

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



September 20, 2022

The Honorable Gregory Abbott
Governor of Texas
Office of the Governor
P.O. Box 12428
Austin, TX 78711-2428

Dear Governor Abbott:

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 requests were received June 28, 2022, as part of your recent WIOA State Plan modification. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that Texas will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Texas 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 20 CFR 681.550 to allow WIOA individual training accounts (ITAs) for in-school youth (ISY).

ETA Response: ETA approves for Program Year (PY) 2022 and PY 2023 the State's request to waive the requirement limiting ITAs to only out-of-school youth (OSY), ages 16–24. In addition to these OSY, the State may use ITAs for ISY, ages 16–21. ETA reviewed Texas' waiver request and plan and has determined that the requirements requested to be waived impede the ability of Texas to implement its plan to improve the workforce development system. Approval of this waiver should not impede the State's efforts to prioritize OSY, including outreach to the OSY population.

Requested Waiver: Waiver of the performance requirements at WIOA Section 116(c) to allow the State to modify the performance measures used to negotiate local workforce development board performance.

ETA Response: ETA approves through June 30, 2024, the State's request to modify the performance measures it uses to negotiate local program performance, in accordance with the special rules regarding designated areas and sanctions at WIOA Section 189(i)(1)-(2). ETA reviewed Texas's waiver request and plan and has determined that the requirements requested to be waived impede its ability to implement its plan to improve the workforce development system. The State must continue to track and report to ETA the WIOA primary indicators of performance and all other required reports.

The State must report its waiver outcomes and implementation of the approved waiver in the WIOA Annual Report. ETA will use this information to assess continued waiver approval and to identify promising practices that may be adopted more widely. ETA is available to provide technical assistance to you in support of your goals. If you have questions, feel free to contact my office at (202) 693-2772.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Parton', with a stylized flourish at the end.

Brent Parton
Acting Assistant Secretary

Enclosure

cc: Ed Serna, Executive Director, Texas Workforce Commission
Nicholas Lalpui, Regional Administrator, Employment and Training Administration
Felicia Blair, Federal Project Officer, Employment and Training Administration

Texas State Plan Waiver Requests Received June 28, 2022

WAIVER REQUEST 1

Youth Individual Training Accounts

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

TWC is seeking a waiver of the requirement under WIOA rule at 20 CFR §681.550, which limits the use of individual training accounts (ITAs) for youth participants to out-of-school youth (OSY) ages 16 to 24. TWC is seeking a waiver of this rule to extend the use of ITAs to in-school youth (ISY).

2. Actions the State has taken to remove state or local barriers

There are no state or local statutory or regulatory barriers that would impede implementation of the requested waiver.

3. State strategic goal(s) and Department of Labor priorities (e.g. expansion of apprenticeship, improved employer engagement, etc.) supported by the waiver

This request is for a statewide waiver to grant ISY ages 14–21 the same participant choice options that OSY have by allowing workforce area staff to use ITAs when appropriate to provide education and training to ISY.

On October 11, 2017, DOLETA granted TWC this same waiver request. Then, on September 20, 2018, DOLETA authorized TWC's subsequent request for general use of the waiver for WIOA PY'18–'19 (July 1, 2018, through June 30, 2020). DOLETA subsequently granted conditional approval on June 30, 2020, for WIOA PY'19–'20. Of the ISY receiving training services, 58 percent in PY '18 and 31 percent in PY '19 were funded through ITAs.

Boards are using or have used ITAs to fund training for ISYs enrolled in several programs, including:

- Welding and welding technology
- Nursing, including CNA, LVN, and RN
- Non-destructive testing specialist
- Registered apprenticeship programs including plumbing, pipefitting, and steamfitting
- Pre-apprenticeship programs including plumbing and electrical
- HVAC
- Business management

Boards view this waiver as an excellent opportunity to promote apprenticeship programs and utilization of pre-apprenticeship standards, with a focus on non-traditional industries and occupations. This waiver can also better assist ISY in Texas by providing training that will result in training certificates for better employment opportunities, which will allow youth participants to continue furthering their education and become self-sufficient.

