



DEC 11 2012

The Honorable Rick Perry
Governor of Texas
Post Office Box 12428
Austin, Texas 78711

Dear Governor Perry:

This letter provides approval of Texas' 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 Texas' 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 Texas 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 Texas 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 TEGs No. 21-11 and 38-11 dated June 18, 2012, negotiations must be completed by December 31, 2012 for PY 2012. The final goals for Texas have been established. The Regional Administrator sent a letter dated August 20, 2012 advising the State of the PY 2012 WIA and W-P final performance goals, which constitutes a modification to the State Workforce Plan. ETA has incorporated Texas' 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 Texas' State Integrated Workforce Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's request for waivers is 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 of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State requested a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted this waiver through June 30, 2017. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

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

The State requested 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 the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State requested a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted this waiver through June 30, 2017. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide customized training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

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 requested 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 WIA Section 136(c) to allow greater flexibility when contracting performance measures with local workforce boards.

The State requested a waiver to exempt it from the requirements at WIA Section 136(c), which defines the local area performance measure indicators and the methodology for local areas to negotiate and reach agreement on the local area performance base on the State adjusted levels. The State is granted this waiver through June 30, 2017. The waiver permits the State to use local board-contracted measures that support integration. Under this waiver, the State will continue to meet applicable state performance requirements at WIA Section 136(b).

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State requested a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to allow local areas to use up to 10 percent of local Dislocated Worker funds

and up to 10 percent of local Adult funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the State is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State requested a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted this waiver through June 30, 2017. Under the waiver, the following reimbursement amounts will be permitted: up to 75 percent for employers with 250 or fewer employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide on-the-job training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State requested a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of the reallocation provisions at WIA Sections 128(c)(3) and 133(c)(3), and 20 CFR 667.160.

The State is granted a waiver of the reallocation provisions at WIA Sections 128(c)(3) and 133(c)(3), and 20 CFR 667.160(c) to permit it to reallocate recaptured funds according to state-developed criteria. The State is granted this waiver through June 30, 2017. Under the waiver, the State has the discretion to consider additional factors described in its waiver plan in determining local area eligibility for a reallocation of recaptured funds. Specifically, the State can consider:

- the amount available for redistribution;
- amount requested by a local board;
- demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants;
- a demonstrated capacity to effectively expend funds to address the need for services in the workforce area;
- a local board's established plan for working with at least one of the Governor's industry clusters as specified in the board's plan; and
- the local workforce area's performance during the current and prior performance years.

The State must make public its reallocation procedure and policy, as well as any future changes to its policy. Please note that the approved waiver only applies to reallocation, and not recapture.

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 requested 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.

Waiver of WIA Section 129(b)(2)(C) and 20 CFR 665.200(h) to exempt the state from the requirement to provide additional assistance to local areas that have a high concentration of eligible youth.

The State is requesting a waiver of the requirement to provide additional assistance to local areas that have a high concentration of eligible youth. The State is granted this waiver through June 30, 2013.

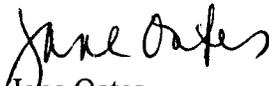
Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State is requesting a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted this waiver effective through June 30, 2013.

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 TEGl 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. As discussed in TEGl 36-11, we strongly encourage State WIA grantees to adopt the use of the American Job Center brand for your physical One-Stop Career Centers and online tools. We are available to provide technical assistance. If you have any questions related to the issues discussed above, please contact Kajuana Donahue, the Federal Project Officer for Texas, at (972) 850-4613 or Donahue.Kajuana@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Enclosures

cc: Joseph Juarez, Regional Administrator, ETA Dallas Regional Office
Kajuana Donahue, Federal Project Officer for Texas

From: Carlson, Debbie [Deborah.Carlson@twc.state.tx.us]
Posted At: Friday, September 14, 2012 4:32 PM
Conversation: Texas Strategic Workforce Investment Plan
Posted To: WIA.PLAN

Subject: Texas Strategic Workforce Investment Plan

The Texas Workforce Commission (TWC), the state operational entity for the Title I Workforce Investment Act (WIA), respectfully requests approval of the enclosed *Strategic State Workforce Investment Plan for Title I of the Workforce Investment Act of 1998, the Wagner-Peyser Act, and the Senior Community Service Employment Program State Plan for Program Years 2012–2015* for the State of Texas. The plan was developed in accordance with the U.S. Department of Labor Employment and Training Administration's Training and Employment Guidance Letter No. 21-11.

We appreciate the opportunity to submit this plan and look forward to receiving the Secretary's approval. If you have questions or require additional information, please contact me at (512) 463-2675 or debbie.carlson@twc.state.tx.us.

Thanks,
Debbie Carlson
Director, Workforce & UI Policy
& Program Assistance
Texas Workforce Commission
512-463-2675

ATTACHMENT 3

WORKFORCE INVESTMENT ACT WAIVER REQUESTS

The Texas Workforce Commission (TWC) continually challenges staff to identify federal laws, regulations, and policies that impede successful achievement of workforce development goals.

To make the best use of resources, Texas continues to take advantage of federal waiver opportunities to seek relief from provisions that restrict flexibility and creativity or do not make efficient use of staff time.

Texas has developed waiver requests covering a broad array of workforce issues. These waivers were developed with Local Workforce Development Boards (Boards) and other stakeholders. These waivers (detailed below) requested authority to:

- increase local control of program delivery;
- improve the ability of Boards to respond quickly to changing needs within their areas;
- increase flexibility at the local level to serve business and industry;
- eliminate duplication and streamline administrative processes, allowing more money for services; and
- increase accountability at the state, local, and service provider levels.

All Boards have been notified of waivers and all waivers have been posted for public comment several times. Comments and suggestions from the public have been incorporated into the waiver plans.

TWC requests that Department of Labor Employment and Training Administration (DOLETA) extend Texas' waivers for the period of this plan.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Common Measures and Integrated Performance Waiver**

Statutory and Regulatory Provisions to be Waived

TWC is requesting a waiver to reporting the 17 measures required under WIA §136(b), and the performance measures applicable to Employment Service (ES), veterans' services, and Trade services. The requested waiver is similar to the waiver granted to the State of Pennsylvania in December 2003. TWC will report performance using only the federal Common Measures integrated across the aforementioned programs.

Actions 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. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

Section 136(b) of WIA provides that state performance measures for WIA shall consist of 17 specific core indicators of performance and customer satisfaction. Recently, the DOLETA modified its collection and reporting requirements for WIA to implement the Common Measures. DOLETA was able to replace six of the 17 statutorily required WIA measures with Adult Common Measures because they were essentially modifications of the existing statutory measures. However, DOLETA was not able to simply substitute Youth Common Measures for the seven WIA statutory youth measures. As a result, states are currently required to report 20 measures for WIA even though DOLETA's stated vision for WIA is that states would report the three Adult Common Measures for WIA Adult and WIA Dislocated Worker programs, while the three Youth Common Measures would be used for the WIA Youth program. Texas supports that vision and seeks a waiver to allow it to move toward this model of reporting. Specifically, TWC is requesting a waiver of the current performance measures for WIA, ES, Trade, and DVOP/LVER services. Texas proposes to report integrated outcomes across these programs using the Common Measures exclusively.

