



NOV 18 2009

The Honorable Luis G. Fortuño  
Governor of Puerto Rico  
La Fortaleza  
Post Office Box 9020082  
San Juan, Puerto Rico 00902-0082

Dear Governor Fortuño:

As part of Puerto Rico's modification to the State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act, the Commonwealth submitted waiver plans to request that the Commonwealth'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 Commonwealth'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 18, 2009, ETA granted Puerto Rico approval of the following waivers through June 30, 2010:

- Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth;
- Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training; 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 18, 2009 granted temporary extensions of the remainder of Puerto Rico's 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 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 Commonwealth is requesting a waiver to permit use of rapid response funds for incumbent worker training. The Commonwealth is granted this waiver through June 30, 2010. Under this waiver, the Commonwealth is permitted to use up to 20

percent of rapid response funds for incumbent worker training only as part of a lay-off 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 Commonwealth 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 (TEGL) 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.

The Commonwealth is requesting a waiver to permit local area formula funding to be used for statewide activities, specifically incumbent worker training. The Commonwealth is granted this waiver through June 30, 2010. Under this waiver, the Commonwealth 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 lay-off 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 Commonwealth is required to report performance outcomes for any individual served under this waiver in the WIASRD.

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 Commonwealth previously was granted a 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 Commonwealth has withdrawn its request to extend this waiver. The waiver approval period has lapsed, and expires as of the date of this letter.

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

The Commonwealth is requesting a waiver of the requirement for competitive procurement of service providers for three of the ten youth program elements: supportive services, follow-up services, and work experience. The Commonwealth is granted this waiver through June 30, 2010. Under this waiver, the Commonwealth is

permitted to allow its One-Stop Career Centers or partner agencies to directly provide youth program elements. In utilizing this waiver, the Commonwealth and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

Requested 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 Commonwealth is requesting an extension of the 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. ETA denies this waiver. Entrepreneurship is important to job creation, however business capitalization is best supported by organizations and agencies whose mission and statutory authority directly relate to business development. The approval for this waiver expires on the date of this letter, providing for a reasonable period of time necessary for the Commonwealth to cease activities allowable under the waiver. ETA's Regional Office will work with the Commonwealth to determine the time needed to cease these activities.

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

The Commonwealth 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 based on the size of the business. The Commonwealth is granted this waiver 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. When determining the funding source for customized training, the Commonwealth must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth 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.

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 this constitutes a modification of the State Plan. A copy of this letter should be filed with the WIA Grant Agreement and the approved State Plan. In addition, as required by TEGL No. 14-00, Change 3, the Commonwealth should address the impact these waivers have had on the Commonwealth'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 Holly O'Brien, the Acting Regional Administrator for Region I, at (617) 788-0170 or [Obrien.Holly@dol.gov](mailto:Obrien.Holly@dol.gov).

Sincerely,



Jane Oates  
Assistant Secretary

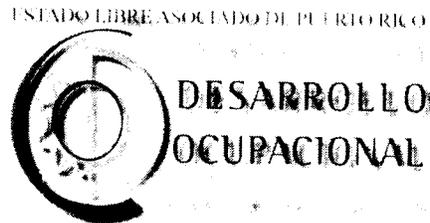
Enclosure

cc: Timothy Theberge, Federal Project Officer for Puerto Rico, ETA Boston Regional Office; Honorable Miguel Romero, Secretary, Puerto Rico Department of Labor and Human Resources

*Puerto Rico Workforce Investment System  
Waiver PY2009*



Commonwealth of Puerto Rico  
DEPARTMENT OF LABOR AND HUMAN RESOURCES  
Human Resources and Occupational Development Council



Workforce Investment Act  
**Request for Extension of Approved Waiver**

This is in response to the request of additional information regarding Puerto Rico's request of waiver extension for PY 2009. A full description as well as detail justification, background, goals, outcomes, statistics and procedures are included.

We appreciate TA provided and are available to provide additional information if requested.

We will like to comment that a letter regarding this issue (dated June 18, 2009 and addressed to former Governor Anibal Acevedo Vila) became available to us on August 26, 2009 via email. This situation limited our opportunity to better analyze and comply promptly with the request.

**APPROVED WAIVERS**

We acknowledge the approval of the following waivers from 07/01/09 - 06/30/10:

1. Permit to use ITA for older and out of school youth programs participants.
2. Waiver to permit the replacement of performance measures at WIA Section 136(b) with Common Measures.
3. Waiver on WIA Section 101(31)(B) to increase the employer reimbursement for on the Job Training (OJT).

**REQUEST TO EXCLUSION**

Due to the actual economic situation with a high number of dislocated workers, we request the ***exclusion of the previously requested waiver*** to authorize the transfer limitation at WIA Section 133(b)(4) for the Adult and Dislocated Workers Program. ***Puerto Rico withdraw the request the extension of the waiver of the transfer limitation, which allowed local areas to requests to transfer up to 100% of local area allocations between WIA Adult and Dislocated Programs.***



**Capitalization of Funds**  
**Leveraging for Small Business Development**

The Human Resources and Occupational Development Council (HRODC) is the administrative entity of the Workforce Investments Act funds assigned to the Commonwealth of Puerto Rico. The HRODC is hereby requesting a extension of waiver to increase the feasibility of various projects and strategies for our Governor. The HRODC is requesting the extension of the waiver on the use of funds for the capitalization of business at WIA section 181(e) to permit WIA funds the be used to capitalize a small business up to \$5,000 in accordance with entrepreneurial or micro enterprise training. This waiver was approved for 2007- 2009.