Once a youth enrolls in a WIOA program as an ISY, that youth maintains ISY status until exiting the program. Excluding ISY from receiving ITAs undermines WIOA's goals to expand program options, increase program flexibility, and enhance customer choice. DOL states in the preamble to the WIOA Final Rule that ISY age 18 or older may access ITAs through the adult program. This is problematic in that it excludes ISY from entering ITA-funded educational and training programs that may be critical to ISY who drop out or are at risk of dropping out of school. Youth caught in this gap are susceptible to leaving the workforce program and not achieving the education, training, and certifications that develop the skills employers require and that lead to economic self-sufficiency.

Use of this flexibility is expected to be limited but nonetheless critically valuable. Successful program participation most often results in individuals who exit and no longer require TWC's services. Some participants continue to need services. These individuals are best served not by exit and re-enrollment in adult programs, but by continued service through the current program and with current staff who know the individual and their needs.

This waiver would permit Boards to provide certain ISY with ITAs. Such flexibility would allow workforce area staff the necessary flexibility to use youth formula funds, when appropriate, to meet the individual training and employment needs of certain at-risk ISY participants without delays that may be caused by untimely procurement processes to contract with training providers through standard youth channels. Without access to ITAs for these youth, Boards may need to contract with a school for delivery of one program to a single individual. Boards would be required to track performance for ISYs using ITAs.

Five of Texas' 28 Boards used this flexibility to fund ISY in training during 2019. More than 25 ISY participants benefitted from ITA-funded (dual-credit, apprenticeship, or stand-alone) training programs, leading to skilled trades, nursing, and other health care careers. Additionally, seven more Boards had plans to implement strategies using ITA-funded trainings in early 2020. These programs largely focus on dual-credit and CTE programs through secondary schools, as well as engagement with youth in need of financial assistance who do not qualify for other financial aid programs.

This waiver is intended to benefit ISY ages 14–21. While the waiver would mostly be used for ISY ages 16–21, some ISY ages 14–15 may benefit if they are participating in dual-credit education and training programs.

Approval of this waiver request would allow TWC to meet the following state goals:

- **Increase in-school youths' access to educational and training programs:** Allowing Boards flexibility to use ITAs to provide education and training for ISY would increase the workforce opportunities available to youth and help at-risk ISY to pursue education and training that would lead to meaningful work and economic self-sufficiency
- **Decrease delays in service delivery:** By providing the flexibility to use the programs that are made available through the statewide Eligible Training Provider List (ETPL) for all youth, Boards will be able to connect students to needed training. Delays caused by procurement may result in participants missing enrollment deadlines and being required to wait a full semester to begin training programs.

This waiver request aligns with DOL's policy priorities in that it:

- increases youths' access to and opportunities for the education, training, employment, and support services that they need;
- ensures that at-risk ISY do not fall into a regulatory gap that could prevent them from receiving the education and training necessary to securing meaningful work and economic self-sufficiency; and supports WIOA's goals to expand program options, increase program flexibility, and enhance customer choice.

4. Projected programmatic outcomes resulting from implementation of the waiver

Disrupting a youth participant's access to education and training services increases the probability that the youth will not complete the program. The approval of this waiver would allow Boards to provide seamless service continuity to ISY who drop out of school or are at risk of dropping out of school. Through this waiver, ISY who drop out of school would not need to exit the youth program and then wait 90 days to re-enroll as an OSY.

By eliminating the 90-day period between ISY exit and OSY or adult enrollment, TWC expects this waiver to increase the number of at-risk ISY who enroll in and complete education and training programs.

5. Individuals, groups, or populations benefiting from the waiver

ISY who drop out of school or are at risk of dropping out of school.

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information

Upon DOL's approval of this waiver request, TWC will communicate the waiver allowance to Boards and workforce system partner programs. TWC will monitor progress under this waiver by reviewing monthly performance reports submitted by the Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system. TWC will report waiver outcomes in the state's WIOA Annual Report. If the state requests renewal of this waiver, then TWC will provide the most recent outcomes data available.

7. Assurance of State's posting of the request for public comment and notification to affected Local Workforce Development Boards

TWC included this waiver request as part of the agency's 2020–2023 WIOA Combined State Plan two-year modification when the plan was presented for public comment from February 15, 2022, to March 17, 2022.

Before posting the plan for public comment, TWC notified all Boards and sought their input regarding this waiver request.

