



JAN 18 2019

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

Dear Governor Rossello:

Thank you for your waiver requests on October 23, 2018, regarding 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 requests and memorializes that Puerto Rico will meet the outcomes and implement the measures identified in its plan to ensure accountability as agreed to by Puerto Rico 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 of WIOA Section 134(c)(3)(H)(i) and 20 CFR 680.720(b) to increase on-the-job training (OJT) employer reimbursement up to 90 percent for businesses with 50 or fewer employees.

ETA Response: The Department approves the Commonwealth's waiver request through June 30, 2020, for the WIOA Title I Adult, Dislocated Worker, and Youth formula funds. ETA reviewed the Commonwealth's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Puerto Rico to implement its plan to improve the workforce development system. The Commonwealth may reimburse OJT employer sponsors a portion of the participant's wage rate for the extraordinary cost associated with training using the following scale: up to 90 percent for employers with 50 or fewer employees, and up to 75 percent for employers with more than 51 employees. WIOA regulations currently permit states to authorize a 75 percent reimbursement rate (see 20 CFR 680.730). The Commonwealth may modify any existing National Dislocated Worker Grant agreements to include the approved waiver. Under this waiver, Puerto Rico must track the use of funds for OJT training contracts and collect and maintain sufficient supporting documentation regarding funding transactions. Such documentation must be made available for Federal monitoring purposes. All OJT contracts must comply with requirements at 20 CFR 680.700(b) and (c) regarding acceptable employer hosts and the duration of the contract.

Requested Waiver: Waiver of WIOA Section 134(d)(5) and 20 CFR 680.195 to allow up to 50 percent of WIOA Title I Adult and Dislocated Worker local formula funds to be used for the provision of transitional jobs.

ETA Response: The Department approves the Commonwealth's waiver request through June 30, 2020, for the WIOA Title I Adult and Dislocated Worker formula funding streams. To accurately report participants in receipt of transitional jobs, Puerto Rico must record code value "6" in Participant Individual Record Layout (PIRL) element 1205 "Work Experience," and code value "1" in PIRL element 1211. Puerto Rico must provide reasonable assurance to ETA that the Commonwealth can track the spending of the Federal funds on transitional work activities by maintaining sufficient supporting documentation in its accounting system and participant files to demonstrate that the costs are reasonable, allocable, and allowable. The accounting system must contain information as required by the Uniform Guidance for subawards and subrecipients. As a reminder, Puerto Rico's transitional jobs policy must reference this approved waiver.

In its determination to approve both waivers, the Department considered the devastating impact to the Commonwealth caused by Hurricanes Irma and Maria. In addition, the Department believes that the flexibility provided by these waivers offer an opportunity for the Commonwealth to help reduce its high unemployment rate of 7.7 percent, which is well above the national average. ETA is available for further discussion and to provide technical assistance to the Commonwealth to support achieving its goals. We wish you success in your ongoing recovery efforts.

The Department of Labor proposed additional flexibility in its Fiscal Year 2019 budget to provide governors more decision-making authority to meet the workforce needs of their states and territories. 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:

Manuel Laboy-Rivera, Secretary, Department of Economic Development and Commerce
Natasha Vazqueztell-Cordero, Director, Department of Economic Development and Commerce
Carlos Saavedra Gutierrez, Secretary, Department of Labor and Human Resources
Timothy Martin, Acting Boston Regional Administrator, Employment and Training Administration
Carmen Rodriguez, Federal Project Officer, Employment and Training Administration



GOVERNMENT OF PUERTO RICO

DEPARTMENT OF ECONOMIC
DEVELOPMENT AND COMMERCE

October 23, 2018

Timothy Martin
Acting Regional Administrator
Region I
U.S. Department of Labor
Employment and Training Administration
Boston, MA 02203

Dear Mr. Martin:

On its official response from June 12, 2018, the Employment and Training Administration (DOLETA) provided two suggested waivers in addition to those already approved. Certainly, those waivers may prove useful to the Government of Puerto Rico in achieving its stated goal of providing temporary jobs to assist in the disaster recovery.

The suggested waivers are:

1. Waiver for WIOA section 134(c)(3)(H)(i) and 20 CFR 680.720(b) to increase on-the-job training (OJT) employer reimbursement up to 90 percent.
2. Waiver of WIOA section 134(d)(5) to allow up to 50 percent of Adult and Dislocated Worker funds to be used for the provision of transitional jobs.