Approval of this waiver request will limit duplication of the overwhelming data reporting requirements currently in effect. This will allow TWC to promote integration, improve consistency and reliability of data, and foster greater flexibility when contracting performance measures with the Boards. In addition, limiting performance reporting to the Common Measures will simplify service delivery as well as data collection, reporting, and validation at the local level. Approval of this waiver is the next step in the plan for service and performance integration, building upon the previously approved waiver granting TWC the flexibility to determine which measures to pass down to the Boards.

TWC has reviewed the integrated reporting system that Pennsylvania is using and believes it offers significant advantages over siloed reporting. While similar to DOLETA's original Management Integrated Longitudinal Evaluation system, Pennsylvania's model appears more streamlined.

TWC believes that the work it has already done to implement integrated Common Measures for its state reporting puts it in a position to move to such reporting this year. TWC has been at the leading edge of workforce service innovations for the past 10 years and wishes to continue its leadership through implementation of integrated performance reporting. TWC is requesting permission to pilot the Workforce Investment Streamlined Reporting System (WISPR) system. As an alternative to the new system, Texas would consider using the Pennsylvania reporting model or one recommended by DOLETA.

As a result of this waiver request, the following reports would be impacted as follows:

- WIA – ETA 9090 quarterly report and WIA Standardized Record Data (WIASRD) would be discontinued.
- WIA – ETA 9091 annual report would still be reported but only those portions that are relevant to the Common Measures
- Trade Act – Trade Act Participant Report would be discontinued
- ES – All five ETA 9002 quarterly reports would be discontinued (though the 9002E might need to be continued for a few additional quarters).
- Jobs for Veterans Act – All three of the VETS 200 quarterly reports would be discontinued.

The reports being discontinued would, of course, be replaced by the new WISPR.

TWC proposes to fulfill reporting requirements in much the same way as Pennsylvania does for all DOLETA-funded programs. Texas will ensure that customer records continue to be available so that DOLETA can disaggregate the data for its program-based reporting requirements.

Goals

- **Increase integration of services to customers**

Boards are responsible for implementing many federal and state workforce development programs, allowing them the opportunity to integrate service delivery. However, programs are partially driven by how performance is measured. Programs with different measures of success require different means of management. Similarly, the excessive number of performance measures (particularly the continuation of the historic WIA measures with the new Common Measures) compel staff to spend additional time focusing on *program* outcomes—time that could be better used by focusing on the needs of employers and job seekers. Reporting only Common Measures removes that barrier and consequently improves service delivery. The requested waiver will allow for the complete integration of performance reporting across all TWC-administered programs. Boards will be able to respond to the needs of employers and job seekers without the limitations imposed through siloed performance reporting.

- **Increase accountability at the state, local, and service provider levels**

Because Boards are responsible for numerous workforce development programs, co-enrollment of customers in multiple programs is becoming increasingly commonplace.

Therefore, TWC believes using integrated performance measures will promote accountability by evaluating Boards through consistent and reliable data

- **Provide greater flexibility to Boards in designing and implementing one-stop services**

By eliminating program-specific measures and applying Common Measures across all programs, TWC will promote service delivery designs that are based on employer needs rather than siloed program requirements.

- **Improve services to youth and increase focus on out-of-school youth**

As noted, DOLETA has chosen to implement Youth Common Measures with existing statutory WIA Youth measures. This results in 10 youth outcome measures. In addition to being excessive, there are conflicts between the statutory WIA Youth measures and the new Youth Common Measures. Under the historic WIA Youth measures, if a younger youth exits while still in secondary school, the youth is excluded from performance. Under Common Measures, these same youth would be included in performance. The Youth Common Measures encourage states to focus more of their efforts on out-of-school youth. Having the seven statutory WIA Youth measures waived will make it easier for Texas to transition to this new focus.

- **Reduced Administrative Reporting Costs**

DOLETA has indicated that there is some information that does not reflect the needs of the WIA program. Continuing to capture and report this information is an inefficient use of resources. Further, while DOLETA's most-recent set of performance reporting specifications have removed most of the inconsistencies between the reports, nearly a dozen reports are still required.

Further, TWC believes that requiring the use of a unique job seeker identifier across all siloed reports, as well as the use of a Common Date of Exit, will link the reports together more efficiently. Currently, states are required to merge customer data across programs while not receiving the benefits of integration (e.g., reduced reporting). Texas believes that true implementation of Common Measures requires integrated reporting, which Pennsylvania's model provides.

Programmatic Outcomes

This waiver allows administrative relief by removing barriers to co-enrollment and promoting more integrated case management. The new federal Common Measures have a number of advantages over existing performance measures, and TWC strongly supports the concept that programs with similar outcome objectives should be measured in a similar fashion.

In addition, this waiver streamlines administrative processes, allowing TWC to focus the maximum amount of resources on employment outcomes. It will further TWC's implementation of the federal goal to simplify and streamline the performance accountability system. Additional administrative cost savings will be realized when TWC and the Boards are able to discontinue administration of the Customer Satisfaction Surveys and the number of performance reports generated.

TWC has developed and is currently using a set of systemwide performance measures based on the new federal Common Measures. The past year has been spent preparing to implement Common Measures for state reporting purposes and in anticipation of new federal reporting requirements. Further, these measures are being used by the Texas Legislature, across all workforce programs, to evaluate the Texas workforce system.

Individuals Affected by the Waiver

Employers, job seekers, and local staff benefit from the waiver. The removal of siloed performance measures, and the implementation of integrated Common Measures, will allow staff to better focus on the needs of employers, find job seekers to match those needs, and maximize integrated services to achieve the best outcomes. Furthermore, moving to Common Measures will foster increased focus in adult programs on employment, and youth programs on education and skill attainment.

Youth will likely see the most immediate benefits of the waiver. Focusing only on Youth Common Measures will remove a significant barrier to aligning Texas' WIA Youth program with DOLETA's vision of serving primarily out-of-school youth, as well as fostering youth's long-term connections to the workforce system. The hardest-to-serve youth groups, such as MSFW youth and current and former foster care youth, will derive the most benefit from long-term connection to the workforce.

Processes Used to Monitor the Progress in Implementing the Waiver

TWC has a monitoring and performance accountability system that measures results for employers and other customers that use the Texas workforce system. TWC continuously analyzes performance reports and compares actual performance with contract targets. It will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met. Information regarding the new reporting system and the waiver will be shared with the Boards through training and technical assistance, the distribution of policy through Workforce Development Letters (WD Letter), and TWC Quarterly Workforce Forums.

