

TRANSMITTAL # 3

MEMORANDUM

July 13, 2015

TO: Workforce Development Council

FROM: Susan Simmons, Deputy Director

SUBJECT: Extension of WIA Waivers for PY15

ACTION REQUESTED: Approve extension of applicable WIA PY2014 waivers for WIOA PY2015

BACKGROUND:

The Workforce Investment Act provides states the flexibility to request waivers from statutory requirements in the administration of employment and training activities authorized under the Workforce Investment Act. The Workforce Innovation and Opportunity Act also includes language to request waivers.

The state of Idaho currently has nine waivers in place for Program Year 2014 under the Workforce Investment Act. Staff reviewed the existing waivers against the requirements of the Workforce Innovation and Opportunity Act and determined that only six waivers will be needed to continue operations into the WIOA transition year Program Year 2015. Its request to waive these statutory and regulatory Workforce Investment Act requirements under the Employment and Training Administration's waiver authority will allow the state flexibility to design and implement workforce strategies to meet unique state needs.

The first three waivers in particular are cost-saving measures that are necessary for the state to function within the allotted funds.

Please refer to the attachment for more detailed information about the state's waivers, which are listed below. Both WIA and WIOA citations are referenced in parentheses.

- 1) To allow the Workforce Development Council to serve as a local board for the statewide planning region (20 CFR 661.300(f)), (WIOA Section 106 (d)(2), Section 107(c)(4))

- 2) To waive completion of evaluations on workforce investment activities for adults, dislocated workers, and youth (WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)), (WIOA Section 134 (a)(2)(B)(vi)), WIOA Section 129(b)(1)(A).)
- 3) To waive provision of additional assistance to workforce areas that have high concentrations of eligible youth (WIA Section 129(b)(2)(C) and 20 CFR 665.200(h)), (WIOA Section 129(b)(1)(F))
- 4) To use common measures reporting (WIA Section 136(b)), (WIOA Section 116(b))
- 5) To increase the employer reimbursement rate for On-the-Job Training Participation (WIA Section 101(31)(B) and 20 CFR 663.170), (WIOA Section 3(44)(B), Section 134(c)(3)(H))
- 6) To exempt from the competition/procurement for the follow-up, support services and work experience components, to include internship and summer work experience, and having those services categorized as part of the design framework (WIA Section 123, Section 117(h)(4)(B)(i) and 20 CFR Part 664.400), (WIOA Section 123, Section 107(d)(10)(B))

Because of the magnitude of improvement to the workforce development system and local operations that these waivers provide, the state seeks to re-implement these waivers for PY15 with the continued approval of the Workforce Development Council and the U.S. Department of Labor. These waivers provide significant value to the state’s workforce investment system and are consistent with the principles and intent of the Workforce Investment Act of 1998 and the Workforce Innovation and Opportunity Act of 2014.

In accordance with WIA Sec. 189(i)(4)(B)(v) and WIOA Sec. 189(i)(3)(B)(v) and 661.420.(c)(5)(iv) of the WIA Final Regulations, a public notice seeking public review and comment on the waiver request is currently effect. In addition, as per TEGL (Training and Employment Guidance Letter) 21-11, these waiver requests will also be considered a modification of the state’s Workforce Investment Act – Wagner Peyser Plan.

Staff Recommendation:

Staff recommends that the council approve the extension of these WIA waivers to maintain and/or improve workforce program service levels in the state of Idaho.

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Attachment

State of Idaho PY15 WIOA Waiver Requests

1) SINGLE STATEWIDE COUNCIL SERVING STATEWIDE REGIONAL PLANNING AREA

A. Statutory regulation to be waived:

With this request, the State of Idaho is formally seeking renewal of a waiver to apply 20 CFR 661.300(f) which permits a state board to carry-out the roles of a local board in a single local area to a statewide regional planning area.

In 2005, the state's shift from six workforce development areas to a single statewide planning area allowed the state to address federal strategic priorities and to further reforms envisioned in the Workforce Investment Act. The state's two designated areas entered into a consortium agreement, to function as a single state area under a single regional plan. To maximize resources available for service delivery, the state wishes to continue to use the Workforce Development Council as the local workforce board for both areas. This fosters sharing of data and information across regions and ease movement of customers from region to region.

B. State or local statutory or regulatory barriers:

No state or local policies limit the Governor's authority to require a regional plan or utilize the Workforce Development Council as the local workforce board for the Idaho Workforce Consortium.

C. Goals to be achieved by the waiver:

The State will achieve the following goals if the waiver extension is granted:

- 1) As seen since its initial implementation, the single statewide planning structure has reduced annual overhead, maximizing the available money directed to training and services to business and job seekers.