**Justification**

The economy of Puerto Rico faces a deep recession and requires stimulus and investment. The fiscal deficit reaches \$3.2 billion, which can get Puerto Rico to have its credit downgraded. The Government credit downgrade would generate a worst recession and create a chain reaction in which 130,000 jobs would be lost and the unemployment rate can reach 25 percent.

The Puerto Rico Department of Labor showed an unemployment rate of 16.5% for July, 2009, an increase of 4.2 percent compared to last year and the highest in the last three years. According to the data of the Puerto Rico Department of Labor, from June, 2008 to June, 2009, 109,000 jobs were lost. Due to the implementation of the Special Law on the Fiscal Emergency, this situation could worsen with the expected layoffs from the governmental sector, raising the unemployment rate to 18%.

Currently, there are 219,000 unemployed people in Puerto Rico, which reflects an increase of 19,000 unemployed, from June to July 2009.

The Governor of Puerto Rico, Hon. Luis Fortuño, has established the Local Reconstruction Plan, which includes various initiatives to face the recession:

1. Federal and Local Stimulus Packages
2. Public-Private Partnership (PPPs)



3. Economic Development Supplemental Stimulus
4. Development of strategic projects

Within his economic development strategies, the Governor has given emphasis to the ***development of small businesses and medium businesses as a key source for the creation of jobs.***

This situation requires innovative strategies to promote the creation of jobs. One of these strategies is the creation of an entrepreneurship skills pilot program to develop the self-employment or the development of a micro-business, for the governmental employees who could be dislocated as result of the Government Fiscal Reconstruction Plan to be implemented, and for the workforce investment system participants that receive services in the One Stop Centers.

The micro-businesses are a very important sector in the Puerto Rican economy. The Small and Medium Companies (PYMES by its Spanish acronym) represent a great proportion of the economic activity and employment in the industrialized countries. According to the Puerto Rico Planning Board, close to 92% of the commercial establishments in Puerto Rico are small businesses with over 110,000 establishments registered and operating in the Island. The contribution of these businesses to the gross national product is approximately 60% and 48% of the Puerto Rico's domestic product.

The Center for the New Economy (CNE), an independent non-profit institution dedicated to producing independent research and policy on issues of economic development, outlined the importance of small and medium-sized enterprises (PYMES by Spanish acronym) in the new economy. Technological advances that occurred in the 90s launched changes in production processes. Information has become raw material and knowledge an essential component for calculated added production. Small and medium-sized enterprises are engines of the new economy and highlight the crisis of multinational corporations. The experience of the last decade shows that PYMES are the most trained and prepared to face the challenges of the new economy, because its size and organizational structures gives them an advantage in terms of flexibility and capacity for reaction and innovation, two essential keys to be able to become serious competitors at a global level.

In Puerto Rico, PYMES generate the largest number of jobs while providing a host of services that support other production lines of the economy. It is estimated that small enterprises in Puerto Rico employed 75% of the workforce in the private



sector and around 90% of all new jobs are in businesses with less than 100 employees. The role of the Government is to ensure that PYMES expand its scope so they can share various sectors of the economy, strengthening its local trade capacity and facilitate the conditions for the exportation market.

In addition, the Government is responsible for promoting legislation and policies that support and provide greater opportunities to PYMES, through strategies and policies that support business efforts. Some of PYMES needs are: access to sources of capital and training, facilitate the permit process, and assistance in the identification of customers and markets potentials. A large part of the PR economy will depend on the PYMES performance to achieve a sustainable economic development.

### ***STATUS***

This waiver was approved by ETA until June 30, 2009. For the last two years, the waiver was utilized due to several reasons including the non existence of proper policies and procedures as well as the need to provide the appropriate training to local areas. Also the program lacked a viable strategy to recruit potential entrepreneurs.

### ***REQUEST***

Currently, due to the global and local economic crisis, conditions are favorable for the implementation of this waiver for the use of WIA funds for the capitalization of business.

At this historic moment, a clear public policy is in place to promote the economic development of Puerto Rico, which includes the promotion of small and medium-sized enterprises. In addition, the new Permits Bill, which is in the process to be approved by the local legislature, will reduce the requirements for the establishment of new businesses and set the conditions to increase new enterprises.

In addition to the above mentioned, the Local Stimulus Plan is currently providing services to the governmental dislocated workers through a state program similar to the waiver being requested.



The program provides funds through vouchers for the initial start-up costs of their small business. A total of 61 former employees of the Government of Puerto Rico received these voucher for a total investment of \$305,000. This experience serves as an example of how the approval of this waiver can provide an additional tool to serve our participants.

Also, the State Board recently establish a Micro-Business Center (CEMIC by its Spanish acronym) under its administrative structure with the responsibility to develop an Entrepreneur Pilot Training Program that offers to potential entrepreneur the appropriate tools to develop their entrepreneurship skills.