No public comments were received during the 30-day comment period.

WAIVER REQUEST 2

Local Performance Accountability Flexibility

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

TWC is seeking a limited waiver from WIOA §116(c) pertaining to local performance accountability measures for Subtitle B.

2. Actions the State has taken to remove state or local barriers

There are no state or local statutory or regulatory barriers that would impede implementation of the requested waiver.

3. State strategic goal(s) and Department of Labor priorities (e.g. expansion of apprenticeship, improved employer engagement, etc.) supported by the waiver

TWC requests a waiver from WIOA §116(c) to allow greater flexibility when contracting performance measures with the Boards to allow TWC to promote further integration of services within Workforce Solutions Offices.

Specifically, TWC is requesting the flexibility to modify Board performance measures. Under this proposed waiver, TWC will continue to track and report the core indicators of performance at both state and Board levels as required by WIOA §116; however, the waiver will give TWC the continued flexibility to select among the statutory Title I measures and develop other measures to use in its Board contracts. TWC is interested in developing Board-contracted measures that support integration and minimize local administrative burden and that may be leading indicators for the statutorily prescribed measures to make them more useful to the Boards.

On September 20, 2018, and again on June 30, 2020, DOLETA approved this same waiver for TWC. Prior to WIOA, under the Workforce Investment Act (WIA), TWC had a similar waiver that provided this flexibility in selecting and developing local performance accountability measures. This waiver was in place for more than 10 years and allowed TWC to use a set of more integrated outcome measures that were aligned with the old WIA common measures but that were applicable to all participants, regardless of program. Through the Local Accountability Flexibility Waiver, TWC improved program integration and streamlined the agency's performance accountability model.

However, WIOA implementation resulted in the loss of that historic waiver and reintroduced a focus on "siloes" program outcomes rather than purely customer-focused considerations into the Texas workforce system. WIOA's requirement to contract separate indicators of performance by program to the Boards unnecessarily siloes service delivery and may rebuild a barrier to integration that TWC was able to mostly remove under the prior waiver.

While this proposed waiver would provide TWC flexibility in selecting Board performance measures, WIOA §116(g) will continue to provide sanctions for a Board's failure to meet any of the WIOA performance measures. Although the approval of this waiver would provide TWC with additional flexibility in determining which measures to formally contract to the Boards,

accountability will not be impacted, as TWC would still apply the sanction provisions of WIOA §116(g) to those measures that are formally contracted.

Approval of this waiver request would allow TWC to meet the following state goals:

- **Increase integration of services to customers:** Boards are responsible for implementing many federal and state workforce development programs, allowing them the opportunity to integrate service delivery; however, programs are partially driven by how performance is measured. Programs with different measures of success require different means of management. Rather than focusing on employers' needs and finding job seekers to fill those needs, staff must focus on the specific outcome expectations of the program that funds the services that the customer receives.
- **Better alignment in performance accountability at the state, local, and service provider levels:** Because Boards are responsible for numerous workforce development programs, coenrollment of customers in multiple programs is becoming increasingly commonplace. Therefore, TWC believes that the most effective way to evaluate Boards and to promote accountability is to use integrated performance measures.
- **Greater flexibility to Boards in designing and implementing one-stop services:** By eliminating program-specific measures and applying integrated performance measures across all programs, TWC will promote service-delivery designs that are based on the needs of its customers, including employers, rather than siloed program requirements.

This waiver request aligns with DOL's policy priorities in that it:

- supports employer engagement by promoting service-delivery designs that are based on employer needs;
- improves job and career results by identifying employers' needs and connecting employers with job seekers to meet those needs;
- promotes more integrated case management across multiple programs, as WIOA envisions; and
- maintains and enhances state and local performance accountability.

4. Projected programmatic outcomes resulting from implementation of the waiver

The approval of this waiver would result in the continued administrative relief that would remove barriers to coenrollment and promote more integrated case management across multiple programs, as WIOA envisions. TWC strongly supports the concept that programs with similar outcome objectives should be measured in a similar fashion.

Approval of this waiver would continue to allow the streamlining of administrative processes, resulting in maximized resources focused on employment outcomes.

