



DEC - 7 2012

The Honorable Jack Dalrymple
Governor of North Dakota
Dept. 101
600 E. Boulevard Ave.
Bismarck, North Dakota 58505-0001

Dear Governor Dalrymple:

This letter provides approval of North Dakota's State Integrated Workforce Plan for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, plans for coordination with Trade Adjustment Assistance (TAA), and Title V of the Older Americans Act. The Employment and Training Administration (ETA) received the State Integrated Workforce Plan on September 14, 2012. This letter also addresses North Dakota's WIA waiver requests.

Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, and TEGL No. 21-11, Change 1 issued on August 8, 2012 provide guidance for states to submit their State Workforce Plans and waivers for Program Year (PY) 2012 and beyond. We appreciate the State's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the North Dakota State Integrated Workforce Plan in accordance with Title I of WIA, the Wagner-Peyser Act, the Trade Act (as amended), the corresponding regulations, the *State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act, and Department of Labor Workforce Programs* (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), Title V of the Older Americans Act and corresponding regulations, TEGL No. 21-11, and the corresponding Change 1. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822), and WIA section 501 (20 USC 9271) which pertains to State Unified Plans, that ETA is approving those portions of the North Dakota State Integrated Workforce Plan that relate to Title I of WIA, the Wagner-Peyser Act, and TAA for Program Years 2012-2016, July 1, 2012 through June 30, 2017. The annual W-P Agricultural Outreach Plan is approved for the period July 1, 2012 through June 30, 2013. The Senior Community Service Employment Program (SCSEP) State Plan has been reviewed by both ETA and the Administration on Aging, and is approved for Program Years 2012-2015, July 1, 2012 through June 30, 2016. The State is eligible to receive WIA formula allotments for Adult, Dislocated

Worker, and Youth programs, and W-P program allotments, effective July 1, 2012 through June 30, 2017.

Performance Levels

Each year, the Regional Administrator negotiates the Program Year's WIA and W-P performance goals with each state. As required by TEGLs No. 21-11 and 38-11 dated June 18, 2012, negotiations must be completed by December 31, 2012 for PY 2012. Once the final goals are established, the Regional Administrator's letter advising the State of the PY 2012 WIA and W-P final performance goals constitutes a modification to the State Workforce Plan. ETA will incorporate North Dakota's final performance goals for PY 2012 into the Regional and National Office copies of the State Integrated Workforce Plan. Please include these final PY 2012 goals in the State's official copy of the State Workforce Plan.

Waivers

As part of the North Dakota's State Integrated Workforce Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's requests for waivers are written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver requests is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State is requesting a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted this waiver through June 30, 2017.

This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State is requesting a waiver of the requirement for competitive procurement of service providers for three of the ten youth program elements: supportive services, follow-up services, and work experience. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide the above youth program elements. In utilizing this waiver, the State and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State is requesting a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted this waiver through June 30, 2017. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State is requesting a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted this waiver through June 30, 2017. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and are incorporated into the State Integrated Workforce Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and with the approved State Plan. In addition, as described in TEGP No. 29-11, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your State Integrated Workforce Plan for PY 2012 and beyond. We encourage your efforts in exploring the adoption of the American Job Center brand. We are available to provide technical assistance. If you have any questions related to the issues discussed above, please contact Bill Martin, the Federal Project Officer for North Dakota, at (972) 850-4635 or Martin.Bill@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosures.

cc: Joseph Juarez, Regional Administrator, ETA Dallas Regional Office
Bill Martin, Federal Project Officer for North Dakota

From: Gunsch, Susan H.
Date: Wednesday, November 07, 2012 2:07:07 PM
Posted At: WIA.PLAN
Conversation: ND Five Year Integrated State Workforce Plan resubmission
Subject: ND Five Year Integrated State Workforce Plan resubmission

Good afternoon

Below is the link of the North Dakota Five Year Integrated State Workforce Plan for resubmission

<http://www.state.nd.us/jsnd/docs/workforce/Workforce-Councils/Governance/WIA-Strategic-State-Plans/Five-Year-Integrated-State-Workforce-Plan.pdf>

Please contact me if you have any questions. Thank you.

