



DEC 03 2018

The Honorable Tom Wolf
Governor of Pennsylvania
508 Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Governor Wolf:

Thank you for your waiver request dated August 31, 2018, regarding certain statutory and regulatory provisions of the Workforce Innovation and Opportunity Act (WIOA) and the accompanying plan to improve the statewide workforce development system (copy enclosed). This letter provides the Employment and Training Administration's (ETA) official response to the Commonwealth's request and memorializes that Pennsylvania will meet the outcomes and implement the measures identified in its plan to ensure accountability as agreed to by Pennsylvania and ETA. This action is taken under the Secretary's authority to waive certain requirements of WIOA Title I, Subtitles A, B, and E, and Sections 8 – 10 of the Wagner-Peyser Act in WIOA Section 189(i).

Requested Waiver: Waiver to allow flexibility in the use of funds reserved by the Governor to provide statewide rapid response activities under WIOA Section 134(a)(2)(A), to instead provide statewide employment and training activities under WIOA Section 134(a)(2)(B) and WIOA Section 134(a)(3), including disaster relief employment to affected areas.

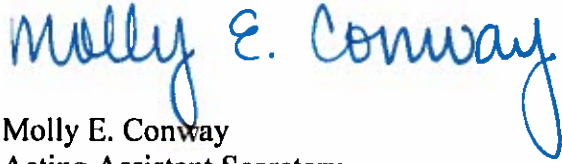
ETA Response: ETA approves the Commonwealth's request to use unobligated prior-year rapid response funds for disaster relief employment, as described in WIOA 170(d) and 20 CFR 687.100(b). ETA reviewed the Commonwealth's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Pennsylvania to implement its plan to improve the workforce development system. Therefore, ETA approves this waiver for Program Years 2018 and 2019 (July 1, 2018 – June 30, 2020) under the following conditions:

- The Governor, or any Federal agency, declares an emergency in the local area (or areas) where the Commonwealth wishes to use statewide funds for the purpose of public service employment;
- WIOA-funded public service employment opportunities are short-term in nature; and
- WIOA-funded public service employment opportunities increase the likelihood of participants entering unsubsidized employment.

ETA is available for further discussion and to provide technical assistance to the Commonwealth to support achieving its goals. The Department of Labor proposed additional flexibility in its Fiscal Year 2018 and 2019 budgets to give governors more decision-making authority to meet the workforce needs of their states.

If you have questions or wish to explore additional flexibility, feel free to contact my office at (202) 693-2772.

Sincerely,



Molly E. Conway
Acting Assistant Secretary

Enclosure

cc:

W. Gerard Oleksiak, Secretary, Pennsylvania Department of Labor and Industry

Eileen Cipriani, Deputy Secretary, Workforce Development

Leo Miller, Philadelphia Regional Administrator, Employment and Training Administration

Melissa Lehman, Federal Project Officer, Employment and Training Administration



August 31, 2018

Mr. Leo Miller, Regional Administrator
U. S. Department of Labor Employment and Training Administration Region 2
170 S. Independence Mall West
The Curtis Center, Suite 825 East
Philadelphia, PA 19106-3315

Dear Mr. Miller:

The Commonwealth of Pennsylvania is requesting the U. S. Department of Labor's approval for a waiver of the statutory and regulatory requirements of the Workforce Innovation and Opportunity Act (WIOA) to allow flexibility in the use of the funds reserved by the Governor. This request is submitted in accordance with the Secretary's authority at WIOA Section 189(i)(3)(B) and 20 Code of Federal Regulations, or CFR, § 679.620 to waive certain requirements.

Specifically, the Commonwealth of Pennsylvania is requesting from Employment and Training Administration (ETA) a waiver of to allow flexibility in the use of the funds reserved by the Governor for use to provide statewide rapid response activities (i.e. WIOA section 134(a)(2)(A)), for use to provide statewide employment and training activities (i.e. WIOA section 134(a)(2)(B) and (3)) to provide disaster relief to affected areas. "Employment Recovery" events, as described at 20 CFR 687.100(a), are not included in this waiver allowance. The waiver allowance will permit a maximum allotment of \$350,000 per qualifying event.

The waiver request was made available for public review and comments; comments were received and responses supplied. The attached document details the waiver requested by the Commonwealth.

Your review and immediate consideration of this waiver request are appreciated. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Eileen Cipriani".

Eileen Cipriani,
Deputy Secretary for Workforce Development

Enclosure

Department of Labor & Industry | Deputy Secretary for Workforce Development
1700 Labor & Industry Building | 651 Boas Street | Harrisburg, PA 17121-0750
717.787.0805 | F 717.787.8826 | www.dli.pa.gov

*Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program*

PA L&I WIOA Waiver Request: Section 134(a) Statewide Funds for Qualifying Events

The Commonwealth of Pennsylvania is requesting from Employment and Training Administration, or ETA, a waiver of Workforce Innovation and Opportunity Act, or WIOA, Section 134(a) Statewide Employment and Training Activities.

