

**Evaluation of Waivers Granted Under  
WIA: Findings from Interviews with  
20 States**

Final Interim Report

May 2012

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Policy Research

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## ABSTRACT

The Workforce Investment Act of 1998 (WIA), administered by the U.S. Department of Labor (DOL), is the federal government's largest source of federally funded employment and training services. The program services, provided by state and local WIA agencies, involve many statutory and regulatory requirements applied uniformly across the country. Due to state and local area differences, WIA allows states to apply for waivers of WIA regulations, providing greater flexibility in serving the specific needs of local populations. These waivers may affect how resources are allocated or the types of employment and training services available to various groups.

Between 2008 and 2010, DOL approved more than 750 state-requested waivers of statutory and regulatory requirements. To learn more about the implementation and possible effects of waiver implementation, the Employment and Training Administration (ETA) at DOL has contracted with Mathematica to conduct an evaluation of select waivers approved in Program Years (PY) 2008 through 2010. In the first phase of this study, Mathematica reviewed federal and state documentation related to waiver use for 20 selected states and conducted telephone interviews with state and local-level administrators in those states. This report describes the reasons for waiver requests and the implementation of waivers at the state and local level, and explores how waiver implementation may have affected the workforce system and the services delivered.

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## EXECUTIVE SUMMARY

The Workforce Investment Act of 1998 (WIA), administered by the U.S. Department of Labor (DOL), is the federal government’s largest source of federally funded employment and training services. The program services, provided by state and local WIA agencies, involve many statutory and regulatory requirements applied uniformly across the country. Due to state and local area differences, WIA allows states to apply for waivers of WIA regulations, providing greater flexibility in serving the specific needs of local populations.<sup>1</sup> These waivers may affect how resources are allocated or the types of employment and training services available to various groups.

Between 2008 and 2010, DOL approved more than 750 state-requested waivers of statutory and regulatory requirements. Despite the increased interest in them, it is not clear how or to what extent waivers play a role in helping states and local areas respond to their employment needs. There has been little research to date on how they affect the workforce system, particularly at the local level. To learn more about the implementation and possible effects of waiver implementation, the Employment and Training Administration (ETA) at DOL has contracted with Mathematica to conduct an evaluation of select waivers approved in Program Years (PY) 2008 through 2010. The study is examining the reasons for waiver requests, and which and how waivers were implemented at state and local levels. It also is exploring how waiver implementation may have affected the workforce system and the services delivered, including both anticipated and unanticipated effects. The study includes two phases of research: (1) review of federal and state documentation related to waiver use for 20 selected states, and telephone interviews with state and local-level administrators in those states, and (2) site visits to 12 local areas using waivers. This report presents findings on the 20 selected states from phase one.

### A. Waivers of Interest

For this study, ETA is interested in learning about the effects of eight specific waivers. Five of these eight provide flexibility in spending WIA formula funds allocated to adults and dislocated workers. Two are related to youth training programs. The final waiver, a Workforce Flexibility Plan (work-flex), is not technically a waiver but rather a broad granting of authority to states to waive WIA regulations for local areas.<sup>2</sup>

- **Adult-Dislocated Worker Transfer (A-DWT).** This waiver allows local areas to transfer up to 50 percent of funds from the Adult funding stream to the Dislocated Workers funding stream and vice versa (only 30 percent of funds may be transferred without a waiver).

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1 Throughout the report, we use the term “state” to refer to the 50 states, the District of Columbia, and U.S. territories.

2 Although work-flex is not technically a waiver, we reference it as one of “the eight waivers of interest” or “waivers of interest” throughout the report.

- **Local Funds for Incumbent-Worker Training as a Statewide Activity (IWT).** The IWT waiver allows local areas to use funds from local Adult and Dislocated Workers formula funding streams to avert layoffs by training incumbent workers.
- **Rapid Response Funds for Incumbent-Worker Training as a Statewide Activity (IWTS).** This waiver allows states to use funds allocated to their Rapid Response program to train incumbent workers and potentially avert layoffs.
- **Employer Contribution for Customized Training (CT).** The CT waiver allows local areas to incentivize small and medium-sized businesses to implement customized training programs that teach new skills to adults or dislocated workers. The waiver allows local areas contribute up to 90 percent of training costs for small businesses, 75 percent for medium sized business, and 50 percent for large business.
- **Employer Reimbursement for On-the-Job Training (OJT).** The OJT waiver allows local areas to increase reimbursement to employers for implementing on-the-job training. The amount of reimbursement is based on a sliding scale that is, like the CT waiver, more generous for small- and medium-sized businesses.
- **Competitive Procurement for Youth Elements (CPYE).** Rather than providing flexibility in WIA formula funding, this waiver allows local areas to maintain the continuity of youth services by contracting with One-Stop Career Centers (OSCC) or partner programs for certain activities without a competitive bid.
- **Youth Individual Training Accounts (ITAs).** The youth ITA waiver allows local areas to offer ITAs to youth for the purchase of employment-related skills training. It waives the prohibition on the use of ITAs for youth, letting local areas determine the most appropriate training services (including ITAs) for youth, based on their individual needs assessments.
- **Work-flex.** Although not technically a waiver, states apply to DOL to receive waiver authority through work-flex. It provides a state governor with blanket authority to waive certain provisions of federal WIA policy for local areas as needed without applying to DOL for individual waivers.

## B. Methodology

In the first phase of the study, we purposefully selected 20 states for broad analysis of the waiver process and implementation. The primary selection criteria were the number of waivers approved and the pattern of use. Additional criteria, such as the state percentage of national formula allocation, the number of WIA local areas in the state, the state percentage of national WIA participants, and the DOL region of the country also were included in the state selection. The 20 states selected represented variation across the number and timing of waivers and the additional criteria. Table ES.1 identifies the states selected for the study and the characteristics of each.

**Table ES.1. Characteristics of the Study States**

	Number of Waivers in Place				Work- flex in 2008, 2009, or 2010	Range Designation <sup>a</sup>			
	2008	2009	2010	Average over 2008- 2010		State Percentage of National Formula Allocation	Number of WIA Local Areas	State Percentage of National WIA Participants	DOL Region
Alaska	4	4	4	4		Low	Low	Low	6
California	4	4	6	4		High	High	High	6
Florida	4	6	6	4		High	High	Medium	3
Georgia	2	4	5	2		High	High	Low	3
Hawaii	2	3	5	2		Low	Medium	Low	6
Kansas	6	6	6	6		Medium	Medium	Medium	5
Kentucky	5	6	6	5		Medium	Medium	High	3
Louisiana	7	7	5	5	✓	Medium	High	High	4
Maryland	3	4	4	2		Medium	Medium	Medium	2
Massachusetts	5	6	7	5		Medium	High	Low	1
Michigan	2	1	6	1	✓	High	High	High	5
Minnesota	5	6	6	5		Medium	High	Low	5
Mississippi	6	4	4	4	✓	Medium	Medium	Medium	3
New Mexico	3	3	4	3		Medium	Medium	Medium	4
North Carolina	3	3	4	3		High	High	Medium	3
Ohio	6	6	7	6		High	High	High	5
Pennsylvania	6	6	6	6		High	High	Medium	2
South Carolina	5	4	6	3		Medium	Medium	Medium	3
Virgin Islands	5	6	6	5		Low	Low	Low	1
West Virginia	2	4	4	2		Medium	Medium	Low	2

<sup>a</sup>The ranges are based on the quartiles for each distribution (rounding was used for cleaner breaks).

Formula Allocation: Low: 0-0.29%; Medium: 0.3–2%; High: over 2%

Local Area: Low: 1-2; Medium: 3-15; High: over 15

WIA Participants: Low: 0-0.34%; Medium: 0.35–2.5%; High: over 2.5%

After selecting the 20 states, we collected data for each site using two methods—a document review and telephone calls. Initially, we collected and reviewed WIA documentation related to waivers. To supplement that information, we called state and local officials in each state and conducted a short telephone interview. We interviewed staff from the state Workforce Investment Board (WIB) and/or state DOL agency to confirm information from the document review, collect additional information on state-level waiver strategies and potential effects, and obtain contacts in the local areas using waivers. After receiving input from the states, we selected one local area in each state for participation in the study. We contacted the local workforce director who administers WIA for the selected area and interviewed him or her about the waivers of interest in place between PY 2008 and 2010.

When considering the findings from phase one of the study, it is important to keep a few issues in perspective. First, while the information collected during the telephone calls is representative of the waiver use and the opinions of the local areas interviewed, it is not necessarily a representative sample of the entire state. The study included a single local area in each state, which may or may not have implemented all available waivers in that state. Second, it is possible that, for some waivers, a respondent's understanding of the distinction between the WIA policy and the waiver of that policy may have been blurred, particularly among the local area administrators.



## C. Findings from Data Collection

A primary goal of phase one of the study's data collection was to gain a general understanding of how states requested certain waivers, their goals for using them, and the role local areas play in the waiver request and implementation process.

### 1. Process for Requesting Waivers from DOL

States submit requests for WIA waivers as part of their Workforce Investment and Wagner-Peyser Act State Plans as described in TEGL 17-10 (U.S. Department of Labor 2010b). ETA then approves waivers for those states that propose using them in a way that prioritizes their neediest customers and effectively balances state and local interests. The selected states for this study worked closely with their local areas to craft these requests. Although three local areas indicated that they did not know much about available waivers or the process for acquiring them, all other state and local staff interviewed described their waiver decision making as an iterative process that involves a substantial amount of state/local collaboration.

Although some states indicated that they initiate the waivers and present them to the local areas, staff in several states reported that their local areas investigate waivers and ask their states to apply for them on their behalf. State and local administrators in several states noted that they look closely at waivers for which other, similar, states have applied and have gotten approved to generate ideas for their own waiver requests prior to crafting them. They explained that their federal project officers notify them about which states and local areas are using waivers, and provide guidance regarding whether or not those waivers might also benefit their areas. Administrators from three states also cited the waivers database on ETA's website as an excellent resource for waiver request and approval information, noting that they used the site to look closely at which waivers other states in their DOL region were using.

### 2. Motivation for Requesting Waivers

Although states often apply for waivers based on requests from specific local areas, state officials cited the need to provide all of their local areas with flexibility as the primary reason for requesting waivers, rather than meeting the needs of any one area. State and local administrators from half of the states interviewed described waivers as tools in their service toolkit. While different waivers may suit the needs of one of their local areas more than the others, these officials commented on the importance of having many waivers available to these areas, should they have an unforeseen occasion to use them.

### 3. Process for Implementing Waivers

With the exception of the A-DWT waiver, few states require their local areas to apply to use approved waivers. The majority of the study states simply notify their local areas when they have been approved for a waiver and give them permission to use or not use it as they deem necessary. Typically, this notification is an email that includes ETA's waiver approval letter, as well as any additional ETA policy or implementation guidance. Only 4 of the 20 states interviewed—Massachusetts, Michigan, Minnesota, and West Virginia—require local areas to complete a rigorous waiver application process to use waivers for which they have been approved. Most states administrators reported that they do not track systematically the use or impact of waivers in their local areas but they do use their regular WIA monitoring tools—local area annual plans,

annual on-site monitoring, and state management information systems (MIS)—to get a sense of how local areas are using the waivers.

#### 4. Waivers of Interest

As of PY 2010, the majority of study states had approval to use six of the eight waivers of interest. Although approval of these waivers at the state level was widespread, their implementation in the study local areas was less common. States often apply for waivers to give local areas options throughout the year, if needed. Not all local areas will need to use all of the available waivers in a given year. In addition, some states indicated that they apply for waivers at the behest of a particular local area. Demand for a waiver in one local area may not mean it is needed in all areas.

**Adult-Dislocated Workers Transfer.** State administrators appreciated the extra flexibility afforded by this waiver and, in PY 2010, all 20 states had received approval for it. Although transferring money between the Adult and Dislocated Workers programs clearly is common, the extent of waiver use is less clear. States reported frequent transfers between the Adult and Dislocated Workers programs, although the majority of the transfers were below the 30 percent cutoff WIA allows without a waiver. The direction and size of the transfers can vary significantly across years and local areas. While local areas may not necessarily need to transfer funds from their Adult to their Dislocated Workers program or vice versa every year, they can do so quickly under the waiver should an unexpected need arise. This flexibility allows local areas to serve customers “equally and consistently regardless of whether or not they are an adult or a dislocated worker.”

Many factors can affect the direction and extent of the fund transfer in a given year including: (1) economic conditions; (2) the availability of National Emergency Grants and Rapid Response funds; (3) the availability of Temporary Assistance to Needy Families Employment Support Program; and (4) local enrollment practices.

**Incumbent Worker Training.** DOL grants two waivers that aim to facilitate incumbent worker training. In PY 2010, 15 of the 20 states received approval for the IWT waiver for local formula funds, and 13 of the 20 states received approval for the IWT waiver for state Rapid Response funds. States applied for these waivers because they wanted to have additional tools to serve businesses in their communities. State and local respondents described diverse uses of IWT, but manufacturing and, more recently, health care were the most common industries using these waivers. Local areas varied significantly in the amount of resources allocated for IWT under the waiver.

In PY 2009, DOL provided new guidance, in TEGL 26-09, requiring that IWT using local formula funds or Rapid Response funds be used to avert layoffs (U.S. Department of Labor 2010a). States and local areas reported that these layoff aversion requirements were difficult to understand and implement, and significantly reduced the use of the IWT waiver. Respondents described numerous challenges in implementing the IWT waivers for a layoff aversion strategy including: (1) the difficulty in defining layoff aversion; (2) the challenge in finding the right time to intervene; (3) a desire to avoid public discussion of layoffs; (4) an unwillingness to reveal private business information; and (5) the difficult compliance and reporting requirements.

**Employer Contribution for Customized Training.** In PY 2010, 15 of the 20 states had received approval for the CT waiver. Interest in the CT waiver appeared to grow over time, with 10 states holding the waiver in PY 2008, 14 in PY 2009, and 15 in PY 2010. States that applied for the CT waiver hoped it would encourage local areas to work more closely with local businesses, finding ways for the One-Stop Career Centers to meet the needs of employers. While states were choosing to apply for the CT waiver, implementation at the local level was limited. None of the local areas in the study implemented the CT waiver in 2008. By 2010, two local areas reported implementing the waiver. While the data collection approach may not capture the full extent of implementation in all local areas, the state respondents noted that use of the CT waiver generally was low.

Local areas identified several barriers to use of the CT waiver including: (1) business were already willing to participate under the 50 percent match rate; (2) alternative resources were available, including community college funds, for CT training; (3) keeping CT simple for employers; and (4) businesses were not willing to commit upfront resources for training, regardless of the contribution rate.

**Employer Reimbursement for On-the-Job Training.** In PY 2010, all 20 states had received approval for a waiver to offer higher reimbursement rates for OJT. Forty percent of the local areas had chosen to implement the waiver, with 8 out of the 20 local areas using it to offer sliding-scale reimbursement rates for small employers. States applied for the OJT waiver because they wanted to give local areas another tool to help them serve local businesses, and the local areas that had implemented the OJT waiver were very enthusiastic about the new strategic tool. A few states noted that the sliding-scale reimbursement rates have been particularly valuable in rural areas, where small businesses are responsible for much of the employment.

Local areas reported a great diversity in the businesses receiving OJT contracts, from green energy to manufacturing to education. Respondents noted the importance of finding employers who were committed to potentially hiring the trainees after the OJT period ended. The duration of the OJT contract varied significantly across sites. While some sites limited the OJT contract by the number of hours, others set limits on the funds per OJT contract. With a fixed dollar OJT, a higher reimbursement rate for small businesses typically meant a shorter period of OJT.

Some local areas with access to the OJT waiver chose not to use the sliding scale available under the waiver. Respondents described a few reasons for not implementing the waiver including: (1) higher reimbursement rates limit the number of OJT slots; (2) a believe that the employer contribution rate is not a key barrier to employer participation; (3) the availability of the sliding scale under the OJT NEG; (4) concerns about consistency in reimbursement rates across the state; and (5) concerns about consistency once the waiver ended.

**Competitive Procurement for Youth Elements.** In PY 2010, 5 of the 20 states received approval for the CPYE waiver. Most of the local areas chose to implement the waiver, with four of the five local areas using it. Local areas that implemented the CPYE stressed their need for the waiver because of difficulty in finding good youth service providers.

Local areas that used the CPYE waiver believed that the procurement flexibility improved the quality of youth services. Local areas that implemented the CPYE waiver also reported saving money through administrative and cost efficiencies. The elimination of the procurement process resulted in direct cost savings. Staff noted that they no longer need to advertise

procurements in the newspaper or spend time managing the procurement process. Instead, they reported having more time to focus on addressing specific concerns about the delivery of youth services.