TWC will monitor progress under this waiver by reviewing monthly performance reports, through regularly scheduled conference calls with the Boards' executive directors, and through its monitoring and performance accountability system.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Board Performance Measures Waiver**

Statutory and Regulatory Provisions to be Waived

TWC is seeking a waiver from WIA §136(c)(1) and a modification of Section 136(h)(1).

Actions 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. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

TWC requests a waiver from WIA §136(c) to allow greater flexibility when contracting performance measures with the Local Workforce Development Boards (Boards). Section 136(b) of WIA provides that state performance measures for WIA shall consist of 17 specific core indicators of performance and customer satisfaction. Section 136(c) provides that local performance measures shall consist of the same core indicators of performance and customer satisfaction as the state.

Specifically, TWC is requesting the flexibility to modify Board performance measures. TWC will continue to track and report the 17 core indicators of performance and customer satisfaction at both the state and Board level. However, TWC may choose not to use all 17 measures in its Board contracts. TWC is interested in developing Board contracted measures that support integration, such as the Federal Common Measures' definitions for entered employment and job retention.

The requirement to contract the 17 core indicators of performance and customer satisfaction to the Boards unnecessarily silos service delivery. TWC believes that as long as programs have different measures of success they will require different means of management.

Federal job training programs seldom define performance measures in a common manner, resulting in confusion and an increased reporting burden at the state and local level. For example, "entered employment" is tracked for many Workforce Solutions Office partner programs; however, the definition and methodology varies among programs. Approval of this waiver would result in Board performance measures with common definitions and methodologies. By promoting a common outcome, service delivery designs for multiple programs can be streamlined. This will help integrate service delivery through the Workforce Solutions Offices.

While this proposed waiver would provide TWC with flexibility in selecting Board performance measures, Section 136(h) continues to provide for sanctions for a Board's failure to meet any of the 17 WIA performance measures. With the approval of this waiver, the 17 performance measures would no longer be contracted to the Boards. However, TWC will continue to apply the sanction provisions at Section 136(h) to the Boards' new contracted measures.

Goals

- **Increase integration of services to customers**
Boards are responsible for implementing many federal and state workforce development programs, allowing them the opportunity to integrate service delivery. However, programs are partially driven by how performance is measured. Programs with different measures of success require different means of management. Rather than focusing on the needs of employers and finding job seekers to fill those needs, staff must focus on the specific outcome expectations of the program that funds the services the customer receives.
- **Increase accountability at the state, local, and service provider levels**
Because Boards are responsible for numerous workforce development programs, co-enrollment of customers in multiple programs is becoming increasingly commonplace. Therefore, TWC believes that the most effective way to evaluate Boards and to promote accountability is to use integrated performance measures.
- **Provide greater flexibility to Boards in designing and implementing one-stop services**
By eliminating program-specific measures and applying integrated performance measures across all programs, TWC will promote service delivery designs that are based on employer needs rather than siloed program requirements.

Programmatic Outcomes

The approval of this waiver would result in the continued administrative relief that would remove barriers to co-enrollment and promote more integrated case management across multiple programs. The new Federal Common Measures have a number of advantages over existing performance measures, and TWC strongly supports the concept that programs with similar outcome objectives should be measured in a similar fashion.

TWC has developed a set of system-wide performance measures based on the new Federal Common Measures. These new measures are used by the Texas Legislature at the beginning of the new fiscal year to evaluate the Texas workforce system. Texas' new measures are system measures applied across all programs. For example, there is a system-wide Entered Employment Rate that is based on an unduplicated list of exiters from all workforce programs (using the federal "soft exit" methodology). These measures make no distinction between customers served by Employment Service, WIA, Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program, other various state-level programs, or a combination of programs.

Approval of this waiver would continue to allow the streamlining of administrative processes, resulting in maximized resources focused on employment outcomes.

Individuals Affected by the Waiver

Employers, job seekers, incumbent workers, and local staff may benefit from the waiver. The removal of 17 siloed performance measures, and the implementation of more integrated

measures, will allow staff to focus on the needs of employers, find job seekers to match those needs, and maximize integrated services to achieve the best outcomes.

Processes Used to Monitor the Progress in Implementing the Waiver

TWC has a monitoring and performance accountability system that measures results for employers and other customers using the Texas workforce system. TWC continuously analyzes performance reports and compares actual performance with contract targets. TWC will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met. TWC will monitor progress under this waiver by reviewing monthly performance reports, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system.

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

Statutory and Regulatory Provisions to be Waived:

TWC is seeking a waiver from the provisions of WIA Sections 128(c)(3) and 133(c) and the provisions of 20 C.F.R. §667.160 (regarding reallocation among local areas). This waiver would provide flexibility to TWC in redistributing funds among the local workforce development areas (workforce areas). Upon approval, this waiver will allow, through administrative efficiencies, for the opportunity to further workforce system integration.

Actions 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. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

TWC requests to continue this waiver of the WIA statutes relating to the redistribution of recaptured local funds and proposes to base the redistribution of WIA funds on TWC's allocation rules (40 TAC §§800.51-800.75). TWC ensures that financial reporting will be consistent with current DOLETA requirements and that federal funds will be effectively managed for maximum service provision and program performance.

Goals

- **Recaptured funds will be redistributed to workforce areas based on factors established by TWC.**

The waiver request also allows TWC to ensure that funds are redistributed to those workforce areas with the greatest need. In doing so, TWC will determine the amounts to be redistributed to workforce areas based on factors such as:

 - Requested amount;
 - Demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants;
 - Demonstrated capacity to expend the formula funds;
 - A Board's established plan for working with at least one of the Governor's industry clusters as specified in the Board's plan; and
 - Performance in the current and prior program years
- **Facilitates maximum expenditure of recaptured federal funds.**

TWC seeks to redistribute workforce funds to workforce areas that have achieved not only targeted expenditure levels but also established performance targets. Redistributing funds based solely on whether a workforce area achieves its expenditure target does not address performance issues, such as whether the workforce area met employers' needs for a highly skilled and job-ready workforce.
- **Improved administrative efficiencies.**

Approval of this waiver will serve to minimize administrative processes and costs of contracting by using similar redistribution procedures that support workforce system integration.

Programmatic Outcomes

The statutory reallocation requirements can be fulfilled; however, the amount of funds available for reallocation may be so small that it is cost prohibitive. By utilizing TWC's allocation rules for the redistribution of WIA funds, TWC can ensure that federal funds will be more effectively and efficiently managed for maximum service provision and program performance. Approval of this waiver may not result in significantly higher performance outcomes, however, it will provide the opportunity for recaptured funds to be redistributed to workforce areas where the greatest potential impact may be realized. This waiver will streamline administrative practices, which will allow for greater efficiency in meeting the workforce development needs of employers and job seekers. Furthermore, it will enhance the quality of services in those workforce areas that have demonstrated consistent performance outcomes. Approval of this waiver will result in a reduction of unnecessary administrative processes.