5. Individuals, groups, or populations benefiting from the waiver

- Employers
- Job seekers
- Incumbent workers
- Workforce area staff

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information

Upon DOL's approval of this waiver request, TWC will communicate the waiver allowance to Boards and workforce system partner programs. TWC will monitor progress under this waiver by reviewing monthly performance reports submitted by the Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system. TWC will report waiver outcomes in the state's WIOA Annual Report. If the state requests renewal of this waiver, then TWC will provide the most recent outcomes data available.

7. Assurance of State's posting of the request for public comment and notification to affected Local Workforce Development Boards

TWC included this waiver request as part of the agency's 2020–2023 WIOA Combined State Plan two-year modification when the plan was presented for public comment from February 15, 2022, to March 17, 2022.

Before posting the plan for public comment, TWC notified all Boards and sought their input regarding this waiver request.

No public comments were received during the 30-day comment period.

WAIVER REQUEST 3

Reallocation Waiver

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

TWC is seeking a waiver from the provisions of WIOA §128(c)(3) and §133(c), regarding reallocation among local areas. This waiver would provide flexibility to TWC in redistributing funds among workforce areas.

2. Actions the State has taken to remove state or local barriers

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

Since DOL first approved this waiver request on November 17, 2010, under WIA and then under WIOA in 2016, on September 20, 2018, and again on June 30, 2020, this waiver has provided TWC the flexibility to redistribute recaptured funds to workforce areas where the greatest potential may be realized, thus ensuring more effective and more efficient use of federal funds. TWC will continue to apply this strategy and monitor outcome success.

In June 2006, TWC adopted rules to integrate the agency's deobligation and reallocation policies for all Board-administered funds, thus establishing consistent procedures to apply to all workforce funds administered by the Boards, in support of a fully integrated system.

- Deobligations must pass a multilevel review process:
 - Expenditures are reviewed monthly (performance is also considered).
 - If expenditures are trending low, staff provides technical assistance to the Boards.
 - Boards are given an opportunity to get expenditures back on track.
 - When it becomes clear that Boards will not be able to meet the expenditure benchmark, discussion regarding the possible deobligation occurs and we receive concurrence from the Board executive directors that they will not be able to use the funds.
 - The Commission takes final action in a public meeting.
- Reallocations also must pass a multilevel review process:
 - Expenditures are reviewed monthly (performance is also considered).
 - If expenditures are trending high, staff provides technical assistance to the Boards:
 - Boards are given an opportunity to explain why expenditures appear to be high.
 - Boards may identify that the numbers of participants to be served is higher than anticipated and additional funds are needed.
 - Staff verifies through the performance reports that the number of participants is consistent with the Board's explanation of need.
 - The Commission takes final action in a public meeting.

This process has worked well for several years with all Board-administered funds. This same process for reallocation would be used for WIOA funds upon approval of the waiver.

3. State strategic goal(s) and Department of Labor priorities (e.g. expansion of apprenticeship, improved employer engagement, etc.) supported by the waiver

TWC requests to continue this waiver of the WIOA statutes relating to the redistribution of recaptured local funds and proposes to base the redistribution of WIOA funds on TWC's allocation rules (40 TAC §§800.51-800.75). TWC ensures that financial reporting will be consistent with current DOLETA requirements and that federal funds will be effectively managed for maximum service provision and program performance.

Approval of this waiver request would allow TWC to continue meeting the following state goals:

- **Redistribution of recaptured funds to workforce areas based on factors established by TWC to ensure that funds are redistributed to workforce areas with the greatest need:** TWC will determine the amounts to be redistributed to workforce areas based on factors such as:
 - requested amount;
 - demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants;
 - demonstrated capacity to expend the formula funds;
 - a Board's established plan for working with at least one of the governor's industry clusters, as specified in the Board's plan; and
 - performance in the current and prior program years.
- **Facilitation of maximum expenditure of recaptured federal funds:** TWC seeks to redistribute workforce funds to workforce areas that have achieved not only targeted expenditure levels but also established performance targets. Redistributing funds based solely on whether a workforce area achieves its expenditure target does not address performance issues, such as whether the workforce area met employers' needs for a highly skilled and job-ready workforce.
- **Improvement of administrative efficiencies:** Approval of this waiver will serve to minimize administrative processes and costs of contracting by using similar redistribution procedures that support workforce system integration.