**Individual Training Accounts for Youth.** In PY 2010, 19 of the 20 states received approval for a waiver to use youth funding for ITAs. Most of the local areas chose to implement the waiver, with 13 of the 19 offering ITAs for youth. ITAs can be used to purchase skills training for employment, and most sites have chosen to focus on occupational training. In particular, youth are directed to the priority industries identified by the local WIB. A few sites have chosen to use youth ITAs to fund higher education.

Sites that have chosen to implement the ITA waiver were very enthusiastic about the opportunities it created. Although many of the training programs pursued under the waiver may have been arranged without it—either through the use of a competitive procurement process to secure training slots or by co-enrolling youth interested in an ITA in the Adult WIA program—sites described numerous advantages to using the waiver. These include the following: (1) ease in navigating the WIA Youth program; (2) availability of Youth WIA funding; (3) flexibility to serve younger out-of-school youth; and (4) alternative to limited pool training providers in rural areas. Some sites had begun viewing the youth ITA waiver as the status quo, and one site described it as an “initiative to deal with a structural flaw in WIA” by introducing more flexibility into youth service delivery. Local areas that were relatively new implementers of the youth ITA waiver hoped it would allow them to improve the relatively poor recruitment and performance of older OSY.

**Work-flex.** Three of the 20 states had received work-flex authority between PY 2008 and PY 2010; however, work-flex in all of the states had expired by PY 2009, due to the five-year cap on the authority. Two of the states, Mississippi and Louisiana, were granted work-flex authority following Hurricane Katrina. Respondents in these states reported that they did not use the available flexibility to make any changes to policy or procedures. Louisiana was not certain what the work-flex authority would have allowed it to do, and Mississippi reported that it “didn’t need anything beyond what they already had waivers for.”

Michigan, on the other hand, used work-flex extensively to react quickly to the economic circumstances in the state, particularly related to the decline of the auto industry. Without this authority, Michigan could have applied individually for various waivers as the need arose, but the process would have been slow and requires a public comment period. With work-flex authority, Michigan could respond nimbly to changing circumstances.

#### **D. Lessons from Waiver Implementation and Recommendations for Improvement**

The staff from the various states and local areas pointed out several outcomes from implementing waivers that strengthened the overall workforce system. They also identified factors that made using or keeping the waivers a challenge. Many respondents had suggestions for resolving these challenges and improving the overall process. Although these respondents are not representative of all states or local areas implementing waivers, they did highlight many interesting issues that can inform the discussion of waiver policies.

Respondents agreed that having access to the waivers provided important flexibility that allowed local areas to use a “demand-driven” service strategy. While all parties identified this enhanced flexibility as a major benefit, various state and local area respondents also described other successes of waiver implementation including: (1) strengthening connections with employers; (2) increasing employer-based training; (3) improving youth performance outcomes; and (4) enhancing the relationship between the state and local areas.

Although state and local areas saw many benefits arising from the waivers, they described challenges in the current waiver application and implementation process. These challenges affect the relationship between the workforce system and employers and can limit the flexibility and creativity of the workforce system. Challenges include the following: (1) lengthy waiver application process; (2) uncertainty about waiver renewal; (3) dependency on a waiver that may end; (4) narrowing scope of acceptable waivers; and (5) tension between flexibility and DOL implementation guidance.

State and local respondents credited DOL with making important improvements to the waiver process in recent years. In particular, states valued the increased transparency of the process. They appreciated being able to see waiver requests from other states and believed that this change had significantly reduced the frustration of being unsure about the universe of potential waivers. While respondents did think the waiver process had improved, they offered the following additional suggestions for system improvements: (1) streamline the waiver request process; (2) approve waivers for longer periods of time; and (3) change guidance on incumbent worker training waivers. Local areas also reported that certain waivers including the A-DWT and Youth ITAs waivers were so widespread and longstanding that the waiver language should be adopted as part of the basic regulation, a change that would require Congressional action on WIA reauthorization.

## I. INTRODUCTION

The Workforce Investment Act of 1998 (WIA), administered by the U.S. Department of Labor (DOL), is the federal government’s largest source of federally funded employment and training services. It provides funding for a variety of services to unemployed adults, adults at risk of layoff, and youth. The program services, provided by state and local WIA agencies, involve many statutory and regulatory requirements applied uniformly across the country. Due to state and local area differences, WIA allows states to apply for waivers of WIA regulations, providing greater flexibility in serving the specific needs of local populations.<sup>3</sup> These waivers may affect how resources are allocated or the types of employment and training services available to various groups.

Between 2008 and 2010, DOL approved more than 750 state-requested waivers of statutory and regulatory requirements. State and local areas use waivers in many different ways to better administer the WIA program and serve clients, including reallocating funds to areas in the most need, providing employers with more generous incentives to stimulate training and hiring in the community, and addressing unexpected events like natural disasters and regional economic downturns. Despite the increased interest in them, it is not clear how or to what extent waivers play a role in helping states and local areas respond to their employment needs. There has been little research to date on how they affect the workforce system, particularly at the local level. For example, the frequency of waiver “take-up” at the local level, the process by which local areas seek approvals for them, and the way local areas combine various waivers to achieve specific goals are not well understood. The degree to which states track implementation of certain waivers at the local level varies, as monitoring and reporting requirements are limited for certain waivers. There is also variation in how local areas receive approval to implement waivers—some states require each local area to apply to the state WIA agency for them, whereas others extend the approval to all local areas without application. It should be noted that even if a local area applies for and receives approval, it may not actually implement the waiver.<sup>4</sup> The state agency thus may have more or less information about implementation, requiring additional research of each local area.

To learn more about the implementation and possible effects of waiver implementation, the Employment and Training Administration (ETA) at DOL has contracted with Mathematica to conduct an evaluation of select waivers approved in Program Years (PY) 2008 through 2010. The study is examining the reasons for waiver requests, and which and how waivers were implemented at state and local levels. It also is exploring how waiver implementation may have affected the workforce system and the services delivered, including both anticipated and unanticipated effects. The study includes two phases of research: (1) review of federal and state documentation related to waiver use for 20 selected states, and telephone interviews with state

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<sup>3</sup> Throughout the report, we use the term “state” to refer to the 50 states, the District of Columbia, and U.S. territories.

<sup>4</sup> For the purposes of this report, “implementation” means that the local area has taken the action prescribed by the waiver (for example, funds were transferred or expanded sliding scales were used for businesses).

and local-level administrators in those states, and (2) site visits to 12 local areas using waivers. This report presents findings on the 20 selected states from phase one.

## A. Study Background

The WIA program is funded by the federal government and administered at the state and local levels. It is funded through three separate funding streams, one each for WIA's Adult, Dislocated Workers, and Youth programs. Funding allocated to these individual funding streams must be used for services related to the clients specified in each group. The Workforce Investment Act of 1998 (PL 105-220) defined these groups as the following:

- **Adults.** An individual must be at least 18 years of age to be eligible for WIA adult funding. Priority for adult intensive and training services is given to low-income customers.
- **Dislocated workers.** An individual must be either terminated or laid off without cause, working at a business in which the employer has announced a facility closure within 180 days, or be previously self-employed but currently unemployed.
- **Youth.** An individual ages 14 to 21, if he or she faces at least one of six defined barriers to employment: (1) have a basic skills deficiency; (2) be a high school dropout; (3) be homeless, a runaway, or a foster child; (4) be pregnant or a parent; (5) have committed a criminal offense; or (6) require additional assistance to complete an educational program or secure and maintain employment. WIA includes both in-school and out-of-school youth, but requires that at least 30 percent of funds be spent on out-of-school youth. Youth ages 18 to 21 may be co-enrolled in programs serving adults and dislocated workers.

Funds for each stream are allocated to states using a formula based on its proportion of economically disadvantaged and unemployed individuals. Each state then distributes funds to the local areas based on a similar formula. States retain 15 percent of funds from each funding stream for statewide activities. They also retain 25 percent of Dislocated Workers program funds for the state's Rapid Response activities, as described below (U.S. Government Accountability Office 2003).

The formula allocations are based on historic patterns and should reflect the needs of the state and local areas; however, these patterns may not perfectly predict current needs, due to fluctuations in the population or economic events that affect the demand for WIA services by different groups of workers. Thus, waivers allow states and local areas the flexibility to deal with changing circumstances.

DOL and the states have shown increased interest in and approval of waivers in the last several years. Generally, waivers provide state and local areas with flexibility, but the 26 types of waivers currently approved can be grouped roughly into the following six categories. These include waivers that do the following:

1. Provide flexibility in allocation of funds across funding streams
2. Permit adjustments to performance or performance measures

3. Relate to services for youth using non- American Recovery and Reinvestment Act (ARRA) funds
4. Relate to state and local governance
5. Relate to youth services funded through ARRA
6. Provide for other flexibility<sup>5</sup>

Although most states have been approved for some type of waiver over the years, federal approval of state-requested waivers does not mean they will be implemented automatically at the local level. There is little information about which local areas may have implemented approved waivers or how the request and approval process works at the local level. This study explores how waivers are used generally across a sample of 20 states, with in-depth analysis of waiver use in one local area in each of 12 states. The study focuses on eight specific waivers (described below) approved between PY 2008 and PY 2010. This time period is particularly important, because most states were experiencing an economic downturn and were faced with serving many more clients than in past years. At the same time, ETA, in TEGL 26-09, significantly changed its policies for reviewing and awarding waivers, as well as the requirements for several waivers (U.S. Department of Labor 2010a). The PY 2009 policy changes were in part a reaction to the economic climate and focused on helping states to maximize workforce training opportunities and employment outcomes, particularly among the unemployed and those that are hard to serve (having multiple barriers to employment), while balancing the importance of state and local area interests and accountability. It is important to understand how states and local areas chose to use waivers during this time to determine whether changes in economic conditions and waiver policies affected state's choices.

## B. Waivers of Interest

For this study, ETA is interested in learning about the effects of eight specific waivers. Five of these eight provide flexibility in spending WIA formula funds allocated to adults and dislocated workers. Two are related to youth training programs. The final waiver, a Workforce Flexibility Plan (work-flex), is not technically a waiver but rather a broad granting of authority to states to waive WIA regulations for local areas.<sup>6</sup>

### 1. Flexibility in Funds Allocated to Adult and Dislocated Worker Programs

**Adult-Dislocated Worker Transfer (A-DWT).** This waiver allows local areas to transfer up to 50 percent of funds from the Adult funding stream to the Dislocated Workers funding stream and vice versa. Without the waiver, local areas are authorized under WIA to transfer up to 30 percent of each program year's funding stream between the Adult and Dislocated Workers programs, with the approval of the state's governor. The waiver's higher transfer rate allows

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<sup>5</sup> States may apply for waivers at any time of the year, and those that are approved can be used for single or multiple program years, up to expiration of their approved five-year state plans. A program year runs from July 1 to June 30.

<sup>6</sup> Although work-flex is not technically a waiver, we reference it as one of "the eight waivers of interest" or "waivers of interest" throughout the report.



local areas to better respond to the particular needs of their customers and labor markets, while allowing states to accommodate regional differences in the need for Adult and Dislocated Workers services. Note that in PY 2008, the waiver allowed local areas to transfer 100 percent of funds between programs; in PY 2009, DOL capped the transfer amount at 50 percent.

**Local Funds for Incumbent-Worker Training as a Statewide Activity (IWT).** The IWT waiver allows local areas to use funds from local Adult and Dislocated Workers formula funding streams to avert layoffs by training incumbent workers. Layoff aversion at the local level is an activity typically supported through statewide discretionary funds. The waiver allows states and local areas to preemptively address the circumstances that create layoffs and help businesses cultivate existing employees, rather than finding employment for dislocated workers after they have been laid off. Without the waiver, local areas are prohibited from using Adult and Dislocated Worker funding for this purpose, and it is difficult for them to finance training for incumbent workers because of additional requirements they must meet, such as eligibility criteria related to being in a low-income household. With the waiver, local areas may use up to 20 percent of Dislocated Workers funds, or up to 10 percent of Dislocated Worker funds and 10 percent of Adult funds.

Waiver policy in PY 2009 and PY 2010 specified several conditions for local areas wishing to support IWT using funds from their Adult and Dislocated Workers categories. First, Adult funds must be used for lower-income adults. Second, funds may be used only to train incumbent workers as part of a documented strategy to avert layoffs, and training must focus on skill attainment. Training must also benefit the worker directly by enhancing his or her qualifications and/or building skills related to new product lines or processes. Third, local areas must continue to conduct their normal, required employment and training activities for adult and dislocated workers, even with the same level of funding. Finally, states are required to report performance outcomes for incumbent workers served under the waiver in ETA's Workforce Investment Act Standardized Record Data (WIASRD).<sup>7</sup>

**Rapid Response Funds for Incumbent-Worker Training as a Statewide Activity (IWTS).** This waiver allows states to use funds allocated to their Rapid Response program to train incumbent workers and potentially avert layoffs. Rapid Response is designed to respond to layoffs and plant closings by quickly coordinating services and providing immediate aid to companies and their affected workers. Rapid Response staff work with employers to maximize public and private resources quickly to minimize disruptions associated with job loss. Normally, Rapid Response funds are used to respond to layoffs or for management and oversight of the IWT program, not for the training itself. The waiver allows states to design IWT strategies as well as fund IWT training as part of their broader response to potential dislocations. Under the waiver, states can shift up to 20 percent of the funds allocated to the Rapid Response program to the IWT program. States that use Rapid Response funds for other statewide activities under the waiver must demonstrate a very narrow focus for the funds, targeted at serving dislocated workers. Funds spent on IWT should be used as part of a documented strategy to avert layoffs, with training focused on enhancing workers' qualifications or building their skills. States must

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<sup>7</sup> The requirement to report outcomes for IWT waiver participants was clarified with the introduction of a new WIASRD layout beginning in PY 2010; data prior to this time may be ambiguous or inconsistent.

also provide ETA with a comprehensive plan for how the funds will be used and are required to report performance outcomes in WIASRD for any incumbent worker served under the waiver.

**Employer Contribution for Customized Training (CT).** The CT waiver allows local areas to incentivize small and medium-sized businesses to implement customized training programs that teach new skills to adults or dislocated workers. Without this waiver, employers of all sizes are required to pay for at least 50 percent of the costs of such trainings, which can be especially burdensome for smaller businesses. The waiver addresses this issue by allowing local areas to use a sliding scale to determine employers' contributions, as follows:

- Employers with 50 or fewer employees must contribute at least 10 percent
- Employers with 51 to 250 employees must contribute at least 25 percent
- Employers with more than 250 employees must contribute at least 50 percent (the statutory requirement without the waiver)

Customized training is designed to meet the special requirements of an employer or group of employers, and the employers commit to hire (or continue to employ) participants who successfully complete the training. Unemployed individuals who complete the training program are expected to gain new skills and new jobs, whereas incumbent workers are expected to gain new skills and continued employment.

**Employer Reimbursement for On-the-Job Training (OJT).** The OJT waiver allows local areas to increase reimbursement to employers for implementing on-the-job training. The amount of reimbursement is based on a sliding scale that is, like the CT waiver, more generous for small- and medium-sized businesses.

Local areas often find OJT to be particularly useful for individuals with significant barriers to employment—such as public welfare recipients or individuals with low basic skills—whom businesses may be reluctant to hire. OJT is provided under a contract with an employer in either the public or private sectors. Through the contract, employers provide OJT to individuals in exchange for a reimbursement of a portion of the wage rate to compensate for the employer's extra costs sustained in providing the training. These costs include supervision and the lower productivity of OJT participants compared to other employees.

Without the waiver, employers of any size can be reimbursed for up to 50 percent of OJT. The waiver allows the use of a sliding scale, permitting local areas to increase the reimbursement provided to employers for OJT based on employer size, as shown for the following categories:

- Up to 90 percent for employers with 50 or fewer employees
- Up to 75 percent for employers with 51 to 250 employees
- Up to 50 percent for employers with more than 250 employees

## 2. Waivers Related to Services for Youth

**Competitive Procurement for Youth Elements (CPYE).** Rather than providing flexibility in WIA formula funding, this waiver allows local areas to maintain the continuity of youth services by contracting with One-Stop Career Centers or partner programs for certain activities

without a competitive bid. WIA requires local areas to award contracts for youth services on a competitive basis. The competitive selection process requires the local areas to select youth service providers who can best serve local youth needs, after considering recommendations from local Youth Councils. The contracts with youth service providers may last for up to five years but include a clause stating that the contract may be canceled based on performance and/or funding availability. The waiver allows local areas to procure and provide 3 of the 10 required youth services without going through a competitive bidding process.<sup>8</sup> These three services are the following:

- Paid and unpaid work experience
- Support services
- Twelve-month follow-up services

Local areas may contract with the local One-Stop Career Center operator or its partners. Use of the waiver is restricted to these three services to ensure regular competition for other youth services and encourage high-quality providers to enter and stay in a local area. The waiver applies only to regular WIA youth funds (not ARRA funds).<sup>9</sup>

**Youth Individual Training Accounts (ITAs).** The youth ITA waiver allows local areas to offer ITAs to youth for the purchase of employment-related skills training. It waives the prohibition on the use of ITAs for youth, letting local areas determine the most appropriate training services (including ITAs) for youth, based on their individual needs assessments.

