



JAN 24 2019

The Honorable Kim Reynolds
Office of the Governor
State Capitol
1007 East Grand Avenue
Des Moines, Iowa 50319

Dear Governor Reynolds:

Thank you for your waiver request on October 26, 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 State's request and memorializes that Iowa will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Iowa 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 regional planning requirements at WIOA Sections 106 and 20 CFR 679.510 to allow local areas to establish administrative cost arrangements outside of a planning region.

ETA Response: This waiver is not necessary. ETA encourages Iowa's local workforce development areas to share administrative costs for the purposes of maximizing Federal resources and improving program delivery. As the Governor has identified each local area in the State as a region, the regional planning requirements do not apply to any of the State's local areas. Further, the regional planning requirements do not limit cost-sharing or pooling across local areas, regardless of the formal identification of regions.

Requested Waiver: Waiver of the obligation of eligible training providers (ETPs) to collect and report performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and (B) 122(d)(2)(A) and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.430(b)(5).

ETA Response: The State's request to waive the obligation of ETPs to collect and report performance data on all students in a training program is approved through June 30, 2020. ETA reviewed the State's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Iowa 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 that the systems and willingness to collect the required performance data from providers may discourage training provider participation, which is a critical component of the workforce development system.

Requested Waiver: Waiver of the requirement that the continued eligibility of providers and programs on the ETP list be reviewed biennially, as required under WIOA Section 122(c)(2) and 20 CFR 680.460, 680.480, and 680.500.

ETA Response: WIOA Section 189(i)(3)(A)(i) prohibits the Department from waiving any provisions related to provider eligibility. Therefore, the Department is unable to extend the required review cycle for training providers.

Requested Waiver: Waiver of 20 CFR 680.450(e)(2), which requires providers to submit information addressing a factor related to the WIOA performance indicators, and 20 CFR 680.450(e)(5), which requires training providers to demonstrate the alignment of the training services with in-demand industry sectors and occupations for the purposes of determining initial provider eligibility.

ETA Response: WIOA Section 189(i)(3)(A)(i) prohibits the Department from waiving any provisions related to provider eligibility. However, the Governor has considerable discretion when developing initial eligibility criteria for providers. Examples of potential criteria include average earnings rates, average cost of training, and criteria based on information available in Unemployment Insurance wage records. Please note that these criteria are illustrative, and the Governor may make use of other criteria as appropriate. In meeting the requirement that the factor be “related” to the WIOA Section 116 reporting requirements in 20 CFR 680.450(e)(2), this factor need not be limited to WIOA participants. The Governor also has considerable discretion in determining what constitutes an in-demand industry sector or occupation and the best data source for determining this information.

Requested Waiver: Waiver of the requirement that, in establishing continued training provider eligibility criteria, the Governor must take into account, among other information:

- performance accountability measures described in WIOA Section 116(b)(2)(A)(i)(I)-(IV), as required by 20 CFR 680.460(g)(1)(i); and
- the degree to which programs of training services relate to in-demand industry sectors and occupations in the State as per 20 CFR 680.460(g)(4).

ETA Response: WIOA Section 189(i)(3)(A)(i) prohibits the Department from waiving any provisions related to provider eligibility. While the State must consider the WIOA performance indicators for determining the continued eligibility of providers, WIOA does not require the State to establish minimum performance standards. As per 20 CFR 680.460(f)(iv), establishing minimum performance standards is at the discretion of the Governor. Additionally, the Governor may choose how best to weight or otherwise consider the WIOA performance indicators for the purposes of continued provider eligibility. The Governor also has considerable discretion in determining what constitutes an in-demand industry sector or occupation and the best data source for determining this information.

Requested Waiver: Waiver of the requirement at 20 CFR 680.480(c) that training providers that fail to meet the eligibility criteria be immediately removed from the ETP list.

ETA Response: WIOA Section 189(i)(3)(A)(i) prohibits the Department from waiving any provisions related to provider eligibility. However, the Governor is responsible for developing the procedures for determining which providers are ineligible for the ETP list under 20 CFR 680.480, which individual or entity is responsible for making these determinations, and the process by which the determination will be made. Prior to removal from the ETP list, providers must be afforded an opportunity for a hearing that meets the requirements of 20 CFR 683.630(b). Please note that providers determined to have intentionally supplied inaccurate information or to have substantially violated any provision of title I of WIOA or the WIOA regulations, including 29 CFR part 38, must be removed from the State list of eligible training providers.

Requested Waiver: Waiver of the requirement at WIOA Section 121(d)(2)(B) that the one-stop operator be “located in the local area.”