4. Projected programmatic outcomes resulting from implementation of the waiver

The statutory reallocation requirements can be fulfilled; however, the amount of funds available for reallocation may be so small that it is cost prohibitive. By using TWC's allocation rules for the redistribution of funds, TWC can ensure that federal funds will be more effectively and efficiently managed for maximum service provision and program performance. Approval of this waiver may not result in significantly higher performance outcomes, but it will provide the opportunity for recaptured funds to be redistributed to workforce areas where the greatest potential impact may be realized. This waiver will streamline administrative practices, allowing for greater efficiency in meeting the workforce development needs of employers and job seekers. Furthermore, it will enhance the quality of services in those workforce areas that have demonstrated consistent performance outcomes. Approval of this waiver will result in a reduction of unnecessary administrative processes.

5. Individuals, groups, or populations benefiting from the waiver

Workforce areas that provide quality services will have access to additional resources to meet the employers' needs, job seekers, and incumbent workers. Additionally, the waiver will allow TWC to continue to promote the cost benefits of improved administrative efficiencies, encouraging the increased leveraging of resources within the workforce areas. As a result, TWC will increase services such as enhanced education, employment, and training opportunities for disadvantaged populations and individuals with multiple barriers to employment.

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information

Upon DOL's approval of this waiver request, TWC will communicate the waiver allowance to Boards and workforce system partner programs. TWC will monitor progress under this waiver by reviewing monthly performance reports submitted by the Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system. TWC will report waiver outcomes in the state's WIOA Annual Report. If the state requests renewal of this waiver, then TWC will provide the most recent outcomes data available.

7. Assurance of State's posting of the request for public comment and notification to affected Local Workforce Development Boards

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No public comments were received during the 30-day comment period.

E. WAIVER REQUESTS (OPTIONAL)

States wanting to request waivers as part of their title I-B Operational Plan must include a waiver plan that includes the following information for each waiver requested:

1. IDENTIFIES THE STATUTORY OR REGULATORY REQUIREMENTS FOR WHICH A WAIVER IS REQUESTED AND THE GOALS THAT THE STATE OR LOCAL AREA, AS APPROPRIATE, INTENDS TO ACHIEVE AS A RESULT OF THE WAIVER AND HOW THOSE GOALS RELATE TO THE UNIFIED OR COMBINED STATE PLAN;
2. DESCRIBES THE ACTIONS THAT THE STATE OR LOCAL AREA, AS APPROPRIATE, HAS UNDERTAKEN TO REMOVE STATE OR LOCAL STATUTORY OR REGULATORY BARRIERS;
3. DESCRIBES THE GOALS OF THE WAIVER AND THE EXPECTED PROGRAMMATIC OUTCOMES IF THE REQUEST IS GRANTED;
4. DESCRIBES HOW THE WAIVER WILL ALIGN WITH THE DEPARTMENT'S POLICY PRIORITIES, SUCH AS:
 - A. SUPPORTING EMPLOYER ENGAGEMENT;
 - B. CONNECTING EDUCATION AND TRAINING STRATEGIES;
 - C. SUPPORTING WORK-BASED LEARNING;
 - D. IMPROVING JOB AND CAREER RESULTS, AND
 - E. OTHER GUIDANCE ISSUED BY THE DEPARTMENT.
5. DESCRIBES THE INDIVIDUALS AFFECTED BY THE WAIVER, INCLUDING HOW THE WAIVER WILL IMPACT SERVICES FOR DISADVANTAGED POPULATIONS OR INDIVIDUALS WITH MULTIPLE BARRIERS TO EMPLOYMENT; AND
 6. DESCRIBES THE PROCESSES USED TO:
 - A. MONITOR THE PROGRESS IN IMPLEMENTING THE WAIVER;
 - B. PROVIDE NOTICE TO ANY LOCAL BOARD AFFECTED BY THE WAIVER;
 - C. PROVIDE ANY LOCAL BOARD AFFECTED BY THE WAIVER AN OPPORTUNITY TO COMMENT ON THE REQUEST;
 - D. ENSURE MEANINGFUL PUBLIC COMMENT, INCLUDING COMMENT BY BUSINESS AND ORGANIZED LABOR, ON THE WAIVER.
 - E. COLLECT AND REPORT INFORMATION ABOUT WAIVER OUTCOMES IN THE STATE'S WIOA ANNUAL REPORT.
 7. THE SECRETARY MAY REQUIRE THAT STATES PROVIDE THE MOST RECENT DATA AVAILABLE ABOUT THE OUTCOMES OF THE EXISTING WAIVER IN CASES WHERE THE STATE SEEKS RENEWAL OF A PREVIOUSLY APPROVED WAIVER.