The Workforce Development Program, on behalf of the Department of Economic Development and Commerce and the Puerto Rico Department of Labor and Human Resources, hereby request these waivers to obtain the flexibility needed to continue with the rebuilding of Puerto Rico's workforce development system and ensure our customers are afforded quality workforce services throughout the American Job Center system.

If additional information is needed, please contact me at 787-754-5504, ext. 5203 or at my e-mail natasha.vazqueztell@ddec.pr.gov.

Respectfully,

Natasha Vazqueztell-Cordero
Director

c: Manuel Laboy-Rivera, Secretary DEDC
Carlos Saavedra-Gutiérrez, Secretary PRDOLHR
Carmen Rodríguez, Federal Project Officer

Department of Economic Development and Commerce and
Department of Labor and Human Resources Waiver Requests

The Workforce Development Program, on behalf of the Department of Economic Development and Commerce (DEDC) and Puerto Rico Department of Labor and Human Resources (PRDLHR) is requesting the Employment and Training Administration to waive two additional Workforce Innovation and Opportunity Act (WIOA) Title I provisions, as suggested by this agency on June 12, 2018.

After considering the benefits that these waivers, DEDC and PRDLRH formally request ETA's approval.

1. Waiver of WIOA Section 134(c)(3)(H)(i) and 20 CFR 680.720 (b) to increase the on-the-job training (OJT) employer reimbursement up to 90 percent

Puerto Rico is requesting a waiver to the current allowable employer reimbursement rate of up to 50 percent of the wage rate of an On-the-Job-Training (OJT) participant for the extraordinary costs of providing training and additional supervision related to the OJT as described in the WIOA Section 134(c)(3)(H)(ii)(II). The waiver request has been developed following the WIOA guidelines in Section 189(i)(3)(B) and the WIOA Federal regulation at 20 CFR 680.720(b).

Puerto Rico is proposing a sliding scale of reimbursement to the employer based on its size and capability. Under this waiver, the following scale will be implemented: up to 90% reimbursement for employers with 50 or less employees; up to 75% reimbursement for employers with a workforce between 51 and 250 employees. For employers with 251 employees or more, the statutorily defined 50% limit will continue to apply.

The waiver is requested in order to use with all WIOA formula funds: Adult, Dislocated Worker, Youth, National Dislocated Worker Grants, as well as other Discretionary grants, as appropriate. DEDC looks forward to the approval of this waiver for Puerto Rico. Effective upon approval.

Statutory and/or regulatory requirements to be waived:

WIOA Section 134(c)(3)(H)(ii)(II), and the accompanying regulations as promulgated at 20 CFR 680.720 (b), state that employers may be reimbursed up to 50 percent of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT.

A. Actions undertaken to remove state or local barriers:

There is no state or local statutory or regulatory barrier to implement the proposed waiver.

B. Goals and expected programmatic outcomes from the waiver:

This waiver request is consistent with national policy to develop a workforce system that is responsive to the demands of both individual and employer customers. The Commonwealth anticipates the following goals will be achieved with the waiver's approval:

- a. Maximize the flexibility needed to impact local economic vitality and direct resources where demand for services is greatest by assisting local areas in marketing the OJT as a vehicle to engage employers, particularly in targeted sectors, to hire and provide training to new workers.
- b. This flexibility will build the capacity and future viability of both the workforce and the industries themselves. Assist with the transformation of the current workforce system to a demand-driven, sector-based and regionally driven talent development pipeline.
- c. Increase training and transitional employment for unemployed workers and hard-to-serve youth and adults.
- d. Equip individuals with relevant job training and transferable skills in high-skill, high-wage, high-demand occupation and industries.
- e. Increase business usage of the local workforce system by providing added incentives to hire and train new workers.

C. Department of Labor's policy priorities:

- Connect individuals with chronic unemployment or inconsistent work history with opportunities to build workplace skills and job history.
- Inject the economy with skilled individuals that will continue to advance in their specific fields or occupations.

D. Individuals impacted by the waiver:

The need for training is especially acute for those workers most in need: dislocated workers transitioning to new occupations and industries, long-term unemployed individuals in need of advancing outmoded skills in order to catch up with emerging technologies, and low-income and entry-level workers seeking to start their careers in a weak economic climate. Approval of the waiver will increase training options for WIOA-eligible job seekers.