Susan Gunsch
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Job Service ND
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NORTH DAKOTA

ATTACHMENT E

Request for Waiver Individual Training Accounts for WIA Eligible Youth

Job Service North Dakota, as the administrative entity of the Workforce Investment Act (WIA), submits this request for a general waiver to use Individual Training Accounts (ITAs) for Youth participants based on a valid needs assessment of interests, skills and aptitudes.

The current regulation prohibits the use of ITAs for Youth participants, except in the case they are determined eligible and are co-enrolled either as an Adult or Dislocated Worker. With the focus of Common Measures moving States toward serving out-of-school youth at an increased level, the use of ITAs for this population will provide more flexibility in service delivery. The real-life informed decision-making involved in using ITAs and the Eligible Training Provider list would provide eligible youth with the experience of responsibility that is so necessary as they transition to adulthood.

Under the current regulations, expenditures for ITAs are charged to the Adult or Dislocated Worker funding streams, rather than to the Youth funding stream. This co-enrollment requirement is a duplicative and unnecessary process which does not allow North Dakota to charge the cost of the ITA back to the Youth account, but reduces the limited Adult funds. The current regulation also does not allow some of those expenditures to be appropriately counted towards the 30% out-of-school expenditure requirement.

This waiver would allow older out-of-school youth to select approved ITA programs from the ND Eligible Training Provider list, while retaining their Youth classification. Training costs can be charged as out-of-school Youth expenditures, thereby eliminating the need to track such expenditures from different funding streams.

The US Department of Labor has already approved similar waivers for more than 25 states and North Dakota asks that our waiver request also be granted.

North Dakota will implement the use of ITAs for older and out-of-school youth immediately upon USDOL's approval of this waiver request.

In keeping with the guidelines set forth in WIA Section 189(i)(4)(b) and 20 C. F. R. 664.510, please accept the following as a request for a waiver:

A. Statutory or Regulatory Requirements to be waived.

WIA Section 189(i)(4)(b) and 20 C. F. R. 664.510 prohibit the use of ITAs for youth unless they are found eligible for and co-enrolled in either the Adult or Dislocated Worker program.

B. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted.

- A waiver will maximize the service delivery capacity of the WIA Youth Program within the One Stop Career Center delivery system by allowing youth, focused on employment

rather than academics, to have the same access as adults and dislocated workers to the advantages of ITAs

- Provides local areas with an additional service option for improving the comprehensive services available.
- Ensures that local areas have enough flexibility to deliver services based on individual participant needs as intended under WIA
- Offers older youth an opportunity to make informed decisions that directly impacts on his/her future.
- Improves youth services for training opportunities in demand through increased customer choice.
- With ITA costs being directly charged to the Youth program, youth expenditure levels will improve and contribute to meeting the 30 percent out-of-school expenditure requirement

C. State or Local Statutory or Regulatory Barriers

There is no state or local statutory or regulatory barrier to implementing the proposed waiver.

D. Programmatic Outcomes Achieved by the Waiver

- Flexibility in service delivery.
- Improved out-of-school youth expenditure
- Older youth can pursue occupational goals with the same access as Adult and Dislocated Workers with the advantages of ITAs.

E. Description of the Process to Monitor Progress: The Customer Service Area Director and staff monitors the progress of the above-mentioned actions and related activities by doing the following.

- The number of Youth enrolled in occupational skills training through the use of an ITA is analyzed each year for the WIA Annual Report to determine if training supports the Governor's target industries and high demand focus. Without this waiver these training services would not be available to some youth
- Annually, the results of the Youth Performance measure – attained degree or certificate – are reviewed to determine if youth have been successful based on the opportunity afforded by the ITA

F. Public Comment on the Waiver Request: This waiver has been posted on the Job Service North Dakota web site (www.jobsnd.com) on 10/5/2012 and 10/31/2012 and will be posted on 11/7/2012 to solicit public comment

ATTACHMENT F

Request for Waiver Common Measures

The Workforce Investment Act and WIA reauthorization strives to simplify and streamline the performance accountability system. North Dakota's goal is workforce development. Refocusing away from individual program performance to integrated services and Common Measures is an integral part of the reformed workforce development system. North Dakota staff are striving to focus on the needs of business and job seekers rather than expending time and energy solely on the outcome of performance measures. This request supports North Dakota's Talent Initiative to expand, attract and retain workers to meet the current and emerging needs of North Dakota business. This demand-driven approach will facilitate the transition to become a workforce and economic development system. It is the consensus opinion of most workforce development professionals, that the 17 indicators of performance are too cumbersome to be a viable program management tool across departments. One set of clear outcome measures across workforce development programs will ensure accountability, improve program management and performance plus facilitate integration of workforce program services.