The State has set a goal of spending 50 percent of WIA local Adult and Dislocated Worker funds for direct training and support of businesses and participants, positively impacting achievement of performance goals.

- 2) This statewide structure enhances efforts to transform the system into a demand driven system. The 25 Idaho Department of Labor offices across the state serve as the state's American Job Centers offering the full range of workforce development services. This recognizes the importance of sharing data and information about new and expanding businesses to build the economy across regions.

- 3) The single statewide structure has strengthened administrative oversight and accountability processes. Prior to this change, administrative deficiencies resulted in substantial disallowed costs for Idaho's largest Workforce Investment Area. The strengthened administrative structure, under the waiver, has assisted Idaho to avoid future disallowed costs and will continue to do so, thus further enabling the redirection of funds from service provider and administration to direct participant training and support.

D. Description of individuals impacted by the waiver:

The change to a single statewide regional planning structure, in conjunction with this waiver, has allowed for an average annual increase in training opportunities more adults, dislocated workers and at-risk youth, and has since permitted the state to maintain service levels despite funding cuts over the years.

E. Opportunity for public comment, including the local workforce investment board, business and labor and the process to monitor the implementation of the waiver:

Originally this waiver was announced to the general public as part of the PY05 plan review process which included a process for soliciting review and comment during a three-week period and review by the state's Workforce Development Council, which included comments from the Local Workforce Investment Boards and their staff.

This request for waiver extension is posted at <http://www.labor.idaho.gov> for public review from June 17 – July 13, 2015. Any public comments received will be presented to the state Workforce Development Council for review on July 13, 2015. The meeting was announced and opened to the public.

The Idaho Department of Labor has and will continue to monitor the implementation and impact of the waiver and progress toward expected outcomes. State oversight and evaluation will make effective use of these means to identify obstacles and address them.

2) WAIVER TO REQUIRE EVALUATIONS OF WORKFORCE INVESTMENT ACTIVITIES

A. **Statutory and/or regulatory requirements to be waived:** The state of Idaho respectfully requests a waiver extension of the following two sections of the Workforce Innovation and Opportunity Act concerning required activities funded by Governor's Reserve funds:

- i. *WIOA Section 134(a)(2)(B)(vi); WIOA Section 129(b)(1)(A); WIOA Section 116(e) [formerly WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)] requiring the completion of evaluations on workforce investment activities for adults, dislocated workers, and youth.*

B. **Actions undertaken to remove state or local barriers:** No state statutory or regulatory barriers exist at this time.

C. **Goals and expected programmatic outcomes of waiver:** Congressional action has decreased the percentage of Governor's Reserve funding for states from 15 percent down to 10 percent. Furthermore, Idaho's base funding has decreased \$1.4 million from PY 2014 to PY 2015. The total amount available for the Governor's Reserve in PY 2015 is \$864,727, down from \$879,192 in PY 2014. Consequently, funding has become severely limited while the costs of operating the state's workforce development/One-Stop system and the other mandatory WIOA activities continue to rise, further restricting Idaho's ability to effectively fund and carry-out all of the required statewide workforce investment activities. The current funding level for this program year and anticipated funding levels for future program years are insufficient to cover the costs of conducting evaluations.

With this waiver, Governor's Reserve funding will be used to enhance those primary and basic functions of the system. The state's reduced funds are being used for the following required activities:

- Carrying out statewide rapid response activities;
- Submitting required reports
- Disseminating and making available the state's list of WIOA Eligible Training Providers;
- Providing technical assistance to workforce areas;
- Assisting in the establishment and operation of the state's One-Stop delivery system; and
- Operating fiscal and management accountability information systems.
- Carrying out monitoring and oversight of employment and training activities

The state's goal in seeking this waiver is to ensure that the state prioritize the use of the Governor's Reserve funds for the required WIOA activities deemed most essential to the basic functions of the state's workforce development system.

D. Individuals impacted by waiver: The ability to maintain, rather than reduce, the current levels of service is important and extremely valuable. This waiver will provide the state with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce development system and ensure current service levels are maintained.

E. Opportunity for public comment, including the local workforce investment board, business and labor and the process to monitor the implementation of the waiver: Opportunities for comment were provided to the state's Workforce Development Council, which approved the waiver request during its meeting in October 2013. Public comments were solicited with no comments received.

This request for waiver extension is posted at <http://www.labor.idaho.gov> for public review from June 17 – July 13, 2015. Any public comments received will be presented to the state Workforce Development Council for review on July 13, 2015. The meeting was announced and opened to the public.