ITAs essentially are vouchers provided to WIA participants to purchase skills training for employment. Participants are given guidance and support by case workers in the One-Stop system to help them decide which eligible training provider to choose for their training program. ITAs provide access to the eligible training-provider list (ETPL), which may include programs better suited to certain youth in terms of content, availability, and scheduling than what typically is available through the WIA Youth program. Without the waiver, youth must be co-enrolled in the WIA Adult or Dislocated Workers program to be eligible for an ITA, which means that they must be at least age 18 and meet the Adult and Dislocated Workers program criteria. The waiver frees local areas from duplicating effort in co-enrolling youth and using limited Adult and Dislocated Workers funds for youth clients. States are required to track the funds used for youth ITAs. Case workers also must document the use of ITAs in each youth's individual service strategy, which contains the goals and objectives for the youth's participation in WIA as well as the service plan selected for him or her.

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<sup>8</sup> The 10 services are (1) tutoring, study skills, training, and dropout prevention strategies; (2) alternative secondary school; (3) summer employment opportunities; (4) paid and unpaid work experience, including job shadowing; (5) occupation and skills training; (6) leadership development opportunities, such as community service; (7) supportive services; (8) adult mentoring for at least 12 months; (9) follow-up services for at least 12 months; and (10) comprehensive counseling, including referrals for drug and alcohol abuse.

<sup>9</sup> Different waivers were approved for summer youth employment activities funded by ARRA in the summer of 2009. For those funds, states could request a waiver to extend existing contracts with providers by a specific percentage or a waiver that would allow them to procure services through a limited competitive bid between selected providers. The waivers were not extended for ARRA funds used in the summer of 2010.

### 3. Other Flexibility

**Work-flex.** Although not technically a waiver, states apply to DOL to receive waiver authority through work-flex. It provides a state governor with blanket authority to waive certain provisions of federal WIA policy for local areas as needed without applying to DOL for individual waivers. For instance, if a local area had a large influx of dislocated workers due to a plant closing, using work-flex, the state governor could immediately allow the local area to transfer up to 50 percent of its Adult funds to the Dislocated Workers program without having the A-DWT waiver. Work-flex provides states with more flexibility to manage the workforce system as problems arise and without the delay of the waiver application process.

Some states have sought work-flex when facing a special situation, such as a natural disaster or failing economy. To apply for work-flex, states must submit a plan describing its strategy for improving employment and training outcomes. There is a lifetime limit of five years on the work-flex authority and an increased focus on accountability regarding states that receive it (U.S. Department of Labor 2010a).

According to WIA Section 192, the governor of a state with work-flex can waive provisions for local areas except for “requirements relating to the basic purposes of this title, wage and labor standards, grievance procedures and judicial review, nondiscrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local boards, review and approval of local plans, and worker rights, participation, and protection” (U.S. Department of Labor n.d.). Work-flex may also apply to certain provisions of the Wagner-Peyser Act and the Older Americans Act (U.S. Department of Labor 2010a).

### C. Purpose of Study

The purpose of this study is to examine how waiver implementation has affected the workforce system and the services delivered. The main focus of the study is to provide a descriptive analysis of the effects of waivers, such as shifts in resource allocation, frequency of take-up at local levels, access to and provision of various employment and training strategies, and other direct effects on the workforce system, such as participation of businesses in OJT and CT, and the extent to which layoffs may have been averted as a result of IWT waivers. The study is not focused on determining the effectiveness of various training strategies or participant outcomes under the waivers, but instead on the waivers’ effectiveness in meeting the perceived needs of states and local areas.

#### 1. Research Topics

To understand how waiver implementation may affect the workforce system, both broadly and by waiver type, the study will center on a wide range of topics. One set of topics relates to each state’s overall waiver strategy and the perceived effects of approved waivers on its workforce system and services, program resources, workforce-system monitoring, and program participation. An additional set of topics relates to each of the eight waivers of interest. Below are the main themes guiding the study’s data collection and cross-cutting analysis at both the state and local levels.

## Motivation and State-Local Coordination

- State and local areas' reasons for seeking the waiver
- Level of input by local areas into the state's decision to request a waiver
- Process used by local areas to request a waiver from the state
- Relationship/communication between state and local levels regarding the waiver

## Waiver Implementation (applies to each waiver)

- Degree to which local areas implement approved waivers
- Effects on duration, type, intensity, and focus of the services provided
- Client participation in the training service that is the focus of the waiver (if known)
- Demographic characteristics of waiver participants (if known)
- Cost of services provided under the waiver
- Effects of waiver implementation on other spending resources
- Lessons learned; challenges and successes regarding waiver implementation
- Process used by the state to monitor local area waiver implementation
- Unintended effects of waivers

## Implementation by Waiver

- **A-DWT:** Level and direction of funds transfer; changes in the type, intensity, or duration of services offered to adults and dislocated workers
- **IWT:** Proportion of local Adult or Dislocated Workers formula funds used for IWT; perceived effectiveness of IWT as a layoff aversion strategy; change in type, intensity, or duration of IWT services; number and characteristics of participants receiving IWT
- **IWTS:** Proportion of Rapid Response funds used for statewide IWT activities; perceived effectiveness of IWT as a layoff aversion strategy; change in type, intensity, or duration of IWT services; number and characteristics of participants receiving IWT
- **OJT:** Level of employer reimbursement by business size; change in number of small and medium-sized businesses participating in OJT; type of employers participating in OJT; type, intensity, and duration of OJT services; number and characteristics of participants receiving OJT
- **CT:** Level of employer contributions by business size; change in number of small and medium-sized businesses participating in CT; type of employers offering CT; type, intensity, and duration of CT services; number and characteristics of participants receiving CT
- **CPYE:** Differences in the procurement process; administrative or cost efficiencies; changes in type, intensity, or duration of services offered to youth; number and

characteristics of youth receiving the three types of services exempted from competitive procurement

- **Youth ITA:** Type, duration, and intensity of services accessed using ITAs; number and characteristics of youth receiving ITAs; eligibility requirements for receiving youth ITAs
- **Work-flex:** Type of waivers approved for local areas; process and criteria for approving local area waiver requests; process for monitoring local waiver implementation

## **2. Purpose of Report**

In this report, we provide findings from the data collection for phase one of this study. We present analysis of document reviews and telephone calls with administrators in 20 selected states conducted for phase one. These data answer many of the broad research questions but provide limited details, particularly on waiver-specific information. We will present additional detail and data in the final report, which will incorporate the in-depth data collection from 12 states from phase two.

In remainder of the report, we will outline the methodology for selecting the 20 states and collecting the data, and present the findings from the data collection, including the process for requesting and implementing waivers, motivations for requesting waivers, detailed information about each waiver of interest, and lessons learned from the waiver process.

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## II. METHODOLOGY

In the first phase of the study, we selected 20 states for general analysis and to provide enough information to identify a subset of local areas for in-depth analysis in phase two. We established a set of criteria, reviewed by DOL, to select the initial 20 states. We then collected and reviewed publicly available information, as well as that provided by DOL, related to the waivers of interest for each state. We also conducted telephone calls with staff at the state WIA boards and/or agencies to collect additional information about the use of waivers at the state and local levels. With suggestions from the state contacts, we then conducted calls to the local areas using waivers. Details of these efforts are provided below.

### A. Site Selection

The initial site selection used state-level criteria because they were most widely available. Although most of the waivers of interest are administered at the local level, data on waiver implementation is extremely limited in the existing documentation. In addition, DOL requires that state agencies apply for all waivers, so even if a waiver is locally motivated, it ultimately comes from the state. Thus, state-level data provided the best approximation of waiver use available.

The primary criteria for selection were the number of waivers approved. Most states received approval for multiple waivers of interest between PY 2008 and 2010. Excluding work-flex (for which none of the states had approval in PY 2010), 185 waivers of interest were approved in PY 2008 (Table II.1), 193 in PY 2009 (Table II.2), and 209 in PY 2010 (Table II.3)—an increase of 24 waivers over the three-year period. In PY 2010, 31 states were approved for at least 4 of the 7 waivers in 2010, with 2 states (Massachusetts and Ohio) receiving approval for all 7 waivers. Because most states had obtained numerous approved waivers, it was important to select those with a range of waivers to understand why some states chose not to apply for them. Selecting states approved for one or more waivers for the first time during 2008–2010 would also be important in understanding what new circumstances prompted the request and approval of the additional waivers. In addition, states that had waivers in one year and discontinued them in subsequent years would provide information about the sustainability of these waivers.

Although important, the number and timing of waivers were not the only criteria used for selection. The criteria also varied across several key dimensions related to state size and WIA population characteristics. As presented in Table II.4, the state percentage of national formula allocation, the number of WIA local areas in the state, the state percentage of national WIA participants, and the DOL region of the country also were included in the state selection. The final selections ensured that a mix of states across each of these criteria was represented.

The 20 states and territories identified in Table II.4 vary in the number of waivers approved across the three-year period. Most had, on average, four to five approved waivers in each year. They also had, on average, four waivers in place in all years from PY 2008 to PY 2010. (The national average is slightly lower, with three to four waivers in each year and three in place across all three years.) Fifteen of the 20 proposed states added one or more waivers from PY 2008 to PY 2010.



Table II.1. Approved Waivers by State for PY 2008

	Adults and Dislocated Workers					Youth	
	A-DWT	Local Funds for IWT	Rapid Response Funds for IWT	OJT Employer Reimbursement	CT Employer Contribution	Youth ITAs	CPYE
Alabama	✓	✓	✓	✓	✓		
Alaska	✓			✓	✓	✓	
American Samoa							
Arizona	✓				✓		
Arkansas	✓	✓		✓	✓	✓	✓
California	✓	✓			✓	✓	
Colorado	✓	✓					✓
Connecticut		✓				✓	✓
Delaware							
District of Columbia	✓	✓					
Federated States of Micronesia							
Florida	✓	✓	✓			✓	
Georgia	✓					✓	
Guam	✓				✓		✓
Hawaii	✓				✓		
Idaho		✓	✓			✓	✓
Illinois		✓		✓		✓	✓
Indiana	✓	✓	✓			✓	
Iowa	✓			✓	✓		
Kansas	✓	✓	✓	✓		✓	✓
Kentucky	✓	✓	✓		✓	✓	
Louisiana	✓	✓	✓	✓	✓	✓	✓
Maine							
Marshall Islands							
Maryland	✓	✓				✓	
Massachusetts	✓	✓	✓			✓	✓
Michigan		✓	✓				
Minnesota	✓	✓	✓		✓	✓	
Mississippi	✓	✓		✓	✓	✓	✓
Missouri	✓	✓	✓	✓	✓	✓	✓
Montana		✓					
Nebraska	✓	✓					
Nevada	✓						
New Hampshire	✓						
New Jersey	✓	✓			✓	✓	
New Mexico	✓	✓				✓	
New York	✓	✓	✓			✓	✓
North Carolina	✓	✓	✓				
North Dakota							✓
Northern Mariana Islands							
Ohio	✓	✓	✓		✓	✓	✓
Oklahoma		✓			✓	✓	
Oregon		✓	✓			✓	
Palau							
Pennsylvania	✓	✓	✓	✓	✓	✓	
Puerto Rico	✓	✓	✓		✓	✓	✓
Rhode Island					✓	✓	✓
South Carolina	✓	✓	✓	✓	✓		
South Dakota	✓						
Tennessee	✓		✓			✓	✓
Texas	✓	✓	✓	✓	✓	✓	
Utah	✓	✓				✓	
Vermont							✓
Virgin Islands	✓		✓	✓	✓	✓	
Virginia	✓	✓	✓			✓	
Washington							✓
West Virginia	✓					✓	
Wisconsin	✓	✓					✓
Wyoming	✓						
<b>Total</b>	<b>41</b>	<b>35</b>	<b>22</b>	<b>13</b>	<b>22</b>	<b>32</b>	<b>20</b>

Table II.2. Approved Waivers by State for PY 2009

	Adults and Dislocated Workers					Youth	
	A-DWT	Local Funds for IWT	Rapid Response Funds for IWT	OJT Employer Reimbursement	CT Employer Contribution	Youth ITAs	CPYE
Alabama	✓	✓	✓	✓			
Alaska	✓			✓	✓	✓	
American Samoa							
Arizona	✓				✓		✓
Arkansas	✓					✓	
California	✓	✓			✓	✓	
Colorado	✓	✓		✓	✓	✓	✓
Connecticut		✓		✓	✓	✓	✓
Delaware	✓			✓			
District of Columbia	✓	✓					
Federated States of Micronesia							
Florida	✓	✓	✓	✓	✓	✓	
Georgia	✓	✓	✓			✓	
Guam	✓				✓		✓
Hawaii	✓				✓		✓
Idaho						✓	✓
Illinois		✓				✓	✓
Indiana	✓		✓			✓	
Iowa	✓			✓			
Kansas	✓	✓	✓	✓		✓	✓
Kentucky	✓	✓	✓	✓	✓	✓	
Louisiana	✓	✓	✓	✓	✓	✓	✓
Maine							
Marshall Islands							
Maryland	✓			✓	✓	✓	
Massachusetts	✓	✓	✓		✓	✓	✓
Michigan			✓				
Minnesota	✓	✓	✓	✓	✓	✓	
Mississippi	✓	✓		✓		✓	
Missouri	✓			✓		✓	✓
Montana							
Nebraska	✓						
Nevada	✓			✓	✓	✓	
New Hampshire							
New Jersey	✓	✓		✓	✓	✓	
New Mexico	✓	✓				✓	
New York			✓			✓	✓
North Carolina	✓	✓	✓				
North Dakota						✓	
Northern Mariana Islands	✓						
Ohio	✓	✓	✓		✓	✓	✓
Oklahoma		✓	✓	✓	✓	✓	
Oregon		✓	✓			✓	
Palau							✓
Pennsylvania	✓	✓	✓	✓	✓	✓	
Puerto Rico		✓	✓	✓	✓	✓	✓
Rhode Island					✓	✓	
South Carolina	✓			✓	✓	✓	
South Dakota	✓						
Tennessee	✓	✓	✓			✓	✓
Texas	✓	✓	✓	✓	✓	✓	
Utah	✓					✓	
Vermont							✓
Virgin Islands	✓	✓	✓	✓	✓	✓	
Virginia	✓	✓	✓			✓	
Washington						✓	✓
West Virginia	✓			✓	✓	✓	
Wisconsin	✓	✓		✓	✓		✓
Wyoming	✓						
<b>Total</b>	<b>40</b>	<b>27</b>	<b>21</b>	<b>24</b>	<b>25</b>	<b>37</b>	<b>19</b>

Table II.3. Approved Waivers by State for PY 2010

	Adults and Dislocated Workers					Youth	
	A-DWT	Local Funds for IWT	Rapid Response Funds for IWT	OJT Employer Reimbursement	CT Employer Contribution	Youth ITAs	CPYE
Alabama	✓	✓	✓				
Alaska	✓			✓	✓	✓	
American Samoa				✓			
Arizona	✓				✓		✓
Arkansas	✓					✓	
California	✓	✓	✓	✓	✓	✓	
Colorado	✓	✓		✓	✓	✓	✓
Connecticut		✓		✓	✓	✓	✓
Delaware	✓						
District of Columbia	✓	✓					
Federated States of Micronesia							
Florida	✓	✓	✓	✓	✓	✓	
Georgia	✓	✓	✓	✓		✓	
Guam	✓				✓		✓
Hawaii	✓			✓	✓	✓	✓
Idaho				✓		✓	✓
Illinois		✓				✓	✓
Indiana	✓		✓			✓	
Iowa	✓						
Kansas	✓	✓	✓	✓		✓	✓
Kentucky	✓	✓	✓	✓	✓	✓	
Louisiana	✓			✓	✓	✓	✓
Maine							
Marshall Islands							
Maryland	✓			✓	✓	✓	
Massachusetts	✓	✓	✓	✓	✓	✓	✓
Michigan	✓	✓	✓	✓	✓	✓	
Minnesota	✓	✓	✓	✓	✓	✓	
Mississippi	✓	✓		✓		✓	
Missouri	✓			✓		✓	
Montana							
Nebraska	✓						
Nevada	✓	✓		✓	✓	✓	
New Hampshire							
New Jersey	✓	✓		✓	✓	✓	
New Mexico	✓	✓		✓		✓	
New York		✓	✓	✓	✓	✓	✓
North Carolina	✓	✓	✓	✓			
North Dakota						✓	
Northern Mariana Islands	✓						
Ohio	✓	✓	✓	✓	✓	✓	✓
Oklahoma		✓	✓	✓	✓	✓	✓
Oregon		✓	✓			✓	
Palau							
Pennsylvania	✓	✓	✓	✓	✓	✓	
Puerto Rico		✓	✓	✓	✓	✓	✓
Rhode Island					✓	✓	✓
South Carolina	✓	✓	✓	✓	✓	✓	
South Dakota	✓						
Tennessee	✓	✓	✓			✓	✓
Texas	✓	✓	✓		✓	✓	
Utah	✓					✓	
Vermont							✓
Virgin Islands	✓	✓	✓	✓	✓	✓	
Virginia	✓	✓	✓			✓	
Washington						✓	✓
West Virginia	✓			✓	✓	✓	
Wisconsin	✓	✓		✓	✓		✓
Wyoming	✓						
Total	41	30	22	31	27	39	19

The study areas also vary in the proportion of WIA formula funding allocated to them, the number of WIA participants, and the number of local WIA areas in each state/territory. The majority of states received moderate or large shares of funding. They also had 15 local areas on average, and the percentage of WIA participants in these states—1.9 percent on average—was the same as the national average. About 35 percent of the selected states had low participation rates, and only 25 percent had high rates. The study states represent each of the six DOL regions, although regions 1, 4, and 6 are slightly underrepresented, and region 3 is overrepresented.