The incentive provided by WIA will be used in alliances with local community development corporations, Small Business Administration, Small Business Development Corporation and financial institutions in the Island to leverage financial and in-kind resources for the development of businesses, with up to 25 employees, with direct loans, loan guarantees, purchase of equipment, etc. Funds are conditioned to the completion by the participant of the micro -entrepreneurial training including the development and approval by the designated institutions of the Business Plan.

**1. Statutory or Regulatory Requirement to be waived**

The HRODC is requesting a waiver on the use of funds for the capitalization of business at WIA section 181(e) to permit WIA funds the be used to capitalize a small business up to \$5,000 in accordance with entrepreneurial or micro enterprise training. Also, the HRODC is requesting that a waiver be granted so that WIA funds could supplement this training and create more opportunities for assisting with start-up cost for new small businesses.

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

There are no state or local statutory or regulatory barriers for the implementation of this waiver.



**3. Goals and Programmatic Outcomes of this waiver**

This waiver will allow the Governor the flexibility in supporting statewide efforts to create an environment where entrepreneurs will be able to expand and create jobs that will strengthen local economies in accordance to their economic development strategies presented in this document. This effort will result in a sustained relationship for collaboration. In addition, individuals capable of managing a small business will be provided the start-up costs to succeed with their vision of becoming a self-sufficient entrepreneur.

**4. Individuals affected by this waiver**

Dislocated workers receiving training through WIA to start a new business in need of startup cost to initiate the business and create new jobs.

- The State Board can assist the development of small businesses of Local Areas through micro enterprise training to small businesses in the area.
- Under this waiver, entrepreneurial or micro enterprise training must be provided to the individuals benefiting from the capitalization.

**5. Implementation process:**

The HRODC has developed a draft of the procedure for waiver implementation, as well as the revision of the current Administrative Memorandum. Should this request be granted, the SWIB would be the responsible entity for developing the policy issuance that will be distributed to the Local Areas.

**6. Provide Notice Local Boards Affected by the Waiver**

Prior to the submission of the waiver request, the HRODC will notify all Local Areas of its intent via email memorandum, with this document attached.



**7. Provide Local Boards Affected by the Waiver an Opportunity to Comment on the Request**

A 30-day comment period from the date of publication on the HRODC website will be given to allow all Puerto Rico's Local Boards and the general public an opportunity to provide comments on this request. Copies of any comments received will be forwarded to the USDOL's Employment and Training Administration regional office in Boston.



## ATTACHMENT 1

### *Policy to Implement Waiver of the Provision Contained in WIA Section 181(e) that Limits the Use of Funds for Capitalization of Business*

#### **I. Introduction**

*The Human Resources and Occupational Development Council (HRODC) is a public agency, established under Act. No. 97 of December 18, 1991, as amended, by the Government of Puerto Rico. HRODC is the designated agency to administer the funds of the Law of the Workforce Investment (WIA) and is also an operational component of the Department of Labor and Human Resources.*

*The HRODC's mission is to plan, coordinate, manage, and develop strategies aimed into strengthening of occupational development and workforce, and assist in job creation and retention.*

*WIA Administrative Memorandum -5-2008 of August 20, 2008 establishes the public policy to implement the waiver authorizing the use of WIA funds (up to \$5,000 per person) to capitalize on small business in concert with entrepreneurial or small business training.*

*This procedure sets the standard way to implement the waiver to capitalize small business. The purpose is to make HRODC and the Local Areas more responsive to the needs of the workforce under actual economic conditions.*

#### **II. Legal Base**

*The Waiver has its legal basis in Section 181 (e) of the Workforce Investment Act*

#### **III. Eligibility Criteria**

- *The business must have 25 or fewer employees*
- *The business owner must be participating, or have participated in, entrepreneurial or small business training.*

*Other conditions that apply to the use of WIA funds for business capitalization activities under this waiver are as follows:*

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- *Grant assistance is limited to no more than \$5,000 per small business.*
- *WIA funds must complement all efforts adopted by the State and Local Government (leverage).*
- *The HRODC and/or Local Areas are required to obtain and document the receipt of legitimate estimates for expenses prior to disbursing funds. Also must required receipts after the good/service is provided, to ensure that the actual cost of the good/service is not less than the estimate.*
- *Applications for the business capitalization must be approved by the HRODC and/or Local Areas accordance with the established criteria. The applications must be reviewed by a committee prior to the approval to ensure rigor and consistency in the handling of business capitalization requests.*
- *All assistance provided through WIA must be channeled through alliances with community development corporations, Small Business Administration, financial institutions able to work with or generate financing alternatives, and through other in kind resources for the development of new business.*

**IV. Allowable Activities**

- *The waiver allows the use of WIA funds to purchase equipment or computers that are necessary to start or expand the business for the purpose of creating new employment opportunities for workers.*
- *Funds will be use as a guarantee for direct loans to the participants.*
- *Funds will be use to assist with start-up costs of the new business.*

**V. The following use of funds are not allowable under the waiver**

- A. Research and development activities.**
- B. Business capitalization revolving loans**
- C. Software costs (unless the software is used in training.**
- D. Cost of purchasing inventory for the business.**
- E. Costs associated with the purchase or lease of space for the business.**
- F. Fees for business consultants.**
- G. Employee wages (except in the case of On-the-Job Training (OJT).**
- H. Cost of insurance to cover the business,**
- I. Costs of licenses and fees associated with starting a new business.**