WAIVER REQUEST 1

Youth Individual Training Accounts

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Five of Texas' 28 Boards used this flexibility to fund ISY in training during 2019. More than 25 ISY participants benefitted from ITA-funded (dual-credit, apprenticeship, or stand-alone) training programs, leading to skilled trades, nursing, and other health care careers. Additionally, seven more Boards had plans to implement strategies using ITA-funded trainings in early 2020. These programs largely focus on dual-credit and CTE programs through secondary schools, as well as engagement with youth in need of financial assistance who do not qualify for other financial aid programs.

This waiver is intended to benefit ISY ages 14–21. While the waiver would mostly be used for ISY ages 16–21, some ISY ages 14–15 may benefit if they are participating in dual-credit education and training programs.

Approval of this waiver request would allow TWC to meet the following state goals:

- **Increase in-school youths' access to educational and training programs:** Allowing Boards flexibility to use ITAs to provide education and training for ISY would increase the workforce opportunities available to youth and help at-risk ISY to pursue education and training that would lead to meaningful work and economic self-sufficiency
- **Decrease delays in service delivery:** By providing the flexibility to use the programs that are made available through the statewide Eligible Training Provider List (ETPL) for all youth, Boards will be able to connect students to needed training. Delays caused by procurement may result in participants missing enrollment deadlines and being required to wait a full semester to begin training programs.

This waiver request aligns with DOL's policy priorities in that it:

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Disrupting a youth participant's access to education and training services increases the probability that the youth will not complete the program. The approval of this waiver would allow Boards to provide seamless service continuity to ISY who drop out of school or are at risk

of dropping out of school. Through this waiver, ISY who drop out of school would not need to exit the youth program and then wait 90 days to re-enroll as an OSY.

By eliminating the 90-day period between ISY exit and OSY or adult enrollment, TWC expects this waiver to increase the number of at-risk ISY who enroll in and complete education and training programs.

[TWC projects more than 25 percent of Texas' ISY enrolled in post-secondary training programs will utilize ITAs to fund training in PY'22 through '23.](#)

5. Individuals, groups, or populations benefiting from the waiver

ISY who drop out of school or are at risk of dropping out of school.

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information

Upon DOL's approval of this waiver request, TWC will communicate the waiver allowance to Boards and workforce system partner programs. TWC will monitor progress under this waiver by reviewing monthly performance reports submitted by the Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system. TWC will report waiver outcomes in the state's WIOA Annual Report. If the state requests renewal of this waiver, then TWC will provide the most recent outcomes data available.

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Local Performance Accountability Flexibility

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TWC requests a waiver from WIOA §116(c) to allow greater flexibility when contracting performance measures with the Boards to allow TWC to promote further integration of services within Workforce Solutions Offices.

Specifically, TWC is requesting the flexibility to modify Board performance measures. Under this proposed waiver, TWC will continue to track and report the core indicators of performance at both state and Board levels as required by WIOA §116; however, the waiver will give TWC the continued flexibility to select among the statutory Title I measures and develop other measures to use in its Board contracts. TWC is interested in developing Board-contracted measures that support integration and minimize local administrative burden and that may be leading indicators for the statutorily prescribed measures to make them more useful to the Boards.

On September 20, 2018, and again on June 30, 2020, DOLETA approved this same waiver for TWC. Prior to WIOA, under the Workforce Investment Act (WIA), TWC had a similar waiver that provided this flexibility in selecting and developing local performance accountability measures. This waiver was in place for more than 10 years and allowed TWC to use a set of more integrated outcome measures that were aligned with the old WIA common measures but that were applicable to all participants, regardless of program. Through the Local Accountability Flexibility Waiver, TWC improved program integration and streamlined the agency's performance accountability model.