The Idaho Department of Labor has and will continue to monitor the implementation and impact of the waiver and progress toward expected outcomes. State oversight and evaluation will make effective use of these means to identify obstacles and address them.

3) **WAIVER TO THE PROVISION OF ADDITIONAL ASSISTANCE TO AREAS WITH HIGH CONCENTRATION OF ELIGIBLE YOUTH**

- A. **Statutory Provisions to be Waived:** The state of Idaho respectfully requests an extension of its waiver of WIOA Section 129(b)(1)(F) [formerly WIA§129(b)(2)(C) and 20 CFR §665.200(h)], which require the provision of additional assistance to workforce areas that have high concentrations of eligible youth.
- B. **State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver.
- C. **Goals and Programmatic Outcomes to be achieved by the Waiver:** Congressional action has decreased the percentage of Governor’s Reserve funding for states from 15 percent down to 10 percent. Furthermore, Idaho’s base funding has decreased \$1.4 million from PY 2014 to PY 2015. The total amount available for the Governor’s Reserve in PY 2015 is \$864,727, down from \$879,192 in PY 2014. Consequently, funding has become severely limited while the costs of operating the state’s workforce development/One-Stop system and the other mandatory WIOA activities continue to rise, further restricting Idaho’s ability to effectively fund and carry-out all of the required statewide workforce investment activities.

Based on the formula allocation factor that allocates one-third of program funds on the basis of relative number of disadvantaged youth, this funding is already directed at workforce areas with high concentrations of eligible youth. The Workforce Development Council allotted \$2.8 million in WIOA youth funds to support services for eligible youth.

Providing additional assistance to areas with high concentrations of disadvantaged youth would further decrease an already severely impacted budget designated to support these activities. The state’s reduced funds are being used for the following required activities:

- Carrying out statewide rapid response activities;
- Submitting required reports;
- Disseminating and making available the state’s list of WIA Eligible Training Providers;
- Providing technical assistance to workforce areas;
- Assisting in the establishment and operation of the state’s One-Stop delivery system; and
- Operating fiscal and management accountability information systems.
- Carrying out monitoring and oversight of employment and training activities

The state’s goal in seeking this waiver extension is to ensure that the state prioritize the use of the Governor’s reserve funds for the required WIOA activities deemed most essential to the basic functions of the state’s workforce development system.

- D. **Individuals Impacted by the Waiver:** This waiver extension will provide the state with more flexibility in directing governor's reserve funds to those activities that best preserve basic functions of the statewide Workforce Development system.

The state does not believe that this waiver will comprehensively affect any services provided to WIOA participants throughout Idaho.

- E. **Opportunity for public comment, including the local workforce investment board, business and labor and the process to monitor the implementation of the waiver:** Opportunities for comment were provided to the state's Workforce Development Council, which approved the waiver request during its meeting in October 2013. Public comments were solicited with no comments received.

This request for waiver extension is posted at <http://www.labor.idaho.gov> for public review from June 17 – July 13, 2015. Any public comments received will be presented to the state Workforce Development Council for review on July 13, 2015. The meeting was announced and opened to the public.

The Idaho Department of Labor has and will continue to monitor the implementation and impact of the waiver and progress toward expected outcomes. State oversight and evaluation will make effective use of these means to identify obstacles and address them.

4) UTILIZATION OF COMMON MEASURES FOR REPORTING

A. Statutory regulation to be waived:

Idaho is requesting renewal of a waiver of WIOA Section 116(b)) [previously sections 136 of WIA and 666 of the final rules (approved originally for PY 2006)] to adopt and report on the six common measures in lieu of the existing 17 WIA performance measures or undefined new measures under WIOA for PY 2015. These will be implemented in conjunction with these same measures for the state's Wagner-Peyser, Jobs for Veterans Act and Trade Adjustment Act programs.

B. State or local statutory or regulatory barriers:

There are no state or local statutory or regulatory barriers to implementing the requested waiver.

C. Goals to be achieved by the waiver:

With the shift to the six standards under common measures, Idaho has achieved the following goals:

1. Elimination of duplicative administrative systems which have reduced paperwork and labor costs associated with redundant data collection. One example includes the elimination of the tracking and performance for:
 - i. the credential measure for Adults and Dislocated Worker clients
 - ii. the skill attainment measure for Younger Youth; and
 - iii. enhancement in the integration of the One-Stop System by use of a single measurement system to test performance.
2. Refocused youth investments through the creation of opportunities to better implement the state Workforce Development Council's vision for services to youth in the state, which includes a youth program focused on out-of-school populations with increased accountability for employment and/or increased secondary and postsecondary education outcomes.
3. Cost savings through streamlining. A simplified and streamlined performance measurement system proves more cost effective. With consistent direction, program resources have been directed to a single set of goals, rather than competing goals and costly processes.