1. The statutory and/or regulatory requirements the State would like to waive.

The Commonwealth of Pennsylvania, or Commonwealth, seeks a waiver allowance of WIOA section 134(a)(2)(A), (2)(B) and (3) to add flexibility in the use of the funds reserved by the Governor for use to provide statewide rapid response activities (i.e. WIOA section 134(a)(2)(A)), for use to provide statewide employment and training activities (i.e. WIOA section 134(a)(2)(B) and (3)) to provide disaster relief to affected areas.

The set of Governor's reserved statewide funds shall be described in this waiver allowance request as "WIOA statewide funds". Under this waiver allowance the funds described at WIOA section 134(a)(2) and (3) may be used interchangeably. "Employment Recovery" events, as described at 20 CFR 687.100(a), are not included in this waiver allowance. The waiver allowance will permit a maximum allotment of \$350,000 per qualifying event. The Commonwealth may continue to apply for applicable grants as they may be made available.

Under this waiver allowance, permitted WIOA statewide fund use includes, but is not limited to:

- Expedient allocation of funds to a local workforce development board, or local board so they may respond quickly to a natural disaster, emergency or other qualifying event as described at 20 CFR 687.100(b). Only those events, and cascading events caused by a qualifying event, that have been declared as an emergency or disaster by the Federal Emergency Management Agency, or FEMA, the Pennsylvania Emergency Management Agency, or PEMA, or deemed by Pennsylvania Department of Labor & Industry, or L&I, as a qualifying event, qualify for the use of WIOA statewide funds.
- To alleviate the effects that a qualifying event causes within affected local workforce development area(s), or local area(s) and/or planning regions, WIOA statewide funds will allow disaster relief employment and training activities, and the provision of needed humanitarian resources and services, including other services or resources deemed necessary.
- An individual's disaster relief employment is limited to 12 months for work related to recovery from a single emergency or disaster. L&I may extend an individual's disaster relief employment for up to an additional 12 months if requested and sufficiently justified by the local board.
- Employment and training activities as described in WIOA section 134(c) and (d) are supported for WIOA eligible participants.
- Transitional jobs as described at WIOA section 134(d)(5) will be supported with the WIOA statewide funds. Local boards may request that the transitional jobs funding limitation of 10 percent be increased up to and not exceed a total of 25 percent.

2. Actions the State has undertaken to remove State or local barriers.

The Commonwealth established PEMA to act as the lead agency in the event of an emergency and/or disaster. Within all Pennsylvania local workforce development areas, or local areas, there are responsible

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entities marshalled by local government, or its agents, should a qualifying event occur. The Commonwealth works in concert with these entities to provide resources and expertise.

Pennsylvania's WIOA Combined State Plan articulates many of the WIOA-related statewide activities it does, or can do, when facing a qualifying event. For example, L&I is responsible for applying and administering applicable National Dislocated Worker Grants, or NDWG, consistent with WIOA Sec. 170 and its corresponding regulatory requirements. These grants are helpful once allocated, but in the time between the event and allocation, aid is urgently needed and there is much work to be done. If months pass before the NDWG allocation occurs, damage can be exacerbated and work is not completed. The Commonwealth is mindful of this time gap and strives to apply as soon as an applicable NDWG is available. The efficient use of time right after a qualifying event occurs is a critical variable in how well recovery is measured. This is a serious barrier the Commonwealth wants to reduce.

3. State strategic goal(s) and Department of Labor priorities (i.e. expansion of apprenticeship, improved employer engagement, etc.) supported by the waiver.

The objective of improved outcomes, varied as they may be, is best served when available funding is put to quick and effective use for all parties involved. Pennsylvania's WIOA Combined State Plan articulates that the Governor's WIOA statewide funds will generally be used to promote a vision of jobs that pay, schools that teach and government that works. To that end, in the case of a qualifying event, the Commonwealth intends to use WIOA statewide funds so that relevant workforce development responses are provided in a timely manner. WIOA statewide funds may be provided to local areas deemed in need of financial resources as a result of being affected by a qualifying event.

The use of WIOA statewide funds associated with this waiver supports the Commonwealth's goal of local WIOA-based programs and activities that better serve targeted groups of workforce development system customers. The use of WIOA statewide funds offers greater flexibility so that the Commonwealth and local governing entities can expand their ability to coordinate resources, services and activities for individual, workers and employers affected by the qualifying emergency and/or disaster event. The Commonwealth will use WIOA statewide funds to ensure that critical, time-sensitive work can be performed and the potential participant pool is widened. The waiver flexibility permits local areas the latitude to marshal available labor, conduct appropriate training, and enable required resources to be requisitioned quickly.