However, WIOA implementation resulted in the loss of that historic waiver and reintroduced a focus on "siloesd" program outcomes rather than purely customer-focused considerations into the Texas workforce system. WIOA's requirement to contract separate indicators of performance by program to the Boards unnecessarily siloes service delivery and may rebuild a barrier to integration that TWC was able to mostly remove under the prior waiver.

While this proposed waiver would provide TWC flexibility in selecting Board performance measures, WIOA §116(g) will continue to provide sanctions for a Board's failure to meet any of the WIOA performance measures. Although the approval of this waiver would provide TWC with additional flexibility in determining which measures to formally contract to the Boards, accountability will not be impacted, as TWC would still apply the sanction provisions of WIOA §116(g) to those measures that are formally contracted.

Approval of this waiver request would allow TWC to meet the following state goals:

- **Increase integration of services to customers:** Boards are responsible for implementing many federal and state workforce development programs, allowing them the opportunity to integrate service delivery; however, programs are partially driven by how performance is measured. Programs with different measures of success require different means of management. Rather than focusing on employers' needs and finding job seekers to fill those needs, staff must focus on the specific outcome expectations of the program that funds the services that the customer receives.
- **Better alignment in performance accountability at the state, local, and service provider levels:** Because Boards are responsible for numerous workforce development programs, coenrollment of customers in multiple programs is becoming increasingly commonplace. Therefore, TWC believes that the most effective way to evaluate Boards and to promote accountability is to use integrated performance measures.
- **Greater flexibility to Boards in designing and implementing one-stop services:** By eliminating program-specific measures and applying integrated performance measures

across all programs, TWC will promote service-delivery designs that are based on the needs of its customers, including employers, rather than siloed program requirements.

This waiver request aligns with DOL's policy priorities in that it:

- supports employer engagement by promoting service-delivery designs that are based on employer needs;
- improves job and career results by identifying employers' needs and connecting employers with job seekers to meet those needs;
- promotes more integrated case management across multiple programs, as WIOA envisions; and
- maintains and enhances state and local performance accountability.

4. Projected programmatic outcomes resulting from implementation of the waiver

The approval of this waiver would result in the continued administrative relief that would remove barriers to coenrollment and promote more integrated case management across multiple programs, as WIOA envisions. TWC strongly supports the concept that programs with similar outcome objectives should be measured in a similar fashion.

Approval of this waiver would continue to allow the streamlining of administrative processes, resulting in maximized resources focused on employment outcomes.

5. Individuals, groups, or populations benefiting from the waiver

- Employers
- Job seekers
- Incumbent workers
- Workforce area staff

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information

Upon DOL's approval of this waiver request, TWC will communicate the waiver allowance to Boards and workforce system partner programs. TWC will monitor progress under this waiver by reviewing monthly performance reports submitted by the Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system. TWC will report waiver outcomes in the state's WIOA Annual Report. If the state requests renewal of this waiver, then TWC will provide the most recent outcomes data available.

7. Assurance of State's posting of the request for public comment and notification to affected Local Workforce Development Boards

TWC included this waiver request as part of the agency's 2020–2023 WIOA Combined State Plan two-year modification when the plan was presented for public comment from February 15, 2022, to March 17, 2022.

Before posting the plan for public comment, TWC notified all Boards and sought their input regarding this waiver request.

No public comments were received during the 30-day comment period.

WAIVER REQUEST 3

Reallocation Waiver

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

TWC is seeking a waiver from the provisions of WIOA §128(c)(3) and §133(c), regarding reallocation among local areas. This waiver would provide flexibility to TWC in redistributing funds among workforce areas.

2. Actions the State has taken to remove state or local barriers

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

Since DOL first approved this waiver request on November 17, 2010, under WIA and then under WIOA in 2016, on September 20, 2018, and again on June 30, 2020, this waiver has provided TWC the flexibility to redistribute recaptured funds to workforce areas where the greatest potential may be realized, thus ensuring more effective and more efficient use of federal funds. TWC will continue to apply this strategy and monitor outcome success.

In June 2006, TWC adopted rules to integrate the agency's deobligation and reallocation policies for all Board-administered funds, thus establishing consistent procedures to apply to all workforce funds administered by the Boards, in support of a fully integrated system.