**Table II.4. Characteristics of the Study States**

	Number of Waivers in Place				Work-flex in 2008, 2009, or 2010	Range Designation <sup>a</sup>			Region
	2008	2009	2010	Average over 2008-2010		State Percentage of National Formula Allocation	Number of WIA Local Areas	State Percentage of National WIA Participants	
Alaska	4	4	4	4		Low	Low	Low	6
California	4	4	6	4		High	High	High	6
Florida	4	6	6	4		High	High	Medium	3
Georgia	2	4	5	2		High	High	Low	3
Hawaii	2	3	5	2		Low	Medium	Low	6
Kansas	6	6	6	6		Medium	Medium	Medium	5
Kentucky	5	6	6	5		Medium	Medium	High	3
Louisiana	7	7	5	5	✓	Medium	High	High	4
Maryland	3	4	4	2		Medium	Medium	Medium	2
Massachusetts	5	6	7	5		Medium	High	Low	1
Michigan	2	1	6	1	✓	High	High	High	5
Minnesota	5	6	6	5		Medium	High	Low	5
Mississippi	6	4	4	4	✓	Medium	Medium	Medium	3
New Mexico	3	3	4	3		Medium	Medium	Medium	4
North Carolina	3	3	4	3		High	High	Medium	3
Ohio	6	6	7	6		High	High	High	5
Pennsylvania	6	6	6	6		High	High	Medium	2
South Carolina	5	4	6	3		Medium	Medium	Medium	3
Virgin Islands	5	6	6	5		Low	Low	Low	1
West Virginia	2	4	4	2		Medium	Medium	Low	2

<sup>a</sup>The ranges are based on the quartiles for each distribution (rounding was used for cleaner breaks).

Formula Allocation: Low: 0-0.29%; Medium: 0.3–2%; High: over 2%

Local Area: Low: 1-2; Medium: 3-15; High: over 15

WIA Participants: Low: 0-0.34%; Medium: 0.35–2.5%; High: over 2.5%

## B. Data Collection

After selecting the 20 states, we collected data for each site using two methods—a document review and telephone calls. Initially, we collected and reviewed WIA documentation related to waivers. To supplement that information, we called state and local officials in each state and conducted a short telephone interview. The purpose of the calls was to fill in missing information, learn about implementation in local areas, and gather additional data.

### 1. Document Review

The initial step in the data collection process was to gather background documentation for each study state. This information was derived from both federal and state sources. Some of the data were available publicly, as part of federal reporting requirements, while other information

was obtained directly from ETA or state and local areas. The documents reviewed for all states include the following:

- **States' five-year plans and plan modifications.** WIA requires each state and territory to submit a detailed five-year plan for its use of WIA funding. We used the PY 2005 through PY 2009 (ending June 30, 2010) plans. They describe states' overall approaches and priorities, including service delivery strategies for adults, dislocated workers, and youth. They also discuss the waivers being requested for the planning cycle and how the waivers fit into the state's overall strategy.
- **Waiver requests and approval letters for PY 2009 and PY 2010.** States must request approval for waivers, including extensions of waivers approved in previous years. States' waiver requests include several elements, such as the purpose and goal of each one being requested, expected programmatic outcomes, how each waiver will affect participants, plans to monitor implementation, and processes for obtaining public feedback.
- **States' annual reports.** States are required to report on their use of WIA funding on an annual basis, including specific performance measures. Annual reports typically provide this information by local area. Some states include information on waiver use in their annual reports, although the level of detail varies widely. Most states merely discuss which waivers they requested that year and the motivation for requesting them.

A standardized tool was used to track information for each state. The information collected includes the following:

- State overview information
  - Number of WIA participants served
  - Funding allotment
  - Number of local WIA areas
  - DOL Region
  - WIA organizational structure
- Waiver overview
  - Total number of waivers, by year
  - Specific waivers in place, by year
- For each waiver of interest
  - Process for obtaining waivers
  - Goals for waiver
  - Outcomes
  - Monitoring/reporting requirements

The level of detail regarding waivers provided in these documents varied considerably from state to state. Overall, the documents did not provide much detail related to the specific waivers of interest. However, the document review was a starting point for the telephone calls to the states, as it often provided useful background information on the organization of state WIA programs.

Although we discuss pertinent information collected from the document review in this report, the primary source of information is data collected during telephone interviews with state and local administrators. All of the information we collected during the document review was confirmed as accurate during the telephone calls; therefore, none of the analysis relied solely on data collected from the document review.

## 2. Telephone Interviews

After the document review was complete for each state, we conducted telephone calls with state-level labor department staff. We interviewed staff from the state Workforce Investment Board (WIB) and/or state DOL agency to confirm information from the document review, collect additional information on state-level waiver strategies and potential effects, and obtain contacts in the local areas using waivers.

During the state calls, staff were asked about which local areas would best demonstrate the use of the approved waivers. Some states were tracking waiver use at the local level and could identify which areas would be the most useful to visit, while other states did not know if, or to what degree, most waivers were implemented at the local level. In cases for which states could not provide suggestions, we sent an email with the list of waivers of interest to a sample of local areas (or to all, in those states with few local areas) to determine which local areas were implementing each waiver. Based on those results and input from the states, we selected one local area in each state for participation in the study. We contacted the local workforce director who administers WIA for the selected area and interviewed him or her about the waivers of interest in place between PY 2008 and 2010. Table II.5 identifies the local area from each state participating in the study.

**Table II.5 Local Areas Included in the Study, by State**

State	Name of Local Area	Largest City Served by Local Area
Alaska	One local area	Statewide
California	Riverside	Riverside
Florida	Region 14/15	St. Petersburg and Tampa
Georgia	Heart of Georgia	Dublin
Hawaii	Oahu WorkLinks	Oahu
Kansas	Area 4	Wichita
Kentucky	Cumberlands	Campbellsville and Somerset
Louisiana	LWIA #60	Jonesville and Marksville
Maryland	Western Maryland	Cumberland and Hagerstown
Massachusetts	Hampden	Springfield
Michigan	South Central Michigan	Jackson
Minnesota	South Central WSA	Mankato
Mississippi	South Central MS Works	Jackson
New Mexico	NM Central	Albuquerque
North Carolina	Lumber River	Lumberton
Ohio	Lorain County	Elyria and Lorain
Pennsylvania	Philadelphia	Philadelphia
South Carolina	WorkLink	Anderson and Clemson
Virgin Islands	One local area	Statewide
West Virginia	Region 2	Huntington

All telephone calls lasted for approximately an hour and often included more than one staff person from the state or local area. For both the state and local calls, the interviews had the following three main objectives:

- Confirm and gather missing information from the document review
- Collect information on waiver strategies and potential effects, including:
  - WIA organization and background
  - Implementation of approved waivers
  - Workforce systems and services
  - Program resources
  - Workforce system monitoring
  - Successes, challenges, and lessons
  - Availability of administrative data for tracking waivers
- Explore the utility and feasibility of site visits
  - Information collected on the extent of waiver implementation in local areas, and the combinations of waivers implemented, will be used to assess the potential usefulness and feasibility of visiting specific areas for phase two of the data collection.

### 3. Data Limitations

When considering the findings from phase one of the study (Chapter III), it is important to keep a few issues in perspective. First, while the information collected during the telephone calls is representative of the waiver use and the opinions of the local areas interviewed, it is not necessarily a representative sample of the entire state. The study included a single local area in each state, which may or may not have implemented all available waivers in that state. We did not choose these local areas at random; the states suggested which local areas were using the most waivers or implementing them in an interesting way, or we surveyed local areas, and selected those that responded as implementing the most waivers. The sample of local areas will not perfectly represent the full extent of local area waiver implementation, but the pattern of implementation in these local areas is generally consistent with the qualitative information from interviews with state respondents when they discussed the extent of implementation across the state.

Second, it is possible that, for some waivers, a respondent's understanding of the distinction between the WIA policy and the waiver of that policy may have been blurred, particularly among the local area administrators. In particular, this was the case with the funding waivers. For example, some local areas indicated that they were using the A-DWT waiver, but also indicated they were transferring less than 30 percent of the funds, which is allowed without the use of the waiver. In some circumstances, it may be difficult to assess whether local areas have implemented the waivers or simply are implementing WIA policies available without waivers. We will clarify these distinctions through additional data collection in phase two of the study.

### III. FINDINGS FROM DATA COLLECTION

A primary goal of phase one of the study's data collection was to gain a general understanding of how states requested certain waivers, their goals for using them, and the role local areas play in the waiver request and implementation process. In the first three sections of this chapter, we present an overall picture of how states and local areas work together to request and implement waivers. In later sections, we take a closer, waiver-by-waiver look at how states and local areas are using each waiver of interest to improve services to their adult, dislocated worker, youth, and employer customers.

#### A. Process for Requesting Waivers from DOL

States submit requests for WIA waivers as part of their Workforce Investment and Wagner-Peyser Act State Plans as described in TEGL 17-10 (U.S. Department of Labor 2010b). Specifically, states must complete a Workforce Investment Act Waiver Request Template that provides the following key information to ETA: (1) a list of waivers the state is requesting; (2) a description of “the actions undertaken to remove state or local barriers”; (3) the waiver goals and expected outcomes, including quantifiable projections when appropriate; (4) a description of the populations to be affected by the waiver(s); (5) the process that the state will use to implement and monitor the waiver(s); (6) a discussion of how the state notified its local areas of the waiver request; and (7) a description of how the state solicited public comments on the waiver(s), including any pertinent comments resulting from the public comment period (U.S. Department of Labor 2011). ETA then approves waivers for those states that propose using them in a way that prioritizes their neediest customers and effectively balances state and local interests. Additionally, states must acknowledge accountability for employment-related outcomes and performance reporting under the proposed waivers (U.S. Department of Labor 2010b).

The selected states for this study worked closely with their local areas to craft these requests. Although three local areas indicated that they did not know much about available waivers or the process for acquiring them, all other state and local staff interviewed described their waiver decision making as an iterative process that involves a substantial amount of state/local collaboration. Administrators from these states and local areas explained that they meet together on a quarterly or even monthly basis. Although these meetings are rarely dedicated solely to the discussion of waivers, state and local administrators describe them as an excellent opportunity to vet waivers and decide on those for which the state should apply during the upcoming annual planning process. States then consider this verbal feedback from local areas when making final decisions about which waivers they will request. Officials from four states—Louisiana, Minnesota, Mississippi, and South Carolina—also ask their local areas to provide written comments on how useful they think the waiver might be for their programs.

While most state and local administrators explained that waiver discussions typically are confined to these meetings, California and Pennsylvania convene separate working groups that vet the waivers and provide recommendations on those for which the states should apply. California's WIB has an Issues and Policies Committee that includes representatives from the state WIB, as well as a subset of local boards that solicits waiver ideas, reviews these requests, issues waiver notifications for public comment, and reviews those comments. Weighing all of this information, the committee makes recommendations to California's WIB regarding the



waivers for which it should apply. Pennsylvania convened a similar working group when it was developing its WIA Five Year Plan. Like California's Issues and Policies Committee, Pennsylvania's working group included representatives from both state and local areas and determined which waivers the state should pursue.

Although some states indicated that they initiate the waivers and present them to the local areas, staff in several states reported that their local areas investigate waivers and ask their states to apply for them on their behalf. State and local administrators from seven of the study states explained that local areas consistently look for ways to innovate in their programs to better serve their customers and improve outcomes. To that end, they look at which waivers are available to states and determine if any of them could enhance their services. As one local administrator put it, "[waiver requests] start from the career center up...they aren't state driven." It was a pair of local areas in Georgia, for example, that encouraged the state to apply for the OJT and IWT waivers. These areas provided the state with formal, written requests for both waivers and, in the case of the OJT waiver, the state used text from the local area's request in its submission to ETA. Similarly, in Hawaii, one of the local areas determined that the CPYE and Youth ITAs waivers would help them make key improvements to its youth program and worked closely with state officials to draft requests for both.

State and local administrators in several states noted that they look closely at waivers for which other, similar, states have applied and have gotten approved to generate ideas for their own waiver requests prior to crafting them. They explained that their federal project officers notify them about which states and local areas are using waivers, and provide guidance regarding whether or not those waivers might also benefit their areas. Administrators from three states also cited the waivers database on ETA's website as an excellent resource for waiver request and approval information, noting that they used the site to look closely at which waivers other states in their DOL region were using.

Administrators from one state commented that the waivers have not changed in the past few years, so their discussions about them have become less necessary or frequent (i.e., their need for and opinions about the available waivers have not changed much since their early conversations). However, officials from Hawaii credit ARRA with "reinvigorating" their waiver discussions and forcing them to take another look at how waivers might help to enhance their policies and programs.

## **B. Motivations for Requesting Waivers**

Although states often apply for waivers based on requests from specific local areas, state officials cited the need to provide all of their local areas with flexibility as the primary reason for requesting waivers, rather than meeting the needs of any one area. State and local administrators from half of the states interviewed described waivers as tools in their service toolkit. While different waivers may suit the needs of one of their local areas more than the others, these officials commented on the importance of having many waivers available to these areas, should they have an unforeseen occasion to use them.

States frequently highlighted the A-DWT waiver as a particularly valuable tool for helping local areas address sudden changes in local conditions. While local areas may not necessarily need to transfer funds from their Adult program to their Dislocated Workers program every year (and vice versa), they can do so quickly under the waiver should their region be suddenly

afflicted with a large layoff or plant closure. Administrators from Florida, California, Maryland, and Kansas also noted that their local areas are extremely diverse and serve customers with very different, regionally specific, needs. Offering the ability to choose from a menu of approved waivers is one way states can help their local areas account for these regional differences and foster autonomy. Administrators from a few states noted, however, that requesting waivers only for the sake of having them readily available may not be a sound approach. One official said that some states “request too much” and that doing so “could reduce the credibility of the waiver process.” The respondent argued that states should request waivers so that local areas can integrate them into their day-to-day service delivery, not so they have them for an unforeseen crisis, such as a natural disaster that may never happen.

Within this broad strategy of providing autonomy and flexibility to their local areas, officials of some states noted that they also have requested specific waivers to encourage their local areas to offer certain services or target specific groups of customers. For example, administrators in a quarter of the study states said they requested the Youth ITAs waiver to encourage their areas to target and better serve out-of-school youth. Two of these state officials explained that they have difficulty in serving out-of-school youth effectively, and noted that some of these youth are not yet 18 years old and cannot get an ITA through co-enrollment in the Adult program. Through the Youth ITAs waiver, these states can encourage their local areas to help these youth obtain a certificate or credential that ultimately will improve their employment prospects. Additionally, administrators from a few states said they requested certain waivers, such as OJT, IWT, or CT, to encourage their local areas to build stronger relationships with employers. During the Ohio call, state administrators said that the purpose of the IWT, CT, and OJT waivers is to encourage local areas’ relationships with their business communities. According to these administrators, most WIA programs and policies benefit job seekers. Through the waivers, Ohio can urge its local areas to focus on their employer customers in addition to the adults, dislocated workers, and youth they serve.