ETA Response: The State’s request to waive the requirement that the one-stop operator must be “located in the local area” is approved through June 30, 2020, on the condition that that the procured one-stop operator can fulfill the roles and responsibilities enumerated at 20 CFR 678.620, as well as any additional responsibilities as determined by the one-stop operator’s contract. The State must also comply with the requirements of Section 121(d) and 20 CFR 678.600-635 when selecting the one-stop operator.

ETA is available for further discussion and to provide technical assistance to the State 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 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,



Molly E. Conway
Acting Assistant Secretary

Enclosure

cc:

Beth Townsend, Director, Iowa Workforce Development
Christine Quinn, Regional Administrator, Employment and Training Administration
Tommy Ouyang, Federal Project Officer, Employment and Training Administration

Kim Reynolds, Governor
Adam Gregg, Lt. Governor
Beth Townsend, Director



September 4, 2018

VIA EMAIL ONLY @ WIOA.Plan@dol.gov

The Honorable R. Alexander Acosta
Secretary, U.S. Department of Labor
Frances Perkins, 200 Constitution Ave NW
Washington, D.C. 20210

Re: Waiver Requests Under the Workforce Innovation and Opportunity Act

Secretary Acosta:

Iowa is facing a skilled worker shortage. To help meet the State's workforce needs, Gov. Reynolds has led the Future Ready Iowa initiative, which has as its goal that 70% of the State's workforce will have received postsecondary education or training that leads to a recognized credential. We face this skills gap while attempting to implement the Workforce Innovation and Opportunity Act (WIOA). In consulting with stakeholders, including chief elected officials (CEOs), Local Workforce Development Boards, interested and concerned citizens, and Iowa's community colleges, Iowa Workforce Development (IWD) developed the waiver requests relating to the following requirements under WIOA:

- 1) Administrative cost-sharing arrangements;
- 2) Eligible training provider list (ETPL); and
- 3) The one-stop operator (OSO).

Thank you for consideration of Iowa's waiver requests. We believe that they will give our state's workforce development system more flexibility under WIOA, which will help us be in a better position to address the skilled worker shortage that we face.

Sincerely,

A handwritten signature in black ink that reads "Beth Townsend". The signature is fluid and cursive.

Beth Townsend

WIOA Waiver Request:

To: U.S. Department of Labor
From: Iowa Workforce Development
Date: September 4, 2018
Subject: Waiver Request Relating to Administrative Costs Under the Workforce Innovation and Opportunity Act

In satisfaction of the required elements identified in the U.S. Department of Labor (DOL) Waiver Request Tool:

1. The statutory and regulatory requirements are identified below, within the waiver request.
2. There are no State or local barriers, only Federal barriers imposed by WIOA and its final rules.
3. These waiver requests will help fulfill the State and Federal goals of effective and efficient use of public funds in the administration of the WIOA-governed one-stop delivery system in Iowa.
4. The State anticipates that this will help program outcomes by creating administrative efficiencies not otherwise available, which will, in turn, free up limited WIOA funds for use in other areas to meet Federal requirements.
5. This waiver request will help local areas, including Local Workforce Development Boards (WDBs), by allowing them to combine their efforts and resources relating to administrative functions, which will allow them to find cost efficiencies that would otherwise be unavailable.
6. IWD will continue to conduct monitoring of local areas and Local WDBs, including their compliance with all WIOA requirements governing administrative costs. IWD will collect and include information about waiver outcomes in the State's WIOA annual report.
7. IWD posted a draft of this waiver request on the State's public comment portal for 30 days prior to submitting this waiver request.

Under WIOA section 106, the State must develop policies and procedures for the designation of regions. If the State designates a planning region, WIOA section 106(c) the Local Workforce Development Boards (WDBs) and chief elected officials (CEOs) in the planning region must engage in a regional planning process that results in the establishment of administrative cost arrangements, including the pooling of funds for administrative costs, as appropriate, for the region. Iowa's community colleges are invaluable partners in the State's workforce development system. Many serve not just as training providers but also as career services providers for WIOA

Title I Youth, Adult, and Dislocated Worker programs. In consulting with stakeholders, including Iowa's community colleges, Iowa Workforce Development (IWD) believes that the planning region requirements under WIOA section 106 and 20 CFR section 679.510 are too burdensome. Local areas should be able to establish administrative cost arrangements without being part of a planning region and being forced to engage in the other elements of the regional planning process.

Allowing local areas to establish administrative cost arrangements even if they are not part of a planning region will allow them to save money on administrative costs. For example, instead of the Local WDBs in two local areas each hiring a director and spending \$120,000 combine on directors, two Local WDBs could establish an administrative cost arrangement that allows them to share a director and spend only \$60,000. Moreover, instead of the Local WDBs in two local areas each having a \$10,000 operating budget that combines to equal \$20,000, the two Local WDBs could establish an administrative cost arrangement that allows them to spend just \$10,000.

