



The Honorable Anthony Evers  
Governor of Wisconsin  
115 East State Capitol  
Madison, WI 53707

**MAY 14 2019**

Dear Governor Evers:

Thank you for your waiver request received on February 13, 2019, 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 State's request and memorializes that Wisconsin will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Wisconsin 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 the obligation of eligible training providers (ETPs) to collect and report on performance data for program year (PY) 2018 in accordance with WIOA Sections 116 and 122, 20 CFR 677.230, and 20 CFR 680.430.

ETA Response: ETA partially approves this waiver. The State is approved to waive the obligation of ETPs to collect and report performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and (B) and 122(d)(2)(A) and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.430(b)(5) through June 30, 2020.

ETA reviewed the State's waiver request and plan and has determined that the requirement listed above impedes the ability of Wisconsin to implement its plan to improve the workforce development system. The State must provide information regarding how the Governor will take into account the outcomes of all students in an ETP program of study, with respect to their employment and earnings, as required for the demonstration of continued eligibility in 20 CFR 680.460(f)(1)(iii) and WIOA Section 122. The State will continue to collect and report data for all WIOA-funded participants in accordance with all statutory and regulatory requirements, including WIOA Sections 116 and 122, and as specified at 20 CFR 677.230 and 680.460. While ETA recognizes the importance of informing consumer choice through the provision of quality data on training outcomes, we also recognize the investment in data and technology systems that are necessary to accomplish this.

ETA is unable to approve the State's request to waive the requirement to report on PY 2018 performance data. WIOA Section 122 requires certain performance information for the purposes of training provider eligibility, and waiving all training provider performance data for a year will prevent the State from implementing those requirements. WIOA Section 189(i)(3)(A)(i) prohibits the Secretary from waiving requirements related to the eligibility of training providers. However, ETA is willing to extend the reporting deadline and to provide technical assistance regarding how the State can make use of its available data to satisfy data collection and reporting requirements, including information from the Workforce Integrated Performance System reports and alternative data sources, such as Wisconsin's ETP online scorecard. Please contact the

Chicago regional office for further discussion of the extension and for technical assistance to address any challenges associated with the ETP reporting timeline as the State transitions to a new data system.

The Department of Labor proposed additional flexibility in its Fiscal Year 2018, 2019, and 2020 budgets to give governors more decision-making authority to meet the workforce needs of their states and will continue to propose these additional flexibilities in future fiscal years. If you have questions or wish to explore additional flexibility, feel free to contact my office at (202) 693-2772.

Sincerely,

A handwritten signature in blue ink that reads "Molly E. Conway". The signature is written in a cursive style with a large, looping 'y' at the end.

Molly E. Conway  
Acting Assistant Secretary

Enclosure

cc:

Caleb Frostman, Secretary, Wisconsin Department of Workforce Development  
Christine Quinn, Chicago Regional Administrator, Employment and Training Administration  
Malissa Dieterle, Federal Project Officer, Employment and Training Administration

February 13<sup>th</sup>, 2019

The Honorable R. Alexander Acosta  
Secretary  
United States Department of Labor  
200 Constitution Avenue  
Washington, DC 20210-0002

Dear Secretary Acosta,

### Waiver Request

The State of Wisconsin is requesting a waiver from all Eligible Training Provider (ETP) performance reporting requirements for the Program Year 2018 report, due October 1, 2019.

### Statutory and/or Regulatory Requirements to be Waived

The relevant provisions that address the State's ETP reporting requirements include WIOA sections 116(d)(4) and 116(d)(6)(B), the WIOA Joint and Department of Labor-only final rules at 20 CFR 677.230 and 20 CFR 680.490, and TEGL 3-18.