Individuals Affected by the Waiver

Workforce areas that provide quality services will have access to additional resources to meet the needs of employers, job seekers, and incumbent workers. In addition, the waiver will allow TWC to continue to promote the cost benefits of improved administrative efficiencies, encouraging the increased leveraging of resources within the workforce areas.

Process for Monitoring Implementation of the Waiver

TWC has a monitoring and performance accountability system that measures results for employers and other customers using the Texas workforce system. TWC continuously analyzes performance reports and compares actual performance with contracted targets. TWC 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. TWC will monitor progress under this waiver by reviewing monthly expenditure and performance reports submitted by the Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system.

In June 2006, TWC adopted rules to integrate our deobligation and reallocation policies for all Board administered funds – we established consistent procedures to apply to all workforce funds administered by the Boards, in support of a fully integrated system.

- Deobligations has a multi-level review
 - Expenditures are reviewed on a monthly basis (performance is also considered)
 - If expenditures are trending low, staff provide technical assistance to the Boards
 - Boards are given an opportunity to get expenditures back on track
 - When it becomes clear that the Board will not be able to meet the expenditure benchmark, discussion regarding the possible deobligation occurs and we receive concurrence from the Board ED that they will not be able to use the funds
 - Final action is taken in a public meeting of the Commission

- Reallocations has a multi-level review
 - Expenditures are reviewed on a monthly basis (performance is also considered)
 - If expenditures are trending high, staff provide technical assistance to the Boards
 - Boards are given an opportunity to explain why expenditures appear to be high
 - The Board may identify that the numbers of participants to be served is higher than anticipated and additional funds are needed
 - Staff verify through the performance reports that the number of participants is consistent with the Board's explanation of need
 - Final action is taken in a public meeting of the Commission

This process has worked well for a number of years with all Board administered funds. This same process for reallocation would be used for WIA funds upon approval of the waiver.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Local Activity Funds Waiver**

Statutory and Regulatory Provisions To Be Waived

TWC requests a waiver of WIA §134(a)(3)

Actions 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. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

Texas is working hard to develop an employer-driven workforce system. As such, TWC and the Boards are seeking opportunities to develop workforce solutions that address employers' needs for qualified workers. Under this waiver, Boards can design customized solutions to meet the skills needs of the employers in their local workforce development areas. However, these needs are frequently difficult to address with WIA formula funds because of the categorical nature of these funding streams. By allowing Boards to designate up to 10 percent of local Dislocated Worker and up to 10 percent of local Adult funds as Local Activity Funds, DOLETA will provide the Boards with enhanced flexibility to develop an employer-driven system customized to meet local business needs. This will allow Boards greater opportunities to develop and implement innovative service strategies to meet the specific skills demands of business and industry to be competitive in the 21st century economy. Use of these funds for incumbent worker skills training is an important tool as a layoff aversion strategy.

Goals

The ability for Boards to set aside additional formula funds as Local Activity Funds not only increases their flexibility to meet employers' existing skill demand needs, but will enable Boards the flexibility to meet emergent needs. Moreover, the increased flexibility also furthers the reforms initiated through WIA including integrated, seamless service delivery; a demand-driven workforce system; and maximum flexibility in tailoring service delivery and making strategic investment in workforce development activities to meet the needs of state and local economies and labor markets.

By increasing the amount of Local Activity Funds available, a Board can provide more innovative and customized services for layoff aversion by providing incumbent worker training. Texas has had instances of a manufacturer closing an entire line of products, laying off hundreds of workers. With the addition of new skills, especially upgrading technological skills of incumbent workers, employers are able to retain employees and avert a potential layoff. TWC believes many Texans' skills need to be upgraded for them to remain employed and their employers to avoid layoffs and be competitive in the 21st century economy.

Earlier in this State Plan, Texas identified the skills gap that exists with many of its residents, thus creating some difficulty for employers seeking qualified workers to compete in the evolving

global who marketplace. Technology skills are critically needed, especially for those individuals whose native language may not be English. Special projects are needed to close this gap.

TWC will allow Boards to designate up to 10 percent of local Dislocated Worker and up to 10 percent of local Adult funds as Local Activity Funds for incumbent worker training only as part of a layoff aversion strategy. Use of adult funds are restricted to serving incumbent workers and all training delivered under this waiver is restricted to skills attainment activities for the purpose of layoff aversion.

Programmatic Outcomes

Under the requested waiver, Boards will continue to be held accountable for meeting all WIA performance targets. Board performance and expenditures of the formula funds must be satisfactory before the authority to designate any amount of formula funds as Local Activity Funds allowed under the waiver will be granted by the state.

Board requests to TWC to designate formula funds as Local Activity Funds must include a description of the projects, services, and activities that will be provided with these funds, in addition to projected performance outcomes.

TWC's case management and reporting system for employment and training services, The Workforce Information System of Texas (TWIST), is used to track service activity and performance reporting. TWIST will continue to be used for both formula funds and Local Activity Funds. TWC contract managers will utilize TWIST to monitor service levels and performance outcomes.

Individuals Affected by the Waiver

Setting aside funds that may be designated by Boards as Local Activity Funds will benefit employers and incumbent workers. For example, many employers consider WIA services to be overly bureaucratic or process oriented, thus making it unattractive for them to turn to the workforce system for employment assistance. In fact, employers' needs often cannot be addressed by the categorical eligibility requirements in WIA Adult or Dislocated Worker funding. By using Local Activity Funds, Boards will have the added flexibility from statutory requirements placed upon the formula funds, enabling them to better address employers' distinct and emergent needs.

This waiver will afford Boards the opportunity to engage more employers in high-growth, high-demand industry sectors, as the Boards will have strengthened ability to be responsive to employers in tailoring their employment solutions. Additionally, the flexibility will allow Boards to partner with faith-based and community-based organizations, which are often discouraged from working with the workforce system because of complicated eligibility requirements relative to the funding. Furthermore, the waiver will encourage the Boards to partner with more employers, as well as labor and community organizations, to promote universal access to Workforce Solutions Office system services.

The State will ensure that Boards do not dilute services to Adults or Dislocated Workers. Texas intends to meet all required performance measures for Adults and Dislocated Workers.

Processes Used To Monitor the Progress of Implementing the Waiver

TWC's monitoring and performance accountability system measures results for employers and other customers of the Texas workforce system. Moreover, TWC continuously analyzes performance reports and compares actual performance with contract targets. TWC will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met for WIA services, including services created by the use of the waiver. Further, TWC will monitor progress under the waiver through review of monthly expenditures and performance reports submitted by the Boards and through its monitoring and performance accountability system.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Rapid Response Waiver**

Statutory and Regulatory Provisions To Be Waived

TWC requests a waiver of WIA § 134(a)(1)(A).