IWD asks that the Secretary waive the WIOA requirement that establishing administrative cost arrangements between two or more local areas must be part of the regional planning process for designated planning regions under WIOA section 106 and 20 CFR section 679.510. This will allow local areas to find efficiencies in administrative costs without having to jump through the hoops of regional planning.

WIOA Waiver Request:

To: U.S. Department of Labor
From: Iowa Workforce Development
Date: September 4, 2018
Subject: Waiver Request Relating to the Eligible Training Provider List Requirements Under the Workforce Innovation and Opportunity Act

In satisfaction of the required elements identified in the U.S. Department of Labor (DOL) Waiver Request Tool:

1. The statutory and regulatory requirements are identified below, within each individual waiver request.
2. There are no State or local barriers, only Federal barriers imposed by WIOA and its final rules.
3. These waiver requests will help fulfill the consumer choice goals of the ETPL and the State's Future Ready Iowa goal by contributing to the development of a robust selection of training providers and programs across the State for appropriate WIOA Title I program participants.
4. The State anticipates that this will help program outcomes by allowing Iowa to develop an ETPL with a wide selection of providers and programs, which will help participants pursue a career pathway that is aligned with their goals and interests.
5. These waiver requests will give program participants more choices when selecting a training program, reduce the burden on providers when submitting programs for inclusion on the ETPL, and reduce the burden on the State as well as Local Workforce Development Boards (WDBs) with respect to the administration of the ETPL.
6. IWD will continue to collect data from ETPs on their WIOA-funded students and to submit that data via IWD's annual report to the U.S. Department of Labor (DOL). IWD will collect and include information about waiver outcomes in the State's WIOA annual report.
7. IWD posted a draft of this waiver request on the State's public comment portal for 30 days prior to submitting this waiver request.

ETPL Waiver Request No. 1

IWD is seeking a waiver from the requirements outlined in WIOA sections 116 and 122, and at 20 CFR section 677.230 and 20 CFR sections 680.400 through 680.530, which require the collection and reporting of performance related data on all students participating in training programs listed on the State's ETPL.

Under WIOA section 116(d)(4)(A) and 20 CFR section 677.230(a)(5), Eligible Training Providers (ETPs) must report performance data with respect to all individuals engaging in a program of study (or the equivalent). While DWS recognizes the value and importance of monitoring provider performance, requiring ETPs to produce data on all individuals instead of just WIOA-funded participants places an undue burden on ETPs to collect, enter, and report excessive data. This is especially burdensome when ETPs have many students of whom only a small percentage are WIOA participants. The US Departments of Labor (DOL) and Education acknowledge this burden in their response to comments regarding 20 CFR section 677.230 in the preamble of the WIOA Final Rule by stating, "The Departments are cognizant of the reporting burden the ETP performance report places on ETPs and do not want to place additional burden on these entities," however, there was no change to the regulatory text.

Requiring ETPs to provide data on all individuals instead of WIOA-funded participants may dissuade the institution from participating as a WIOA program provider, thereby significantly limiting consumer choice.

IWD requests a waiver of the requirements in WIOA sections 116 and 122 and 20 CFR sections 677.230 and 680.400 through 680.530 that require the collection and reporting of performance related data on all participants in training programs on the State's ETPL.

ETPL Waiver Request No. 2

IWD is seeking a waiver of the requirement that the continued eligible of providers and programs on the ETPL be reviewed biennially, as required under WIOA section 122(c)(2) and 20 CFR sections 680.460, 680.480, and 680.500. This requirement creates an undue administrative burden on providers, Local WDBs, and the State. IWD is asking for a waiver of the requirement for biennial review of ETPL eligibility. IWD asks that Iowa be allowed to use a quadrennial review of ETPL eligibility instead.

ETPL Waiver Request No. 3

WIOA section 122 and 20 CFR section 680.450 require providers to submit certain information for an ETPL initial eligibility determination. This requirement creates an undue administrative burden on providers, Local WDBs, and the State. IWD is asking for a waiver of the requirement that providers submit appropriate, accurate, and timely data relating to the following two required initial eligibility criteria:

- 1) Under 20 CFR section 680.450(c)(2), to provide information addressing a factor related to the indicators of performance, as described in WIOA secs. 116(b)(2)(A)(i)(I)-(IV) and §680.460(g)(1) through (4) which include unsubsidized employment during the second quarter after exit, unsubsidized employment during the fourth quarter after exit, median earnings and credentials attainment; and
- 2) Under 20 CFR section 680.450(c)(5), to provide information that addresses alignment of the training services with in-demand industry sectors and occupations.

This waiver would ease the administrative burden on providers, Local WDBs, and the State by making review and eligibility determinations easier and, therefore, quicker, which will allow more consumer choice for program participants because there will be more programs on the ETPL.