Common performance measures across programs, and data collected for them will also provide necessary information that will contribute to our State's Workforce Intelligence. They will enhance North Dakota's ability to assess the effectiveness and impact of workforce development efforts. Utilizing the Common Measures will provide a clear means of determining performance of the various programs, accomplishing this through a system-wide perspective. Such a cross-program strategy is consistent with the move toward integration of programs and non-duplication of services as embodied in the Workforce Investment Act's One-Stop System.

Actions that the State or local area, as appropriate have undertaken to remove State or local statutory or regulatory barriers

The State of North Dakota and its WIB have taken significant action to streamline services, increase flexibility and integration, and eliminate unnecessary duplication. Actions include integration of staff and services in the One-Stops, cross-training of labor exchange and WIA staff, implementation of a common labor exchange and WIA case management system, and formation of Business Services Teams with specific industry focus as directed by the Governor's directives. As these service delivery modifications are developed and implemented, we believe that this is an opportune time to request the waiver to report only the Common Measures. This change will allow North Dakota to focus on the continued efforts to streamline services and enhance the benefits to all of our customers.

A. Statutory or regulatory requirements to be waived

The State of North Dakota is seeking a waiver of the 17 (15 core and two customer satisfaction) indicators of performance for employment and training activities authorized under Section 136(b) of the Workforce Investment Act, replacing them with the new common performance measures articulated by the U.S. Department of Labor in TEGL 17-05. North Dakota desires to

modify and simplify reporting requirements for the WIA Adult, Dislocated Worker and Youth programs. North Dakota seeks to report the three Common Measures for WIA Adult and WIA Dislocated Worker programs and the three Common Measures for the WIA Youth program. North Dakota is working to move from individual program measures to integrated services and looks to the reporting of only Common Measures as the method to accomplish this integration. This waiver request will enable North Dakota's workforce development system to implement the new common performance measures while reducing redundancy and the added burden of reporting the 15 core and two customer satisfaction measures.

B. Describe the goals of the waiver and the expected programmatic outcomes if the request is granted

There are numerous benefits to granting the waiver request:

- Provides for a simplified and streamlined performance measurement system, which is not only more cost effective, but is more transparent to our business partners and our service providers
- Provides for making the system more demand-driven, governed by a business-led Workforce Investment Board. The existing 17 measures are difficult for staff to manage and for WIB members to understand and successfully monitor
- Provides for integrated system-wide common performance accountability. Granting the waiver is critical for continued successful integration of the WIA and Wagner-Peyser programs. This will also allow for more complete integration with Trade Act programs, which have already gone to common measures. To continue North Dakota's successful integration of services in the One-Stops, we need to be working toward common goals.
- Reduces paperwork and labor costs associated with performance data collection
- Provides clear and understandable information to Congressional and legislative leaders and the general public concerning the use of public funds and return on investment
- Provides a more useful program management tool
- Provides for customer-driven instead of program-driven outcomes
- Provides for better service coordination and information sharing among programs

C. Description of the individuals impacted by the waiver

Approval of this waiver will positively impact job seekers, business and workforce development partners of the workforce investment system by allowing streamlined service delivery while improving program management and performance.

- Use of the Common Measure waivers has leveled the playing field across partner programs. This has resulted in performance measures that are easier for stakeholders, partners and SWIB council members to understand. There is much overlap, and similarities, among the two measurement methodologies. Much of what is sought in the 17 measures is captured in the Common Set

The following are the benefits of Common Measures for North Dakota.

- Fewer measurements are easier to monitor and disseminate to interested parties and stakeholders
- Efficiency frees up scarce resources for program administration

The Common Measures are in line with our State's workforce strategy to expand, attract and retain talent.