Actions 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. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

TWC requests the waiver to allow the Governor to transfer up to 20 percent of the state's set-aside portion of the Rapid Response funds into the Statewide Activity funds only as part of a layoff aversion strategy for incumbent workers. The state is not seeking to waive its responsibilities related to Rapid Response activities. TWC currently allocates much of the Rapid Response funding to the Local Workforce Development Areas for Boards to use for Rapid Response activities, although a portion is retained by the State for use as additional assistance when needed. As a result, dislocated workers will still be able to access needed services to reconnect with the local labor force.

The purpose of the waiver is to increase flexibility, thus providing the Texas workforce system with additional opportunities to maximize training services that meet the skill needs of employers and incumbent workers for the jobs of the 21st century.

By allowing a portion of the state's Dislocated Worker Rapid Response funds to be designated for use as WIA Statewide Activity funds, additional flexibility will be gained to ensure that businesses can obtain a qualified workforce and greater numbers of adults will receive training to upgrade their job skills. These funds will only be used as part of a layoff aversion strategy for incumbent worker training. Incumbent workers will achieve the skill levels necessary to support employers continued operations.

Goals

- **Equip workers with relevant job training that leads to high-skill, high-wage occupations**

The waiver will give TWC the flexibility to respond to employer-identified skill needs with a combination of education, employment, and training services. Increased skills will help workers adapt to changes in technology, new operating processes, and changing industry requirements. Boards must ensure that the employer demonstrates a commitment to retaining employees or otherwise providing a tangible benefit to employees who receive incumbent worker training.

- **Provide greater flexibility to TWC in designing and implementing WIA services**

The waiver will give TWC the flexibility to respond quickly to existing and emergent demands in Texas. TWC supports the retention and growth of a competent and competitive

workforce for our state and our nation to remain competitive in the global economy of the 21st century.

Employers selected for participation in incumbent worker training may be selected on factors such as:

- Businesses or industries that provide the greatest positive impact for the region
- Industries that pay family supporting wages and benefits and offer job and training ladders
- Industries that create greater economic spin-off activity, i.e., the multiplier effect
- Businesses that have announced layoffs or have submitted WARN notices.

These goals can be achieved by providing education, training, and other services necessary to upgrade the individual's knowledge, skills and abilities and enhance their employment opportunities, including promoting job retention for incumbent workers.

Programmatic Outcomes

The intent of the waiver is to maximize the flexibility of WIA funding for Texas to develop projects that address employers' specific needs. Greater flexibility in the use of the Rapid Response funds will help ensure that the Texas workforce system can be truly employer driven. It is anticipated that additional employers will turn to the workforce system for customized solutions to their employment and training concerns, since service delivery will be streamlined and less complicated. Texas intends to continue meeting all required performance measures for services to Dislocated Workers.

Description of the Individuals Affected by the Waiver

The additional flexibility afforded under the waiver will permit Texas to design customized solutions to meet the training needs of employers, while enhancing the skill needs of adult and dislocated workers. No dilution of funding for services to dislocated workers would occur, and TWC will ensure that Rapid Response activities are provided to affected employers and workers as required under WIA.

Employees and employers served through this waiver will be offered all available workforce services including referrals to services offered by partner agencies.

Describe the Processes Used to Monitor the Progress of Implementing the Waiver

TWC's monitoring and performance accountability system measures results for employers and other customers of the Texas workforce system. Moreover, TWC continuously analyzes performance reports and compares actual performance with contracted targets. TWC will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met for WIA services, including services created through the use of the waiver. Furthermore, TWC will monitor progress under the waiver through review of monthly expenditure and performance reports and through its monitoring and performance accountability system.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Customized Training Waiver**

Statutory Provisions to be Waived

TWC requests a waiver of WIA § 101(8)(c), which defines customized training and requires employers to pay not less than 50% of the cost of the training

Actions 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. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

Customized training optimizes the resources available under workforce development initiatives to meet the needs of employers and job seekers. Since 1996, TWC has successfully administered employer driven customized training programs funded through state resources. Customized training focuses on employers' and job seekers' needs while minimizing programmatic and bureaucratic barriers.

TWC oversees two customized training programs: Skills Development Fund and Self-Sufficiency Fund. These programs provide job seekers with the necessary skills to meet the demands of business and industry for skilled employees. TWC directly administers the Skills Development Fund and Self-Sufficiency Fund programs by developing partnerships with employers, public community and technical colleges, community-based organizations, and others. These statewide programs focus on creating new jobs for job seekers and on retraining existing employees according to the employers' needs.

Following the approach TWC uses for administering the Skills Development Fund, Boards pull together employers and training programs to enhance the skills of workers based on the occupational needs of businesses and industries. TWC has extensive experience in working with employers and in designing workforce development programs that meet specific employer needs. However, the current 50 percent employer match requirement limits the ability to market customized training programs to local employers. Local employers too often conclude that the 50 percent match requirement creates costs that outweigh the benefits of participating in a WIA customized training program.

The proposed sliding scale for the employer match will create the necessary flexibility for employers to provide the required match at a rate that more appropriately represents a particular business' or industry's cost benefit ratio of contributing to a match amount to receive skilled employees. Allowing businesses and industries to apply the sliding scale to determine the match amount will increase employer participation in WIA customized training programs at the local level. The sliding scale will answer employers' primary reason for not participating in the customized training. Boards will increase their participation rates for skilled job seekers that received training and found employment. Employers will benefit by having a labor pool with the marketable skills they require

The proposed employer match sliding scale will range from 10 to 50 percent, based on quality characteristics of the customized training. Quality characteristics will be based on goals of the State Strategic Plan for Workforce Development that adhere to the principles of training workers in high demand, high skill, high wage occupations and industries. TWC will develop the sliding scale and the process by which it will be applied. TWC is committed to ensuring that participants in customized training programs will acquire the skills to meet workplace requirements for long term employment and work toward sustaining employment in high-skill, high wage occupational areas.

The sliding scale will include:

- No less than 10 percent match for employers with 50 or fewer employees;
- No less than 25 percent match for employers with 51-250 employees; and
- For employers with more than 250 employees, the current statutory requirements (50 percent contribution) will apply.

TWC will use the appropriate program fund for the appropriate WIA-eligible population and will provide customized training to individuals age 18 or older with WIA Adult funds and provide priority to low-income individuals when funds are limited. TWC and Boards will provide customized training to dislocated workers with WIA Dislocated Worker funds and will ensure that customized training provided with statewide funds serve WIA eligible individuals

Goals

- Increase flexibility at the local level to serve business and industry through a value added approach to their specific needs;
- Equip workers with relevant job training with transferable skills that lead to high-skill, high-wage occupations and industries;
- Improve ability of Boards to work with the private sector and respond quickly to changes in their areas; and
- Increase local flexibility for design and control of training programs.

Programmatic Outcomes

- Increase the percentage of employers using customized training as a means to hire and retain skilled workers.
- Increase the percentage of workers trained and hired through customized training programs.
- Although existing data on Board customized training programs is not extensive at this time, it will be used as baseline data to measure progress on outcomes post waiver approval and implementation.

