

OCT 18 2011

The Honorable Governor Luis Fortuño  
Governor of Puerto Rico  
P.O. Box 9020082  
San Juan, Puerto Rico 00902-0082

Dear Governor Fortuño:

We are pleased to be able to respond to your request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA) submitted on August 8, 2011. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e). The following is the disposition of the Commonwealth's submission (copy enclosed). This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

Requested Waivers:

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

Puerto Rico is requesting a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The Commonwealth is granted approval of this waiver through June 30, 2012. Under the waiver, the Commonwealth is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the Commonwealth to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

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.

Puerto Rico is requesting a waiver to permit an increase in the amount the Commonwealth is allowed to transfer between the Adult and Dislocated Worker funding streams. The Commonwealth is granted approval of this waiver through June 30, 2012. The transfer authority is limited to 50 percent under this waiver. This limitation provides the Commonwealth flexibility while ensuring consistency with

Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

Puerto Rico is requesting a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the Commonwealth to discontinue the collection of the following Workforce Investment Act Standardized Record Data (WIASRD) elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). Puerto Rico is granted this waiver through June 30, 2012.

Waiver of the WIA regulations at 20 CFR 666.100 to exempt the Commonwealth from including credential attainment outcomes for participants enrolled in on-the-job training in the credential performance measure calculations.

Puerto Rico is requesting a waiver to exempt it from including credential attainment outcomes in the credential performance measure calculations for participants enrolled in on-the-job training. The Commonwealth is granted this waiver through June 30, 2012. The Commonwealth must continue to report outcomes in the Workforce Investment Act Standardized Record Database (WIASRD) for participants enrolled in on-the-job-training.

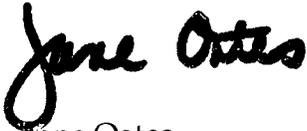
Waiver of WIA regulations 20 CFR 662.240(b)(10) to allow One-Stop Career Center staff to perform intake and eligibility determination for additional programs without having to cost allocate among programs.

The Commonwealth has withdrawn this waiver request.

The approved waivers are incorporated by reference into the Commonwealth's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and it constitutes a modification of the State Plan. A copy of this letter should be filed with the Puerto Rico WIA Grant Agreement and the approved State Plan. In addition, as described by TEGP No. 09-10, the Commonwealth should address the impact its waivers have had on its performance in the WIA annual performance report, due on October 1 of each year.

We look forward to continuing our partnership with you and achieving better workforce outcomes. If you have any questions related to the issues discussed above, please contact Ms. Holly O'Brien, the Regional Administrator for Region I, at (617) 788-0166 or [OBrien.Holly@dol.gov](mailto:OBrien.Holly@dol.gov).

Sincerely,

A handwritten signature in black ink that reads "Jane Oates". The signature is written in a cursive style with a large, looping initial "J".

Jane Oates  
Assistant Secretary

Enclosure

[PUERTO RICO WAIVER PLAN 2011-2012.pdf](#)



MIGUEL ROMERO  
SECRETARY

August 8, 2011

VIA EMAIL: [wia.plan@dol.gov](mailto:wia.plan@dol.gov)

Division of Workforce System Support  
Employment and Training Administration  
U.S. Department of Labor  
200 Constitution Ave., NW, Room S-4231  
Washington, DC 20210

To whom it may concern:

**PUERTO RICO'S WORKFORCE INVESTMENT ACT WAIVER REQUEST PROGRAM YEAR  
2011-2012**

On December 30<sup>th</sup> 2010, the U.S. Department of Labor issued the Training and Employment Guidance Letter 17-10, Instructions for Submitting Workforce Investment Act (WIA) and Wagner Peyser (WP) State Plans and Waiver Requests for Program Year 2011.

*WR*  
Pursuant to the instructions provided, the State Workforce Board, the Department of Labor and Human Resources (PRDOLHR) and its component the Human Resources and Occupational and Development Council (HRODC) as the Government of Puerto Rico's WIA State Administrator requested an Extension to the WIA & WP State Plan and Approved Waivers.