### C. Process for Implementing Waivers

With the exception of the A-DWT waiver, few states require their local areas to apply to use approved waivers. The majority of the study states simply notify their local areas when they have been approved for a waiver and give them permission to use or not use it as they deem necessary.<sup>10</sup> Typically, this notification is an email that includes ETA’s waiver approval letter, as well as any additional ETA policy or implementation guidance. Kansas also posts waiver approvals on its website, and several states discuss waiver approvals and implementation guidance at their monthly or quarterly state/local area meetings.

None of the local areas in the study mentioned any implementation guidance provided to them by states beyond ETA’s waiver approval letter; however, local administrators from one state re-affirmed that they had been very involved in their state’s waiver application decisions and so were well versed in each waiver’s rules by the time their state was approved to use them. The administrator, as well as counterparts in other local areas, added that, if necessary, they

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<sup>10</sup> Two additional states in the sample, Alaska and the Virgin Islands, are single local area states. Therefore, local areas in these states do not apply to use approved waivers and do not need to issue policy guidance to their local areas.

could contact their state administrators for additional implementation guidance on a waiver-by-waiver basis.

Because states allocate WIA funds to their local areas, most of these in states with the A-DWT waiver in PY 2008, 2009, or 2010 said that they had to submit a request to the state to transfer funds from one program to the other. Administrators from seven states reported that their local areas had to request the state to move the funds and provide a rationale for the transfer. An eighth state, North Carolina, described more rigorous transfer application processes than other states. It requires local areas to outline the reasons for the transfer, prove that it will not result in the local area under serving the customers in the program from which they are transferring funds, and establish a specific date by which the state must transfer the funds.

Although far less common, some states require their local areas to apply to use certain other waivers as well. The OJT and Youth ITAs waivers both permit local areas to spend money in ways not possible under regular WIA regulations. Because these waivers involve spending WIA funds in atypical ways, one state with the OJT waiver and two states with the ITA waiver require their local areas to apply to use them. The IWTS waiver also permits states to use funds in a way not possible under regular WIA regulations. They can use their state Rapid Response money to fund incumbent worker training. As we will discuss in Section D, the local areas in some states having this waiver may not necessarily be involved in implementing these activities. However, local areas in Ohio and Kentucky can apply to the state to use Rapid Response funds to offer incumbent worker training under the waiver. Two additional states—Georgia and South Carolina<sup>11</sup>—also require that local areas submit plans for using the IWT waiver. In their plans, local areas must describe how they will implement IWT to avert layoffs.

Only 4 of the 20 states interviewed—Massachusetts, Michigan, Minnesota, and West Virginia—require local areas to complete a rigorous waiver application process to use any of the waivers for which they have been approved. Michigan’s Workforce Development Agency (WDA) requires its local areas to follow a process for requesting all waivers that closely mirrors the one ETA requires the state to follow. Local administrators must (1) communicate to WDA in writing what they want waived, (2) describe the outcomes they hope to achieve as a result of having the waiver, (3) indicate how they plan to monitor progress toward these goals, and (4) provide a period for public comment on the waiver requests and submit to the state any supporting and dissenting comments they receive. Massachusetts, Minnesota, and West Virginia ask local areas to provide similar information about their intentions to use a waiver in their annual plans. When local areas in Minnesota decide they want to implement a waiver, they must send the state a modification to their local plans with their final implementation strategy. It is not until the state approves this modification that the local area can begin to use the waiver.

Most states administrators reported that they do not track systematically the use or impact of waivers in their local areas but they do use their regular WIA monitoring tools—local area annual plans, annual on-site monitoring, and state management information systems (MIS)—to

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<sup>11</sup> Administrators in South Carolina noted that few local areas have had occasion to use the IWT waiver because they lack the funds but would be required to follow this application process if they decided to move forward with an IWT plan for layoff aversion.

get a sense of how local areas are using the waivers. Administrators from seven of the study states explained that it is standard operating procedure to discuss OJT, CT, IWT, and ITAs with local areas during their annual WIA monitoring visits, and some also noted that they collect data on these activities in their state MIS systems. If a local area is using waivers that affect these activities, monitors will ask them about implementation, successes, and challenges while on site and use their MIS data to help get a sense of whether a waiver seems to be affecting program outcomes. Other states, such as Minnesota and North Carolina, also require their local areas to document waiver activities in their WIA annual plans. Other state administrators said they also periodically survey or otherwise “check in” with their local areas to gauge waiver usage.

#### **D. Waivers of Interest**

As of PY 2010, the majority of study states had approval to use six of the eight waivers of interest. All 20 states had applied for and received the A-DWT and OJT waivers (Table III.1). Nineteen states had received approval to provide ITAs with youth funds. Fifteen states had the CT waiver. Fifteen states could provide incumbent worker training using local WIA formula funds, and 13 could provide incumbent worker training with state Rapid Response funds. The only waivers of interest not commonly held were the Competitive Youth Procurement waiver and the Work-flex authority. Five states had the youth procurement waiver, while only three had Work-flex authority during the PY 2008–2010 period, and this authority expired in 2009.

Although approval of these waivers at the state level was widespread, their implementation in the study local areas was less common. States often apply for waivers to give local areas options throughout the year, if needed. Not all local areas will need to use all of the available waivers in a given year. In addition, some states indicated that they apply for waivers at the behest of a particular local area. Demand for a waiver in one local area may not mean it is needed in all areas. Note that only one local area in each state was included for this study. Other areas could be using more or fewer waivers of interest, so even if the local area discussed in this report did not implement a waiver, other areas around the state could be using it. For the local areas studied, the waivers most commonly implemented were the A-DWT and Youth ITA waivers (Table III.2). Four of the waivers—the IWT (both local and rapid response), CT, and OJT waivers—were implemented in fewer than half of the local areas.

##### **1. Adult-Dislocated Workers Transfer (A-DWT)**

The A-DWT waiver allows local areas to transfer up to 50 percent of funds between the Adult and Dislocated Workers WIA formula funding streams. Without the waiver, local areas are authorized under WIA, with the approval of the state’s governor, to transfer up to 30 percent of a program year’s allocation. State administrators appreciated the extra flexibility afforded by this waiver and, in PY 2010, all 20 states had received approval for it (Appendix Table A.1). Almost all of the states held this waiver from PY 2008–PY 2010 (Figure III.1), with two states gaining it during this period. Although transferring money between the Adult and Dislocated Workers programs clearly is common, the extent of waiver use is less clear. During the phone interviews with local areas, 12 out of 20 reported using the waiver to transfer funds in PY 2010, but based on additional data collection, this may overstate its use. Some local areas reported using the waiver, but additional information indicated that they had transferred less than the 30 percent authorized under WIA. (If local areas reported transferring less than the 30 percent authorized, we did not include them in the number of local areas implementing the waiver.)

**Table III.1. Approved Waiver Requests by State, PY 2010**

	A-DWT	IWT	IWTS	CT	OJT	CPYE	Youth ITAs	Work-flex
Alaska	X			X	X		X	
California	X	X	X	X	X		X	
Florida	X	X	X	X	X		X	
Georgia	X	X			X		X	
Hawaii	X			X	X	X	X	
Kansas	X	X	X		X	X	X	
Kentucky	X	X	X	X	X		X	
Louisiana	X			X	X	X	X	
Maryland	X			X	X		X	
Massachusetts	X	X	X	X	X	X	X	
Michigan	X	X	X	X	X		X	
Minnesota	X	X	X	X	X		X	
Mississippi	X	X	X		X		X	
New Mexico	X	X			X		X	
North Carolina	X	X	X		X			
Ohio	X	X	X	X	X	X	X	
Pennsylvania	X	X	X	X	X		X	
South Carolina	X	X	X	X	X		X	
Virgin Islands	X	X	X	X	X		X	
West Virginia	X			X	X		X	
<b>Total</b>	<b>20</b>	<b>15</b>	<b>13</b>	<b>15</b>	<b>20</b>	<b>5</b>	<b>19</b>	<b>0</b>

**Table III.2. Waiver Implementation by Local Area Included in the Study, PY 2010**

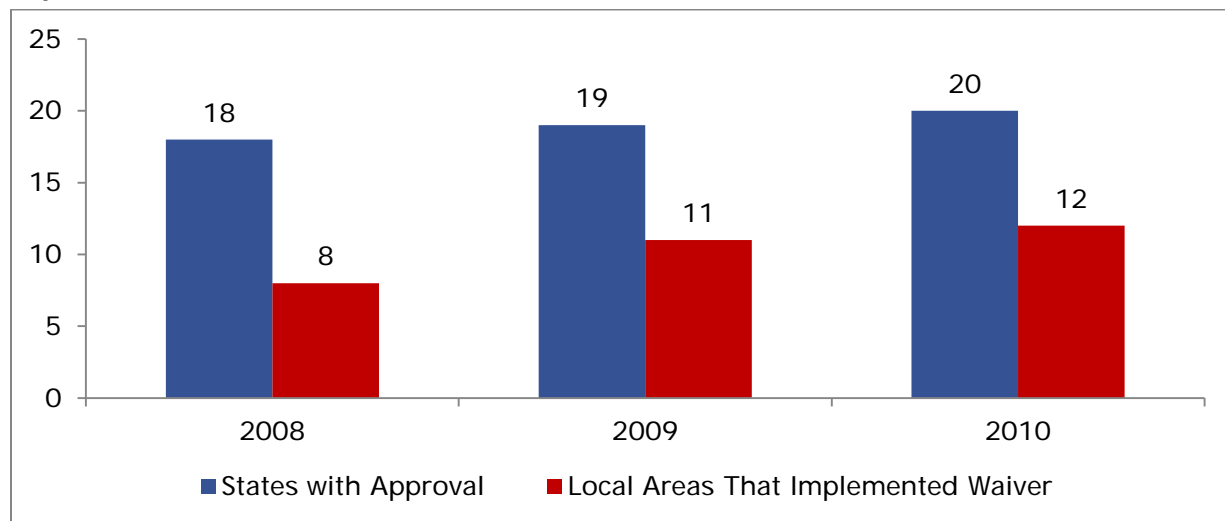
Local Area	State	A-DWT	IWT	IWTS	CT	OJT	CPYE	Youth ITAs
Statewide (one local area)	Alaska					X		X
Riverside	California	X				X		X
Region 14/15	Florida		X	X				
Heart of Georgia	Georgia	X				X		X
Oahu WorkLinks	Hawaii						X	X
Area 4	Kansas	X	X	X			X	X
Cumberland	Kentucky	X		X				
LWIA #60	Louisiana	X				X	X	X
Western Maryland	Maryland							X
Hampden	Massachusetts							X
South Central Michigan	Michigan	X	X	X				
South Central WSA	Minnesota							X
South Central MS Works	Mississippi	X						X
NM Central	New Mexico	X				X		
Lumber River	North Carolina			X		X		
Lorain County	Ohio		X				X	X
Philadelphia	Pennsylvania	X	X		X			
WorkLink	South Carolina	X				X		X
Statewide (one local area)	Virgin Islands	X			X			X
Region 2	West Virginia	X				X		
<b>Total</b>		<b>12</b>	<b>5</b>	<b>5</b>	<b>2</b>	<b>8</b>	<b>4</b>	<b>13</b>

Prior to November 2009, states could apply for waivers that allowed a transfer of up to 100 percent of the funds between the Adult and Dislocated Workers programs. After the transfer cap changed to 50 percent, two states reported needing to retrain local staff on the definitions of adults and dislocated workers. For convenience, staff had been classifying all customers as adults and transferring the money between the programs.

States reported frequent transfers between the Adult and Dislocated Workers programs, although the majority of the transfers were below the 30 percent cutoff WIA allows without a

waiver. Staff in 12 of the states reported that funds generally were transferred from the Dislocated Workers program to the Adult program. In five states, money flowed in the other direction, with more transfers from the Adult to the Dislocated Workers program. In the remaining three states, the staff could not generalize about the direction of the transfers and noted diverse transfer patterns across years and local areas. The size of the transfers also can vary significantly across years and local areas. In 2009, local areas in Mississippi transferred between 0 and 50 percent of Dislocated Workers program funds to the Adult program. In 2010, the range of transfer amounts was similar, but different local areas were making the large transfers—the one that transferred 50 percent in 2009 transferred only 18 percent in 2010. States frequently highlighted the A-DWT as a particularly valuable waiver. While local areas may not necessarily need to transfer funds from their Adult to their Dislocated Workers program or vice versa every year, they can do so quickly under the waiver should an unexpected need arise. This flexibility allows local areas to serve customers “equally and consistently regardless of whether or not they are an adult or a dislocated worker.”

**Figure III.1. Number of States with Approval and Local Areas Included in the Study that Implemented A-DWT Waivers, PY 2008–PY 2010<sup>12</sup>**



As described above, local areas must request permission from the state to implement the A-DWT waiver. Each transfer of funds requires the governor’s signature. In some states, this request process is relatively basic—a local area will complete a simple state budget form and, if it needs to revise its initial budget estimate to use the waiver, it will submit an updated budget. In other states, the request process is more involved—the state might require the local area to complete a request form that indicates why the area needs to transfer funds and demonstrates what impact it anticipates the transfer will have on its service provision. The local area also must revise its budget to reflect the transfer. A request for transfer usually will be approved as long as the local area can demonstrate that it will not reduce the current level of services needed by the group from which the money is transferred.

<sup>12</sup> 20 states and 20 local areas (one in each state) were included in the study.

Many factors can affect the direction and extent of the fund transfer in a given year:

- **Economic conditions.** Many states noted that WIA formula funding lags behind the current economic situation. A local area might have an allocation that was determined by a base period in which there were few plant closings and low unemployment. If the area suddenly experiences a large plant closing, the Dislocated Workers allocation likely will be insufficient.
- **Availability of National Emergency Grants (NEG) and Rapid Response funds.** Dislocated Workers formula funds are not the only resources available to serve dislocated workers. States and local areas can apply to DOL for NEGs to provide extra funding to meet unusually high demand for WIA services from dislocated workers resulting from large layoffs. DOL also offers NEGs following floods, hurricanes, and other disasters. Local areas described NEG and Rapid Response funds as important resources that might obviate the need to transfer money from the Adult to Dislocated Workers programs. While these other funding streams provide an important safety net, one state stressed the advantages of having the waiver and not needing to rely on NEG and Rapid Response funds to serve an unexpected dislocation. While the NEG and Rapid Response funds might be available, the approval process typically is much slower than that for transferring formula funds called for by the waiver.
- **Availability of Temporary Assistance to Needy Families (TANF) Employment Support Program.** The availability of other Adult program resources for workers may also change the direction and size of the WIA fund transfer and, potentially, the necessity of using the A-DWT waiver. One local area reported that the TANF Employment Support Program was providing a paid one-year work experience for all Adult program WIA customers co-enrolled in TANF. The TANF funds severely reduced budget pressures on the WIA Adult program and freed up resources that could be transferred to the Dislocated Workers program.

In addition to the underlying economic and policy environment, the use of the A-DWT waiver appeared to be affected by the enrollment practices of the local areas. Several areas described needing to transfer funds from the Dislocated Workers to Adult programs because customers were not being correctly classified as dislocated workers. In some cases, the local areas attributed this classification failure to a misunderstanding or a desire to avoid the documentation requirements for dislocated worker status. One state indicated that, with the waiver, “local staff do not have to worry as much about making the adult versus dislocated worker determination.” In other cases, the misclassification appeared to be a strategic decision to take advantage of the Adult program’s emphasis on longer-term training.

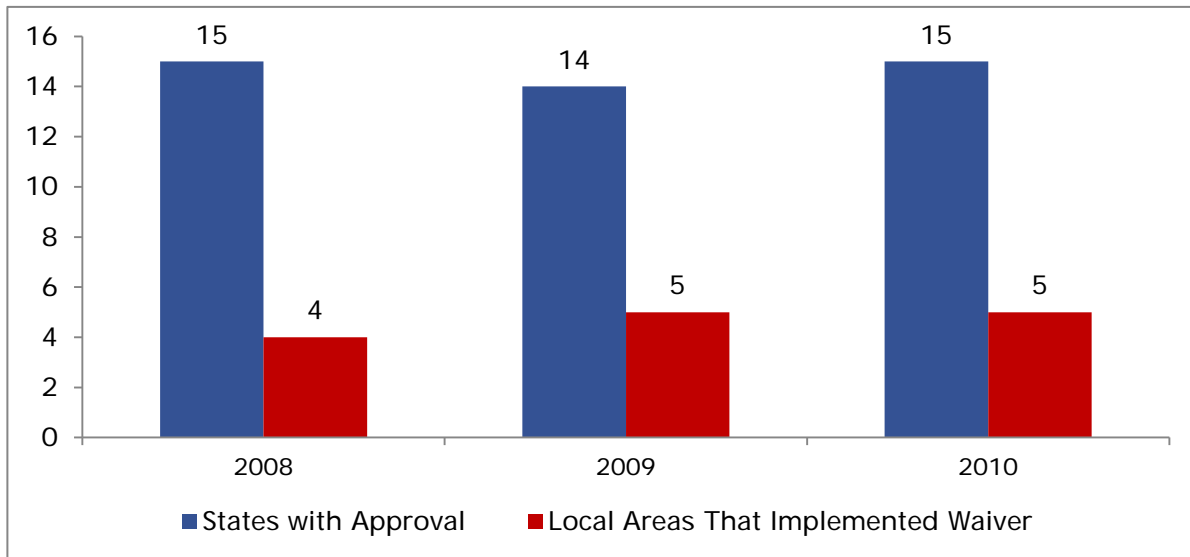
## 2. Incumbent Worker Training with Local and State Funds (IWT and IWTS)

DOL grants two waivers that aim to facilitate incumbent worker training. The IWT waiver allows local areas to use funds from the Adult and Dislocated Workers formula funding to avert layoffs by training incumbent workers. With the waiver, local areas may use up to 20 percent of Dislocated Workers funds, or up to 10 percent of funds for Dislocated Workers and 10 percent of Adult funds, for IWT. DOL also approved IWTS waivers that allow states to use Rapid Response funds to train incumbent workers and potentially avert layoffs. Because both of these

waivers provide states and local areas with additional sources of funding for incumbent worker training aimed at layoff aversion, the respondents generally discussed the two in concert.