A customer satisfaction survey is in development. It is being designed to solicit WIA participants and employer feedback to determine how well they benefited from the program. This process will be in place no later than January 1, 2013.

D. The State has provided opportunities for comment and input on the waiver request, including:

Dissemination of the waiver request to local WIB chair and staff and to members of the Workforce Development Council

E. Public Comment on the Waiver Request: This waiver has been posted on the Job Service North Dakota web site (www.jobsnd.com) on 10/5/2012 and 10/31/2012 and was posted on 11/7/2012 to solicit public comment.

ATTACHMENT C

Request for Waiver Subsequent Eligibility Determination of Training Providers

Job Service North Dakota, the administrative entity for the Workforce Investment Act, is requesting a waiver of Section 122(c) and (d) and CFR 601.530, concerning the eligibility of training providers. Additionally, the State wishes to revert back to the initial eligibility requirements for inclusion on the Eligible Training Provider List (ETPL), as provided for under WIA Section 122(b) and Title 20 CFR Section 603.530, related to eligible training provider provisions.

This waiver request is being written in the format identified in WIA Section 189(i)(4)(B) and WIA Regulations 601.420(c).

- A. Statutory Regulations to be Waived:** WIA Section 122(c) and (d) and WIA Regulations at Section 601.530 address the time limit for initial eligibility that would be waived. WIA Section 122(b) and Title 20 CFR Section 603.530, related to eligible training provider provisions.
- B. Goals to be achieved by the waiver:** The goals to be achieved by the waiver include:
- Retain current approved eligible providers and continue to increase their numbers thereby providing quality customer choice for North Dakota job seekers
 - Alleviate providers' concerns with the types and amount of required information
 - Provide increased training opportunities for North Dakota WIA participants residing close to border areas (Montana and Minnesota) where attending training would be more convenient and practical. These states currently have similar waivers
- C. State or Local Statutory or Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the requested waiver.
- D. Description of the Waiver Goal and Programmatic Outcomes:** The waiver will allow North Dakota the time necessary to thoroughly assess the eligible training provider process and determine best practices for data collection and dissemination. The reversion back to initial eligibility will afford North Dakota job seekers an opportunity to take advantage of the wide array of programs provided by the State's training providers.
- E. Individuals affected by the Waiver:** This waiver will positively impact North Dakota's public and private training providers. As indicated earlier, these mandated reporting requirements are so burdensome and costly for some providers and have found it necessary for them to forgo WIA participation. The waiver would alleviate this problem by allowing the State to retain providers that are currently participating.

The waiver would also have a positive impact on WIA training participants. It gives greater choice and opportunity.

F. Description of the Process to Monitor Progress: The Customer Service Area Director and staff will monitor the progress of the above-mentioned actions and related activities by doing the following to ensure that the providers on the ND Eligible Training Provider list are in good standing.

- Review the annual reports of the North Dakota University Systems (NDUS) the accrediting agency for the Postsecondary Training/Education Providers that are eligible to receive federal funds under Title IV of the Higher Education Act of 1965
 - Review the annual reports of the licensing and regulatory agencies of all other public or private providers of training /education services
- and
- A random sample of 25% of remaining providers will be monitored and asked to submit a annual training report

G. Public Comment on the Waiver Request: This waiver has been posted on the Job Service North Dakota web site (www.jobsnd.com) on 10/5/2012 and 10/31/2012 and will be posted on 11/7/2012 to solicit public comment

ATTACHMENT II

Request for Waiver Youth Procurement

Job Service North Dakota (JSND) requests the following waiver of the statutory exclusion and regulatory requirement for competitive procurement of service providers for three youth program elements

Waiver Plan:

The waiver request format follows WIA Section 189(i)(4)(B) and 20 CFR 661.420.

A. Statutory regulations to be waived:

WIA Section 123 requirements to competitively select providers of youth program elements, which by association, apply to WIA Section 129(c)(2) and 20 CFR 664.410.

B. Describe action the state has undertaken to remove state or local statutory or regulatory barriers:

JSND reviewed state statute and rules, including procurement rules, and JSND policies and procedures. Research determined that there are no conflicting statutes, rules, policies, or procedures. The SWIB and JSND policies and procedures comply with current federal guidelines.