By requesting to continue this waiver to remove Idaho from the original measures, the state avoids a duplication of efforts in reporting and is able to apply its limited resources where they are most needed.

D. Description of individuals impacted by the waiver:

The waiver has the potential to continue to positively impact all customers of the workforce development system in Idaho while providing better accountability, program management and performance.

E. Opportunity for public comment, including the local workforce investment board, business and labor and the process to monitor the implementation of the waiver:

Consistent with the general waiver request, the state is adhered to publication requirements to ensure the broadest participation possible through this process. The original waiver request was approved by the state's Workforce Development Council in May of 2006, with public comments solicited, however none was received.

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The Idaho Department of Labor has and will continue to monitor the implementation and impact of the waiver and progress toward expected outcomes. State oversight and evaluation will make effective use of these means to identify obstacles and address them.

New reporting and performance measures for WIOA are expected to be implemented by the U.S. Department of Labor for PY 2016. As PY 2015 has been deemed a "transition" year for WIOA implementation, the current WIA measures continue to be in effect, necessitating the requirement for the waiver for this year only.

5) WAIVING THE MAXIMUM EMPLOYER REIMBURSEMENT RATE FOR ON-THE-JOB TRAINING PARTICIPATION

A. State or local statutory or regulatory barriers:

The state requests a waiver extension of the requirement of the 75 percent employer reimbursement limit for on-the-job training, as identified at WIOA Section 134(c)(3)(H) [formerly WIA Section 101 (31)(B) and 20 CFR 663.710]. Idaho has established on-the-job training reimbursement costs based on a sliding reimbursement scale for employers. Under this waiver, the following OJT employer reimbursement amounts are permitted:

- a. up to 90% for employers with 50 or fewer employees;*
- b. up to 75% for employers with 50 - 250 employees;*
- c. for employers with 251 or more employees, reimbursement would remain at the 50% statutory level*

The sliding scale is based on the following factors:

- Demand for the occupation/industry for which OJT is being delivered;
- Percentage of successful completers hired by employer or employers;
- Size of the potential employer's workforce; and
- Demographic characteristics of the trainees, emphasizing the training of individuals with multiple barriers to employment.

No reimbursement greater than 50 percent remains in effect longer than three months. The waiver extension applies to Program Year 2015.

B. State or local statutory or regulatory barriers:

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

C. Goals to be achieved by the waiver:

This waiver extension provides the state of Idaho a greater flexibility in responding to local labor markets, maximizing the state's response in utilizing WIA funds to meet the needs of businesses.

The goal of this waiver extension is to continue enhancing the attractiveness of OJT, focusing on the benefits of increased reimbursement which outweigh the upfront "government paperwork" and allowing businesses to train job seekers who may have challenging barriers.

With this increase in the employer OJT reimbursement rate for businesses, Idaho's workforce system is able to more effectively market WIOA funded on-the-job training to support job creation in targeted employment sectors. This increased reimbursement rate creates the necessary flexibility for employers to reasonably benefit from their participation, meeting their needs, resulting in an increase in business participation in on-the-job training programs

and eventually improving the percentages of job seekers that receive training and training-related employment.

This waiver extension request has the following goals and programmatic outcomes:

- Allows the state to continue to improve services to customers who would benefit through an OJT;
- Improves the state's capacity to market demand-driven services and build relationships with businesses;
- Increases employment opportunities for harder to serve individuals persons, such as the long term unemployed, older workers, and those with limited or sporadic job histories, by allowing businesses to receive higher reimbursement for training and hiring this population;
- Increases opportunities for the One-Stop system to enhance relationships with businesses;
- Increases percentages of employers using OJT as a means of hiring and retaining a skilled workforce;
- Increases number and percentages of workers trained and hired through OJT programs;
- Elevates skill proficiencies for workers that will result in increased worker viability;
- Increases responsiveness to labor market issues in the private sector; and
- Increases flexibility at the local level to offer businesses training solutions tailored to respond to the specific needs of the business.

D. Description of individuals impacted by the waiver:

Employers benefit from this waiver extension by offering OJTs at a reduced cost. It allows businesses to rapidly adapt to changes in technology and the marketplace, making them capable of expanding and remaining competitive with affordable OJT options uniquely designed to achieve their specific developmental goals. Extending this waiver makes OJT a much more viable option, especially for small businesses looking to expand. The waiver targets all individuals (Dislocated Workers, Adults and Youth) who are eligible for services under WIOA and may benefit from the availability of OJT options.