Subsequently and after the appropriate evaluation, in accordance with TEGs 26-09 / 30-9 and required WIA regulations at 20 CFR 661.420, enclosed please find a Waiver Plan where additional waivers are included, in order to best support the needs and strategic goals of our Local Workforce System .

This waiver request follows the format identified in WIA §189(i)(4)(B) and WIA Regulations at 20 CFR §661.420(c) and applies to WIA formula funds for the balance of Program Year 2011 and subsequent years, as appropriate.

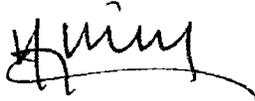
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Public comments were solicited prior to submission. Furthermore, all members of the State Workforce Board, Local WIB's and Local Area Directors were also be contacted regarding any comments.

Please contact Mr. Aurelio Gonzalez for further information at (787) 754-5504 or via email at [agonzalez@cdorh.org](mailto:agonzalez@cdorh.org).

*WR*  
Yours truly,



Miguel Romero

Enclosures

- c Ms. Holly O'Brien, Regional Administrator
- Tim Theberge, Federal Coordinador, FPO
- Nicolás Muñoz, President, SWIB
- Aurelio González, Executive Director, HRODC

**GOVERNMENT OF PUERTO RICO**  
**WORKFORCE INVESTMENT ACT WAIVER REQUEST PY 2011-12**

**I. Collection of Performance Information for Determining Subsequent Eligibility and Dissemination of Performance Information on the State List**

**1. Statutory and regulatory requirements to be waived**

WIA section 122(c) and (d)(1) and WIA regulations at 20 CFR section 663.530-550 require and describe the subsequent eligibility process for Eligible Training Providers(ETP). Most WIA training services are provided through Individual Training Accounts (ITAs), that may be used to acquire training from only ETP.

The Human Resources and Occupational Development Council (HRODC) and the State Workforce Board (SWB) as the state representatives for WIA, request a waiver to eliminate the subsequent eligibility process thus allowing the Local Workforce Areas (LWA) and area providers found initially eligible, to continue under the initial eligibility process and safeguards. Waving a subsequent eligibility requirement will allow the local Workforce System to be in compliance with WIA, while maintaining an eligible training provider list with a wide range of customer choices during these difficult times.

Requiring subsequent eligibility determinations have been found to be obstacles that limit choice, resulting most likely in a training shortage.

**2. State or local statutory and/or regulatory barriers**

There is no state or local barrier to be overcome, should the requested waiver be implemented.

**3. Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes**

The following goals will be achieved with the approval of the requested waiver:

- Reduce a significant amount of staff time and resources, when implementing a subsequent eligibility process.
- Increase customer choice and the number of ETP, by removing onerous data collection requirements upon the ETP's; and
- Streamline the information for customers.

**4. Programmatic outcomes by the waiver**

The waiver will reduce a significant amount of staff time and resources, currently directed toward the collection of performance data and calculation of performance outcomes by provider and program. Freeing staff and resources from this task will enable us to improve the management information system, and provide more technical assistance toward performance outcomes. The onerous data collection requirements have also discouraged providers from applying for subsequent eligibility. Removal of this requirement will encourage more providers to apply, thereby giving customers more choices for their training. This waiver is limited to an exemption from collecting demographic data from participants. All other requirements in actual procedures remain enforce.

5. *Impacts on individuals by this waiver*

Approval of this waiver will have positive impacts on ETP, LWB, local staff, providers and One-Stop customers by waiving an administrative burden that limits customer choice.

6. *Monitoring of the waivers implementation*

Upon notification of the approval of this waiver, a WIA SWB will issue the specific guidelines for all LWIBs and other WIA system members, indicating the changes in the eligibility process. The HRODC will incorporate the implementation of this waiver into existing procedures. LWIB will also continue monitoring of the activity.

7. *Notice and opportunity to comment*

To ensure transparency and allow for meaningful participation from interested parties, public comments were solicited prior to submission. The waiver request was also reviewed and approved by the SWB.

II. To Eliminate 20% Limit on Fund Transfers between Adult and Dislocated Worker Programs

1. *Statutory and regulatory requirements to be waived.*

The HRODC and the SWB as the state representatives for WIA, request a waiver of 20% limitation in transferring local WIA funds between the Adult and Dislocated Worker programs so that, 100% of the Adult and Dislocated Worker formula funding is available to meet general workforce case needs as per the local area.

