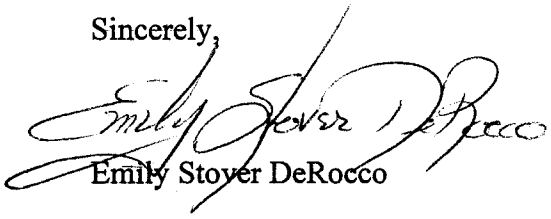
- Continue to develop an online initial eligibility application process that will incorporate stakeholder approval. Include the application process as an enhancement to the ETP Web Site, with the objective of creating a "one-stop" ETP site. Quantity of site enhancements may be monitored to provide measurable outcomes.

The state's request includes a viable plan, including a time line, for achieving compliance with the section 122 requirements on subsequent eligibility of training providers. 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 waiver of requirements relating to key reform principles, as specified at 20 CFR 661.410(c).

Accordingly, the State of Utah is granted a waiver of the time limit on the period of initial eligibility of training providers at 20 CFR 663.530 to extend the period of initial eligibility through June 30, 2003, as requested. 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 the state's approved five-year strategic plan. A copy of this letter should be filed with the state's WIA Grant Agreement and the state's approved five-year plan, as appropriate.

We look forward to 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 Utah. 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

Michael O. Leavitt
Governor

Olene S. Walker
Lt. Governor

RAYLENE G. IRELAND
Executive Director
DEPARTMENT OF WORKFORCE SERVICES

July 16, 2002 SDS-JL-0005-02

Mr. Joseph C. Juarez, Regional Administrator
DOL Regional Office, Region IV
U.S. DOL/ETA
Federal Building, Room 317
525 Griffin Street
Dallas, TX 75202

Re: Utah Department of Workforce Service's Waiver Request of the Workforce Investment Act's (WIA) time requirements related to the Subsequent Eligibility Determination of Training Providers for Program Year 2002.

Dear Mr. Juarez:

Please find attached Utah's general statewide waiver plan and request to waive the WIA statutory and regulatory requirements associated with the annual time requirements for the Subsequent Eligibility Determination of Training Providers. The plan requests a waiver for Program Year 2002, until 30 June 2003. The plan has been completed in accordance with WIA Section 189(i)(4)(B) and 20 CFR 661.420(e).

The Utah Department of Workforce Services continues to be committed to program accountability and appreciates the flexibility afforded to states through the waiver process. The statewide Workforce Investment Board believes the waiver plan provides adequate program accountability and identifies a process that will result in improved program performance for all customers. Waiver plan information may be obtained by contacting, Mike Richardson at 801.526.4377 or mikerichardson@utah.gov.

Sincerely,

Raylene G. Ireland

Raylene G. Ireland

Attachment: WIA waiver request for Program Year 2002

Cc: Electronic copy to DOL/ETA, Denver Affiliate Office, Alfonso Fuentes

STATE OF UTAH
Waiver Request for Subsequent Eligibility Determination of Training Providers
Workforce Investment Act, Program Year 2002

The Utah Department of Workforce Services (DWS) provides the following wavier plan and requests a general statewide twelve-month waiver to postpone implementation of the subsequent eligibility determination process for training providers. The waiver will provide opportunity to complete the design and implementation of an online database reporting system for training provider customers. Customers will have access to training information, eligibility status, on-line provider applications, and current performance reports required for subsequent eligibility. Implementation of the Utah online database system will provide improvement in the effectiveness and efficiency of statewide service provider information while alleviating our provider's concerns with the cost effectiveness of keeping the types and quantity of production data current.

Utah supports the goals of consumer choice and program accountability as directed in The Workforce Investment Act and believes approval of the waiver will substantially improve the success in obtaining this goal. Implementation of the subsequent eligibility determination process will continue with a final implementation date of July 1, 2003.

Background

Utah has continued to market the Workforce Investment Act's (WIA) concept of Eligible Training Providers (ETP) which for the most part, has experienced success. However, training providers have consistently indicated reporting requirements are not realistic, based on the limited number of enrollments and the cost of data maintenance. As subsequent eligibility determination approached for training providers, many elected not to renew provider eligibility, which has created a limited training choice for rural areas and threatened the Individual Training Account System (ITA). The following synopsis presents these ETP developments and provides a solution that became the basis of the waiver.

Once the period of initial eligibility began, the state worked with local regional workforce investment boards (WIBS) to further educate local area training providers on data collection and performance requirements of the subsequent eligibility process. Training providers consistently identified several concerns.

- Creating and maintaining a system that would collect required WIA data would be very costly and burdensome for especially smaller training providers.
- For many of the providers, the relatively small number of WIA-eligible participants accessing their training services through ITAs did not justify the resources that would have to be committed to collecting required data.
- Many training providers do not have systems in place or the staff available to produce required performance information in the specified timeframes.
- The majority of training providers on the Eligible Training Provider List (ETPL) requested extensions primarily, because production data was not available to meet subsequent eligibility requirements.
- The occurrence of potential violations of data privacy especially related to the Family Educational Rights Privacy Act (FERPA).

- WIA data requirements would present an additional burden to the amount of data already being collected from students at a time when most businesses, schools, and colleges are trying to streamline processes to be more customers friendly and cost efficient.

