



November 13, 2020

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

Dear Governor Wolf:

Thank you for your waiver request submission to the U.S. Department of Labor (Department) 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 (enclosed). The waiver request was received August 26, 2020. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that Pennsylvania will meet the outcomes and implement the measures identified in its plan to ensure accountability 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) and to also 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, through June 30, 2022, the Commonwealth's request to use statewide funds for disaster-relief employment, as described in WIOA Section 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 under the following conditions:

- The Governor, or any federal agency, declares an emergency in the local area (or areas) where the State wishes to use statewide funds for the purpose of public service employment;
- WIOA-funded public service employment opportunities are short-term in nature;
- WIOA-funded public service employment opportunities increase the likelihood of participants entering unsubsidized employment; and
- The State collects and tracks use of funds under this waiver and complies with all WIOA-required performance and fiscal reporting.

ETA is available to provide technical assistance to you in support of your goals. The Department proposed additional flexibility in its budgets for fiscal years 2018 through 2021 to give Governors more decision-making authority to meet the workforce needs of their states. If you have questions, please contact my office at (202) 693-2772.

Sincerely,



John Pallasch
Assistant Secretary for Employment and Training

Enclosure

cc: W. Gerard Oleksiak, Secretary, Pennsylvania Department of Labor and Industry
Eileen Cipriani, Deputy Secretary for Workforce Development, Pennsylvania Department of Labor and Industry
Leo Miller, Regional Administrator, Employment and Training Administration
Tobby Willis, Federal Project Officer, Employment and Training Administration



August 20, 2020

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, or commonwealth, seeks U. S. Department of Labor, or U.S. DOL, approval for a waiver of the statutory and regulatory requirements of the Workforce Innovation and Opportunity Act, or WIOA, through June 30, 2024 to allow flexibility in the use of the funds reserved by the Governor (i.e. WIOA section 134(a)). Specifically, the commonwealth of Pennsylvania is requesting from U.S. DOL a waiver plan to allow flexibility in the use of WIOA statewide employment and training funding reserved by the Governor to provide statewide employment and training activities to areas affected by a declared disaster.

Formerly, U.S. DOL approved the commonwealth's disaster waiver plan in 2019. Recently, ETA Region II staff have provided the commonwealth with technical guidance to improve this waiver plan.

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. The requested waiver plan was made available for public review and comment; only supportive comments were received, and the commonwealth provided responses.

The attached document details the requested waiver plan by the commonwealth. Your review and immediate consideration of this waiver plan are appreciated.

Please contact me with any questions.

Sincerely,

Sheila D. Ireland,
Deputy Secretary for Workforce Development

Enclosure

Department of Labor & Industry | Deputy Secretary for Workforce Development
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Equal Opportunity Employer/Program*

Commonwealth of Pennsylvania WIOA Waiver Request Plan

WIOA Title I Reserved Statewide Funds for Qualifying Events

So that the commonwealth of Pennsylvania, or commonwealth, may continue to support its citizens, employers and public workforce development one-stop delivery system, it is requesting consideration from the United States Department of Labor, or U.S. DOL, approval of the commonwealth's requested waiver plan: *Workforce Innovation and Opportunity Act, or WIOA, Title I Reserved Statewide Funds for Qualifying Events*.

In 2018, the commonwealth requested from U.S. DOL an allowance of the Workforce Innovation and Opportunity Act, or WIOA, Section 134(a) Statewide Employment and Training Activities for a waiver request denoted as the *WIOA Title I Reserved Statewide Funds for Qualifying Events Waiver Plan*. U.S. DOL approved the waiver plan on Dec. 3, 2018, adding a condition that allowed the commonwealth to use unobligated prior-year governor's reserved Rapid Response funds to permit temporary employment for eligible participants.

The commonwealth asks U.S. DOL to consider and fully approve this waiver plan, requests and allowances for July 1, 2020, covering program years 2020 through 2023 (July 1, 2020 through June 30, 2024).

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

This waiver request plan is submitted in accordance with the Secretary's waiver authority outlined in Section 189(i)(3)(B) of the Workforce Innovation and Opportunity Act, or WIOA, and 20 CFR 679.620. Funds reserved by a Governor under WIOA sections 128(a)(1) and 133(a)(2) shall be described in this waiver plan as "WIOA statewide employment and training funding."

The commonwealth seeks from U.S. DOL a waiver allowance of WIOA section 134(a) to allow the use of WIOA statewide employment and training funding to provide expeditious and appropriate disaster relief employment, or temporary jobs, to support recovery activities throughout the commonwealth in the event of a qualifying event.

Under the waiver plan, permitted WIOA statewide employment and training funding use includes, but is not limited to:

- Expeditious allocation of funds for use by either the commonwealth and/or a local workforce development area to allow quick response to events as described within 20 CFR 687.100 including natural disaster, emergency or other qualifying events, as well as cascading events caused by a qualifying event. Qualifying event(s) must be recognized and issued in writing by the chief official of a federal agency with jurisdiction over the federal response to the emergency or disaster situation; or be declared an emergency or disaster by the Federal Emergency Management Agency, or FEMA; or be declared an emergency or disaster by the Pennsylvania Emergency Management Agency, or PEMA; or be deemed an emergency or disaster by the governor or Pennsylvania Department of Labor & Industry, or L&I.
- To alleviate the effects that a qualifying event causes citizens and employers whether across the commonwealth, designated regions or within a local workforce development area, WIOA statewide employment and training funding will allow support to local area one-stop delivery system operations, disaster relief activities, subsidized employment, employment recovery

activities, training services and the provision of needed humanitarian resources and services, including other services or resources deemed necessary.