WIA §133(b)(4) and WIA Regulations at 20 CFR §667.140(a) limit the amount of funds that can be transferred between the Adult and the Dislocated Worker employment and training programs. The limit is 20% of the fiscal year allocations to the respective programs.

2. *State or local statutory and/or regulatory barriers*

There is no state or local statutory and/or regulatory barrier that would not permit the implementation of the current WIA provision or the requested waiver.

3. *Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes*

The following goals will be achieved with the approval of this waiver:

- Funds will be directed to where they are mostly needed, for Adult and/or Dislocated Worker clients;
- There would be greater flexibility for local workforce investment boards and their staff, in designing and implementing programs;

- There would be increased efficiency in local workforce investment boards and their staff performance, as they will be able to plan for a year at a time, with
- Improved, more certain responsiveness to local need and demand.

4. *Programmatic outcomes by the waiver*

The waiver will allow local areas to direct funds when and where they are needed to serve clients. The variance in economic conditions in Local areas could fluctuate Adult and Dislocated Worker participation due to the continuation of the requirement that funds be determined by past unemployment and layoff history. This waiver will increase efficiency and introduce more flexibility and creativity into designing and implementing employment and training activities for all Adult and Dislocated Worker clients. The HRODC will approve on a case to case basis, the implementation of this waiver.

5. *Impacts on individuals by the waiver*

With current budget constraints and WIA funding cuts, especially in the Dislocated Worker Program for PY 2011, without this waiver, fewer amounts of funds will be available to serve dislocated workers. With this waiver, funds will follow the needs of individual clients.

6. *Monitoring of the waivers implementation*

Upon notification of the approval of this waiver, a WIA SWB will issue the specific guidelines for implementation of this waiver.

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and fiscal and programmatic staff will review the impact of this waiver.

7. *Notice and opportunity to comment*

To ensure transparency and allow for meaningful participation from interested parties, public comments were solicited prior to submission. The waiver request was also reviewed and approved by the SWB.

III. One-Stop Intake / Increased Core Services Capabilities at Local One Stop Centers

1. *Statutory or regulatory requirements to be waived*

The HRODC and the SWB as the state representatives for WIA , request approval of a waiver of 20 CFR 662.240(b)(10) to allow One-Stop Career Center staff whose work hours are funded by either WIA or Wagner-Peyser programs, to perform participant intake and eligibility determinations for all workforce programs without having to cost allocate the specific staff-time to each respective program. The requested waiver will allow the state to continue to consider participant intake and eligibility determination as it has always done.

2. *State or local statutory of regulatory barriers*

There is no state or local statutory and/or regulatory barrier that would prohibit the implementation of the proposed waiver.

3. *Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes*

The anticipated goal of this waiver is to allow the LWIBs to expand the services offered to customers at local One-Stop Career Centers without having to enter into unnecessary funding agreements. These services are consistent with the type of core services envisioned under WIA.

4. *Programmatic outcomes by the waiver*

The waiver will allow the LWIBs to provide a needed service to its one-stop customers without having the administrative burden of cost allocation or the need to continually execute new funding agreements with the state entity responsible for those programs.

5. *Description of individuals impacted by the waiver*

One-Stop customers will benefit from the increased level of services to be available at the One-Stop Career Centers thereby eliminating the need for them to spend extra time and effort going to other non-WIA funded staff for intake and eligibility determination for enrollment in other support service programs. This waiver will also increase the number of individuals coming in to the One-Stop Centers, increasing the number of individuals who can benefit from the workforce services offered there.

6. *Monitoring of the waivers implementation*

The HRODC, as the state administrative entity of WIA, is responsible for monitoring all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and fiscal and programmatic staff will review the impact of this waiver provision.

7. *Notice and opportunity to comment*

To ensure transparency and allow for meaningful participation from interested parties, public comments were solicited prior to submission. The waiver request was also reviewed and approved by the SWB.