### Background

The implementation of WIOA and a realignment of personnel within the state's workforce agency served as the impetus to reevaluate Wisconsin's entire approach to its Eligible Training Programs List (ETPL). Since the inception of the ETPL in 1998, DWD-DET has delegated ETP responsibilities to the local WDBs. The local WDBs and their program staff have been responsible for developing local policy on ETP eligibility criteria, vetting providers, making eligibility determinations, collecting program and performance data, and ensuring the information is current. As a result, eligibility criteria, vetting processes, and the currency of information has significantly varied across the state. Additionally, training providers with a presence in more than one local area can find this locally-driven approach confusing.

With the support of the state and local WDBs, the Wisconsin Department of Workforce Development, Division of Employment Training (DWD-DET) has embarked on a mission to substantially redesign its WIOA ETP system by:

- establishing standardized state-level policies and procedures that will replace the 11 workforce development areas' local policies and procedures,
- centralizing vetting processes, eligibility determinations and appeal processes at the state-level, and
- building technological solutions for the data collection and publication requirements.

The technological components of this redesign effort involve:

- (1) a secure, user-friendly, web-based portal for training providers to register and manage their programs,
- (2) a data warehouse that stores all provider portal inputs,

- (3) an internal application for DWD-DET to manage providers and programs, including documenting vetting outcomes and eligibility determinations,
- (4) a verifiable method to collect all-student employment, wage, and credential performance information by matching student lists from training providers with data from DWD's Unemployment Insurance (UI) Division and, potentially, the National Student Clearinghouse,
- (5) a mechanism to extract and report all required data for purposes of complying with U.S. DOL's ETP annual reporting requirements, and
- (6) a significantly enhanced, user-friendly interactive public website for searching and viewing the ETPL.

DWD-DET is about a year into this redesign effort and has made immense progress towards its planned future state. The eligibility policies and procedures are nearing finalization, processes and partnerships are being put into place to ensure adequate provider-level vetting, and the IT build of the web-based provider portal and the internal application are nearing finalization. Nevertheless, much work still needs to be done, including:

- solidifying how DWD-DET will receive the all-student data from training providers,
- ensuring that appropriate data sharing agreements and certifications/acknowledgements are in place for all providers on the ETPL,
- developing and implementing mechanisms to collect verifiable employment, wage and credential information for the all-student data,
- developing a mechanism to accurately extract all information for purposes of the ETA 9171 reporting,
- transitioning existing training providers/programs to the new ETPL which will require a new eligibility determination as well as a period for training providers to populate up-to-date program content through the provider portal,
- building the new public ETPL website, and
- developing a standardized appeal process.

Due to the complete overhaul of Wisconsin's ETPL, DWD-DET is not currently able to meet its October 2019 ETP reporting requirements. If DWD-DET is not granted this waiver, it will need to immediately cease working on its ETPL redesign project which is planned to deploy the summer of 2019 and, instead, focus staff resources on gathering the program and performance data specified in ETA 9171 in order to comply with the October 2019 reporting deadline. The same staff that will need to collect updated ETP information for the October 2019 performance reporting are involved in the overall ETP redesign project (on top of juggling other work-related responsibilities). These individuals serve as the subject matter experts who craft the business requirements used to build the IT components of this project and they perform user acceptance testing. Since these individuals would be unable to commit adequate time to project-related IT tasks, the project manager and developers currently assigned to the ETP project would be reassigned to another project and the agency's IT priorities would be reallocated. This could mean that the IT portion of the ETP project will be significantly delayed by months, potentially up to a year.

#### **Actions the State Has Undertaken to Remove State or Local Statutory or Regulatory Barriers**

There are no state or local statutory or regulatory barriers.

#### **State Strategic Goal(s)**

DWD-DET would like to invest its staff resources on finalizing and implementing what is currently the future-state of its ETPL rather than putting the project on hold for several months so staff can attempt to collect all required information from existing training providers for the October 2019 ETP report. Admittedly, Wisconsin's existing ETPL has grown rather unwieldy over the years. While there are various contributing factors to this unwieldiness, fairly lax eligibility criteria in some local areas and the lack of a periodic reapplication process definitely have played a role. Currently, Wisconsin's ETPL has over 600 providers and 3,800 programs. It is anticipated that a number of providers/programs may no longer exist because providers were not required to periodically reapply. Since DWD-DET's provider portal has not yet deployed, collecting updated information for the October 2019 ETP report will need to be done through email and telephone

outreach to providers. The process will undoubtedly prove to be quite laborious. However, if the waiver is granted, DWD-DET will be able to collect all required ETP information from existing providers through the provider portal as well as provide accurate training program information to consumers through an enhanced, user-friendly website more quickly.