Individuals Impacted by this Waiver

Employers will benefit from the waiver due to the reduced match requirement. This will make customized training a more attractive option for acquiring workers trained to their specifications. The waiver will impact the provision of training services through customized training to Adults, Older Youth and Dislocated Workers eligible for services under WIA. In particular, WIA

eligible individuals with multiple barriers to employment, low basic skills, and English language proficiency stand to benefit the most from customized training.

Trade NAFTA has impacted workers along the Texas-Mexico Border. Of special concern are the workers formerly in the garment industry and other labor-intensive industries with multiple barriers to employment, in particular, non-English speaking skills. Customized training addresses the specialized needs of job seekers, providing them with the skills necessary to meet employer expectations and the needs of business and industry.

Process To Monitor Progress in Implementing the Waiver

TWC, with input from Boards, employers, and service providers, develops customized training programs. TWC has a successful monitoring and performance accountability system that measures results for job seekers and employers using the Texas Workforce Network. Technical assistance during the implementation phase of the waiver will cover areas such as procurement, contracting and program design. TWC continuously analyzes performance reports and compares actual performance with contract benchmarks. TWC will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met for all WIA customized training programs. TWC will monitor progress on this waiver by reviewing monthly expenditure and performance reports submitted by Boards and from regularly scheduled conference calls with Board executive directors. Provisions in the contracts for customized training programs address specific performance measures. Notice to Boards would occur via issuance of WD 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.

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

Transfer of Funds Between Adult and Dislocated Worker Programs Waiver

Statutory Regulations to be Waived

TWC requests a waiver of WIA § 133(b)(4) (29 USC §2863(b)(4)) and WIA Regulations at 20 CFR 667.140.

Actions Undertaken to Remove State or Local Statutory Regulatory Barriers

There are no state or local statutory or regulatory barriers to implementing the requested waiver. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

With the approval of the governor, Boards may transfer up to 50 percent of a program year allocation for adult employment and training activities, and up to 50 percent of a program year allocation for dislocated worker employment and training activities between the two programs to:

- Improve the ability of Boards to respond to changes within their local areas;
- Increase local control for program delivery;
- Increase employer collaboration between industry need and worker training;
- Increase accountability at the state, local and service provider levels; and
- Provide greater flexibility to Boards in designing and implementing WIA programs.

Boards have exercised their option under the law to transfer funds. By virtue of Texas' size and diverse population, WIA customer needs vary greatly from one geographical area to another. This increased flexibility and control to transfer funds between adult and dislocated workers would allow Boards to better respond to changes within their areas, thus, allowing Boards the ability to most effectively use these limited funds.

The role of the Boards is to plan, oversee and evaluate the delivery of all workforce training and services in their respective areas through Workforce Solutions Offices. Boards would be encouraged to design innovative programs unique to their Board needs and priorities. Programs designed according to the specific needs of Boards result in increased local and service provider accountability. TWC supports the Boards in each of those areas, and provides continued technical assistance and program monitoring. The granting of the waiver will allow Texas to continue to meet the challenges of the future with strong partnerships, employer participation, and the continued support of state and federal leaders.

Individuals Impacted by the Waiver

This waiver will benefit Boards, Workforce Solutions Offices, employers, customers, and service providers. The following are additional impacts of the waiver:

- Program participants will benefit because Boards will have the flexibility to design programs based on local needs and priorities.
- Increased utilization will result in more customers being served.

- Boards will have the flexibility to move funds where they are needed

Process used to Monitor Progress and Implementing the Waiver

TWC has a successful monitoring and performance accountability system that measures results for job seekers and employers using the Texas Workforce Network. TWC continuously analyzes performance reports and compares actual performance with contract benchmarks. TWC will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met for all WIA Adult and Dislocated Worker programs. TWC will monitor progress on this waiver by reviewing monthly expenditure and performance reports submitted by Boards and from regularly scheduled conference calls with Board executive directors. Provisions in the contracts for the programs funded with statewide activity funds address specific performance measures. Notice to Boards would occur via issuance of WD 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.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
On-the-Job Training Waiver**

Provisions to be Waived

TWC requests a waiver of WIA §101(31)(B).

Actions Undertaken to Remove State or Local Statutory Regulatory Barriers

There are no state or local statutory or regulatory barriers to implementing the requested waiver. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

For Texas employers to expand and for new companies to join the Texas business community, bringing with them much-needed jobs, Texas workers must be equipped with the skills necessary to respond to the demands of a market-driven system. To assist low-income and hard-to-serve participants with acquiring the knowledge and skills necessary to fill these jobs, Texas is requesting a waiver of the 50 percent reimbursement rate to employers for providing on-the-job training (OJT) opportunities for adults, dislocated workers, and older youth. Boards will target employers for participation in OJT when OJT is the best means of meeting the needs of the participant and the employer. OJT duration is based upon the local demand occupation for which the participant will be trained, that participant's prior work experience, and the service strategy of the Board. This waiver will allow Boards to provide employers with a reimbursement rate of 50 or 75 percent of the employer match, based on employer size.

To encourage employers to place low-income individuals and hard-to-serve dislocated workers in OJT, Boards will be permitted to offer the following reimbursement rates:

- 75 percent for employers with 250 or fewer employees
- For employers with 251 or more employees, reimbursement will remain at 50 percent.

Boards will be required to apply the waiver on a case-by-case basis based on the employer's circumstances.

Permitting expanded OJT reimbursement rates allows TWC to:

- increase the number of employers using OJT as a means of hiring and retaining a skilled workforce;
- increase the number of workers trained and hired through OJT programs;
- elevate skill levels for workers, resulting in increased worker viability;
- increase responsiveness to private sector labor market issues, and
- increase local-level flexibility to offer business training solutions tailored to respond to a business's specific needs.

Additionally, the waiver allows TWC and Boards to:

- ensure fiscal responsibility by allowing the flexibility of spending funds in a manner that best fits local needs;
- place performance first by ensuring that those who are most in need of services—e.g., low-income adults, recipients of public assistance, dislocated workers, and youth—receive them; and
- spend taxpayer dollars wisely by targeting spending to the greatest need

Individuals Affected by the Waiver

The waiver is expected to benefit the following:

- WIA eligible individuals, including low-income individuals, recipients of public assistance, dislocated workers, and older youth, by providing job skills and employment opportunities; and
- Employers by making OJT a viable training solution, which will enhance opportunities for both businesses and WIA participants

Processes Used to Monitor the Progress in Implementing the Waiver

Boards implementing this waiver will be required to develop policies regarding the 75 percent reimbursement rate for OJT. Development of the policies must include input from appropriate stakeholders such as employers, labor organizations, and local economic development organizations. The policies must include employer size criteria and ensure equitability for employers and job seekers. As required by TWC rule, Boards must take such actions in an open meeting. Boards that have previously created policies to implement the on-the-job training waiver, are not required to adopt new policies if their existing policies conform to this waiver.

