



NOV 10 2009

The Honorable Rick Perry
Governor of Texas
State Capitol
Austin, Texas 78711

Dear Governor Perry:

As part of Texas' modification to the State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act, the State submitted waiver plans to request that the State's waivers of statutory and regulatory requirements under WIA be approved for the remainder of Program Year (PY) 2009 (copy enclosed). These requests are written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c) and appear to meet the standard for approval at 20 CFR 661.420(e). The following is the disposition of the State's submission. 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.

In a letter dated June 29, 2009, ETA granted Texas approval of the following waivers through June 30, 2010:

- Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers;
- Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth; and
- Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The approvals for these waivers remain in effect. The letter dated June 29, 2009, granted temporary extensions of the remainder of Texas' waiver requests. The previous approval of the extensions is hereby terminated and replaced by decisions set forth in this letter. Unless otherwise indicated, all waiver approvals that follow apply to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009 (ARRA).

Requested Waivers

Requested Waiver: Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State is requesting a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution. The State is granted a waiver to use a sliding scale based on the size of the business through June 30, 2010. 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. If the State wants to implement a sliding scale based on factors other than the size of business, the State is required to submit a new waiver request detailing the factors of the alternate sliding scale. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State may provide customized training to low-income adults with WIA Adult funds, and may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Requested Waiver: 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 is requesting 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, 2010. 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. As stated in ETA Training and Employment Guidance Letter (TEGL) No. 14-08, Section 19, issued on March 18, 2009, this waiver does not apply to funds made available through the ARRA. However, the State is permitted to transfer up to 30 percent of ARRA funds between programs under WIA and under the Department of Labor Appropriations Act of 2009. This authority is discussed in TEGL No. 14-08, change 1.

Requested Waiver: 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 is requesting a waiver to permit use of rapid response funds for incumbent worker training. The State is granted this waiver through June 30, 2010. 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). As stated in ETA Training and Employment Guidance Letter No. 14-08, Section 19, issued on March 18, 2009, this waiver does not apply to funds made available through the ARRA.

Requested Waiver: Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training and other statewide activities.

The State is requesting a waiver to permit local area formula funding to be used for statewide activities, including incumbent worker training and other activities. The State is partially granted this waiver through June 30, 2010. Under this waiver, the State will be permitted 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 low-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 WIASRD.

The State also requested the use of local funds for other statewide activities for the purpose of innovative training and service delivery approaches. ETA is not approving the portion of the waiver request to fund other statewide activities. ETA believes maximizing the use of formula funding at the local level for WIA services is the best use of those funds in the current economic climate. The approval for the waiver for use of local funds for statewide activities, other than incumbent worker training, expires on the date of this letter. No new obligations are permitted effective the date of this letter; obligations made while this waiver was in effect may be fulfilled.

Requested Waiver: Waiver of WIA Section 136(c) to allow greater flexibility when contracting performance measures with local workforce boards.

The State is requesting an extension of the waiver of 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 based on the State

adjusted levels. The State is granted this waiver to allow the use of local board-contracted measures that support integration through June 30, 2010. Under this waiver, the State will continue to meet applicable state performance requirements at WIA Section 136(b).

Requested Waiver: Waiver of the recapture and reallocation provisions at WIA Sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160.

The State is requesting a waiver of the recapture and reallocation provisions at WIA Sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160. ETA is not approving this waiver. ETA believes that maintaining the statutory provisions of the law ensures that local areas have sufficient time to obligate and expend funds in a manner that best supports the needs of the customers in that area.

Expiring Waiver: Waiver of WIA regulations at 20 CFR 664.450(b) that require local areas to provide youth follow-up services for a minimum duration of twelve months.

The State previously was granted a waiver of the requirement that all youth participants receive follow-up services for a minimum duration of 12 months. The State did not submit a request to extend this waiver. The waiver approval period has lapsed, and expires as of the date of this letter.

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

The State previously was granted 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 did not submit a request to extend this waiver. The waiver approval period has lapsed, and expires as of the date of this letter.

Expiring Waiver: Waiver of WIA Section 181(e) to permit the use of WIA funds of up to \$5,000 to capitalize a small business in concert with entrepreneurial or small business training.

The State previously was granted a waiver to permit the use of WIA funds of up to \$5,000 to capitalize a small business in concert with entrepreneurial or small business training. The State did not submit a request to extend this waiver. The waiver approval period has lapsed, and expires as of the date of this letter.

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

The State previously was granted a waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis. The State did not submit a request to extend this waiver. The waiver approval period has lapsed, and expires as of the date of this letter.

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 this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as required by TEGL No. 14-00, Change 3, the State should address the impact of these waivers on the State's 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 Joseph Juarez, the Regional Administrator for Region IV, at 972-850-4600 or Juarez.Joseph@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Enclosure

cc: Rebecca Sarmiento, Federal Project Officer for Texas, ETA Dallas Regional Office
Joseph Juarez, Regional Administrator, ETA Dallas Regional Office

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**Texas Workforce Commission
Waiver Plan**

1 Seasonal Farmworker (MSFW) youth, current and former foster youth, and incumbent
2 workers.

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4 **Waiver Request**

5 Section 136(b) of WIA provides that state performance measures for WIA shall consist of
6 17 specific core indicators of performance and customer satisfaction. Recently, the U.S.
7 Department of Labor (DOL) modified its collection and reporting requirements for WIA
8 to implement the Common Measures. DOL was able to replace six of the 17 statutorily
9 required WIA measures with Adult Common Measures because they were essentially
10 modifications of the existing statutory measures. However, DOL was not able to simply
11 substitute Youth Common Measures for the seven WIA statutory youth measures. As a
12 result, states are currently required to report 20 measures for WIA even though DOL's
13 stated vision for WIA is that states would report the three Adult Common Measures for
14 WIA Adult and WIA Dislocated Worker programs, while the three Youth Common
15 Measures would be used for the WIA Youth program. Texas supports that vision and
16 seeks a waiver to allow it to move toward this model of reporting. Specifically, TWC is
17 requesting a waiver of the current performance measures for WIA, ES, Trade, and
18 DVOP/LVER services. Texas proposes to report integrated outcomes across these
19 programs using the Common Measures exclusively.

20
21 Approval of this waiver request will limit duplication of the overwhelming data reporting
22 requirements currently in effect. This will allow TWC to promote integration, improve
23 consistency and reliability of data, and foster greater flexibility when contracting
24 performance measures with the Boards. In addition, limiting performance reporting to
25 the Common Measures will simplify service delivery as well as data collection, reporting,
26 and validation at the local level. Approval of this waiver is the next step in the plan for
27 service and performance integration, building upon the previously approved waiver
28 granting TWC the flexibility to determine which measures to pass down to the Boards.

29
30 TWC has reviewed the integrated reporting system that Pennsylvania is using and
31 believes it offers significant advantages over siloed reporting. While similar to DOL's
32 original Employment and Training Administration (ETA) Management Integrated
33 Longitudinal Evaluation (EMILE) system, Pennsylvania's model appears more
34 streamlined.