*Methodology for funding or Capitalization of Small Business*

*The HRODC and Local Areas have the trained personnel (hereafter referred as Coordinator and Case Manager, respectively) to assess all applications for funds for business capitalization presented itself in one of both agencies. This staff is responsible for recommending or denying them based on eligibility criteria according to the requested waiver to Federal Department of Labor (USDOL).*

*Those Local Areas who implement the use of Capital funds shall use this procedure.*

- A. The HRODC and Local Areas may receive requests from one of the following ways.*

  - 1. Potential candidates who have not completed a course of Business Development or Entrepreneurial training, and do not have a business plan. In which case, follow the entire procedure.*
  - 2. Candidates who passed the training and have a business plan. If so, must comply with Section C and then move to Section G.*

- B. Once the HRODC or Local Area receive the requesting funds form from a candidate, they must complete the Service Request, which shall be delivered at the reception area. (Appendix 2).*
- C. Once the service request is completed; the candidate will be referred to the Coordinator or Case Manager.*

  - 1. The Coordinator or Case Manager must provide the candidate with all the information regarding to the Capitalization Program.*
  - 2. The Coordinator or Case Manager must give to the candidate a list containing the WIA eligibility documents that they must submit and the referred for evaluation.*
  - 3. In this appointment, the candidate will be evaluated and the Coordinator or Case Manager must fill out the form entitled Certification of Eligibility.*
  - 4. The Coordinator or Case Manager will evaluate the following criteria:*
    - a. Candidate must present evidence that is a dislocated worker.*
    - b. Economically disadvantaged*
    - c. Level of motivation and enthusiast*
    - d. Desire to excel*
    - e. Family background*
    - f. Academic skills*
    - g. Type of business (business-related priority for industries in high growth demand) (Appendix 4)*
    - h. Other*

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5. *In order to determine the eligibility of candidates, the Coordinator or Case Manager must complete the Management Candidate Assessment Form (Appendix 5).*
- D. The Coordinator or Case Manager is responsible for referring eligible candidates to one of the collaborating institutions to complete the business development or entrepreneurial training. For referral purposes they must use the Referral Sheet identified in Appendix 6.*
1. *Those candidates that are not eligible will be notified by written communication. At the same they will be notified with the reasons of their request denial.*
  2. *The Coordinator or Case Manager must complete the process within a period no exceeding three (3) working days.*
- E. Once the Collaborating Institutions receive the referral from HRODC or Local Area they must:*
1. *Provide training for business development*
    - a. *It is the responsibility of the Coordinator or Case Manager to monitor the candidate's attendance for the length of the training. This follow up must be recorded in the candidate's file.*
  2. *Develop the business plan*
  3. *Prepared an analysis indicating the level of candidate's ability to manage other sources of financing, and how the five thousand (5,000) dollars waiver will help the success of the business.*
  4. *Must indicate how the collaborating institution will help the candidate during business development process.*
- F. Once the phase describe in Section E is completed, the collaborating institution must refer the applicant back to HRODC or Local Area. For such referral the Coordinator or Case Manager must use the bottom of the document entitled the HRODC Referral Sheet.*
- G. The Coordinator or Case Manager will be responsible for referring the candidate with the Business Plan to the Assistant Accountant.*
1. *Accounting Assistance functions:*
    - a. *Should assess which of the presented business is expected to be more successful and if is a business related to the fourteen (14) industrial clusters identified by the DOL under the highest demand jobs or occupational demand in the region.*

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- b. *Shall prepare a dossier for each candidate. The same shall contain:*
  1. *documentation of eligibility*
    - a. *Evidence as a dislocated worker and economically disadvantaged*
    - b. *Certificate or diploma of Business Development or Entrepreneurial Training*
    - c. *Business Plan\*
  2. *Recommendations to approve the project (wizard should develop criteria and evaluation table).*
- c. *Referred to the Proposals Evaluation Committee*
  1. *Send the Candidate's file to the Proposals Evaluation Committee.*
  2. *For such referral must use the questionnaire titled Referred Candidate (Appendix 7).*
- d. *The Accounting Assistance will complete the process within a period not exceeding three (3) working days.*

**VII.** *Proposal Evaluation Committee*

*There will be a Proposal Evaluation Committee statewide and a committee appointed by the local board in those areas that are part of this initiative.*

- A. *It is the Committee responsibility to evaluate the delegation of funds approved. The committee must complete the process within a period not exceeding three (3) working days.*
- B. *In the case that the Local Area do not have the funds available, shall refer the candidate to HRODC and the Evaluation Committee will evaluate the proposal. The process must be completed within a period not exceeding five (5) working days.*
- C. *Once the case is approved, these will be referred to the concerned Finance Department, who will issue a voucher for the amount allocated. Be used for this referral form "Ticket" (Voucher)*
- D. *Once the "voucher" is granted, is the responsibility of the Accounting Assistance the following tasks:*
  - a. *Pay to the entity concerned, the cost of the permits through direct billing to HRODC or Local Area.*

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- b. To purchase equipment and machinery, the candidate shall submit to the Local Area or HRODC at least three quotes. It is the responsibility of the Accounting Assistance to authorize the purchase.*
- c. Make payments to the seller, on production of original billing*
- d. Refer the approved case to MIS for the SACWIA registration process and subsequent monitoring.*