As required by TWC rule, Boards must monitor their own activities and those of their contract service providers, including for adherence to Board-established policies. Additionally, in accordance with its rules, TWC regularly conducts program monitoring activities to ensure that programs achieve both intended and expected results. As an element of its monitoring activities, TWC reviews relevant records or a sample of the records to ensure compliance with applicable requirements, including Board-established policies.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
High Concentration of Youth Waiver**

Provisions to be Waived

TWC requests a waiver of WIA §129(b)(2)(C) and 20 CFR §665.200(h), which require the provision of additional assistance to workforce areas that have high concentrations of eligible youth.

Actions Undertaken to Remove State or Local Barriers

There are no state or local statutory or regulatory barriers to implementing the requested waiver. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

The reduction to 5 percent in the WIA allotment for PY'12 governor's reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide WIA activities. The current funding level in the governor's reserve is insufficient to cover the cost of providing additional assistance to workforce areas that have high concentrations of eligible youth. With the reduction in the governor's reserve, TWC will provide an additional \$5,566,465 in WIA youth funds to workforce areas. Historically, TWC has provided approximately \$500,000 in support of this required statewide activity, which represented about 5.8 percent of previous governor's reserve funds derived from the WIA youth allotment. With the reduction of the governor's reserve to five percent, maintaining the previous level of commitment would equate to 18 percent of the governor's reserve funds from the WIA youth allotment.

Based on the formula allocation factor that allocates one-third of these funds on the basis of relative number of disadvantaged youth, the funds are already directed at workforce areas with high concentrations of eligible youth. Local Workforce Development Boards (Boards) are now receiving over \$5.2 million in additional WIA youth funds to support enhanced services for eligible youth. Additionally, TWC has increased the expenditure requirement for activities for out-of-school youth from 30 percent to 60 percent, thus ensuring that youth most in need are prioritized within each workforce area's WIA youth allocation.

The state's reduced funds are being used for the following required activities:

- Carrying out statewide rapid response activities;
- Disseminating TWC's list of Eligible Training Providers;
- Conducting evaluations;
- Providing technical assistance to workforce areas;
- Assisting in the establishment and operation of the Workforce Solutions Office delivery system; and
- Operating fiscal and management accountability information systems.

TWC's goal in seeking this waiver is to ensure that the state can prioritize the use of governor's reserve funds for the required activities deemed most essential to the basic functions of the workforce investment system.

Individuals Affected by the Waiver

The waiver will provide TWC with more flexibility in directing governor's reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

Processes Used to Monitor the Progress in Implementing the Waiver

TWC will monitor progress and ensure accountability for federal funds in connection with this waiver by reviewing monthly expenditure, performance, and other reports through regular contact with the U.S. Department of Labor Employment and Training Administration's regional office liaisons, and through TWC's monitoring and performance accountability system.

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Extension of Certification Period Waiver**

Provisions to be Waived

TWC requests a waiver of 20 CFR §663.530 that prescribes a time limit on the period of initial eligibility for training providers

Actions Undertaken to Remove State or Local Barriers

There are no state or local statutory or regulatory barriers to implementing the requested waiver. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

Texas Higher Education Coordinating Board (THECB) approved programs are subject to the THECB Institutional Effectiveness (IE) review process, and as such, have been reviewed and approved by the agency that oversees the program approval, revision, and review process for publicly supported community and technical colleges. The IE review process is a comprehensive approach for verifying the effectiveness of Texas' community and technical colleges in achieving their local and statutory missions. It provides for the systematic use of evaluation results to continuously improve institutional performance and programs. The expected programmatic outcomes of this waiver are:

- Streamlining the application submission and review process of THECB-approved programs which will have a direct impact on selected providers, Boards, and Commission staff;
- Postponing the determination of subsequent eligibility of training providers;
- Providing an opportunity for training providers to re-enroll and be considered as initially eligible providers;
- Enhancing and maintaining a robust Eligible Training Provider List in an effort to provide a variety of training options for eligible participants;
- Facilitating continued participation by providers in rural areas with a relatively small number of available providers and/or training locations;
- Assisting with the provision of a quality workforce for the State of Texas.

Individuals Affected by the Waiver

Eligible Training Provider System (ETPS) stakeholders affected by this request include:

- Training providers with THECB-approved programs that are subject to the IE process, Boards, and TWC would benefit from streamlined subsequent eligibility application requirements, review, and eligibility determination processes.
- WIA participants eligible for training services would have access to a wider variety of training programs.

Processes Used to Monitor the Progress in Implementing the Waiver

TWC implement steps that include, but are not limited to:

- Providing notification of adopted Rule amendments by modifying:
 - policy documents issued through WD Letter(s);

- automated, Internet –based application system application items and error handling requirements; and
- documents posted in the public view of the automated system;
- Providing information to providers by mail and through the applicable provider associations; and
- Providing training and technical assistance to Board contacts responsible for application and approval

**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Incentive Grants Waiver**

Provisions to be Waived

TWC requests a waiver of WIA §134(a)(2)(B)(iii) and 20 CFR §665.200(e) requiring provision of incentive grants to local workforce development areas (workforce areas).

Actions Undertaken to Remove State or Local Barriers

There are no state or local statutory or regulatory barriers to implementing the requested waiver. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

The reduction to five percent in the WIA allotment for PY 12 governor's reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. Historically, TWC has provided approximately \$575,000 for exemplary awards, incentive grants, and performance awards, in support of this required statewide activity. Based on the reduction to 5 percent, maintaining this previous level of commitment would now represent a more significant portion of the Governor's Reserve funds derived from the WIA allotment. The current funding level in the governor's reserve is insufficient to cover the cost of incentive grants to workforce areas. The state's reduced funds are being used to cover the following required activities:

- Carrying out statewide rapid response activities;
- Disseminating TWC's list of eligible providers of training services;
- Conducting evaluations;
- Providing technical assistance to workforce areas;
- Assisting in the establishment and operation of the Workforce Solutions Office delivery system; and
- Operating fiscal and management accountability information systems.

TWC's goal in seeking this waiver is to ensure that the state can prioritize the use of governor's reserve funds for the required activities deemed most essential to the basic functions of the workforce investment system.

Individuals Affected by the Waiver

The waiver will provide TWC with more flexibility in directing governor's reserve funds to those activities that best preserve basic functions of the statewide workforce investment system. There will be no negative impact to participants.

Processes Used to Monitor the Progress in Implementing the Waiver

TWC will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance, and other reports through regular

contact with the DOLETA's regional office liaisons, and through TWC's monitoring and performance accountability system

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**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT
Older and Out-of-School Youth Waiver**

Provisions to be Waived

TWC requests a waiver of 20 CFR §664.510 on the use of Individual Training Accounts for older and out-of-school youth.

Actions Undertaken to Remove State or Local Barriers

There are no state or local statutory or regulatory barriers to implementing the requested waiver. TWC regulations and policy statements are in compliance with current federal law.