- WIOA statewide employment and training funding may be used to support temporary jobs and necessary related costs such as fringe costs, personal protective equipment, job-related tools/supplies, waste disposal receptacles, human-waste disposal receptacles, etc., that fulfill a local workforce development board's need to provide one-stop delivery system services and activities.
- A participant may hold a temporary job for no longer than 12 months or 2,080 hours. If clean-up work remains in the project after the participants reach their temporary employment limit, generally the state must bring in additional new eligible workers to replace those who have worked 12 months. If necessary, the commonwealth will request to extend an individual's disaster relief employment for up to an additional 12 months.

For each unique qualifying event, this waiver plan permits the commonwealth to direct the use of WIOA statewide employment and training funding as deemed most appropriate given the nature of the qualifying event and as the need presents itself.

The commonwealth reserves the right to continue to apply for applicable grants as they may be made available.

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 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. Additionally, L&I maintains regularly scheduled meetings with local workforce development boards and state-level one-stop program partners to increase effective coordination and collaboration.

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 for 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 employment and training funding 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 employment and training funding so that relevant workforce development responses are provided in a timely manner. WIOA statewide employment and training funding may be provided to local areas deemed in need of financial resources because of a qualifying event.

The use of WIOA statewide employment and training funding associated with this waiver plan aligns with the need due to a declared disaster. This waiver plan 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 employment and training funding offers greater flexibility so that the commonwealth and/or 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 employment and training funding to ensure that critical, time-sensitive work can be performed, and the potential participant pool can be 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:

- Decrease statewide and local area workforce development response times to a qualifying event,
- Increase public safety and services throughout affected communities and local area workforce development one-stop systems,
- Support humanitarian activities in affected communities,
- Availability of disaster relief employment will provide eligible participants with access to temporary employment, and
- Alleviate some of the time-sensitive variables arising from a qualifying event affecting an employer thereby lessening the severity of possible layoffs or business closings

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

- Eligible participants as identified at WIOA section 170(d):
 - dislocated worker
 - long-term unemployed individual
 - temporarily or permanently laid off because of the emergency or disaster
 - an individual who is self-employed and becomes unemployed or significantly underemployed because of the emergency or disaster

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 employment and training funding and will approve parameters for any funded project. A local workforce development board or a designated fiscal agent may be the recipient of WIOA statewide employment and training funding used for qualifying events. Local boards will work with designated local area fiscal agents (if any) to complete and submit the funding request to L&I. The commonwealth requires the recipient of WIOA statewide employment and training funding to collaborate with local governments and other recognized entities to determine the optimal degree of resources, services and activities warranted for the qualifying event. Local boards will communicate and collaborate with one-stop operator(s) and other workforce stakeholders when qualifying event funding is available.

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. Additionally, BWPO and BWDA are tasked with monitoring their respective areas of responsibility to ensure the WIOA statewide employment and training funding is being used as intended.

All WIOA statewide employment and training funding obligated and expended on behalf of a qualifying event will be accounted for in the state's workforce development system of record known as the Commonwealth Workforce Development System, or CWDS. Case management and related source documentation associated with the emergency and/or disaster will include the qualifying event as a point of reference.

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 BWDA with the following information for review:

- Official declaration documenting the emergency and/or disaster event
- Qualifying event plan/budget narrative summary of the event including:
 - preliminary assessment of the emergency or disaster
 - clean-up requirements
 - humanitarian needs of the affected areas
 - one-stop delivery system required support
 - description of services and activities to be provided
 - project management including monitoring and annual evaluation responsibilities
 - a sufficient population of eligible individuals needing the services, activities or employment being offered
- List of clear and achievable expected outcomes
- Summaries of expected outcomes such as disaster worksite clean-up efforts
- Budget and budget justification
- Completed L&I Request for Funds form with local board signatory authorizing request

BWDA will host regularly scheduled teleconferences with qualifying event stakeholders to monitor project status. BWDA may require additional information, but at a minimum, funding recipients will provide BWDA with the following for review:

- Revised plan or budget narrative and associated attachments when a modification is required
- Monthly Financial Status Reports
- Updated status reports of key project activities
- List of expected outcomes regularly updated with actual outcomes
- WIOA participants receiving benefit from WIOA statewide employment and training funding under this waiver must be given appropriate and sufficient services and activities that are then recorded in a timely manner in CWDS. Detailed case management notes and follow-up services are required.

All projects or other uses of the funds as described in this waiver plan will be rigorously evaluated. The Pennsylvania Workforce Development Board, or PA WDB, will request from L&I staff, local boards, program partners, other stakeholders and those that benefit directly by using these funds any relevant data and information necessary to determine the waiver plan's effectiveness. Important elements in all evaluations will be a focus in determining project outcomes and waiver effectiveness. An annual waiver plan evaluation will be conducted and reported in the WIOA Annual Plan.

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

Whether a waiver plan is submitted to U.S. DOL within the WIOA Combined State Plan or submitted on its own accord the commonwealth assures U.S. DOL that all proposed WIOA waiver plans, amendments or modifications have been posted on the L&I public website for public comment. WIOA waiver plans are posted in harmony with the commonwealth's WIOA Combined State Plan.

The commonwealth assures the U.S. DOL that this waiver request plan has been publicly posted and all comments received have been incorporated or otherwise addressed herein. All public comments received were supportive and offered no issues or concerns.