North Dakota's experience with the procurement of youth services indicates that few qualified providers exist and those with whom JSND has successfully contracted are government organizations. Often times, a service provider is required for one individual youth. JSND solicits providers for WIA Youth continually on the agency website. Currently, state law and procurement code allow partner agencies to enter into non-competitive inter-governmental agreements. Waiver WIA Section 123 would not prevent JSND from striking such agreements when appropriate.

JSND is the WIA grant recipient and One-Stop Operator for the State of North Dakota and respectfully requests broader waiver authorization. Of the ten required WIA Youth service elements, JSND currently delivers or has the capacity to deliver the following three youth program elements:

- Paid and unpaid work experiences including internships
- Supportive services
- Follow up

A significant benefit of allowing North Dakota to waive the competitive procurement requirement is a reduction in the administration costs of procurement. One of North Dakota's

waiver goals is directing funds JSND would typically use for procurement back toward services for eligible WIA Youth.

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

The greater flexibility resulting from this waiver would allow JSND to improve the continuity of services to eligible WIA Youth, implement a more cost-effective and integrated service delivery system, and develop stronger ties with local employers in high growth and emerging industries. The waiver would further result in achieving efficiencies, reducing the cost of competitive procurement, and directing more funds to program activities that lead to performance outcome improvements.

The seven youth program elements not covered in the waiver will be provided through State of North Dakota procurement policies as needed.

If it is determined that specific services needed may be provided more efficiently or effectively by another entity, a service provider will be selected in one of two ways. Job Service North Dakota will select a provider from the North Dakota Youth Provider list or initiate a contract. Contracts will be developed using the North Dakota Office of Management and Budget's State Procurement Guidelines when the service cost exceeds the minimum amount required for informal bids. An RFP will be required for services costing more than \$25,000. However, when appropriate, the Office of Management and Budget maintains a state bidder's list for state agencies and institutions to use when purchasing commodities and services that exceed the threshold for small purchases. <http://www.nd.gov/omb/>.

The North Dakota Youth provider list is a listing of vendors who have the capacity to provide the youth services not covered in this waiver request. A solicitation for youth providers is available on jobsnd.com. <http://www.jobsnd.com/business/youth-service-providers>

The method used to identify effective and ineffective youth activities and providers of such activities is annual monitoring. All Youth contractors will be monitored during the contract period for any significant deviation from performance standards may result in reduced or terminated financial participation of the Contractor, subsequent to negotiations with the Administrator.

WIA youth service delivery, either by contractor or Job Service North Dakota, is monitored in a consistent way, fiscal, performance measurement and program compliance is reviewed, and the same monitoring tools are used for both contracted and in-house service delivery.

D. Describe individuals affected by the waiver:

The individuals affected by this waiver will be older and younger eligible WIA youth customers, local workforce centers, and community based organizations.

Youth customers will be greatly affected by who offers services. It is expected that this waiver will result in greater choice for youth.

Workforce centers will be affected in that they will be allowed to play a greater role in youth services directly and continue to make available established resources.

Those affected by this waiver will have to meet the challenge of improved quality and efficiency to stay competitive in the youth service market.

Providing increased opportunities for paid work experience.

E. Describe the process used to:

a. Monitor the progress in implementing the waiver:

- Reviewing performance outcomes data quarterly and comparing results with the levels for the previous year.
- Reviewing financial reports monthly. Increased funding available must be monitored on an ongoing basis to ensure service areas expend 70 percent of funds available by the end of each program year.
- JSND has a comprehensive compliance monitoring process in place to ensure program integrity and continuous improvement. Elements include:
 - JSND's Systems Management staff monitoring 20 percent or more (due to small numbers) of WIA youth support services cases each quarter to ensure program and fiscal compliance.
 - The North Dakota Office of Management and Budget conducts an annual audit of all JSND administered programs reporting results to DOL ETA.
 - Each customer service area is responsible for monitoring of quality case management practices.

F. Public Comment on the Waiver Request: This waiver has been posted on the Job Service North Dakota web site (www.jobsnd.com) on 10/5/2012 and 10/31/2012 and will be posted on 11/7/2012 to solicit public comment.