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36 It is TWC's understanding that DOL has taken the Pennsylvania model and continued to
37 refine it with the goal of eventually using it as a replacement for EMILE. TWC will be
38 meeting with DOL staff in late March to review the current draft of this reporting system
39 known as the Workforce Investment Streamlined Reporting System (WISPR). TWC
40 believes that the work it has already done to implement integrated Common Measures for
41 its state reporting puts it in a position to move to such reporting this year. TWC has been
42 at the leading edge of workforce service innovations for the past 10 years and wishes to
43 continue its leadership through implementation of integrated performance reporting.
44 TWC is requesting permission to pilot the WISPR system. As an alternative to the new
45 system, Texas would consider using the Pennsylvania reporting model or one
46 recommended by DOL.

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2 As a result of this waiver request, the following reports would be impacted as follows:
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- 4 • WIA – ETA 9090 quarterly report and WIA Standardized Record Data (WIASRD)
5 would be discontinued.
- 6 • WIA – ETA 9091 annual report would still be reported but only those portions that
7 are relevant to the Common Measures.
- 8 • Trade Act – Trade Act Participant Report would be discontinued.
- 9 • ES – All five ETA 9002 quarterly reports would be discontinued (though the 9002E
10 might need to be continued for a few additional quarters).
- 11 • Jobs for Veterans Act – All three of the VETS 200 quarterly reports would be
12 discontinued.

13
14 The reports being discontinued would, of course, be replaced by the new WISPR.
15

16 TWC requests that DOL approve the waiver retroactively beginning with Program Year
17 2005 (PY'05)². TWC was working toward submission of this waiver request when the
18 effort was deprioritized so Texas could address its greatest challenge—meeting the needs
19 of employers, job seekers, and communities affected by Hurricanes Katrina and Rita.
20 Resources were diverted to provide services to the hurricane-impacted population and to
21 develop mechanisms for tracking and reporting those services. Consequently, Texas has
22 not yet fully implemented Common Date of Participation and Common Exit
23 methodology for reporting the 11 WIA measures to be discontinued under Common
24 Measures. Therefore, if DOL were to approve this waiver for PY'06 but not PY'05,
25 TWC would need to expend significant resources to meet reporting changes for PY'05
26 that would then be discontinued in PY'06. TWC believes this would not be an efficient
27 use of resources; rather, the agency should concentrate on the future of performance
28 management and reporting.
29

30 TWC proposes to fulfill reporting requirements in much the same way as Pennsylvania
31 does for all DOL-funded programs. Texas will ensure that customer records continue to
32 be available so that DOL can disaggregate the data for its program-based reporting
33 requirements. To ensure that reporting consistency is not compromised at the national
34 level, TWC proposes to re-create quarterly reports for all of PY'05 using the new
35 methodology. This would give DOL the same data that would have been required if
36 TWC had been able to submit this waiver earlier.
37

38 TWC wishes to use the waiver and the transition to the integrated Common Measures as
39 the basis for its PY'05 WIA Annual Report. An additional benefit of limiting the Texas
40 reporting system to Common Measures in PY'05 will be the early availability of a large
41 volume of data to assist DOL in system development at the national level. Texas has a
42 diverse population of businesses, residents, and communities. It has some of the nation's
43 most populated urban areas and some of the least populated rural areas. Our workforce
44 includes millions of workers from diverse backgrounds and economic levels participating

² While TWC would report integrated Common Measures for PY'05, it would not begin to report Literacy and Numeracy Gains until PY'06 because that is the earliest the data would be available for reporting.

1 in a wide array of occupations. With ports, a large border, and a wide industrial and
2 agricultural base, Texas is a microcosm of the nation as a whole. Lessons learned from
3 the Texas transition will be invaluable to other states as they transform their performance
4 reporting to correspond with the new national vision; TWC is prepared to work with them
5 as they make this transition. Texas is already a leader in using Common Measures to
6 promote integration. In fact, TWC was invited to discuss its experiences at DOL's
7 regional conferences.

8 9 **Description of the Individuals Affected by the Waiver**

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

16
17 Youth will likely see the most immediate benefits of the waiver. Focusing only on Youth
18 Common Measures will remove a significant barrier to aligning Texas' WIA Youth
19 program with DOL's vision of serving primarily out-of-school youth, as well as fostering
20 youths' long-term connections to the workforce system. The hardest-to-serve youth
21 groups, such as MSFW youth and current and former foster care youth, will derive the
22 most benefit from long-term connection to the workforce.

23 24 **Goals to be Achieved by the Waiver**

25 26 • **Increase integration of services to customers**

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

40 41 • **Increase accountability at the state, local, and service provider levels**

42 Because Boards are responsible for numerous workforce development programs, co-
43 enrollment of customers in multiple programs is becoming increasingly
44 commonplace. Therefore, TWC believes using integrated performance measures will
45 promote accountability by evaluating Boards through consistent and reliable data.
46

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

3 By eliminating program-specific measures and applying Common Measures across
4 all programs, TWC will promote service delivery designs that are based on employer
5 needs rather than siloed program requirements.
6

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

8 As noted, DOL has chosen to implement Youth Common Measures with existing
9 statutory WIA Youth measures. This results in 10 youth outcome measures. In
10 addition to being excessive, there are conflicts between the statutory WIA Youth
11 measures and the new Youth Common Measures. Under the historic WIA Youth
12 measures, if a younger youth exits while still in secondary school, the youth is
13 excluded from performance. Under Common Measures, these same youth would be
14 included in performance. The Youth Common Measures encourage states to focus
15 more of their efforts on out-of-school youth. Having the seven statutory WIA Youth
16 measures waived will make it easier for Texas to transition to this new focus.
17

18 • **Reduced Administrative Reporting Costs**

19 DOL has indicated that there is some information that does not reflect the needs of
20 the WIA program. Continuing to capture and report this information is an inefficient
21 use of resources. Further, while DOL's most-recent set of performance reporting
22 specifications have removed most of the inconsistencies between the reports, nearly a
23 dozen reports are still required.
24

25 Although Texas had concerns about various aspects of DOL's proposed EMILE
26 system, we strongly supported the concept of an integrated reporting system for all
27 programs. After evaluating Pennsylvania's model, TWC believes it addresses most
28 of EMILE's shortcomings, particularly the redundancy of some fields.
29

30 Further, TWC believes that requiring the use of a unique job seeker identifier across
31 all siloed reports, as well as the use of a Common Date of Exit, will link the reports
32 together more efficiently. Currently, states are required to merge customer data
33 across programs while not receiving the benefits of integration (e.g., reduced
34 reporting). Texas believes that true implementation of Common Measures requires
35 integrated reporting, which Pennsylvania's model provides.
36

37 **Programmatic Outcomes**

38 Approval of this waiver would result in administrative relief by removing barriers to co-
39 enrollment and promoting more integrated case management. The new federal Common
40 Measures have a number of advantages over existing performance measures, and TWC
41 strongly supports the concept that programs with similar outcome objectives should be
42 measured in a similar fashion.
43

44 Approval of this waiver would streamline administrative processes, allowing TWC to
45 focus the maximum amount of resources on employment outcomes. It will further
46 TWC's implementation of the federal goal to simplify and streamline the performance

1 accountability system. Additional administrative cost savings will be realized when
2 TWC and the Boards are able to discontinue administration of the Customer Satisfaction
3 Surveys and the number of performance reports generated. The Customer Satisfaction
4 Surveys currently cost approximately \$400,000 annually.