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IV. Waiver of regulations at 20 CFR 667.300(a) to allow states to discontinue collection of WIASRD participant data for incumbent worker

1. Statutory and regulatory requirements to be waived

The HRODC and the SWB as the state representatives for WIA, request a waiver in order to permit the state to discontinue the collection of certain, case specific Workforce Investment Act Standardized Record Data (WIASRD) pertaining to the following elements;

- 1) Single parent (119)
- 2) Unemployment compensation eligible status at participation(118)
- 3) TANF(120)
- 4) Other public assistance(121)
- 5) Homeless individual and/or runaway (125)
- 6) And offender( 126)

By allowing the approval of this waiver, the captured data will be streamlined enough to ensure that employers are not discouraged by federal data requirements. In accordance with Lay off Aversion strategies, this waiver will strengthen the ability of the workforce system to improve the skills of workers in their existing environment.

2. State or Local Statutory and/or Regulatory Barriers

There is no state or local statutory and/or regulatory barrier that would prohibit the implementation of the proposed waiver.

3. Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes

As a result of this waiver there will be an increase in service to employers, as well as a better and improved implementation of Lay Off Aversion strategies as a business model.

4. Programmatic outcomes by the waiver

The waiver will allow LWB provide employed worker training and improve the economic condition in their region by upgrading the skills of incumbent workers.

5. Impacts on individuals by this waiver

Incumbent workers will increase their competitiveness by obtaining upgraded skills and fill better positions within the organization.

6. Monitoring of the waivers implementation

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and fiscal and programmatic staff will insistently review the impact of this waiver provision.

7. *Notice and opportunity to comment*

To ensure transparency and allow for meaningful participation from interested parties, public comments were solicited prior to submission. The waiver request was also reviewed and approved by the SWB.

V. Credential/ Certificate Attainment for On-The-Job Training Program

1. *Statutory regulations to be waived*

The HRODC and the SWB as the state representatives for WIA, request a waiver in order to exempt LWA from including credential/certificate attainment outcomes in the performance standards for participants enrolled in the WIA On-the-Job Training (OJT) program, as identified in Training and Employment Guidance Letter (TEGL) No. 26-09.

This waiver pertains to WIA Regulations 20 CFR 666.100 (a) (1) (iv) for Adults and 20 CFR 666.100 (a) (2) (iv) that require attainment of a recognized credential/certificate for performance.

This waiver is being requested so that we may exclude individuals who are participating in OJT program services from requiring a credential/certificate at the end of their service term. These individuals, however, will nonetheless continue to be included in all other applicable WIA performance standards.

2. *Goals to be achieved by the waiver and relationship to strategic plan*

With this waiver, the State expects the OJT program services to expand and reach more employers and trainees. This goal directly aligns with current WIA State Plan goals, for providing access to training to an increased number of adults and dislocated workers.

3. *State or local statutory or regulatory barriers*

There is no existing state or local barrier to implementing the requested waiver.

4. *Description of waiver goals and programmatic outcomes*

The goal is to provide LWA greater flexibility and access to the use of an OJT program without negatively impacting it by requiring credential/certificate related performance standards. It allows the training program design to be more responsive to employer and employee needs, as it can be specifically customized for that industry, business or worksite. By eliminating the credential/certificate reporting requirement for these participants, we will encourage its use; have a positive effect on retention; and increase the average earnings to be seen in the next performance outcomes.

The following goals and outcomes are expected:

- Increase in employment opportunities for harder-to-serve individuals, such as the long-term unemployed, older workers, and those with limited or sporadic job history

- Increase in the percentage of employers using OJT as a means for hiring and retaining a skilled workforce
- Increase in the number and percentage of workers trained and hired through OJT programs
- Raised skill proficiency in workers, something that will result in an increase in worker viability

5. *Description of the individuals impacted by the waiver*

Impacted individuals will be the Adults and Dislocated Workers, as well as those participating employers due to the fact that the OJT program will become more responsive to their needs.

6. *Description of the monitoring process*

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and the fiscal and programmatic staff will review the impact of this waiver provision.

7. *Notice and opportunity to comment*

To ensure transparency and allow for meaningful participation from interested parties, public comments were solicited prior to submission. The waiver request was also reviewed and approved by the SWB.