*E. Under no circumstances will deliver cash to the candidate.*

**VIII. Monitoring**

*The HRODC or Local Area Monitoring Department will be responsible for including in the Semi-Annual Monitoring Plan, all projects that receive funds under the waiver. It is the responsibility of the Monitor.*

- 1. Ensure the proper use of funds.*
- 2. Provide a project status report at the time of the monitoring, and which the projection of it.*

**IX. Monitoring and Technical Assistance**

*It is the responsibility of the Statewide Proposal Evaluation Committee or Local Area Proposal Committee to organize the team of professional that support new entrepreneurs. Will follow up during the development of business and coordinate technical assistance. This team will consist of resources from different sources including:*

- 1. Collaborating Institutions*
- 2. HRODC Resources*
- 3. Statewide and/or Local Boards members*
- 4. Governmental Agencies*
- 5. Experts in the field*



**Employer Match for Customized Training to a Sliding Scale**

Puerto Rico submits the request for waiver in order to revise the required 50 percent employer match for Customized Training at WIA 101 (8)(c) to a match base on a sliding scale, ranging from 10 to 50 percent for the employer match.

Specifically, the Governor may authorize the Local Workforce Investment Boards (Local Boards) and the Governor's Reserve Fund to establish the require portion of the cost, within the following sliding scales:

- shall not be less than 10 % the costs for employers with 50 or fewer employees
- 25% of the costs for employers greater than 50 through 100 employees
- 50 % of the cost for employers with more than 100 employees

The proposed alternatives for the employer match requirement of the training costs, will allow promote customize training to the private sector in support of strong relations with employers in high growth, high demand industries.

This waiver granted for Program Years 2007-2008 and 2008-2009. In compliance with the guidelines set forth al WIA Section 189 (i) (4)(b) and 20 CFR 661.420(c), we are requesting its extension for 2019-2010.

**Justification**

As part of the economic development initiatives, the micro-businesses (PYMES) are a very important sector being the small and medium companies the ones that represent a great proportion of the economic activity and employment in the industrialized countries. According to the Puerto Rico Planning Board, close to 92% of the commercial establishments in Puerto Rico are small businesses with over 110,000 establishments registered and operating in the Island. The contribution of these businesses to the gross national product is approximately 60% and 48% of the Puerto Rico's domestic product.

Small and medium-sized companies are also, the most susceptible to changes in the economy and are those that greater attention is required to remain competitive in the worldwide markets. In Puerto Rico, there is a great amount of local investment

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companies, in sector like emerging sectors like green focus, manufacturing, services, construction, chemical, wholesales, among others that generate close to 75 % of the jobs in our economy.

These companies have to compete with multinational companies which have more economic resources and can withstand on a long-term basis the effects of economic recession. Small businesses on the other hand, have to be maintained at the forefront of new technological and production advances to keep their competitive edge at a local and global level.

The government's economic policies include that PYMES expand their scope so they can share various sectors of the economy, strengthening its local trade capacity and facilitate the conditions for the exportation market. Legislation and policies are being promoted to support and provide greater opportunities to PYMES, through strategies and policies that support business efforts.

The Center for the New Economy (CNE), and independent nonprofit institution, indicates that some of PYMES needs are: ***access to sources of capital and training, facilitate the permit process, and assistance in the identification of customers and markets potentials***. A large part of the Puerto Rican economy will depend on the PYMES performance to achieve a sustainable economic development.

### **STATUS**

Through this waiver, the Government of Puerto Rico has a useful tool for addressing small and medium-sized companies that require constant updating of their technology and production processes. With the economic situation, companies do not have enough resources to pay the costs of training to upgrade the skills of employees. The WIA system becomes a valuable resource to promote the competitiveness of small and medium-sized companies, for the retention of jobs for those employees that are lacking the skills, either by the introduction of new products or technologies.

Many industries cannot finance the training costs related to the acquisition of new production technologies, necessary to stay competitive and survive in the global market. WIA funds are an essential tool to strengthen the competitive capacity on the industries through training employees and overcoming skill gaps.



**1. Statutory or Regulatory Requirements to be Waived**

The Waiver being requested applies to the 50% employer match for Customized Training as identified al WIA Section 101 (8)(c).

**2. Goals of the Waiver and Expected Programmatic Outcomes**

The propose sliding scale will provide greater flexibility for responding to changes in the labor market and will help ensure that the WIA funds allocated are being use to maximize customer service and other demand driven needs of the business community.

This alternative will create the necessary flexibility for employers to provide the required match at a level more reasonably suited to their size and the cost benefit ratio of contributing to a match to received skilled employees. Allowing businesses to apply the sliding scale to determine a match amount will increase participation in the WIA Customize Training programs at the State and Local Level. Local Boards will increase their participation rates for skilled job seekers that received training and found employment.

**3. State or Local Statutory or Regulatory Barriers**

There are no state or local statutory or regulatory barriers for the implementation of the proposed waiver.

**4. Description of the Individuals Impacted by the Waiver**

Individuals benefiting from the waiver are employers with 100 or less employees. Participants receiving customized training and subsequent employment will also benefit with the waiver approval.

**5. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver**

A public announcement will be placed in a major circulation newspaper for information and comments from the general community.