5
6 TWC has developed and is currently using a set of systemwide performance measures
7 based on the new federal Common Measures. The past year has been spent preparing to
8 implement Common Measures for state reporting purposes and in anticipation of new
9 federal reporting requirements. Further, these measures are being used by the Texas
10 Legislature, across all workforce programs, to evaluate the Texas workforce system.

11 12 **Legal Argument**

13 The U.S. Congress has clearly recognized the need for the Secretary of Labor to have as
14 much flexibility as possible to assist states in accomplishing the goals of WIA. Section
15 189(i)(4) of WIA allows for general waivers of statutory or regulatory requirements by
16 the Secretary. Section 189(i)(4)(C) states the Secretary shall provide a waiver if it is
17 determined that the requirements requested to be waived impede the ability of the state or
18 local area to implement its plans.

19
20 The purpose of the general statutory and regulatory waiver authority is to provide
21 flexibility to states and local areas and to enhance their ability to improve the statewide
22 workforce investment system. The Secretary's waiver authority provides a vehicle to
23 assist states and local areas in situations in which the regulations impede their ability to
24 implement and continue development of a cohesive delivery system.

25
26 As set forth in WIA §189(i)(4)(C), waivers may be requested and granted to address
27 impediments to the implementation of a strategic plan, including the continuous
28 improvement strategy, consistent with the key reform principles of WIA, which include:

- 29 • streamlining services and information to participants through a one-stop delivery
30 system;
- 31 • empowering individuals to obtain needed services and information to enhance their
32 employment opportunities;
- 33 • ensuring universal access to core employment-related services;
- 34 • increasing accountability of states, localities, and training providers for performance
35 outcomes;
- 36 • establishing stronger roles for Boards and the private sector;
- 37 • providing increased state and local flexibility to implement innovative and
38 comprehensive workforce investment systems; and
- 39 • improving youth programs through services that emphasize academic and
40 occupational learning.

41
42 TWC, in submitting this waiver request, recognizes the statutory exceptions to the
43 Secretary's authority to approve waivers as stated under 29 U.S.C. §2939(i)(4)(A) and
44 WIA §189(i)(4)(A). TWC, therefore, is submitting a request for a waiver that does not
45 violate or affect any requirements or provisions of WIA and its related federal
46 regulations.

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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. Upon notification of the approval of this waiver request, TWC’s rules and policies will be amended to comply with the terms of the waiver.

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, 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.

Opportunity for Public Comment

The waiver request was presented at the Commission’s March 14, 2006 public meeting and posted to the Texas Workforce Commission’s Web site for review and comment. The waiver also was discussed during the March 17, 2006, conference call with the Boards. No comments were received.

1 resources, the nation's workforce system is challenged to create increasingly greater
2 efficiencies. The Commission believes that through integrated workforce system
3 performance measures, the Texas workforce system can become more efficient and
4 effective. Incongruent targets, measurement techniques, and reporting time frame
5 discrepancies incorrectly focus Texas Workforce Center staff on meeting program
6 performance measures rather than meeting employers' needs or on putting people to
7 work. By refocusing Boards' performance assessment from individual program
8 performance measures to universal outcome measures, the Commission strives to better
9 integrate workforce service delivery at the local level.

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11 **Waiver Request:**

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

19
20 Specifically, the Commission is requesting the flexibility to modify Board performance
21 measures. The Commission will continue to track and report the 17 core indicators of
22 performance and customer satisfaction at both the state and Board level. However, the
23 Commission may choose not to use all 17 measures in its Board contracts. The
24 Commission is interested in developing Board contracted measures that support
25 integration, such as the Federal Common Measures' definitions for entered employment
26 and job retention.

27
28 The requirement to contract the 17 core indicators of performance and customer
29 satisfaction to the Boards unnecessarily silos service delivery. The Commission believes
30 that as long as programs have different measures of success they will require different
31 means of management.

32
33 Federal job training programs seldom define performance measures in a common
34 manner, resulting in confusion and an increased reporting burden at the state and local
35 level. For example, "entered employment" is tracked for many One-Stop partner
36 programs; however, the definition and methodology varies among programs. Approval
37 of this waiver would result in Board performance measures with common definitions and
38 methodologies. By promoting a common outcome, service delivery designs for multiple
39 programs can be streamlined. This will help integrate service delivery through the One-
40 Stop Career Centers.

41
42 While this proposed waiver would provide the Commission with flexibility in selecting
43 Board performance measures, Section 136(h) continues to provide for sanctions for a
44 Board's failure to meet any of the 17 WIA performance measures. With the approval of
45 this waiver, the 17 performance measures would no longer be contracted to the Boards.
46 However, the Commission will continue to apply the sanction provisions at Section
47 136(h) to the Boards' new contracted measures.

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2 **Description of the Individuals Affected by the Waiver:**
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4 Employers, job seekers, incumbent workers, and local staff may benefit from the waiver.
5 The removal of 17 siloed performance measures, and the implementation of more
6 integrated measures, will allow staff to focus on the needs of employers, find job seekers
7 to match those needs, and maximize integrated services to achieve the best outcomes.
8

9 **Goals to be Achieved by the Waiver:**
10

11 • **Increase integration of services to customers**

12 Boards are responsible for implementing many federal and state workforce
13 development programs, allowing them the opportunity to integrate service delivery.
14 However, programs are partially driven by how performance is measured. Programs
15 with different measures of success require different means of management. Rather
16 than focusing on the needs of employers and finding job seekers to fill those needs,
17 staff must focus on the specific outcome expectations of the program that funds the
18 services the customer receives.
19

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

21 Because Boards are responsible for numerous workforce development programs, co-
22 enrollment of customers in multiple programs is becoming increasingly
23 commonplace. Therefore, the Commission believes that the most effective way to
24 evaluate Boards and to promote accountability is to use integrated performance
25 measures.
26

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

29 By eliminating program-specific measures and applying integrated performance
30 measures across all programs, the Commission will promote service delivery designs
31 that are based on employer needs rather than siloed program requirements.
32

33 **Programmatic Outcomes:**
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35 The approval of this waiver would result in administrative relief that would remove
36 barriers to co-enrollment and promote more integrated case management across multiple
37 programs. The new Federal Common Measures have a number of advantages over
38 existing performance measures, and the Commission strongly supports the concept that
39 programs with similar outcome objectives should be measured in a similar fashion.
40

41 The Commission has developed a set of system-wide performance measures based on the
42 new Federal Common Measures. The Commission anticipates these new measures will be
43 used by the Texas Legislature at the beginning of the new fiscal year to evaluate the Texas
44 workforce system. Texas' new measures are system measures applied across all
45 programs. For example, there is a system-wide Entered Employment Rate that is based on
46 an unduplicated list of exiters from all workforce programs (using the federal "soft exit"

1 methodology). These measures make no distinction between customers served by
2 Employment Service, WIA, Temporary Assistance for Needy Families, Food Stamp
3 Employment and Training, other various state-level programs, or a combination of
4 programs.