- Deobligations must pass a multilevel review process:
 - Expenditures are reviewed monthly (performance is also considered).
 - If expenditures are trending low, staff provides technical assistance to the Boards.
 - Boards are given an opportunity to get expenditures back on track.
 - When it becomes clear that Boards will not be able to meet the expenditure benchmark, discussion regarding the possible deobligation occurs and we receive concurrence from the Board executive directors that they will not be able to use the funds.
 - The Commission takes final action in a public meeting.
- Reallocations also must pass a multilevel review process:
 - Expenditures are reviewed monthly (performance is also considered).
 - If expenditures are trending high, staff provides technical assistance to the Boards:
 - Boards are given an opportunity to explain why expenditures appear to be high.
 - Boards may identify that the numbers of participants to be served is higher than anticipated and additional funds are needed.

- Staff verifies through the performance reports that the number of participants is consistent with the Board’s explanation of need.
- The Commission takes final action in a public meeting.

This process has worked well for several years with all Board-administered funds. This same process for reallocation would be used for WIOA funds upon approval of the waiver.

3. State strategic goal(s) and Department of Labor priorities (e.g. expansion of apprenticeship, improved employer engagement, etc.) supported by the waiver

TWC requests to continue this waiver of the WIOA statutes relating to the redistribution of recaptured local funds and proposes to base the redistribution of WIOA funds on TWC’s allocation rules (40 TAC §§800.51-800.75). TWC ensures that financial reporting will be consistent with current DOLETA requirements and that federal funds will be effectively managed for maximum service provision and program performance.

Approval of this waiver request would allow TWC to continue meeting the following state goals:

- **Redistribution of recaptured funds to workforce areas based on factors established by TWC to ensure that funds are redistributed to workforce areas with the greatest need:** TWC will determine the amounts to be redistributed to workforce areas based on factors such as:
 - requested amount;
 - demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants;
 - demonstrated capacity to expend the formula funds;
 - a Board’s established plan for working with at least one of the governor’s industry clusters, as specified in the Board’s plan; and
 - performance in the current and prior program years.
- **Facilitation of maximum expenditure of recaptured federal funds:** TWC seeks to redistribute workforce funds to workforce areas that have achieved not only targeted expenditure levels but also established performance targets. Redistributing funds based solely on whether a workforce area achieves its expenditure target does not address performance issues, such as whether the workforce area met employers’ needs for a highly skilled and job-ready workforce.
- **Improvement of administrative efficiencies:** Approval of this waiver will serve to minimize administrative processes and costs of contracting by using similar redistribution procedures that support workforce system integration.

4. Projected programmatic outcomes resulting from implementation of the waiver

The statutory reallocation requirements can be fulfilled; however, the amount of funds available for reallocation may be so small that it is cost prohibitive. By using TWC’s allocation rules for the redistribution of funds, TWC can ensure that federal funds will be more effectively and efficiently managed for maximum service provision and program performance. Approval of this waiver may not result in significantly higher performance outcomes, but it will provide the opportunity for recaptured funds to be redistributed to workforce areas where the greatest

potential impact may be realized. This waiver will streamline administrative practices, allowing for greater efficiency in meeting the workforce development needs of employers and job seekers. Furthermore, it will enhance the quality of services in those workforce areas that have demonstrated consistent performance outcomes. Approval of this waiver will result in a reduction of unnecessary administrative processes.

5. Individuals, groups, or populations benefiting from the waiver

Workforce areas that provide quality services will have access to additional resources to meet the employers' needs, job seekers, and incumbent workers. Additionally, the waiver will allow TWC to continue to promote the cost benefits of improved administrative efficiencies, encouraging the increased leveraging of resources within the workforce areas. As a result, TWC will increase services such as enhanced education, employment, and training opportunities for disadvantaged populations and individuals with multiple barriers to employment.

6. How the State plans to monitor waiver implementation, including collection of waiver outcome information

Upon DOL's approval of this waiver request, TWC will communicate the waiver allowance to Boards and workforce system partner programs. TWC will monitor progress under this waiver by reviewing monthly performance reports submitted by the Boards, through regularly scheduled conference calls with Board executive directors, and through its monitoring and performance accountability system. TWC will report waiver outcomes in the state's WIOA Annual Report. If the state requests renewal of this waiver, then TWC will provide the most recent outcomes data available.

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