Goals and Expected Programmatic Outcomes of Waiver

- Improve youth services through increased customer choice in accessing training opportunities in demand occupations;
- Increase the number of training providers for Older and Out-of-School Youth.
- Provide Boards more flexibility in securing service providers.
- Promote better utilization of service providers in rural areas; and
- Eliminate duplicate processes for service providers

The number of training providers in workforce areas will increase. Training services for youth will be available in a faster and more efficient manner. Many Boards find it difficult to secure training providers willing to competitively bid to provide training to Older and Out-of-School Youth. When Boards are required to competitively procure training services, the time period for matching training providers to youth who are in need is lengthened considerably. By allowing Boards to utilize eligible training providers that have already been competitively procured, Older and Out-of-School Youth will be able to access training services more quickly. Additionally, youth will be able to choose the training provider they prefer, if there is more than one certified training provide to choose from. TWC will continue to make youth program elements described in WIA § 129(c)2 available.

Individuals Affected by the Waiver

- Older and Out-of-School Youth will benefit because they will be able to select from a list of certified training providers and will receive services more quickly.
- Boards will benefit because they will be able to utilize training providers that have already been competitively procured.
- Training providers will benefit because they will not have to follow two separate procedures to provide training for Adult and Dislocated Workers, which requires certification, and for Older and Out-of-School Youth, which requires competitive bidding

Processes Used to Monitor the Progress in Implementing the Waiver

100

TWC will issue a WD Letter that will provide direction to the Boards on the use the of ETPS for Older and Out-of-School Youth, identify the criteria for determining when the use of Individual Training Accounts is appropriate, provide guidance to Boards on how to assist youth in choosing the appropriate training provider, and provide direction to Boards in modifying their local integrated plan. Progress on the waiver will be monitored through regular dialogue with Boards and training providers.

We have updated the information regarding our statewide funding and carry-forward funds to help explain the necessity for our waiver requests on incentive awards and additional assistance for areas with high concentrations of eligible youth.

Please let us know if you have additional questions.

Financial Analysis to Support Required Statewide Activities Waiver Requests

PY 2012 Governor's Set-Aside (5%)	\$8,654,806
Amount of prior year Carry-forward Funds	\$11,015,496
PY 2012 State Administrations Costs (i.e., staff)	\$4,728,474
Estimated Cost of All WIA Required Statewide Activities (exclude additional assistance to areas with high concentrations of eligible youth and local incentive grant costs since those waivers were previously approved)	\$3,995,172
Estimated cost of providing additional assistance to areas with high concentrations of eligible youth	\$500,000
Estimated cost of providing exemplary award, incentive grants, and performance awards	\$575,000

Texas has seen its statewide discretionary reserve decreased from \$27.8 million in PY09 to \$8.6 million in PY12. We are fortunate to have an available balance of carry-forward dollars which we will be able to use to sustain required activities (which cost an estimated \$5.1 million annually), as well as to support some discretionary activities (listed below) for a period of time.

A substantial portion of the carry-forward dollars above relate to PY10 balances. This carry-forward balance reflects adjustments that will be made to transfer prior year expenses, which will be required to maximize our utilization of PY10 non-administrative statewide balances, prior to June 30, 2013. The administrative costs and required activities in the future will fully utilize the discretionary reserve. Thus, Texas will be dependent on carry-forward funds to allow the continuation of current and new discretionary activities. In the future, as those funds are fully expended, without the

Waivers, discretionary activities will have to be eliminated or reduced, and in addition Texas may need to modify its support for required activities.

Discretionary Activities

Apprenticeship	\$1,000,000	To support registered apprenticeship classroom training.
Small Business Forums	\$650,000	To support Texans, including veterans, that start their own businesses, including businesses exporting their goods and services, and provide help to existing businesses with their training needs.
Veterans Workforce Outreach	\$425,000	To provide outreach and employment services to Persian Gulf War veterans, and their family members.
Texas Science and Career Consortium	\$50,000	The Fair offers a competition for students to showcase research projects in fields of science, technology, engineering and mathematics (STEM). Winners from the Fair will be able to participate in the International Science and Engineering Fair.
Governor's Challenge Camp	\$100,000	To host and conduct the Governor's Science and Technology Champions Academy. The Governor's Champions Camp is a Science, Technology, Engineering, and Math (STEM) academic-based one-week residential summer camp. Scholarships are awarded to eligible 2011 ExxonMobil Texas Science and Engineering Fair student winners and eligible teachers, who mentored the students, at no cost to the student or the teacher, to attend the camp. 65 participants to be served.

We appreciate the comments on our state plan. We have addressed each of the comments and provided clarifying language in the plan as appropriate. All the new language is in track changes. In addition, to ease your review, below is the list of your comments—with the page numbers identifying where the clarifications occur.

Please let me know if you have any additional questions.

Waiver Plan Review

Redistribution Waiver Pages 80, 81, 82

- Title is a misnomer, should be Reallocation Waiver
- Please describe efforts made to work with local areas to minimize the potential for recapturing funds.
- Please describe why the statutory reallocation requirements can't be fulfilled

Local Activity Fund Waiver, Pages 83, 84

- Clarification should be included that this waiver is specifically for incumbent worker training; current narrative is unclear on this topic.
- Please describe how it fits into the layoff aversion strategy.

Rapid Response Waiver Pages 86, 87

- Clarification should be included that this waiver is to use rapid response funds for incumbent worker training; current narrative is unclear on this topic.
- Please describe how the waiver fits into the state's layoff aversion strategy.
- Please describe how employers will be selected for incumbent worker training (i.e. announced layoffs via WARN, etc.).
- Please discuss how training will provide the skill level needed for the employer to maintain operations and avoid closures or layoffs.
- Please discuss employer commitment to retain and/or increase the wage of employees.
- Please describe whether employees and employers will be offered workforce center services to include services offered by partner agencies.

On-the-Job Training Pages 93, 94

- Please describe what sectors and/or high-growth employers will be targeted.
- The request states that boards will be required to develop policies regarding the 75 percent reimbursement, as this is not a new waiver, please clarify whether policies have already been developed

Incentive Grants Page 99

- Please include financial justification including estimated cost to provide incentive grants, which, if any, "allowable" statewide activities will be covered, impact of not funding incentive grants; whether it may directly affect WIA participant services; and any other pertinent information that would assist in making the case.

ITAs for Older and Out-of-School Youth Page 100

- The request states that boards will benefit because they will not have to direct their resources to costly and time consuming competitive procurement. As a point of clarification, *this waiver does not waive the competitive procurement process* but allows the youth funding stream to pay for ITAs which would otherwise be funded through co-enrollment in Adult Services. This ultimately allows more individuals to participate and receive training funds. Removal of any competitive procurement language is suggested

From: [Carison, Debbie](#)
Date: Thursday, November 29, 2012 6:35:32 PM
Posted At: WIA.PLAN
Conversation: Texas" State Plan--Waiver Requests
Subject: RE: Texas" State Plan--Waiver Requests

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