5
6 Approval of this waiver would streamline administrative processes, resulting in
7 maximized resources focused on employment outcomes.
8

9 **Legal Argument:**

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11 Congress has clearly recognized the need for the Secretary of Labor to have as much
12 flexibility as possible in order to assist states in accomplishing the goals of WIA. Section
13 189(i)(4) of WIA allows for general waivers of statutory or regulatory requirements by
14 the Secretary. Section 189(i)(4)(C) states the Secretary shall provide a waiver if it is
15 determined that the requirements requested to be waived impede the ability of the state or
16 local area to implement their plans.
17

18 The purpose of the general statutory and regulatory waiver authority is to provide
19 flexibility to states and local areas and to enhance their ability to improve the statewide
20 workforce investment system. The Secretary's waiver authority provides a vehicle to
21 assist states and local areas in situations in which the regulations impede their ability to
22 implement and continue development of a cohesive delivery system.
23

24 Waivers may be requested and granted to address impediments to the implementation of
25 a strategic plan, as stated in Section 189(i)(4)(C), including the continuous improvement
26 strategy, consistent with the key reform principles of WIA, which include:
27

- 28 1. Streamlining services and information to participants through a One-Stop delivery
29 system
- 30 2. Empowering individuals to obtain needed services and information to enhance their
31 employment opportunities
- 32 3. Ensuring universal access to core employment-related services
- 33 4. Increasing accountability of states, localities, and training providers for performance
34 outcomes
- 35 5. Establishing stronger roles for Boards and the private sector
- 36 6. Providing increased state and local flexibility to implement innovative and
37 comprehensive workforce investment systems
- 38 7. Improving youth programs through services that emphasize academic and
39 occupational learning
40

41 The Commission, in submitting this waiver request, recognizes the statutory exceptions
42 to the Secretary's authority to approve waivers as stated under 29 U.S.C. Section
43 2939(i)(4)(A) also known as WIA Section 189(i)(4)(A). The Commission, therefore, is
44 submitting a request for a waiver that does not violate or affect any requirements or
45 provisions of WIA and its related Federal regulations.
46
47

1 **State or Local Statutory or Regulatory Barriers:**
2

3 There are no state or local statutory or regulatory barriers to implementing the requested
4 waiver. Commission regulations and policy statements are in compliance with current
5 federal law. Upon notification of the approval of this waiver request, Commission rules
6 and policies will be amended to comply with the terms of the waiver.
7

8 **Describe the Processes Used to Monitor the Progress in Implementing the Waiver:**
9

10 The Commission has a monitoring and performance accountability system that measures
11 results for employers and other customers using the Texas workforce system. The
12 Commission continuously analyzes performance reports and compares actual
13 performance with contract targets. The Commission will continue to make adjustments
14 to monitoring performance requirements to ensure that performance goals and objectives
15 are met. The Commission will monitor progress under this waiver by reviewing monthly
16 performance reports, through regularly scheduled conference calls with Board executive
17 directors, and through its monitoring and performance accountability system.
18

19 **Opportunity for Public Comment:**
20

21 The concept for this waiver was first introduced at the Commission's November 9, 2004,
22 public meeting; further discussion occurred during a November 12, 2004, conference call
23 with the Boards.
24

25 The waiver request was presented at the Commission's January 4, 2005, public meeting
26 and posted to the Texas Workforce Commission's Web site for review and comment.
27 The waiver also was discussed during the January 7, 2005, conference call with the
28 Boards.
29

30 Two comments were received supporting the flexibility the state seeks through the
31 waiver. One comment initially stated support for the state seeking flexibility; however,
32 the balance of the comment was beyond the scope of the waiver.
33

- 1 • Requested amount;
- 2 • Demonstrated capacity to expend the formula funds; and
- 3 • Performance in the current and prior program years.
- 4
- 5 • **Facilitates maximum expenditure of recaptured federal funds.**

6
7 The Commission seeks to redistribute workforce funds to workforce areas that have
8 achieved not only targeted expenditure levels but also established performance
9 targets. Redistributing funds based solely on whether a workforce area achieves its
10 expenditure target does not address performance issues, such as whether the
11 workforce area met employers' needs for a highly skilled and job-ready workforce.

- 12
- 13 • **Improved administrative efficiencies.**

14
15 Approval of this waiver will serve to minimize administrative processes and costs of
16 contracting by using similar redistribution procedures that support workforce system
17 integration.

18 19 **Programmatic Outcomes:**

20
21 By utilizing the Commission's allocation rules for the redistribution of WIA funds, the
22 Commission can ensure that federal funds will be more effectively and efficiently
23 managed for maximum service provision and program performance. Approval of this
24 waiver may not result in significantly higher performance outcomes; however, it will
25 provide the opportunity for recaptured funds to be redistributed to workforce areas where
26 the greatest potential impact may be realized. This waiver will streamline administrative
27 practices, which will allow for greater efficiency in meeting the workforce development
28 needs of employers and job seekers. Furthermore, it will enhance the quality of services
29 in those workforce areas that have demonstrated consistent performance outcomes.
30 Approval of this waiver will result in a reduction of unnecessary administrative
31 processes.

32 33 **Legal Argument:**

34
35 Congress has clearly recognized the need for the Secretary of Labor to have as much
36 flexibility as possible in order to assist states in accomplishing the goals of WIA. Section
37 189(i)(4) of WIA allows for general waivers of statutory or regulatory requirements by
38 the Secretary. Section 189(i)(4)(C) states the Secretary shall provide a waiver if it is
39 determined that the requirements requested to be waived impede the ability of the state or
40 local area to implement their plans.

41
42 The purpose of the general statutory and regulatory waiver authority is to provide
43 flexibility to states and local areas and enhance their ability to improve the statewide
44 workforce investment system. The Secretary's waiver authority provides a vehicle to
45 assist states and local areas in situations in which the regulations impede their ability to
46 implement and continue development of a cohesive delivery system.