### ***Incumbent Worker Training at the Local Area Level***

Puerto Rico submits approval for waiver request of the restrictions on the use of local Workforce Investment Act (WIA) formula funds for Incumbent Worker Training at the Local Workforce Investment Area (Local Area) level.

This waiver would allow Local Workforce Investment Boards (Local Boards), ***as per evaluation and reasonable justification***, to use up to 10 % of Local Area formula funds for adults and dislocated workers (WL4 Section 133 (b) to provide statewide employment and training activities identified at WL4 Section 134 and 20 CFR 667.130, specifically to carry out Incumbent Worker Training programs at the Local Area level. This waiver was granted for 2007-2009.

Following the guidelines set forth at WIA Section 189(i) (4)(b) and 20 CFR Part 661.420(c), we are submitting the following as a request for an extension of the waiver.

### **Justification**

In Puerto Rico among the key industries that are crucial to the Puerto Rico economy, that produce high growth, high demand jobs are: manufacture, the pharmaceutical industry, medical, and electronic devices. Some are of local investment and other multinational companies. These industries sometimes are subsidiaries of mainland firms that generate an additional economic activity by the off shores demand for services.

One of the Government of Puerto Rico economic strategies, is the retention and promotion of high technology, high growth, and high wages industries. These industries are interrelated through a cluster strategy. Clusters are dynamic entities that may change as external conditions change around them, or the industries within them change. To insure its position as one of the premier manufacturing locations in the world and facilitate its further development, Puerto Rico has identified its top five industry groups or clusters: Pharmaceutical, Medical Devices, Biotechnology, Electronics and Contact Centers.

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These industries have to be retained on the Island by their contribution to the economy and to prevent the transfer of their operations to other jurisdictions outside national territory of the United States. ***These industries that produce high growth, high demand jobs will be the target for the use of this waiver.***

In an economy with a high unemployment rate is a priority to retain the incumbent workers jobs in all sectors of the economy. This retention will be achieved by ***upgrading the skills of workers*** in order to assure that companies can face the challenges of the economy, producing profits and remaining competitive. In this way the companies keep their operations in Puerto Rico and jobs are not lost.

#### **STATUS**

This waiver has not been used in the past two years by the Local Areas. Local Areas had developed the planning incumbent workers activities in their Annual Plans, but at the end of the program year they didn't demonstrated the delivery of training to incumbent workers.

In order to promote the programmatic activity, outreach strategies will be develop to inform employers about the availability of this waiver, this as part of a ***lay-off aversion*** strategy.

The HRODC has developed the web page ***puertoricotrabajo.com***, which display the Puerto Rico workforce investment system services available for youth, adults, dislocated workers and employers. Through this web page, the HRODC will implement an appropriate outreach strategy to promote training services for incumbent workers that require an up-grading of their skills.

This waiver is based on ***the layoff aversion*** approach to adequately prepare workers in order to prevent layoffs and closures. Although the major emphasis of the Workforce Inversion System in Puerto Rico is placement, based on the extremely large number of unemployed and displaced workers, it is necessary to for Local Areas to have the alternatives available to upgrade the skills of incumbent workers to prevent closings of companies in danger due to the economic crisis.



**1. Statutory or Regulatory Requirements to be Waived**

Puerto Rico requests a waiver from the provisions of WIA Sections 134 (Use of Funds for Employment and Training Activities), as well as waiver from the provisions of WIA regulation at 20 CFR 663.145 regarding the use of WJA Title 1 Adult and Dislocated Workers formula funds.

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

The proposed use of 10% of local formula allocated funds will provide Local Boards with greater flexibility for responding to changes in their local labor markets and will help ensure that the WIA funds allocated to each Local Area are utilized to maximize customer service and demand-driven needs of the business community. With the approval of this use of funds, Local Boards will be able to market WIA-funded Incumbent Worker Training to the private sector in demand-growth industries.

The anticipated goals are the improved flexibility in designing and implementing WIA programs for Local Boards and the improved the ability of Local Boards to respond quickly and effectively to the needs of employers and incumbent workers. It is anticipated that there would be increased accountability at both the State and local Area Levels with the approval of this waiver.

**3. State or Local Statutory or Regulatory Barriers**

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

**4. Description of Individuals Impacted by the Waiver**

This waiver will affect the business community served under the Act by reducing the risk of layoff or closure because workers have not kept current with new skills and technologies. It also generates lower level openings in positions vacated by incumbent workers who receive skills upgrade training.



The training provided to individuals will make them more valuable to current and future employers. This increases local flexibility to respond to the business community, in keeping with the goals of WIA.

**5. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver**

A public announcement was placed in a major circulation newspaper for information and comments from the general community.

The State Board through the Monitoring Unit of the HRODC will monitor all incumbent workers training activities by the State and Local Areas.



## **Use of State set-aside Rapid Response funds for the Incumbent Workers**

### **Training Program**

Puerto Rico received the approval in April 2005 for a waiver of statutory and regulatory requirements under the Workforce investment Act (WIA) regulations at 20 CFR 665.320(d)(2), for funds reserved for allowable state activities under WIA Sec. 133 (a) (2), allowing the use of up to 25% the state set-aside Rapid Response funds to the Governor's Reserve Funds. The transfer creates a single fund for the Incumbent Workers Training Program in agreement with the rules established under WIA Sec. 128 (a) (2). The transfer of funds is for allowable activities only. The transfer will not affect the activities developed by the state or local areas for dislocated workers or local formula allocations.