ETPL Waiver Request No. 4

WIOA section 122 and 20 CFR section 680.460 require providers to submit certain information for an ETPL initial eligibility determination. This requirement creates an undue administrative burden on providers, Local WDBs, and the State. IWD is asking for a waiver of the requirement that, in establishing continue eligibility criteria, the Governor must take into account, among other information:

- 1) Under 20 CFR section 680.460(g)(1)(i), the performance accountability measures described in WIOA secs. 116(b)(2)(A)(i)(I)-(IV) and the other matters required by WIOA sec. 122(b)(2); and
- 2) Under 20 CFR section 680.460(g)(4), the degree to which programs of training services relate to in-demand industry sectors and occupations in the State.

This waiver would ease the administrative burden on providers, Local WDBs, and the State by making review and eligibility determinations easier and, therefore, quicker, which will allow more consumer choice for program participants because there will be more programs on the ETPL.

ETPL Waiver Request No. 5

20 CFR section 680.480 governs the loss of provider eligibility for the ETPL. This requirement creates an undue administrative burden on providers, Local WDBs, and the State. IWD asks that the Secretary waive the requirement that providers that fail to meet the eligibility criteria be immediately removed from the ETPL so that IWD may place them in a two-year probationary period before removing them from the ETPL. This waiver would ease the administrative burden on providers, Local WDBs, and the State by making review and eligibility determinations easier and, therefore, quicker, which will allow more consumer choice for program participants because there will be more programs on the ETPL.

WIOA Waiver Request:

To: U.S. Department of Labor
From: Iowa Workforce Development
Date: September 4, 2018
Subject: Waiver Request Relating to the One-Stop Operator Requirement Under the Workforce Innovation and Opportunity Act

In satisfaction of the required elements identified in the U.S. Department of Labor (DOL) Waiver Request Tool:

1. The statutory and regulatory requirements are identified below, within the waiver request.
2. There are no State or local barriers, only Federal barriers imposed by WIOA and its final rules.
3. These waiver request will help Iowa's local workforce development areas (local areas) to fulfill the WIOA requirements for one-stop operator (OSO) competitive selection after the realignment of the State's local areas despite limited federal funding.
4. The State anticipates that this will help program outcomes by allowing Iowa use less money on OSOs, which will free up funds for use in other areas to meet WIOA requirements.
5. This waiver request will help local areas, including Local Workforce Development Boards (WDBs), by allowing them to combine their efforts and resources when competitively selecting an OSO, which will allow them to find cost efficiencies that would otherwise be unavailable.
6. IWD will continue to monitor local areas and Local WDBs for WIOA compliance, including with respect to the competitive selection of OSOs. IWD will collect and include information about waiver outcomes in the State's WIOA annual report.
7. IWD posted a draft of this waiver request on the State's public comment portal for 30 days prior to submitting this waiver request.

Training and Employment Guidance Letter (TEGL) WIOA No. 15-16, "Competitive Selection of One-Stop Operators," states:

The WIOA Joint Final Rule requires that a competitive process be conducted at least once every four years. The requirement to use a competitive process for one-stop operator selection is set forth in WIOA sec. 121(d)(2)(A). **Due to this statutory requirement, the competitive selection process for one-stop operators in all Local Areas cannot be waived.** While the Local WDB must select the one-stop operator

through a competitive process at least once every four years, a State may require, or a Local WDB may choose to implement, a competitive selection process more often than once every four years.

(emphasis added).

TEGL No. 15-16 makes clear that the Secretary of Labor will not waive the requirements relating to the competitive designation or certification of the OSO. But it appears to leave open the possibility of waiving eligibility requirements for the OSO. These eligibility requirements are in WIOA section 121(d)(2), which states:

To be eligible to receive funds made available under this subtitle to operate a one-stop center referred to in subsection (c), an entity (which may be a consortium of entities)—

(A) shall be designated or certified as a one-stop operator through a competitive process; and

(B) shall be an entity (public, private, or nonprofit), or consortium of entities (including a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection (b)(1)), of demonstrated effectiveness, **located in the local area**, which may include—

(i) an institution of higher education;

(ii) an employment service State agency established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), on behalf of the local office of the agency;

(iii) a community-based organization, nonprofit organization, or intermediary;

(iv) a private for-profit entity;

(v) a government agency; and

(vi) another interested organization or entity, which may include a local chamber of commerce or other business organization, or a labor organization.

(emphasis added).

Iowa requests a waiver of the requirement in WIOA section 121(d)(2)(B) that the entity that is the OSO be “located in the local area.” Eliminating this requirement will allow multiple Local WDBs to jointly select an entity to serve as the OSO for their local areas even if the entity is not located in one of the local areas. Performing the OSO role remotely for the comprehensive one-stop center(s) and local area(s) in which the entity is not located will allow participating local areas to save money on the OSO.