1
2 Waivers may be requested and granted to address impediments to the implementation of
3 a strategic plan, as stated in 189(i)(4)(C), including the continuous improvement strategy,
4 consistent with the key reform principles of WIA.
5

6 These key reform principles include the following:
7

- 8 8. Streamlining services and information to participants through a One-Stop delivery
9 system
- 10 9. Empowering individuals to obtain needed services and information to enhance their
11 employment opportunities
- 12 10. Ensuring universal access to core employment-related services
- 13 11. Increasing accountability of states, localities, and training providers for performance
14 outcomes
- 15 12. Establishing stronger roles for workforce areas and the private sector
- 16 13. Providing increased state and local flexibility to implement innovative and
17 comprehensive workforce investment systems
- 18 14. Improving youth programs through services that emphasize academic and
19 occupational learning
20

21 The Commission, in submitting this request for waiver, recognizes the statutory
22 exceptions to the Secretary's authority to approve waivers as stated under 29 U.S.C.
23 section 2939(i)(4)(A)(i) also known as WIA section 189(i)(4)(A)(i). The Commission,
24 therefore, is submitting a request for a waiver that does not violate or affect any
25 requirements or provisions of WIA and its related Federal regulations.
26

27 **State or Local Statutory or Regulatory Barriers:**
28

29 There are no state or local statutory or regulatory barriers to implementing the requested
30 waiver. Commission regulations and policy statements are in compliance with current
31 federal law. Upon notification of the approval of this waiver request, Commission rules
32 and policies will be amended to comply with the terms of the waiver.
33

34 **Describe the Process for Monitoring Implementation of the Waiver:**
35

36 The Commission has a monitoring and performance accountability system that measures
37 results for employers and other customers using the Texas workforce system. The
38 Commission continuously analyzes performance reports and compares actual
39 performance with contracted targets. The Commission will continue to make adjustments
40 to monitoring performance requirements to ensure that performance goals and objectives
41 are met for WIA services, including those programs created through the use of this
42 waiver. The Commission will monitor progress under this waiver by reviewing monthly
43 expenditure and performance reports submitted by the Boards, through regularly
44 scheduled conference calls with Board executive directors, and through its monitoring
45 and performance accountability system.
46

1 **Opportunity for Public Comment:**

2

3 The waiver request was presented at the Commission's January 4, 2005, public meeting
4 and posted to the Texas Workforce Commission's Web site for review and comment.

5 The waiver request also was discussed during the January 7, 2005, conference call with
6 the Boards.

7

8 Two comments were received supporting the flexibility the state seeks through the
9 waiver. One of these comments initially stated support of the state seeking flexibility;
10 however, the balance of the comment was beyond the scope of the waiver.

11

12

1 thus making it unattractive for them to turn to the workforce system for employment
2 assistance. In fact, employers' needs often cannot be addressed by the categorical
3 eligibility requirements in WIA Adult, Dislocated Worker, or Youth funding. By using
4 Local Activity Funds, Boards will have the added flexibility from statutory requirements
5 placed upon the formula funds, enabling them to better address employers' distinct and
6 emergent needs.

7
8 This change will afford Boards the opportunity to engage more employers in high-
9 growth, high-demand industry sectors, as the Boards will have strengthened ability to be
10 responsive to employers in tailoring their employment solutions. Additionally, the
11 greater flexibility and increase in amount of Local Activity Funds potential will allow
12 Boards to partner with faith-based and community-based organizations, which are often
13 discouraged from working with the workforce system because of complicated eligibility
14 requirements relative to the funding. Furthermore, the waiver will encourage the Boards
15 to partner with more employers, as well as labor and community organizations, in order
16 to promote universal access to one-stop system services.

17
18 The State will ensure that Boards do not dilute services to Adults, Dislocated Workers or
19 Youth. Texas intends to meet all required performance measures for Adults, Dislocated
20 Workers, and Youth.

21 **Goals To Be Achieved by the Waiver**

22 Since TWC's implementation of the Local Activity Funds waiver on October 3, 2003,
23 Boards have submitted 19 requests to designate Local Activity Funds for projects tailored
24 to meet the needs of employers and residents in their local workforce development areas.
25 Many of the requests serve to upgrade the skills of incumbent workers or other
26 individuals that do not meet categorical restrictions. Other projects target youths for
27 employment in the health care arena.

28
29
30 A review of Board's Local Activity Funds initiatives for Program Years 2003 and 2004
31 shows the following results:

- 32 • 717 individuals have received or are currently receiving training
- 33 • Six of the 19 Local Activity Funds projects are focusing on enhanced employer
34 services or building staff understanding and capacity to serve employers
- 35 • Two of the 19 projects are establishing online registered nurse degree programs

36
37 The ability for Boards to set aside additional formula funds as Local Activity Funds not
38 only increases their flexibility to meet employers' existing skill demand needs, but will
39 enable Boards the flexibility to meet emergent needs. This potential furthers the national
40 and state priorities of establishing and maintaining the "pipeline" of skilled workers from
41 which employers can draw the workers qualified for the jobs of the 21st century economy.
42 Moreover, the increased flexibility also furthers the reforms initiated through WIA
43 including integrated, seamless service delivery; a demand-driven workforce system; and
44 maximum flexibility in tailoring service delivery and making strategic investment in
45 workforce development activities to meet the needs of state and local economies and
46 labor markets.

1 While the current waiver designating up to 10 percent of Adult, Dislocated Worker and
2 Youth formula funds has been helpful, Boards sometimes have necessary commitments
3 that prohibit them from setting aside a full 10 percent of each funding stream for Local
4 Activity projects, thus limiting the amount of flexible funds available through the present
5 Local Activity Funds waiver. Approval of this new waiver will increase the Board's
6 flexibility to use more of a particular funding stream as Local Activity Funds, based on
7 the needs of the employers and residents in the workforce area, without negatively
8 affecting specific population demands and commitments.

9
10 For example, a Board may choose not to designate any of its WIA youth funds as Local
11 Activity Funds, because it is committed to funding existing projects, such as meeting the
12 needs of foster care youth. In addition, the Board may have already reached its 10
13 percent limit on designating Dislocated Worker funds as Local Activity Funds. With the
14 additional flexibility granted by this waiver, the Board would be able to increase the
15 percentage of available Dislocated Worker funds that may be designated as Local
16 Activity Funds to meet the critical needs of employers. By increasing the amount of
17 Local Activity Funds available, a Board can provide more innovative and customized
18 services, such as providing layoff aversion. Texas has had instances of a manufacturer
19 closing an entire line of products, laying off hundreds of workers. With the addition of
20 new skills, especially upgrading technological skills, the employer was able to retain
21 these employees and avert a potential layoff. TWC believes many Texans' skills need to
22 be upgraded in order for them and their employers to be competitive in the 21st century
23 economy.

24
25 Earlier in this State Plan, Texas identified the skills gap that exists with many of its
26 residents, thus creating some difficulty for employers seeking qualified workers to
27 compete in the evolving global marketplace. Technology skills are critically needed,
28 especially for those individuals whose native language may not be English. Special
29 projects are needed to close this gap.

30
31 Local Activity Funds projects that increase the number of individuals in training support
32 the President's vision to improve flexibility for states in administering our nation's job
33 training programs and to double the number of workers receiving training. The
34 President's vision focuses on ensuring that every individual can access the skills and
35 training needed to succeed in the workplace. In addition, DOL, in its Planning Guidance
36 and Instructions for WIA State Plans, emphasizes the need for the workforce system to be
37 demand driven. By approving a new waiver that would in essence raise the cap on the
38 Boards' ability to designate up to 50 percent of each WIA formula fund as Local Activity
39 Funds, DOL will provide Texas Boards with additional resources needed to meet the
40 needs of area employers, incumbent workers, job seekers, and youth, and to design and
41 implement employer-driven solutions to help our state and nation remain competitive in
42 the global marketplace.