In PY 2010, 15 of the 20 states received approval for the IWT waiver for local formula funds, and 13 of the 20 states received approval for the IWT waiver for state Rapid Response funds (Appendix Tables A.2 and A.3). Unlike the other waivers, the IWT waiver for state Rapid Response funds can be implemented at the state level, or the state can allocate Rapid Response funds to local areas and allow them to implement the training. We did not examine differences between state and local implementation of the Rapid Response IWT waiver. Although the guidance for the waivers changed significantly in PY 2009, as discussed below, this did not affect the number of states applying for the waiver or the number of states and local areas implementing it (Figures III.2 and III.3). While the number of implementing local areas did not change, respondents reported that the amount of training provided under the waiver declined.

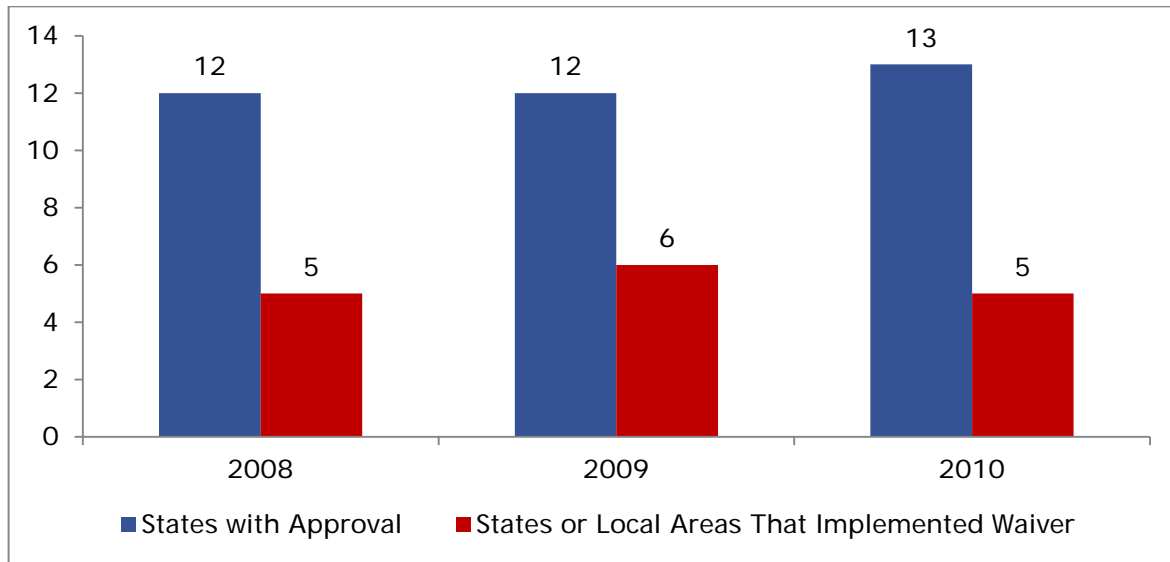
**Figure III.2. Number of States with Approval and Local Areas Included in the Study That Implemented Waivers for IWT with Local Funds, PY 2008–PY 2010<sup>13</sup>**



<sup>13</sup> 20 states and 20 local areas (one in each state) were included in the study.



**Figure III.3. Number of States with Approval and Local Areas Included in the Study That Implemented Waivers for IWT with State Rapid-Response Funds, PY 2008–PY 2010<sup>14</sup>**



States applied for these waivers because they wanted to have additional tools to serve businesses in their communities. As one respondent explained, “Employers are our customers and making sure they have a skilled workforce is our number one goal.” State and local respondents described diverse uses of IWT, but manufacturing and, more recently, health care were the most common industries using these waivers. With new requirements in health care industries, including Health Insurance Portability and Accountability Act (HIPAA) privacy and security regulations and the increasing emphasis on health care information technology, many incumbent workers require significant training to comply with these mandates.

Local areas varied significantly in the amount of resources allocated for IWT under the waiver. A local area in Michigan reported using less than one percent of its Adult and Dislocated Workers formula funds for IWT, whereas a local area in Kansas estimated it used almost 10 percent of each of its Adult and Dislocated Workers funds—the maximum allowed under the waiver. Two states reported limiting use of the local funds waiver to Dislocated Workers funds to avoid having to determine whether the workers served by IWT were low income. We discuss this issue in further detail below.

In PY 2009, DOL provided new guidance, in TEGL 26-09, requiring that IWT using local formula funds or Rapid Response funds be used to avert layoffs (U.S. Department of Labor 2010a). States were required to develop policies to determine the potential for layoff aversion, including the likelihood of future layoffs without training, the business circumstances surrounding the probable layoff, how the training will prevent the layoff or reduce its magnitude, and the specific skills to be provided to the workers to help avert the layoff.

States and local areas reported that these layoff aversion requirements were difficult to understand and implement, and significantly reduced the use of the IWT waiver. Prior to the new

<sup>14</sup> 20 states and 20 local areas (one in each state) were included in the study.

DOL guidance, many of the states had used IWT to provide workers with training that would allow them to move up the career ladder, thus opening new entry-level positions that could be filled by unemployed workers. One respondent explained that switching the use of IWT to layoff aversion “basically dried out the use of that waiver, whereas when it was part of a growth strategy and could be used to promote upgrading of skills of existing workers to new technologies, thereby opening up more entry level jobs—this was more viable and widely used in the state.”

Respondents described numerous challenges in implementing the IWT waivers for a layoff aversion strategy:

- **Difficult to define layoff aversion.** States and local areas are unsure how to define and document whether training will avert a layoff. Quantifying the likelihood of layoffs in the absence of training and the potential for layoff aversion with training is a very challenging concept.
- **Hard to find the “sweet spot.”** Multiple respondents described the difficulty in determining the appropriate time for a layoff intervention strategy. One respondent explained that “it’s hard to identify when it’s not too late that IWT won’t really have an impact and it’s not too early that the IWT can’t really be considered a layoff aversion strategy.”
- **Want to avoid the “L-word.”** States and local areas reported that businesses were particularly resistant to the new requirements because they did not want to go on public record as saying that they were pursuing a layoff aversion strategy. Announcing the potential for layoffs could have implications for local investors, suppliers, customers, and their own internal workforce. Going public about the potential for layoffs could actually increase their likelihood by encouraging the departures of key staff and increasing general workforce anxiety.
- **Unwilling to reveal private information.** State respondents noted the difficulty in asking local areas to develop the employer justifications of IWT as a layoff aversion strategy, explaining that it “puts everyone in a tough spot...it can be a really sticky situation...it may not be something that the employer is comfortable discussing for competitive purposes.”

Some states were so uncomfortable with the new layoff-aversion requirements that they discouraged local areas from using the IWT waivers even though the state had been awarded the waiver. One of the states actually rescinded the issuance to local areas and no longer permitted local areas to apply for and use the waiver.

The 2009 DOL guidance also clarified that the use of Adult formula funds for IWT must be restricted to low-income adults. Although the IWT funds must be used for low-income adults, states and local areas were not required to use the WIA statutory definition of “low income,” and instead could define it based on the self-sufficiency criteria.<sup>15</sup> While DOL may have intended to give states flexibility in defining low income, some used definitions that prevented almost any employed worker from qualifying. One local area described using IWT at a call center that employed low-income workers where the only worker who could be served using the Adult funds was a single mother with two children who did not receive child support. Another local area commented on the onerous documentation requirements, which included trying to collect IRS Form W-2s for the spouses of the workers targeted for IWT.<sup>16</sup>

States also noted that the reporting requirements for the IWT waivers are challenging, particularly for IWT funded with Rapid Response funds. Respondents described needing to ask employers to collect Social Security Numbers from all training participants. Unlike customers at the One-Stop Career Centers, employees are not WIA customers and view IWT as an opportunity to take a class through their employers, not an opportunity to participate in a government program. These employees are “reluctant to provide the information” necessary to comply with the requirements. Some states indicated that they had to seek waivers from the reporting requirements.

Some local areas have chosen not to use formula funds for IWT for reasons unrelated to the 2009 change in IWT requirements. Two areas explained that their priority is to provide services to unemployed workers, and that after serving these workers, no funds are left for incumbent workers. Other local areas described using alternative sources of funding for IWT. A few states fund IWT using state workforce training funds. In another state, community colleges have non-WIA funds they can use for incumbent worker training.

### **3. Employer Contribution for Customized Training (CT)**

The CT waiver allows local areas to incentivize small and medium-sized businesses to implement customized training programs that teach new skills to adults or dislocated workers. Without this waiver, employers of all sizes are required to pay for at least 50 percent of the costs of such trainings. The waiver allows local areas to use a sliding scale to determine employers’ contributions, with the smallest employers potentially contributing as little as 10 percent of the cost of the training. In PY 2010, 15 of the 20 states had received approval for the CT waiver (Appendix Table A.4). Interest in the CT waiver appeared to grow over time, with 10 states holding the waiver in PY 2008, 14 in PY 2009, and 15 in PY 2010 (Figure III.4). While states

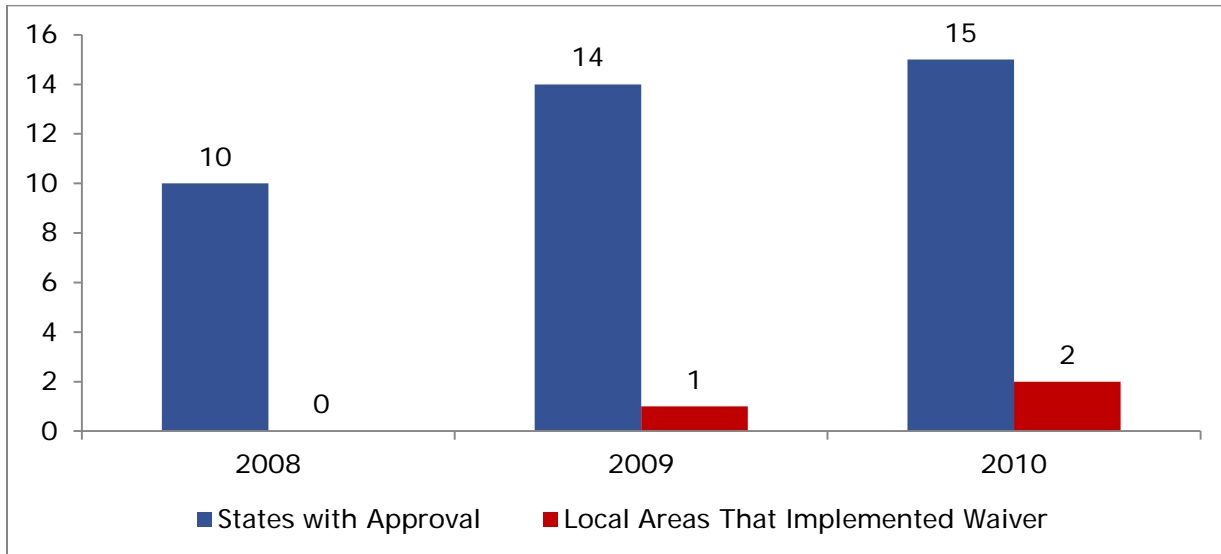
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<sup>15</sup> WIA Section 101 provides a specific definition of a low-income individual based on receipt of cash assistance or other public benefits or household income relative to the poverty line (for more information, see <http://www.doleta.gov/usworkforce/wia/wialaw.txt>). In contrast, for the IWT waiver, states or local areas can create a definition based on a self-sufficiency definition determined by local costs of living. The federal guidance notes that some states and local areas have developed self-sufficiency calculators that incorporate household composition and the local costs for housing, child care, food, transportation, and health care.

<sup>16</sup> Although the federal guidance permits states to establish eligibility criteria that allow for eligibility determination for a group of workers using the self-sufficiency criteria and the pre-training wages of the trainee group, at least some respondents described applying the eligibility criteria to each worker.

were choosing to apply for the CT waiver, implementation at the local level was limited. None of the local areas in the study implemented the CT waiver in 2008. By 2010, two local areas reported implementing the waiver. While the data collection approach may not capture the full extent of implementation in all local areas, the state respondents noted that use of the CT waiver generally was low.

**Figure III.4. Number of States with Approval and Local Areas Included in the Study That Implemented Employer Contributions for CT Waivers, PY 2008–PY 2010<sup>17</sup>**



States that applied for the CT waiver hoped it would encourage local areas to work more closely with local businesses, finding ways for the One-Stop Career Centers to meet the needs of employers. States also reported a belief that a more generous CT program might actually provide employers with an incentive to hire new employees. One state was particularly enthusiastic about the potential for the waiver to help small businesses and start-up firms that might lack the resources to invest in training programs.

With only two local areas using the waiver to fund CT programs, it is difficult to make any generalizations about the type of training occurring under the waiver. The local area with the most active CT program reported that its largest CT programs were focused on health care, but it also had CT contracts with employers in logistics, transportation, warehouses, and manufacturing. Staff noted that the intensity and duration of a CT program varied dramatically by occupation, with training programs as short as a few weeks or as long as 6 months. While the waiver has not affected the type of CT programs, this local area believed that the waiver had increased the participation of small and medium-sized employers.

Most of the local areas in states with the CT waiver chose not to implement it even though they could have instituted CT programs. Respondents provided a few reasons for not implementing the waiver:

<sup>17</sup> 20 states and 20 local areas (one in each state) were included in the study.

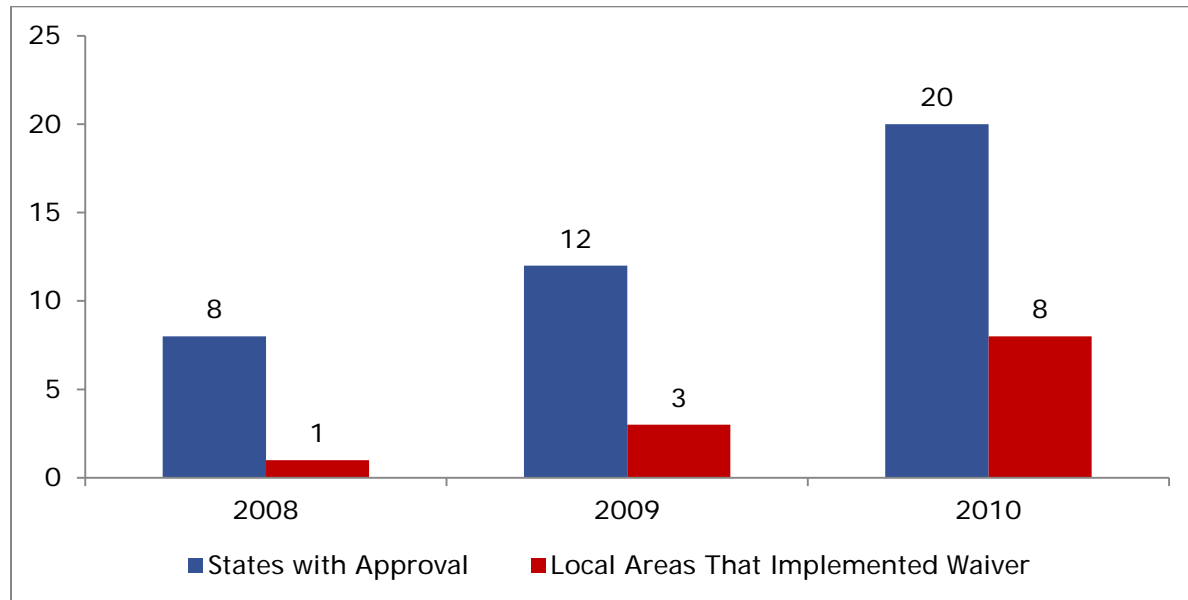
- **No need to change the 50 percent match.** One local area that was in the process of setting up a CT program with a green business did not perceive the 50 percent match as being a significant deterrent in limiting business participation. This respondent noted that “businesses are happy to participate at the 50 percent level” but that if they “need the waiver to encourage a business to work with them, the area will use the waiver.”
- **Alternative resources used for CT.** One state explained that most of the CT is provided by community colleges using non-WIA funds, so there was little reason for local areas to use the available CT waiver.
- **Keeping CT simple for employers.** One local area stressed the importance of keeping the process simple for employers. Use of the sliding-scale waiver would require employers to document the size of their businesses. While this might be a relatively simple thing to document, this respondent perceived each additional piece of documentation as a hurdle that might stop employers from completing a CT contract.