This waiver request was developed as a means of making WIOA OJTs a more attractive employer option for obtaining employees trained to their specifications, also helping the employees' acquisition of transferrable skills to help them obtain employment later, should their current situation change. This effort also helps employers become more aware of the multitude of valuable resources offered by the state's One-Stop Centers.

E. Opportunity for public comment, including the local workforce investment board, business and labor and the process to monitor the implementation of the waiver:

The state's Workforce Development Council originally approved this waiver in Program Year 2009.

This request for waiver extension is posted at <http://www.labor.idaho.gov> for public review from June 17 – July 13, 2015. Any public comments received will be presented to the state Workforce Development Council for review on July 13, 2015. The meeting was announced and opened to the public.

6) INCLUDE YOUTH FOLLOW-UP, SUPPORT SERVICES, WORK EXPERIENCES AS FRAMEWORK SERVICES

A. Statutory regulation to be waived:

WIOA Section 123 [formerly WIA Section 123, Section 117(h)(4)(B)(i), and 20 C.F.R. Part 664.400] require that eligible providers of youth services be selected by awarding a grant or contract on a competitive basis for youth activities and services. The state of Idaho requests an extension of its waiver for this provision.

B. State or local statutory or regulatory barriers:

Idaho has implemented WIA under federal law without any additional legislative or local limitations or requirements. No additional barriers need to be addressed.

C. Goals to be achieved by the waiver:

The goals for the youth program under the waiver extension are greater effectiveness, efficiency, and continuity of services which results in higher retention rates. Extending this waiver integrates the coordination and provision of these youth activities with the elements of the Youth program design framework delivered through Idaho's One-Stop system and its twenty-five American Job (One-Stop) Centers, increasing customer choice and flexibility in the customer's service strategy with greater access to WIOA as well as partner program services accessed through the One-Stop system.

This extension continues to ensure an efficient, cost-effective delivery system developed at the American Job Centers by eliminating duplicate processes among training providers for work experiences in the same community. Since those providing framework services better understand where each youth is in relationship to his or her individual service strategy, during program participation, exit or the period for follow-up begins, the waiver extension also allows for a smoother flow of data, documenting:

- the delivery of youth services; and
- the outcomes that result from youth participation

A waiver extension allows for the coordination and provision of these youth activities with the elements of the Youth program design framework delivered through Idaho's One-Stop system and its twenty-five American Job Centers, all operated by the Idaho Department of Labor. Integration of these services increases customer choice and flexibility in the customer's service strategy with greater access to WIOA as well as partner program services accessed through the One-Stop system.

By eliminating duplicate processes among training providers for work experiences in the same community, the waiver extension ensures an efficient, cost-effective service delivery system. Development of worksites, building relationships with work site supervisors, training staff to monitor sites, and setting up agreements, and processes for payment of youth is very labor intensive. Through this system developed in the American Job Career Centers, it is

more cost effective and eliminates a duplication of effort when the same, or very similar, services are offered by two or more organizations in the same community.

Authorization for the extension of this waiver allows for a smoother flow of data that documents the delivery of youth services, as well as the outcomes that result from youth participation, since the organization that provides the framework services is in a better position to understand where each youth is in relationship to his or her individual service strategy, when a youth has exited a WIOA service or the WIOA program, and when the follow-up period begins.

The waiver extension also supports improved common measures reporting since the framework service provider is in the best position to know when a WIOA youth is also participating in another partner program, and therefore make a better administrative judgment as to when program completion will trigger the time period to determine a performance outcome under the new common measures.

The goals for the youth program under the waiver extension will be continued greater effectiveness, efficiency, and continuity of services. Local American Job Centers will provide greater continuity of services for youth, resulting in higher retention rates. The case management relationship with participants is based upon a thorough knowledge of the youth, their employment plan, expected outcomes, and barriers. When this relationship continues, and services are seamlessly accessed, the youth is more likely to follow through with the service strategy in a timely manner, take advantage of available services that lead to positive change, and achieve longer retention after program exit.

D. Description of individuals impacted by the waiver:

The individuals affected by this waiver extension will be older and younger youth customers, and organizations/agencies who might be interested in RFP opportunities to deliver youth services.

E. Opportunity for public comment, including the local workforce investment board, business and labor and the process to monitor the implementation of the waiver:

This waiver request was originally developed in response to the recommendations of Idaho's Workforce Development Council Youth subcommittee, working with a number of statewide youth providers to study and re-design WIA youth service delivery. On September 10, 2008, the Council reviewed and approved the subcommittee's re-design recommendations, which included this waiver request and public comments received in response to the press release.

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