4. Projected programmatic outcomes resulting from implementation of the waiver:

- Increase statewide and local area workforce development response times to a qualifying event
- Increase public safety and help support humanitarian activities
- Availability of disaster relief employment will provide some WIOA participants and reportable individuals with access to employment and training activities
- Increasing of eligible WIOA participant's employment and training activities will lead towards a higher probability of securing unsubsidized employment
- Alleviation of some of the time-sensitive variables arising from a qualifying event affecting an employer and lessening the severity of possible layoffs or business closings

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5. Individuals, groups or populations benefitting from the waiver:

- All eligible participants as identified at WIOA section 170 and 20 CFR 687.170
- Eligible WIOA Title I Adult and Out-of-School Youth participants
- WIOA reportable individuals claiming under-employment or unemployment; to maintain benefit of this waiver a reportable individual must be deemed a WIOA title I eligible participant within thirty days of accepting disaster relief employment and/or training activities
- Non-WIOA eligible recipients include: affected businesses and employers, residents and other individuals that benefit from the qualifying event clean-up, restoration and humanitarian activities and resources provided

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information.

L&I workforce development leadership will determine if the qualifying event requires the use of WIOA statewide funds and will approve parameters for the project. L&I's Bureau of Workforce Partnership and Operations, or BWPO, will be the operational lead. L&I's Bureau of Workforce Development Administration, or BWDA, will be tasked with WIOA fund administration and project management or activities. Applicable federal, state and local laws, regulations, policies and procedures will be used to ensure fiscal accountability. Unless otherwise authorized in this waiver, the financial and administrative rules contained in Workforce Innovation and Opportunity Act; Final Rule (i.e. 20 CFR 683) will apply.

At a minimum, the funding recipient will supply the BWDA with the following information for review:

- Completed L&I Request for Funds form with local board signatory authorizing request
- Official declaration documenting the emergency and/or disaster event
- Narrative will include, at a minimum, summary of the event, preliminary assessment of the clean-up, humanitarian needs of the affected areas, and will demonstrate whether there is a sufficient population of eligible individuals to conduct the planned work
- Budget and budget justification
- Completed worksite summary

The BWDA will host monthly teleconferences (to the degree for which the project necessitates monthly calls) with project stakeholders to monitor project status. At a minimum, funding recipients will provide the BWDA with the following information for review:

- Revised narrative and associated attachments when a modification is required
- Monthly Financial Status Reports
- Updated status report of project activities
- Data entry for all participant service in Commonwealth Workforce Development System, or CWDS

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Only local boards will be the recipient of WIOA statewide funding for qualifying events. If a qualifying event occurs in a local area, the Commonwealth requires the respective local board to collaborate with local governments and other recognized entities to determine whether workforce development oriented services and activities are warranted. Local boards may work with their respective local area fiscal agents to complete and submit the funding request to L&I. Local boards will work with one-stop operator(s) to communicate the funding parameters to workforce development system partners and other service providers. Participant activity is to be recorded in the state system of record, the CWDS. All funds obligated will be accounted for in the CWDS financial management systems. Case management and related source documentation associated with the emergency and/or disaster must include the qualifying event as a point of reference.

7. Assurance of State posting of the request for public comment and notification to affected local workforce development boards.

The Commonwealth of Pennsylvania assures USDOL that this waiver request will be published on the L&I public website at:

<http://www.dli.pa.gov/Businesses/Workforce-Development/Pages/Plans%20and%20Reports.aspx>.

The PA Department of Labor & Industry (L&I) invited comment on Pennsylvania's request for the U. S. Department of Labor's (USDOL) approval to waive some requirements of the Workforce Innovation and Opportunity Act (WIOA); that being, *the Commonwealth of Pennsylvania is requesting from Employment and Training Administration (ETA) a waiver of WIOA section 134(a)(2)(A), (2)(B) and (3)*. The waiver proposal was made available to the public on the L&I website from Tuesday, August 14, 2018 through Wednesday, August 29, 2018. The following comments were received and are addressed accordingly.

PA Workforce Development Association (PWDA)

PWDA represents the state's 22 local workforce development boards and offered the following comments.

Comment: "On behalf of the state's local workforce development boards, we have reviewed the PA Department of Labor & Industry's WIOA Waiver Request: Section 134(a) Statewide Funds for Qualifying Events and are in full support of this request. No further comments were offered by local boards. Thank you for the opportunity to offer input."

Response: L&I appreciates the commenters inputs; no changes to the waiver request were made.

No other comments were received.