Other local areas expressed an interest in CT but described barriers that prevented them from establishing CT contracts. The primary barrier was the difficulty in getting employers to commit funds up front for the training program. One state expressed frustration with employers who believed that DOL should cover the full cost of training potential employees and described it as a “continual fight” to get employers to pay their share. A respondent in another local area agreed that employers are extremely reluctant to “put up the money” at the start of the training program.

#### 4. Employer Reimbursement for On-the-Job Training (OJT)

The OJT waiver allows local areas to increase the reimbursement rates to small and medium-sized employers. Similar to the sliding-scale structure for the CT waiver, local areas with this waiver can reimburse the smallest employers for up to 90 percent of wages during the OJT period. In PY 2010, all 20 states had received approval for a waiver to offer higher reimbursement rates for OJT (Appendix Table A.5). Forty percent of the local areas had chosen to implement the waiver, with 8 out of the 20 local areas using it to offer sliding-scale reimbursement rates for small employers. The popularity of the OJT waiver appeared to be growing. In PY 2008, only 8 of the 20 states had received approval for this waiver (Figure III.5), with 4 more adding it in PY 2009. The observed local implementation followed a similar pattern. In PY 2008, only one of the local areas reported using the higher OJT reimbursement rates available under the waiver. The number of local areas reporting implementation increased to 3 areas in PY 2009 and 8 areas in PY 2010.

**Figure III.5. Number of States with Approval and Local Areas Included in the Study That Implemented Employer Reimbursement for OJT Waivers, PY 2008–PY 2010<sup>18</sup>**



States applied for the OJT waiver because they wanted to give local areas another tool to help them serve local businesses, and the local areas that had implemented the OJT waiver were very enthusiastic about the new strategic tool. One respondent explained that “on a scale from 1 to 10, it’s probably a 9.5,” and another respondent described the waiver as “the best thing that has ever happened to OJT.” A few states noted that the sliding-scale reimbursement rates have been particularly valuable in rural areas, where small businesses are responsible for much of the employment. Respondents also noted that OJT is an important option in rural areas because these generally have fewer classroom training programs available.

Local areas reported a great diversity in the businesses receiving OJT contracts, from green energy to manufacturing to education. While some respondents described strategic approaches to targeting business—usually focusing on what they considered in-demand occupations—not all local areas were as systematic in developing OJT contracts. One local area reported targeting employers in priority industries as identified by the local One-Stop Business Board, including green energy, health care, commercial construction, education, services, manufacturing, aviation, and film. Others simply used local staff to conduct outreach in the community to determine which employers might be able to offer OJT slots. Respondents noted the importance of finding employers who were committed to potentially hiring the trainees after the OJT period ended. One state reported being frustrated with employers who used OJT as an opportunity to obtain subsidized labor with no intention of hiring workers after the subsidized period ended. This state reported introducing a more thorough process for reviewing OJT contracts, which had temporarily reduced the number of OJT contracts and implementation of the OJT waiver.

The duration of the OJT contract varied significantly across sites. One local area reported that a typical OJT lasts between 800 and 960 hours. Another local area reported that its OJT

<sup>18</sup> 20 states and 20 local areas (one in each state) were included in the study.

contracts cannot exceed 400 hours and typically last between 320 and 400 hours. In a third state, the average length of an OJT contract was only two weeks. While some sites limited the OJT contract by the number of hours, others set limits on the funds per OJT contract. One site reported a cap of \$1,200 per OJT contract. With a fixed dollar OJT, a higher reimbursement rate for small businesses typically meant a shorter period of OJT in this site. Although small employers were receiving a higher reimbursement rate per hour, the total outlay remained constant, regardless of business size.

Some local areas located in states having the OJT waiver chose not to implement it, even though they had active OJT programs. Respondents described a few reasons for not implementing the waiver:

- **Higher reimbursement rates limit the number of OJT slots.** The most common reason respondents offered for not implementing the OJT waiver was that they had limited funds available for OJT and offering small employers a higher reimbursement rate would decrease the overall number of OJT slots. With many clients to serve, the local areas felt compelled to prioritize the number of slots over the size of the business.
- **Employer contribution rate is not a key barrier.** Some respondents with active OJT programs in place did not perceive the 50 percent employer contribution requirement as a barrier to employer participation. Because employers, regardless of size, were willing to contribute 50 percent, the local areas saw little reason to offer a higher contribution rate.
- **Sliding scale is already available under NEG.** Eighteen of the states with an OJT waiver in 2010 also had received an OJT NEG that provided funds for OJT and allowed local areas to offer employers the same sliding-scale reimbursement rates available under the waiver (U.S. Department of Labor 2010c). With NEG money available and access to the sliding-scale reimbursement, the local areas had little reason to use the OJT waiver.
- **There are concerns about consistency across the state.** Respondents in one state reported that local areas were concerned about inconsistent reimbursement rates in different local areas, causing employers to “one-stop shop” for the most advantageous or highest rate. The local areas agreed not to implement the sliding-scale waiver and maintain a consistent 50 percent reimbursement rate across the state to avoid this problem.
- **There are concerns about consistency once the waiver ended.** Some respondents chose not to implement the waiver because they were concerned that their relationship with small employers might be damaged if the state lost the waiver and the local area could no longer offer the enhanced reimbursement rate.

Some local areas that would otherwise use the waiver reported that they did not have any current OJT contracts. These respondents offered a variety of explanations for the absence of an OJT program:

- **Employers are not hiring.** Some local areas said that during periods of high unemployment, employers are not interested in OJT because they have no intention of hiring new staff.

- **There is an excess supply of trained workers.** In the current economic climate, employers that did have job openings already had a large pool of qualified applicants and reported no need to train workers for the positions.
- **OJT is not appropriate for all industries.** One local area reported that OJT was not a good training strategy for health care and aviation, the two growing industries in its community. This local area saw these high-skill jobs as requiring classroom training and felt that an unskilled candidate could not acquire the necessary skills through OJT alone.
- **Funds are limited.** Other local areas not offering OJT said the decision was not driven by the needs of employers, but instead by a shortage of WIA funds. These sites chose to use their limited funds on other services.

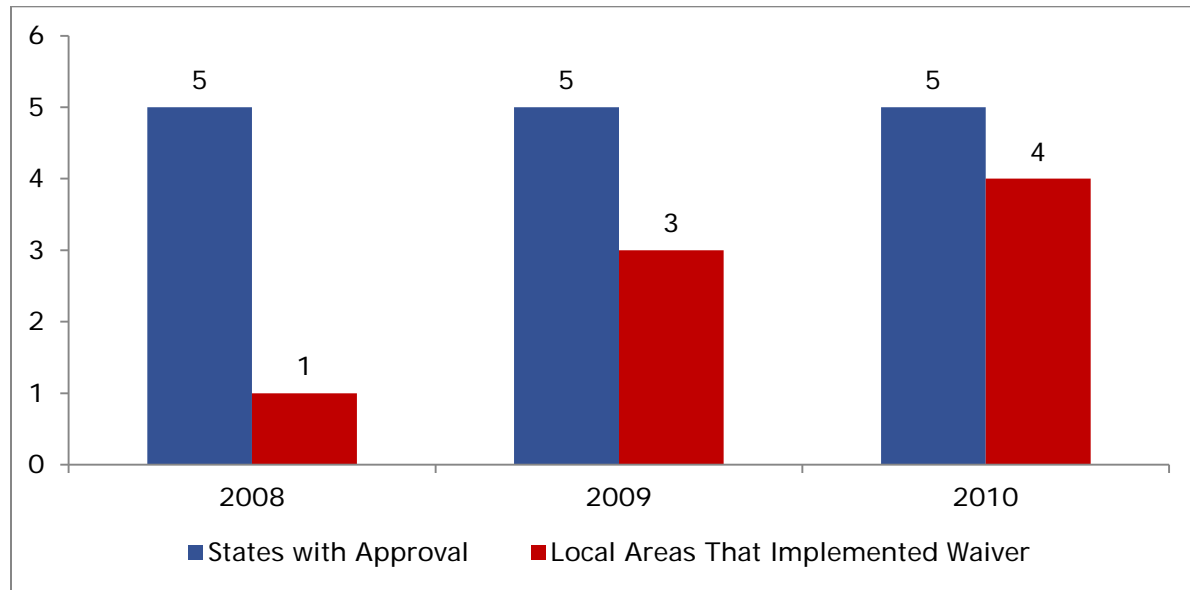
### 5. Competitive Procurement for Youth Elements (CPYE)

The CPYE waiver allows local areas to maintain continuity of youth services by contracting with a One-Stop Career Center or partner programs, without a competitive bid, for 3 of the 10 required youth services: paid and unpaid work experience, support services, and 12-month follow-up services. In PY 2010, 5 of the 20 states received approval for the CPYE waiver (Appendix Table A.6). Most of the local areas chose to implement the waiver, with four of the five local areas using it. While there was no change in the number of states with approved CPYE waivers between PY 2008 and PY 2010, local implementation of the waiver increased each year (Figure III.6). In PY 2008, only one of the local areas reported using the CPYE waiver, but by PY 2010, four of the five local areas with access to the CPYE waiver chose to use it.

Local areas that implemented the CPYE stressed their need for the waiver because of difficulty in finding good youth service providers. In one local area, a respondent noted that the “competitive procurement process wasn’t actually all that competitive.” With the CPYE waiver, the local area was able to identify service providers that were doing a good job serving youth clients and simply extend their contracts. This local area is in a state that lost its CPYE waiver during 2010 and described its difficulty in returning to competitive procurement. It noted that in recent years, after RFPs were released, “it’s like crickets chirping” because no one competed for the contracts. The lack of competition is magnified in rural areas.



**Figure III.6. Number of States with Approval and Local Areas Included in the Study That Implemented CPYE Waivers, PY 2008–PY 2010<sup>19</sup>**



Local areas that used the CPYE waiver believed that the procurement flexibility improved the quality of youth services. One local area used the CPYE waiver to bring follow-up services in house. The staff were concerned about the performance measures for older out-of-school youth (OSY) not being met and believed that, with better follow-up, they could increase retention and skill and certification attainment. They reported that the intensity of services was impacted by the CPYE waiver and that, under the waiver, staff maintain better contact with the youth. The waiver also has allowed this local area to unify service delivery across funding streams (Youth, Adult, and Dislocated Workers). Another local area used the waiver to bring youth work experience in house. It reported that none of its existing youth service providers were focused on work experience, and that this lack of focus was evident in its performance measures. After moving the work-experience services in house, the local area saw a significant improvement in performance; in the previous year, it had failed two of its three performance measures, but in the current year had passed all three.

Local areas that implemented the CPYE waiver also reported saving money through administrative and cost efficiencies. The elimination of the procurement process resulted in direct cost savings. Staff noted that they no longer need to advertise procurements in the newspaper or spend time managing the procurement process. Instead, they reported having more time to focus on addressing specific concerns about the delivery of youth services.

**6. Individual Training Accounts for Youth (ITAs)**

The youth ITA waiver allows local areas to offer ITAs to youth for the purchase of employment-related skills training. ITAs essentially are vouchers provided to WIA participants to purchase skills training for employment. In PY 2010, 19 of the 20 states received approval for

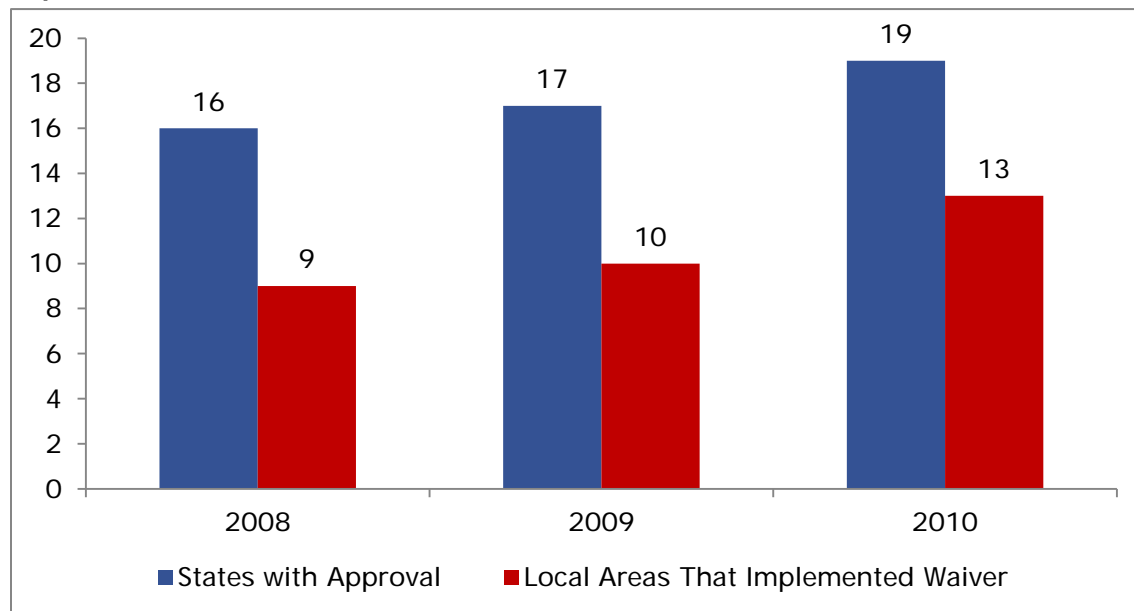
<sup>19</sup> 20 states and 20 local areas (one in each state) were included in the study.

a waiver to use youth funding for ITAs (Appendix Table A.7). Most of the local areas chose to implement the waiver, with 13 of the 19 offering ITAs for youth. Interest in the ITA waiver appeared to grow over time, with more states receiving the waiver each year and a larger number of local areas implementing it (Figure III.7).

ITAs can be used to purchase skills training for employment, and most sites have chosen to focus on occupational training. In particular, youth are directed to the priority industries identified by the local WIB. The occupational training programs chosen by youth are similar to those chosen by adults with ITAs. Many of the sites described approving ITAs for training in the health care industry, including certified nursing, home health aides, and phlebotomy programs. In one local area, an oil refinery had a large demand for workers with pipefitting skills, and both youth and adults used ITAs to complete a pipefitting training program and obtain the necessary certifications.

A few sites have chosen to use youth ITAs to fund higher education. One state described using ITAs as an incentive for students focused on a four-year college education. While Pell Grants usually can fund the first two years at a community college, the ITA can be used to bridge the gap between tuition and a Pell Grant in the final two years.

**Figure III.7. Number of States with Approval and Local Areas Included in the Study That Implemented Youth ITA Waivers, PY 2008–PY 2010<sup>20</sup>**



Sites that have chosen to implement the ITA waiver were very enthusiastic about the opportunities it created. Although many of the training programs pursued under the waiver may have been arranged without it—either through the use of a competitive procurement process to secure training slots or by co-enrolling youth interested in an ITA in the Adult WIA program—sites described numerous advantages to using the waiver. These include the following:

<sup>20</sup> 20 states and 20 local areas (one in each state) were included in the study.

- **Ease in navigating the WIA Youth program.** Although it is possible for older OSY to co-enroll in the WIA Adult program, local sites reported that this program was difficult for many youth to navigate. One local area persuaded its state to apply for the waiver after observing that youth were “having difficulty accessing services from the Adult program and becoming discouraged because there was no one to help them navigate the process.” One potential cause of the disconnect between the Youth and Adult programs is that some local areas have contracted out the provision of youth services, so youth may receive their services at a separate center and have very little interaction with the One-Stop Career Centers.
- **Availability of Youth WIA funding.** All sites reported high demand for Adult training fund dollars. Under the waiver, the sites can use Youth funds for the ITA, reserving Adult funds for other adult trainees.
- **Easier to serve younger OSY.** Without the waiver, local areas generally are unable to provide an ITA to a 17-year-old who has already obtained his or her GED. Because the youth is younger than 18, co-enrollment in the Adult program is not possible. One local area indicated that the waiver allowed it to address this important gap in the workforce system.
- **Makes up for shortage of training providers in rural areas.** Although local areas could use the RFP process to secure training slots, respondents from rural local areas described very limited choices in available training programs and noted that ITAs provided youth with many more training options. ITAs allowed youth to enroll in classes with training providers that might not have responded to a competitive procurement process for a rural local area.