The approved waiver expired on June 30, 2009. This extension request covers the period from July 1, 2009 to June 30, 2010.

### ***JUSTIFICATION***

Puerto Rico Workforce Investment System faces a continuous and increasing demand from the private sector requesting training for incumbent workers. Mainly, these requests rise from the pharmaceutical and electronic industries, at the top of the job generating activity in the private sector of the Island's economy.

Primarily, training needs for incumbent workers is attributed to the constant changes in manufacturing technologies and development of new products, requiring upgrading of skills of employees in both, production and its corresponding quality control systems.

In the past two years, the HRODC approved 32 special projects to companies to train incumbent's workers to upgrade their skills and retain their jobs. An investment of around \$2.47 million was made in training incumbent workers due to the introduction of new technology or new products.

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Specialized industries like pharmaceutical, medical device and electronic requested Customized Training in ISO, LEAN Manufacturing, and other production processes. These certifications were required by these industries in order for employees to retain their jobs. In the last two years we delivered services to 4,059 incumbent workers. Some of the targeted industries were pharmaceutical, like Baxter, Schering Plough, Ethicon, medical device industries like Essilor, and retail services industries like Panaderia Los Cidrines, among other.

This waiver has been a successful tool for the Government of Puerto Rico, to face the challenge of retaining key industries and to promote the Island as investment site, with high educated workers and proactive solution to avert massive layoffs and retain jobs.

One of the best examples of the effectiveness of this waiver is Essilor Industries, Inc., an European company with operations in Ponce, Puerto Rico. It developed a new technology for the production of progressive adjustment optical lenses. This plant employs over 300 workers and needed to retrain its production line, quality control and safety control personnel in the new technology. This was a costly operation made feasible through WIA assistance. This industry was at risk of leaving the Island to transfer their operation to a foreign country outside USA territory to consolidate operation and decrease production cost. Through the incumbent workers program, the employees were able to upgrade their skills in new technology and introduction of new products. This company consolidated its operation in Puerto Rico and will create more high growth, high demand jobs.

Another example, is Baxter that after 134 employees completed OJT on the introduction of new production lines an new technology, the outcomes include the promotion of 13 employees as supervisors and the remaining employees received a salary increase.

### **1. Statutory or Regulatory Requirements to be Waived**

Puerto Rico requests a waiver of CFR 665.320 (d)(2), for funds reserved for allowable state activities under WIA Sec. 133 (a) (2).to allow the transfer of up to 25% the state set aside Rapid Response funds to the Governor's Reserve Funds. The transfer will create a single fund for the Incumbent Workers Training Program in agreement with the rules established under WIA Sea 128 (a)(2).



The transfer of funds will be for allowable activities only. The transfer will not affect the activities developed by the state or local areas for dislocated workers or local formula allocations.

## **2. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted**

The overall goal of the Incumbent Workers Training Fund is to prevent mass layoffs and plant migration due the excessive cost of training and to maintain a responsive workforce competitive in the global market. The waiver will support the feasibility of providing the private market a flexible mechanism to upgrade their employee's skills and strengthen market positioning. The following Goals will be supported by the waiver:

- Develop alliances and partnerships between the private sector, the public educational system and the universities and community colleges to develop pilot projects directed to identify' and provide alterative for skill gaps.
- Special attention to incumbent workers in high growth industries to upgrade skills, ensures competitiveness through en the job training, and customizes training programs.
- The Rapid Response functions is being promoted not only as a tool for providing services to workers affected by plant closings or massive layoff but also as an alternative for the business sector to avert a possible closing and improve the skills of their workers that would lead to the company being more productive and competitive.
- Development of financial mechanisms to large-scale manufacturing projects such as the ones developed by the pharmaceutical industry for the expansion of operations in Puerto Rico, providing the Commonwealth the necessary tools to attract foreign investment.
- The waiver will facilitate and improve services available to the private sector in need to maintain a competitive labor force. Also the waiver will increase financing training in new emerging fields such as biotechnology.



The success of this waiver will be measured by the increase of incumbent workers trained since all project funds will be devoted to incumbent workers. Another indicator to be evaluated is the reduction in mass layoffs or plant closings before and after project initiation. Also job retention and increase in salary after training are indicators to be measured by the project. We expect an approximate increase of 15% in the incumbent workers to be trained through the project.

**3. State or Local Statutory or Regulatory Barriers**

There are no state or local statutory or regulatory barriers to the transfer of the state set-aside funds.

**4. Description of Individuals Impacted by the Waiver**

The special fund will support the needs of incumbent workers (currently employed worker) in existing non-public businesses in Puerto Rico.

**5. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver**

*Processes used to monitor the Progress in implementing the waiver*  
The waiver implementation is an administrative procedure of simply transferring the funds. The Monitoring Unit of the HRODC will follow-up on the measures and parameters established for the project which will be implemented and coordinated by the Special Projects Unit of the HRODC. All applicable procedures delineated by the Monitoring Unit will be used in the project evaluation.

**6. Provide any local board affected by the waiver an opportunity to comment on the request**

All Local Areas will be notified in writing about the waiver approval and the availability of funds for incumbent workers training. Instruction will be provided for referrals to the fund. The HRODC holds quarterly meetings with the Executive Directors and Local Board Presidents. A 30 days period will be given to the Local Boards for comments.