43 44 **Programmatic Outcomes**

45 Local Activity Funds projects will enhance the Boards overall program design and
46 activities in the local workforce development area. Currently, Local Activity Funds serve

1 multiple purposes, and increasing the percentage of formula funds that may be classified
2 as Local Activity Funds will afford Boards greater flexibility to address specific
3 employers' needs. For example, a Board may have available WIA Adult or Dislocated
4 Worker funds, but due to the current waiver's limit of 10 percent, the Board is unable to
5 dedicate those available resources to design and deliver innovative employer-driven
6 solutions.

7
8 Under the requested waiver, Boards will continue to be held accountable for meeting all
9 WIA performance targets. Board performance and expenditures of the formula funds
10 must be satisfactory before the authority to designate any amount of formula funds as
11 Local Activity Funds allowed under the new waiver will be granted by the state.

12
13 Board requests to TWC to designate formula funds as Local Activity Funds must include
14 a description of the projects, services, and activities that will be provided with these
15 funds, in addition to projected performance outcomes.

16
17 TWC's case management and reporting system for employment and training services,
18 The Workforce Information System of Texas (TWIST), is used to track service activity
19 and performance reporting. TWIST will continue to be used for both formula funds and
20 Local Activity Funds. TWC contract managers will utilize TWIST to monitor service
21 levels and performance outcomes.

22 23 **State or Local Statutory or Regulatory Barriers**

24 There are no state or local statutory or regulatory barriers to implementing the requested
25 waiver.

26 27 **Opportunity for Public Comment**

28 TWC considered and approved the proposed waiver during its April 26, 2005, meeting,
29 which was open to the public. Subsequently, the proposed waiver was circulated to the
30 Boards and other stakeholders and posted on TWC's Web site for public comment. The
31 waiver was also discussed during a biweekly conference call with the Boards.

32
33 No comments were received regarding this waiver.

34 35 **Describe the Processes Used To Monitor the Progress of Implementing the Waiver**

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



Local Activity Waiver Submission.pdf

1 Attachment 1:
2



Local Activity Waiver Approval.August 2003.pdf

3 Attachment 2:
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**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT**

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Rapid Response Waiver

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Statutory and Regulatory Provisions To Be Waived

The Texas Workforce Commission (TWC) requests a waiver of the Workforce Investment Act (WIA), § 133(a)(2), relating to the requirement that the Governor reserve not more than 25 percent of the state's total Dislocated Worker allotment for statewide Rapid Response activities. TWC makes this request pursuant to the Secretary of Labor's authority to waive for a state certain statutory and regulatory requirements, found in the Workforce Investment Act § 189(i)(4)(A)(i), 29 U.S.C.A. § 2939(i)(4)(A)(i), and from the provisions of 20 C.F.R. § 661.420.

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Waiver Request

TWC requests the waiver to allow the Governor to transfer up to 50 percent of the state's set-aside portion of the Rapid Response funds into the Statewide Activity funds. 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.

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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, job seekers, and incumbent workers for the jobs of the 21st century.

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In March 2005, President Bush highlighted his proposal to increase flexibility in our nation's job training programs in order to double the number of workers receiving job training. The President's proposal focuses on ensuring that every adult can access the skills and knowledge needed to succeed in the workplace of today and tomorrow.

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Because of the improving Texas economy, the number of layoffs has decreased and as a result, so has the demand for Rapid Response services. TWC is recognizing that now there is a greater need to provide training to upgrade workers' skills and avoid future layoffs. 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.

1 **Description of the Individuals Affected by the Waiver**

2 The additional flexibility afforded under the waiver will permit Texas to design
3 customized solutions to meet the training needs of employers, while enhancing the skill
4 needs of adult workers, both incumbent and new workers alike. No dilution of funding
5 for services to dislocated workers would occur, and TWC will ensure that Rapid
6 Response activities are provided to affected employers and workers as required under
7 WIA.
8

9 **Goals To Be Achieved by the Waiver**

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

12 The waiver will give TWC the flexibility to respond to employer-identified skill
13 needs with a combination of education, employment, and training services.

14 • **Provide greater flexibility to TWC in designing and implementing WIA
15 services**

16 The waiver will give TWC the flexibility to respond quickly to existing and emergent
17 demands in Texas. TWC supports the retention and growth of a competent and
18 competitive workforce in order for our state and our nation to remain competitive in
19 the global economy of the 21st century.
20

21 These goals can be achieved by providing education, training, and other services
22 necessary to upgrade the individual's knowledge, skills and abilities and enhance their
23 employment opportunities, including reemployment of claimants, and promote job
24 retention for job seekers and incumbent workers.
25

26 **Programmatic Outcomes**

27 The intent of the waiver is to maximize the flexibility of WIA funding in order for Texas
28 to develop projects that address employers' specific needs. Greater flexibility in the use
29 of the Rapid Response funds will help ensure that the Texas workforce system can be
30 truly employer driven. It is anticipated that additional employers will turn to the
31 workforce system for customized solutions to their employment and training concerns,
32 since service delivery will be streamlined and less complicated. Texas intends to
33 continue meeting all required performance measures for services to Dislocated Workers.
34

35 **State or Local Statutory or Regulatory Barriers**

36 There are no state or local statutory or regulatory barriers to implementing the requested
37 waiver. TWC regulations and policy statements are in compliance with current federal
38 law. Upon notification of the approval of the waiver request, TWC will amend its rules
39 and policies to comply with the terms of the waiver.
40

41 **Opportunity for Public Comment**

42 TWC considered and approved the proposed waiver during its April 21, 2005 meeting,
43 which was open to the public. Subsequently, the proposal waiver was circulated to the
44 Boards and other stakeholders and posted on TWC's Web site for public comment. The
45 waiver was also discussed during a biweekly conference call with the Boards.
46

1 **Describe the Processes Used to Monitor the Progress of Implementing the Waiver**
2 TWC's monitoring and performance accountability system measures results for
3 employers and other customers of the Texas workforce system. Moreover, TWC
4 continuously analyzes performance reports and compares actual performance with
5 contracted targets. TWC will continue to make adjustments to monitoring performance
6 requirements to ensure that performance goals and objectives are met for WIA services,
7 including services created through the use of the waiver. Furthermore, TWC will
8 monitor progress under the waiver through review of monthly expenditure and
9 performance reports and through its monitoring and performance accountability system.

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

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Dislocated Worker Waiver

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Statutory and Regulatory Provisions To Be Waived

The Texas Workforce Commission (TWC) requests a waiver of Workforce Investment Act (WIA) §128(a) relating to the requirement that the state may reserve no more than 15 percent of the WIA Dislocated Worker funds for Statewide Activities.

TWC makes this request pursuant to the Secretary of Labor's authority to waive for a state certain statutory and regulatory requirements found in the WIA §189(i)(4)(A)(i), 29 U.S.C.A. §2939(i)(4)(A)(i). This authority is further addressed at 20 C.F.R. §661.420.