Almost all sites that implemented the waiver reported that more youth received ITAs than before it was implemented. Some sites noted that the waiver also allowed more adults to receive ITAs because training dollars previously spent on co-enrolled youth could be reallocated. Some sites had begun viewing the youth ITA waiver as the status quo, and one site described it as an “initiative to deal with a structural flaw in WIA” by introducing more flexibility into youth service delivery. Local areas that were relatively new implementers of the youth ITA waiver hoped it would allow them to improve the relatively poor recruitment and performance of older OSY.

Some local areas chose not to offer youth ITAs, even though their states had received approval. The reasons varied by site, but the common theme was that most did not think ITAs were the best service approach for large numbers of youths. Two local areas described having a case management-oriented service strategy inconsistent with offering ITAs. One respondent believed that the long-term training options available through ITAs generally were inappropriate for youth clients, who are more likely to be uncertain about their long-term career plans, sometimes causing them to drop out of training before completing it. Another local area wanted to implement the ITA waiver but did not have sufficient funding for youth services.

## 7. Work-Flex

Although technically not a waiver, work-flex provides a state’s governor with the authority to waive certain provisions of WIA for local areas for up to five years without approval from the Secretary of Labor. If a state expects it may need to waive WIA requirements for local areas, it

may request work-flex to gain the needed flexibility. Three of the 20 states had received work-flex authority between PY 2008 and PY 2010; however, work-flex in all of the states had expired by PY 2009, due to the five-year cap on the authority. Two of the states, Mississippi and Louisiana, were granted work-flex authority following Hurricane Katrina. These states did not ask for this authority specifically; DOL offered to grant them the authority to respond to the needs of clients after this natural disaster. Respondents in these states reported that they did not use the available flexibility to make any changes to policy or procedures. Louisiana was not certain what the work-flex authority would have allowed it to do, and Mississippi reported that it “didn’t need anything beyond what they already had waivers for.”

Michigan, on the other hand, requested work-flex authority. Michigan wanted it for flexibility, and particularly for the ability to react quickly to the economic circumstances in the state, particularly related to the decline of the auto industry. Without this authority, Michigan could have applied individually for various waivers as the need arose, but the process would have been slow and requires a public comment period. With work-flex authority, Michigan could respond nimbly to changing circumstances.

In Michigan, the work-flex waivers the governor’s office approved were similar to those available through DOL. They approved about 10 of the 25 types of waivers DOL approves. The most often requested waivers were the A-DWT (up to 100 percent) and IWT. The request and approval process between the local area and state paralleled that required for standard DOL waivers, as did the reporting requirements for waiver use and outcomes.

Michigan also discussed some unintended benefits of work-flex. For instance, after DOL changed its policies to cap the A-DWT at 50 percent, states with work-flex authority were exempt from the change in policy. They were able to continue to transfer up to 100 percent of funds, which several local areas did. While the state generally was pleased with the flexibility of work-flex authority, it was frustrated because DOL placed restrictions that allowed a state to have the authority only for a five-year period.<sup>21</sup>

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<sup>21</sup> Note that the 5-year restriction on work-flex is mandated by WIA legislation, DOL does not have the authority to extend the time limit.

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## IV. LESSONS FROM WAIVER IMPLEMENTATION AND RECOMMENDATIONS FOR IMPROVEMENT

During the telephone interviews, respondents were asked about their experiences in implementing waivers and how the process could be improved. The staff from the various states and local areas pointed out several outcomes from implementing waivers that strengthened the overall workforce system. They also identified factors that made using or keeping the waivers a challenge. Many respondents had suggestions for resolving these challenges and improving the overall process. Although these respondents are not representative of all states or local areas implementing waivers, they did highlight many interesting issues that can inform the discussion of waiver policies.

### A. Successes of Waiver Implementation

Respondents agreed that having access to the waivers provided important flexibility that allowed local areas to use a “demand-driven” service strategy. While all parties identified this enhanced flexibility as a major benefit, various state and local area respondents also described other successes of waiver implementation:

- **Strengthening connections with employers.** The waivers for incumbent worker training, customized training, and on-the-job training provided the states and local areas with additional tools to serve businesses. With the waivers, the states were able to reach more small and medium-sized businesses and managed to bring a greater number of employers into the workforce system.
- **Increasing employer-based training.** Many local areas were focused on providing workers opportunities for employer-based training, believing that these opportunities might be particularly important during a period of slow job growth. The training waivers also provided more opportunities for customers to receive employer-based placements.
- **Improving youth performance outcomes.** Respondents reported that the competitive procurement and Youth ITA waivers allowed local areas to be more strategic about their youth service delivery and improve their performance measures. Youth ITAs were seen as particularly effective tools to reach older, out-of-school youth and provide more seamless access to occupational training. The procurement waiver allowed local areas to identify services they could provide more effectively or efficiently than the available service providers and bring them in house. Local areas using the waiver reported cost declines, higher rates of follow-up, and better performance indicators.
- **Enhancing the relationship between the state and local areas.** The states reported that the waiver process allowed them to demonstrate their commitment to being responsive to the needs of local areas. As one state described it, “locals have seen that we are their champions and that we are looking for every opportunity to give them more flexibility and tools at the local level.”

## B. Challenges of Waiver Implementation

Although state and local areas saw many benefits arising from the waivers, they described challenges in the current waiver application and implementation process. These challenges affect the relationship between the workforce system and employers and can limit the flexibility and creativity of the workforce system. Challenges include the following:

- **Lengthy waiver application process.** One of the frustrations we heard about most commonly was the lead time necessary to implement a waiver. The public comment period and the wait for federal approval results in a long delay between the initial waiver request and waiver approval. The process can take about 6 months after the application is written—states are required to have a 30-day public comment period and responding to comments can take an additional month or two. After submitting their waiver request to DOL, states reported waiting an average of two or three months to receive approval. One state respondent explained that when the state is requesting a waiver to “deal with a structural crisis,” this lengthy process can be a “barrier to moving into action quickly.” Another state noted that “if you ask for a waiver when you need it, it’s too late.”
- **Uncertainty about waiver renewal.** Local areas described the challenge of trying to form training programs with businesses based on waivers that last for only one year. A local area may have been able to offer a small business a higher OJT reimbursement rate in 2009, but the local area and employer had no way of knowing whether the same offer would be available in 2010. This uncertainty is particularly high later in the year, when the waiver expiration date approaches and makes the implementation process “stop and go.”
- **Dependency on a waiver that may end.** States and local areas described the danger of becoming too dependent on a WIA waiver. Although a local area may start to treat a waiver as standard practice after holding it for multiple years, DOL policy may change, resulting in the waiver no longer being available. As examples, state and local respondents referenced the PY 2009 changes in guidance requiring the IWT waiver to be used for layoff aversion only, and the reduction of the A-DWT allowable transfer from 100 to 50 percent.
- **Narrowing scope of acceptable waivers.** While the states believed that the federal government had increased the transparency of the waiver process, they also had the perception that the scope of possible waivers has narrowed. One state explained that the current administration “has been much more restrictive and what they are going to accept is what they are going to accept and that’s pretty much it.” One state feared that DOL’s clarifying the process may result in “less experimentation.”
- **Tension between flexibility and DOL implementation guidance.** As documented above, many local areas do not implement all of the waivers for which the state has been approved. Some waivers, such as CT, have a very low rate of implementation. The states reported receiving pressure from DOL to request only those waivers that actually will be implemented. The states want the waivers for flexibility and believe that a failure to actually use a waiver does not mean they want to give up the flexibility of having it available. The right situation for the CT waiver could occur at

any time and without it, a local area might not be able to capitalize on the opportunity.

### C. Recommendations to Improve the Waiver Process

State and local respondents credited DOL with making important improvements to the waiver process in recent years. In particular, states valued the increased transparency of the process. They appreciated being able to see waiver requests from other states and believed that this change had significantly reduced the frustration of being unsure about the universe of potential waivers. While respondents did think the waiver process had improved, they offered the following additional suggestions for system improvements:

- **Streamline the waiver request process.** Many of the recommendations offered by state respondents related to the waiver request process. State staff asked for the ability to submit waiver requests using a simple online application that makes the universe of possible waivers easy to determine. They also wanted to shorten the public comment period and the waiver approval time.<sup>22</sup>
- **Approve waivers for long periods of time.** Although there is variation in the length of waiver approval periods, ETA requests that states apply for most of the waiver of interest annually. Local area respondents believed that waivers that last for more than one year would help to create consistency in the implementation of waiver-facilitated training programs and other policies. Currently, local areas are hesitant to initiate a waiver-dependent IWT, CT, or OJT program near the end of the year because they do not know whether their state's next waiver request will be approved, or whether DOL guidance on implementation will change.
- **Change guidance on the IWT waivers.** States and local areas were troubled by the 2009 change in the IWT waiver guidance. While some states believed that layoff aversion was a worthy goal, all of them found the requirement difficult to define, implement, and monitor. Other states and local areas wanted to continue using IWT to facilitate worker movement up the career ladder, thus opening up more entry-level positions for other workers. States and local areas also found the guidance on limiting the use of adult funds to low-income workers to be impractical to implement in the context of IWT.
- **Adopt certain waivers as standard practice.**<sup>23</sup> Some waivers have become so widespread and longstanding that states and local areas asked for the waiver language to be adopted as part of the basic regulations. In particular, states suggested that the A-DWT and Youth ITA waivers should become part of regular WIA regulations. This change would reduce the burden of the waiver application process and its associated uncertainty.

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<sup>22</sup> ETA regulations does not specify a set comment period, but asks states to propose a “reasonable” time frame to ensure all appropriate stakeholders have had a chance to comment. Some states may have legislated minimum comment periods for their state or require additional comment periods and processes, however.

<sup>23</sup> Note that DOL does not have the authority to change WIA regulations. Congressional legislation would be required to incorporate any waiver policies into standard WIA regulations.



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**APPENDIX:**

**APPROVED AND IMPLEMENTED WAIVERS IN STUDY STATES**

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**Table A.1. A-DWT Waivers, State Approval and Local-Area Implementation in Study States**

	PY 2008		PY 2009		PY 2010	
	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation
Alaska	X		X		X	
California	X	X	X	X	X	X
Florida	X		X		X	
Georgia	X	X	X	X	X	X
Hawaii	X		X		X	
Kansas	X	X	X	X	X	X
Kentucky	X	X	X	X	X	X
Louisiana	X	X	X	X	X	X
Maryland	X		X		X	
Massachusetts			X		X	
Michigan					X	X
Minnesota	X		X		X	
Mississippi	X	X	X	X	X	X
New Mexico	X		X	X	X	X
North Carolina	X		X		X	
Ohio	X		X		X	
Pennsylvania	X		X	X	X	X
South Carolina	X	X	X	X	X	X
Virgin Islands	X	X	X	X	X	X
West Virginia	X		X	X	X	X
<b>Total</b>	<b>18</b>	<b>8</b>	<b>19</b>	<b>11</b>	<b>20</b>	<b>12</b>

**Table A.2. Local Funds for IWT Waivers, State Approval and Local-Area Implementation in Study States**

	PY 2008		PY 2009		PY 2010	
	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation
Alaska						
California	X		X		X	
Florida	X	X	X	X	X	X
Georgia			X		X	
Hawaii						
Kansas	X	X	X	X	X	X
Kentucky	X	X	X	X	X	
Louisiana	X		X			
Maryland	X					
Massachusetts	X		X		X	
Michigan	X				X	X
Minnesota	X		X		X	
Mississippi	X		X		X	
New Mexico	X		X		X	
North Carolina	X		X		X	
Ohio	X	X	X	X	X	X
Pennsylvania	X		X	X	X	X
South Carolina	X				X	
Virgin Islands			X		X	
West Virginia						
<b>Total</b>	<b>15</b>	<b>4</b>	<b>14</b>	<b>5</b>	<b>15</b>	<b>5</b>

**Table A.3. Rapid Response Funds for IWT Waivers, State Approval and Local-Area Implementation in Study States**

	PY 2008		PY 2009		PY 2010	
	State Approval	State or Local-Area Implementation	State Approval	State or Local-Area Implementation	State Approval	State or Local-Area Implementation
Alaska						
California					X	
Florida	X	X	X	X	X	X
Georgia						
Hawaii						
Kansas	X		X	X	X	X
Kentucky	X	X	X	X	X	X
Louisiana	X		X			
Maryland						
Massachusetts	X		X		X	
Michigan	X	X	X	X	X	X
Minnesota	X		X		X	
Mississippi			X		X	
New Mexico						
North Carolina	X	X	X	X	X	X
Ohio	X		X		X	
Pennsylvania	X		X	X	X	
South Carolina	X				X	
Virgin Islands	X	X	X		X	
West Virginia						
<b>Total</b>	<b>12</b>	<b>5</b>	<b>12</b>	<b>6</b>	<b>13</b>	<b>5</b>



**Table A.4. Employer Contribution for CT Waivers, State Approval and Local-Area Implementation in Study States**

	PY 2008		PY 2009		PY 2010	
	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation
Alaska			X		X	
California	X		X		X	
Florida	X		X		X	
Georgia						
Hawaii	X		X		X	
Kansas						
Kentucky	X		X		X	
Louisiana	X		X		X	
Maryland			X		X	
Massachusetts			X		X	
Michigan					X	
Minnesota	X		X		X	
Mississippi	X					
New Mexico						
North Carolina						
Ohio	X		X		X	
Pennsylvania	X		X	X	X	X
South Carolina			X		X	
Virgin Islands	X		X		X	X
West Virginia			X		X	
<b>Total</b>	<b>10</b>	<b>0</b>	<b>14</b>	<b>1</b>	<b>15</b>	<b>2</b>

**Table A.5. Employer Reimbursement for OJT Waivers, State Approval and Local-Area Implementation in Study States**

	PY 2008		PY 2009		PY 2010	
	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation
Alaska			X		X	X
California					X	X
Florida	X		X		X	
Georgia					X	X
Hawaii					X	
Kansas	X		X		X	
Kentucky			X	X	X	
Louisiana	X		X		X	X
Maryland			X		X	
Massachusetts					X	
Michigan					X	
Minnesota	X		X		X	
Mississippi	X		X		X	
New Mexico					X	X
North Carolina					X	X
Ohio					X	
Pennsylvania	X		X		X	
South Carolina	X	X	X	X	X	X
Virgin Islands	X		X		X	
West Virginia			X	X	X	X
<b>Total</b>	<b>8</b>	<b>1</b>	<b>12</b>	<b>3</b>	<b>20</b>	<b>8</b>

**Table A.6. CPYE Waivers, State Approval and Local-Area Implementation in Study States**

	PY 2008		PY 2009		PY 2010	
	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation
Alaska						
California						
Florida						
Georgia						
Hawaii			X	X	X	X
Kansas	X	X	X	X	X	X
Kentucky						
Louisiana	X		X	X	X	X
Maryland						
Massachusetts	X		X		X	
Michigan						
Minnesota						
Mississippi	X					
New Mexico						
North Carolina						
Ohio	X		X		X	X
Pennsylvania						
South Carolina						
Virgin Islands						
West Virginia						
<b>Total</b>	<b>5</b>	<b>1</b>	<b>5</b>	<b>3</b>	<b>5</b>	<b>4</b>

**Table A.7. Youth ITA Waivers, State Approval and Local-Area Implementation in Study States**

	PY 2008		PY 2009		PY 2010	
	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation	State Approval	Local-Area Implementation
Alaska	X	X	X	X	X	X
California	X	X	X	X	X	X
Florida	X		X		X	
Georgia	X	X	X	X	X	X
Hawaii					X	X
Kansas	X		X		X	X
Kentucky	X		X		X	
Louisiana	X		X	X	X	X
Maryland	X	X	X	X	X	X
Massachusetts	X	X	X	X	X	X
Michigan					X	
Minnesota	X	X	X	X	X	X
Mississippi	X	X	X	X	X	X
New Mexico	X		X		X	
North Carolina						
Ohio	X	X	X	X	X	X
Pennsylvania	X		X		X	
South Carolina			X		X	X
Virgin Islands	X	X	X	X	X	X
West Virginia	X		X		X	
<b>Total</b>	<b>16</b>	<b>9</b>	<b>17</b>	<b>10</b>	<b>19</b>	<b>13</b>

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