The ETPL redesign efforts described in this waiver request are consistent with goals articulated in Wisconsin's [Modified Combined State Plan for PY 18-19](#) (see pp. 53-54).

### **Projected Programmatic Outcomes Resulting from Implementation of the Waiver**

If this waiver is granted, DWD-DET can stay on track with its project timeline to implement the redesigned ETP system (policy, procedure, and IT solutions) in the summer of 2019, which will mean that the State will be able to meet its October 2020 ETP reporting requirements. The redesigned system is anticipated to greatly improve the quality and accessibility of the training program information shared with program participants and jobseekers generally.

### **Alignment with Department Policy Priorities**

As articulated in TEGs 41-14, the quality and selection of training providers and programs is a vital component of WIOA core principles such as informed consumer choice, job-driven training, provider performance and continuous improvement. DWD-DET's ETP redesign project represents:

- a uniform and much more stringent process for determining provider eligibility, including vetting providers to help ensure that program participants are protected from questionable and/or predatory training providers;
- a web-based, more user-friendly approach for training providers to apply to the ETPL and manage the program information shared with consumers;
- a mechanism for completing the continued eligibility process annually, ensuring participants have accurate and up-to-date information when selecting training;
- a secure method for collecting all-student data and ensuring that performance outcomes are derived using verifiable sources (i.e. UI employment/wage and potentially National Student Clearinghouse data); and
- a significantly enhanced experience for consumers to research training options through a user-friendly webpage.

### **Individuals, Groups, or Populations Affected by the Waiver**

The local WDB directors have indicated that they will gladly hand over their ETP responsibilities as it currently involves significant time commitment from their staff. The granting of this waiver will mean that the local WDBs will be relieved of their ETP responsibilities sooner because DWD-DET will be able to continue to focus on the development and implementation of its new ETP system rather than delay project efforts to collect information for purposes of the October 2019 ETP report. Without the waiver, DWD-DET may have to enlist the help from local WDB staff to collect the requisite information for the October 2019 report.

Additionally, granting of this waiver will mean that program participants, and jobseekers generally, will have access to an improved website for researching training options more quickly than if this waiver is not granted. Admittedly, Wisconsin's current ETPL webpage for consumers is antiquated and challenging to use.

DWD-DET's plan is to publish aggregated program performance outcomes on its new ETPL webpage for consumers as soon as it deploys its new ETPL system. As previously mentioned, this is slated for summer 2019. DWD-DET will collect the all-student data as part of the new eligibility process and perform the aforementioned matching with UI (and potentially National Student Clearinghouse) data.

**State Plans for Monitoring Waiver Implementation, Including Collection of Waiver Outcome Information**

Not applicable. DWD-DET's waiver request is confined to the October 2019 ETP performance report. DWD-DET will adhere to its ETP performance requirements beginning October 2020.

**Assurance of State Posting of the Request for Public Comment and Notification to Affected Local Workforce Development Boards.**

DWD-DET posted the waiver request, along with instructions for submitting comments, on its public-facing WIOA webpage from January 24 to February 6, 2019. DWD-DET sent an email notification about the period for public comment to the eleven local WDB Directors and their staff, as well as the members of the WIOA Leadership team (a committee with director-level representation from all the WIOA Titles). The only comment received was from a local WDB Director who expressed support for the waiver request.

Sincerely,



Caleb Frostman, Secretary  
Department of Workforce Development

cc: Rosemary Lahasky, ETA Deputy Assistant Secretary, DOL  
Christine Quinn, ETA Regional Administrator, Region V, DOL