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Waiver Request

TWC requests the waiver to allow the Governor to increase from 15 percent to 20 percent the amount of WIA Dislocated Worker funds, allotted to states under WIA §132(b)(2)(B), that may be reserved as Statewide Activity funds. This would not impact the requirement for 60 percent of the state's WIA Dislocated Worker funds to be allocated to the workforce development areas, as required by WIA §133(b)(1)(B). The remaining 20 percent, of the WIA Dislocated Worker allotment, may be reserved for Statewide Rapid Response Activities under WIA §133(a)(2).

Although the effect of this waiver will be to reduce the maximum amount the state may set aside for Statewide Rapid Response activities from 25 to 20 percent, the state does not seek to waive its responsibilities related to Rapid Response activities. TWC currently allocates over 80 percent of the Dislocated Worker formula funds for eligible activities, such as Rapid Response, although a small portion is retained by the State for use as additional assistance, when needed. Because of the improving Texas economy, the number of layoffs has decreased and, as a result, so has the demand for Rapid Response services. TWC is recognizing that now there is a greater need to provide training to upgrade workers' skills and avoid future layoffs.

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, job seekers, and incumbent workers for the jobs of the 21st century.

In March 2005, President Bush highlighted his proposal to increase flexibility in our nation's job training programs in order to double the number of workers receiving job training. The President's proposal focuses on ensuring that every adult can access the skills and knowledge needed to succeed in the workplace of today and tomorrow.

By allowing an increase of five percent of the state's Dislocated Worker funds to be designated for use as WIA Statewide Activity funds, additional flexibility will be gained

1 to ensure that businesses can obtain a qualified workforce and that a greater number of
2 adults will receive training to upgrade their job skills.
3

4 **Description of the Individuals Affected by the Waiver**

5 The state does not seek to waive its responsibilities related to Rapid Response activities;
6 therefore, dislocated workers needing Rapid Response services will not be impacted by
7 this waiver. TWC assures that Rapid Response services will be provided to affected
8 employers and workers as required under WIA. TWC further assures that Dislocated
9 Workers will receive all needed services to reconnect with employment rapidly, and that
10 we will continue to meet the Dislocated Worker performance measures. Texas has a
11 proven record of commitment to Dislocated Workers, including UI claimants, and Trade-
12 affected workers who are required to be co-enrolled in Dislocated Worker services. As
13 with the demand for Rapid Response services, Texas is seeing a reduction in the
14 unemployment rate and notable reductions in certified Trade petitions and trade-affected
15 workers. Due to the changing economy, TWC seeks additional flexibility to design
16 customized solutions to meet the training needs of employers, while enhancing the skill
17 needs of adult workers, both incumbent and new workers alike.
18

19 **Goals To Be Achieved by the Waiver**

- 20 • **Equip workers with relevant job training that leads to high-growth, high-**
21 **demand occupations**

22 The waiver will provide TWC the flexibility to respond to employer-identified skill
23 needs with a combination of education, employment, and training services.

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

26 The waiver will provide TWC the flexibility to respond quickly to existing and
27 emergent demands in Texas. TWC supports the retention and growth of a competent
28 and competitive workforce in order for our state and our nation to remain competitive
29 in the global economy of the 21st century.
30

31 These goals can be achieved by providing education, training, and other services
32 necessary to upgrade the individual's knowledge, skills and abilities, and enhance their
33 employment opportunities, including reemployment of UI claimants, and promote job
34 retention for job seekers and incumbent workers.
35

36 **Programmatic Outcomes**

37 The intent of the waiver is to maximize the flexibility of WIA funding in order for Texas
38 to develop projects that address employers' specific needs. Greater flexibility in the use
39 of the Dislocated Worker funds will help ensure that the Texas workforce system can be
40 truly employer driven. It is anticipated that additional employers will turn to the
41 workforce system for customized solutions to their employment and training concerns
42 because service delivery will be streamlined and less complicated. Texas intends to
43 continue meeting all required performance measures for services to Dislocated Workers.
44

45 **State or Local Statutory or Regulatory Barriers**

1 There are no state or local statutory or regulatory barriers to implementing the requested
2 waiver.

3
4 **Opportunity for Public Comment**

5 TWC considered and approved the proposed waiver during its May 3, 2005 meeting,
6 which was open to the public. Subsequently, the proposed waiver was circulated to the
7 Boards and other stakeholders and posted on TWC's Web site for public comment. The
8 waiver was also discussed during a biweekly conference call with the Boards.

9
10 No comments were received regarding this waiver.

11
12 **Describe the Processes Used to Monitor the Progress of Implementing the Waiver**

13 TWC's monitoring and performance accountability system measures results for
14 employers and other customers of the Texas workforce system. Moreover, TWC
15 continuously analyzes performance reports and compares actual performance with
16 contracted targets. TWC will continue to make adjustments to monitoring performance
17 requirements to ensure that performance goals and objectives are met for WIA services,
18 including services created through the use of the waiver. Furthermore, TWC will
19 monitor progress under the waiver through review of monthly expenditure and
20 performance reports and through its monitoring and performance accountability system.
21

1 These programs provide job seekers with the necessary skills to meet the demands of
2 business and industry for skilled employees. The Commission directly administers the
3 Skills Development Fund and Self-Sufficiency Fund programs by developing
4 partnerships with employers, public community and technical colleges, community-based
5 organizations, and others. These statewide programs focus on creating new jobs for job
6 seekers and on retraining existing employees according to the employers' needs. The
7 APEX Grant program is funded with WIA funds that the Commission awards to Boards
8 on a competitive basis. Boards with APEX grants administer their APEX grant locally.
9

10 Following the approach the Commission uses for administering the Skills Development
11 Fund, Boards pull together employers and training programs to enhance the skills of
12 workers based on the occupational needs of businesses and industries. The Commission
13 has extensive experience in working with employers and in designing workforce
14 development programs that meet specific employer needs. However, the current 50
15 percent employer match requirement limits the ability to market customized training
16 programs to local employers. Local employers too often conclude that the 50 percent
17 match requirement creates costs that outweigh the benefits of participating in a WIA
18 customized training program.
19

20 The proposed sliding scale for the employer match will create the necessary flexibility for
21 employers to provide the required match at a rate that more appropriately represents a
22 particular business' or industry's cost benefit ratio of contributing to a match amount to
23 receive skilled employees. Allowing businesses and industries to apply the sliding scale
24 to determine the match amount will increase employer participation in WIA customized
25 training programs at the local level. The sliding scale will answer employers' primary
26 reason for not participating in the customized training. Boards will increase their
27 participation rates for skilled job seekers that received training and found employment.
28 Employers will benefit by having a labor pool with the marketable skills they require.
29

30 **Proposed Employer Match Sliding Scale:**

31 The proposed employer match sliding scale will range from 10 to 50 percent, based on
32 quality characteristics of the customized training. Quality characteristics will be based on
33 goals of the State Strategic Plan for Workforce Development that adhere to the principles
34 of training workers in high demand, high skill, high wage occupations and industries. The
35 Commission will develop the sliding scale and the process by which it will be applied.
36 The Commission is committed to ensuring that participants in customized training
37 programs will acquire the skills to meet workplace requirements for long term
38 employment and work toward sustaining employment in high-skill, high wage
39 occupational areas.
40