The reduced match requirement for employers, particularly new start-ups and other small to medium-sized businesses, will provide an attractive and cost-effective financial incentive, increasing the opportunity to utilize the OJT model to hire and train new workers. This waiver will allow Puerto Rico's businesses to more rapidly adapt to both technological and general marketplace changes by improving their capacity to expand and remain competitive with affordable OJT options uniquely designed to achieve their specific development goals.

E. Description of the process used to: Ensure meaning public comment, including comments from business and labor; provide notice to any local board affected by the waiver; provide affected local boards the opportunity to comment, and monitor implementation:

- a. The WDP actively sought the input of Local Boards during the development of this waiver request. As with all major workforce policies and procedures, the Commonwealth has solicited dialogue and input from local workforce boards, one-stop career center operators and workforce development partners concerning the impact of this waiver. The Local Boards

overwhelmingly support this request based upon experience with the utilization of this waiver under the Workforce Investment Act (WIA).

- b. WDP will monitor implementation of this waiver and work with the fifteen Local Workforce Development Boards to implement the appropriate state and local policies to govern its individualized use within the Local Area.

2. Waiver of WIOA section 134(d) (5) to allow up to 50 percent of Adult and Dislocated Worker funds to be used for the provision of transitional jobs.

The Workforce Development Program (WDP), on behalf of the Department of Economic Development and Commerce (DEDC), is requesting a waiver to the section WIOA §135(d)(5) which allows Local Boards to reserve up to 10% funds allocated to the local area involved, under section 133(b), to provide transitional jobs.

Puerto Rico is proposing the DOL-ETA to allow up to 50% of Adult and Dislocated Worker funds to be used for the provision of transitional jobs.

This waiver is requested to be implemented with Adult and Dislocated Worker formula funds. DEDC looks forward to the approval of this waiver for Puerto Rico and, upon the request's approval, for the performance period to be effective immediately.

A. Statutory and/or regulatory requirements to be waived:

PRDEDC requests a waiver of the requirement under WIOA §134(d)(5), and consistent with 20 CFR 680.190 and .195, that state that Local Boards may not use more than 10% of their combined Adult and Dislocated Worker funds to provide transitional jobs.

B. Actions undertaken to remove state or local barriers:

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

C. Goals and expected programmatic outcomes of waiver:

The waiver is consistent with the national policy to develop a workforce system that is responsive to the demands of both individuals and employer customers. DEDC anticipates the following goals will be achieved with the approval of the waiver request:

- Provide individuals with work experience and an opportunity to develop essential workplace skills within the context of an employee-employer relationship.
- Connect individuals with chronic unemployment or inconsistent work history with opportunities to build workplace skills and job history.
- Maximize the flexibility needed to ensure speedy implementation of work-based learning opportunities that WIOA for formula grants;
- Increase business usage of the workforce system by providing incentives to hire and train new workers and thereby achieve greater access to employment opportunities for chronically unemployed ;

D. Department of Labor's policy priorities:

- Connect individuals with chronic unemployment or inconsistent work history with opportunities to build workplace skills and job history.
- Inject the economy with skilled individuals that will continue to advance in their specific fields or occupations.
- Create additional opportunities for new workers, and for unemployed and underemployed workers to speed their return to full-time employment;

E. Individuals impacted by the waiver:

This waiver applies to the fifteen (15) LWDA's that compose Puerto Rico's Workforce Delivery System, and that were significantly affected by the hurricane disasters. The need for training is especially acute for those participants with barriers to employment who are chronically unemployed or who have an inconsistent work history, as determined by the local boards.

F. Process for monitoring progress in implementation:

The WDP of PRDEDC will monitor progress under this waiver and work with the fifteen (15) local workforce development boards to implement the appropriate state and local policies. The Monitoring Unit will be adding the monitoring of waivers to its monitoring processes to ensure compliance with waiver guidelines.

G. Process for Notice of Local Boards and Opportunity to Comment:

The waiver request will be published for a period of two (2) weeks on the PRDEDC website, allowing for public comment on its content and potential impact. In addition, copies of workforce system waivers request will be provided to the Major's boards, Local Boards and LDWA's to get input concerning the impact of this waiver.

H. Waiver Impact:

The Workforce Development Program will require the local areas to submit quarterly reports regarding the use of all the approved waivers. The report includes the number of participants, funds allocation and information related to any situation that would affect the waiver implementation. PRDEDC will report on the impact and outcomes of its approved waivers in the WIOA Annual Report.