***Requirement to competitively select providers of three of the ten (10) youth program elements***

Puerto Rico request an extension of the approved waiver from the provision of WIA Section 123 (Identification of Eligible Providers of Youth Activities) requirement to competitively select providers the following three of the ten (10) youth program elements for 2009-2010:

- Supportive Services
- Follow-up Services
- Paid and unpaid Work Experiences, including internships and job shadowing.

***JUSTIFICATION***

The request for extension of this waiver is based on the following:

- There an insufficient number of eligible providers in Local Areas specially in those with participants from rural areas. This condition is even more critical in municipal islands of Vieques and Culebra, where the basic transportation is by boat o airplane.
- Service providers substantially increase their fees or are not willing to participate in the procurement process, when the activity is not within their range of services. Local Areas coordinate with partners matching their expertise with the youth activity that is being developed. When it is necessary to target a specific population, an ample array of services are organized by the Local Areas, bring together a multidisciplinary team at little or no expense under WIA. Forming part of these teams are professionals from:
  - Education Department
  - Family Department
  - Police Department
  - Office of Youth Affairs
  - Community and Faith Based Organizations
  - Others



The Local Areas are responsible for coordinating the activities and providing support to the participants.

- Due to the critical role WIA imposes to the One Stop Centers, the HRODC provides technical assistance and capacity building to local staff to ensure they have the understanding and knowledge to carry out activities based on the requested elements to be waived.

### **1. Statutory or Regulatory Requirements to be Waived**

The Commonwealth of Puerto Rico request an extension of the approved waiver from the provision of WIA Section 123 (Identification of Eligible Providers of Youth Activities) requirement to competitively select providers of three of the ten (10) youth program elements: Supportive Services, Follow-up Services and Paid and unpaid Work Experiences, including internships and job shadowing.

### **2. State or Local Statutory or Regulatory Barriers**

There are no state or local statutory or regulatory barriers for the implementation of this waiver.

### **3. Goals and Programmatic Outcomes of this Waiver**

#### **❖ *Follow-up and Support Services***

The goals for allowing Local Area case managers to provide Follow-up Services and Support Services are to improve the continuity of services and provide a more efficient delivery system.

Having the Case Manager on a full time basis providing follow-up to the participants is the most effective way to empower them to meet self-sufficiency. The WIA Youth Program operates on the premise of long-participation, during this time a strong relationship is likely to be formed. When the youth exits from the program and enters the follow-up period, the requirement that such service be secured through a competitive process is likely to render less effective



services. In addition, a new third party introduced during follow-up would have to gather information, establish a relationship of trust and communication, resulting in a more time consuming and costly venture than building upon a relationship that previously existed between the youth and the case manager.

Likewise, by allowing Local Area Case Managers to provide support services, the continuity of services stays intact. When the youth has to be referred to a third party to secure his/her support service, it is an additional party to whom the youth must expose confidential information and is not the most efficient way to expedite the issuance of transportation, child care, or other support services needed.

#### *❖ Work Experience*

The goal for requesting that Work Experience be offered by Local Area staff, rather than administering the element through the competitive process, is to ensure an efficient, cost-effective delivery system oriented to increase the accountability of the program.

The Local Areas in Puerto Rico have selected to provide summer employment opportunities rather than contracting out the services, exercising the second exception of TEGL 9-00. This element is very labor intensive with the development of work sites, building relationships with work site supervisors, training staff to monitor sites, and setting up agreements, and payments procedures for youth. Contracting a third party to provide this element, is less cost effective and hampers all existing coordination built throughout the years. If Local Areas operating summer youth activities are allowed, to provide this element year round, with the experience acquired through the summer, it will result in a more timely delivery of services and achieve stronger ties with the agencies and companies providing work experiences.

#### **Expected Outcomes**

The primary purpose of this waiver is to improve local efficiency and productivity as to not affect the quality of services. With the approval of this extension, we anticipate cost savings and efficiencies that will allow the local workforce system to increase the number of youth to be served. In addition, the Commonwealth of Puerto Rico will maintain continuous follow-up to the



outcome of performance levels in order to ensure the accountability of the program. Included is Puerto Rico's performance data since the implementation of WIA, demonstrating the continuity of services for the Commonwealth Youth Program.

#### **4. Individuals to be affected by the Waiver**

The individuals to be affected by this waiver will be younger and older youth from the Local Areas. The implementation of this waiver will allow more choices for youth, while maintaining a high quality of such services and customer satisfaction.

#### **5. Implementation Process**

The HRODC developed a procedure for Local Areas to request authorization to the state level for the implementation of the waiver at the local level. The procedure, which is attached, included Guide Questions for the Local Areas to justify their requests.

In order to ensure programmatic and fiscal integrity as part of the oversight process, the HRODC established a follow-up process of the implementation of the waiver at the local level. This intervention will certify that the Youth Program maintains its framework of services within the parameters requested by the waiver.

#### **6. Public Comments of the Waiver**

In order to provide the opportunity for comments, the HRODC will submit a copy of this waiver to all Local Boards in Puerto Rico. In addition, a public notice will be published, allowing comments from all interest parties including profit and nonprofit organizations and community and faith based organizations, among others.