Over the last year, potential training providers have acted upon their concerns by foregoing completion of the provider application and many current providers have declared, they would be unable to comply with the requirements for subsequent eligibility certification. The loss of training providers, especially in the states two-year college system, would have a negative impact in rural areas where the number of eligible training providers is already limited. The lack of eligible training options would virtually shut down the ITA effort in many of our rural (one-stop) employment centers. A waiver to extend the initial period of certification would keep providers on the ETPL and provide our customers with training option choices while ETP stakeholders could design and implement a workable database system.

At present local WIB's have limited sufficient data ("all student" data) to make adequate decisions about which training providers should be re-certified. Since information on employment and earnings come from the unemployment insurance wage system, there is a tremendous delay in obtaining wage information on the quarter after exit and three quarters after exit. A provider denied subsequent eligibility could consider any decisions made by local board regarding provider's eligibility arbitrary and open to a challenge.

Utah fully understands the need for accountability and supports efforts to ensure that customers are making informed decisions based on quality data. However, when the ability to effectively collect required data is severely limited, the resulting chaos could effectively destroy customer choice and severely limit the use of Individual Training Accounts (ITAs). The primary goal of this waiver request is to ensure that the state's adult and dislocated workers are afforded an opportunity to receive quality training through a system that provides a wide range of effective training providers from which to choose.

Waiver Plan

The waiver request format follows WIA Section 189(i)(4)(B) and WIA Regulation 661.420.

1. Statutory Regulations to be waived and goals:

WIA Section 122(c)(5) and WIA Regulations at Section 663.530, specifies the time limits for initial eligibility and/or subsequent eligibility. The goal is to design and implement an online database reporting system to provide performance information, eligibility status and service applications for providers and customers. The database system will complement and increase the Strategic Plan efficiency by providing users with up to date training performance information.

2. Describe action the State has undertaken to remove State or local statutory or regulatory barriers:

Utah has implemented the Eligible Training Provider process as required under WIA laws and regulations through State rules R986-600-652 and 653. No additional State requirements have been added to impede this process, but state rules will be amended to reflect any federal

waiver approved time frames. Therefore, there are no additional State regulatory barriers that need to be removed.

3. Waiver goals and measurable programmatic outcomes, if the waiver is granted:

a. Develop and select an efficient and cost effective training provider performance data method that reasonably considers existing "substantially similar" performance data items that may be substituted for required current data items. Solution will alleviate provider concerns involving the type and extent of performance information needed and cost of maintenance by including stakeholder development and approval. Developmental progress and stakeholder approval may be monitored outcomes using prior and post comparisons.

   Utah's goal is to set criteria for performance data collection, which will ensure required information is obtained while easing the burden of data collection. The expected outcome is to retain current training providers while providing a user-friendly system that will increase the number of new providers and thereby providing greater customer choice.

b. Continue to increase the number of Eligible Training Providers (ETP) and retain those already approved, thereby ensuring maximum customer choice. A measurable outcome would be the monitoring of ETP numbers.

   For context, Utah currently has 100 approved training providers.
   Of the 100 training providers, 21 are University, College, or College of Technology providers. These providers have been the most vocal in regards to the types, amounts, and cost of data collection for subsequent eligibility. Our providers have expressed this burden by either choosing not to initially participate or not re-applying for subsequent eligibility. The latter applies to providers that did not receive WIA funded customers.

c. Maintain the highest level of provider accountability and satisfaction in an error-minimum information system by developing and implementing a customer user-friendly system. Satisfaction level and error rate monitoring are measurable outcomes.

d. Continue to develop an online initial eligibility application process that will incorporate stakeholder approval. Include the application process as an enhancement to the ETP Web Site, with the objective of creating a "one-stop" ETP site. Quantity of site enhancements may be monitored to provide measurable outcomes.

4. Describe any individuals affected by the waiver:

The waiver will impact either directly or indirectly all statewide participant training customers, training service providers, the Utah State WIB, five local regional boards and the general economic community. The anticipated largest direct impact is upon individual training customers and training providers with the former potentially experiencing the greatest opportunity cost or benefit.

5. Describe the processes used to:

(i) Monitor the progress in implementing the waiver:

Progress will be monitored in two phases related to the system's development and Internet implementation. Conceptual development and software development will be monitored on the stakeholders' quantity of approvals and completed software programs.

The physical Internet rollout will be monitored by quantity of provider users and participant customer users. Satisfaction monitoring to capture quality will be included for all users. ETP site enhancement features will be quantity monitored.

(ii) Provide notice to any Local Board affected by the waiver:

Although Utah is a WIA single state service delivery area, each of the five Regions have local WIBS that have provided waiver development input and approval to Utah's ETP waiver issues. Final waiver recommendations were provided to the State WIB and upon approval the waiver has been presented to DOL. As evidenced in the Background section, local and state WIBS as well as the training communities have been involved in workgroup identification of concerns and solutions related to the waiver's issues.

(iii) Provide any Local Board affected by the waiver an opportunity to comment on the request:

Please see item (ii) above. The same local and state WIBS will be employed for any DOL comments, concerns, or approvals.

(iv) Ensure meaningful public comment, including comment by business and organized labor, on the waiver:

Local community and state WIBS have business and organized labor representatives that were provided an opportunity for comment and involvement. Additionally, a general public comment period has been provided as of the date of this request. Any comments received will be immediately forwarded to be included with the waiver.

Utah appreciates the flexibility afforded to states through the waiver process and anticipates the WIBS waiver plan provides adequate accountability and improved performance for DOL approval.