41 **2. State or Local Statutory or Regulatory Barriers:**

42 There are no state or local statutory or regulatory barriers to implementing the requested
43 waiver. Commission regulations and policy statements are in compliance with current
44 federal law. Upon notification of the approval of this waiver request, Commission
45 regulation and policy will be amended to comply with the terms of the waiver.
46

1 **3. Goals to be Achieved by this Waiver:**

2 Increase flexibility at the local level to serve business and industry through a value added
3 approach to their specific needs;

4 Equip workers with relevant job training with transferable skills that lead to high-skill,
5 high-wage occupations and industries;

6 Improve ability of Boards to work with the private sector and respond quickly to changes
7 in their areas; and

8 Increase local flexibility for design and control of training programs.
9

10 **Programmatic Outcomes:**

11 Increase the percentage of employers using customized training as a means to hire and
12 retain skilled workers.

13 Increase the percentage of workers trained and hired through customized training
14 programs.

15 Although existing data on Board customized training programs is not extensive at this
16 time, it will be used as baseline data to measure progress on outcomes post waiver
17 approval and implementation.
18

19 **4. Individuals Impacted by this Waiver:**

20 Employers will benefit from the waiver due to the reduced match requirement. This will
21 make customized training a more attractive option for acquiring workers trained to their
22 specifications. The waiver will impact the provision of training services through
23 customized training to Adults, Older Youth and Dislocated Workers eligible for services
24 under WIA. In particular, WIA eligible individuals with multiple barriers to employment,
25 low basic skills, and English language proficiency stand to benefit the most from
26 customized training.
27

28 Trade/NAFTA has impacted workers along the Texas-Mexico Border. Of special concern
29 are the workers formerly in the garment industry and other labor-intensive industries with
30 multiple barriers to employment, in particular, non-English speaking skills. Customized
31 training addresses the specialized needs of job seekers, providing them with the skills
32 necessary to meet employer expectations and the needs of business and industry.
33

34 **5. Process To Monitor Progress in Implementing the Waiver:**

35 The Commission, with input from Boards, employers, and service providers, develops
36 customized training programs. The Commission has a successful monitoring and
37 performance accountability system that measures results for job seekers and employers
38 using the Texas Workforce Network. Technical assistance during the implementation
39 phase of the waiver will cover areas such as procurement, contracting and program
40 design. The Commission continuously analyzes performance reports and compares actual
41 performance with contract benchmarks. The Commission will continue to make
42 adjustments to monitoring performance requirements to ensure that performance goals
43 and objectives are met for all WIA customized training programs. The Commission will
44 monitor progress on this waiver by reviewing monthly expenditure and performance
45 reports submitted by Boards and from regularly scheduled conference calls with Board
46 executive directors. Provisions in the contracts for customized training programs address

1 specific performance measures. Notice to Boards. Notice to Boards would occur via
2 issuance of Workforce Development Letter(s) (WD Letter), as well as through provision
3 of training and/or technical assistance. These steps would be taken prior to the effective
4 date of the waiver implementation.
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**STATE OF TEXAS
WAIVER REQUEST
WORKFORCE INVESTMENT ACT**

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Transfer of WIA Funds between Adult and Dislocated Worker Programs

The Texas Workforce Commission, the state operational entity for the Workforce Investment Act, is requesting a waiver to eliminate the 20% limitation on transferring WIA funds between Adult and Dislocated Worker programs. The waiver would provide an unlimited ability to transfer funds between these titles. In granting of this waiver, the Commission will ensure that the critical workforce needs of the local communities are met.

This waiver request follows the format identified in WIA §189(i)(4)(B) (29 USCA §2939(i)(4)(B)) and WIA Regulations at 20 CFR 5661.420(c).

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1. Statutory Regulations to be Waived:

WIA § 133(b)(4) (29 USCA §2863(b)(4)) and WIA Regulations at 20 CFR 5667.140, provide that with the approval of the governor, Local Workforce Development Boards may transfer up to 20 percent of a program year allocation for adult employment and training activities, and up to 20 percent of a program year allocation for dislocated worker employment and training activities between the two programs.

In 1995, with the passage of House Bill 1863, the Commission was created to administer a variety of employment and training programs to help adults and youth develop the job skills necessary to meet the occupational needs of employers and the state. That legislation envisioned a statewide workforce investment system made up of the Commission, the 28 Boards and their service providers, known as the Texas Workforce Network. As a result of the Commission's leadership, Texas implemented WIA in 1999, a full year ahead of the federal mandate. One year later, all 28 Boards were operational and the Texas Workforce Network was delivering services statewide. The Commission oversees the Boards' service delivery that is based on the establishment of local control over large-block granted programs. The Texas Workforce Network has three underlying principles:

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

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2. State or Local Statutory Regulatory Barriers:

There are no state or local statutory or regulatory barriers to implementing the waiver. Commission regulations and policy statements are in compliance with current federal law. Upon notification of the approval of this waiver, Commission regulation and policy will be amended to comply with the terms of the waiver.

3. Goals to be Achieved by the Waiver:

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

6
7 **Programmatic Outcomes by the Waiver:**

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

13
14 The role of the Boards is to plan, oversee and evaluate the delivery of all workforce
15 training and services in their respective areas through One-Stop centers. Boards would be
16 encouraged to design innovative programs unique to their Board needs and priorities.
17 Programs designed according to the specific needs of Boards result in increased local and
18 service provider accountability. The Commission supports the Boards in each of those
19 areas, and provides continued technical assistance and program monitoring. The granting
20 of the waiver will allow Texas to continue to meet the challenges of the future with
21 strong partnerships, employer participation, and the continued support of state and federal
22 leaders.

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24 **4. Individuals Impacted by the Waiver:**

25 This waiver will benefit Boards, One-Stop centers, employers, customers, and service
26 providers. The following are additional impacts of the waiver:

- 27 • Program participants will benefit because Boards will have the flexibility to
28 design programs based on local needs and priorities.
- 29 • Increased utilization will result in more customers being served.
- 30 • Boards will have the flexibility to move funds where they are needed.

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32 **5. Process used to Monitor Progress and Implementing the Waiver:**

33 The Commission has a successful monitoring and performance accountability system that
34 measures results for job seekers and employers using the Texas Workforce Network. The
35 Commission continuously analyzes performance reports and compares actual
36 performance with contract benchmarks. The Commission will continue to make
37 adjustments to monitoring performance requirements to ensure that performance goals
38 and objectives are met for all WIA Adult and Dislocated Worker programs. The
39 Commission will monitor progress on this waiver by reviewing monthly expenditure and
40 performance reports submitted by Boards and from regularly scheduled conference calls
41 with Board executive directors. Provisions in the contracts for the programs funded with
42 statewide activity funds address specific performance measures. Notice to Boards. Notice
43 to Boards would occur via issuance of Workforce Development Letter(s), as well as
44 through provision of training and/or technical assistance. These steps would be taken
45 prior to the effective date of the waiver implementation.