



June 29, 2020

The Honorable Wanda Vázquez Garced  
Governor of Puerto Rico  
P.O. Box 9020082  
San Juan, PR 00902

Dear Governor Garced:

Thank you for your waiver requests 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. The waiver requests were received April 1, 2020, as part of your recent WIOA State Plan submission. This letter provides the Employment and Training Administration's (ETA) official response to your request and memorializes that Puerto Rico will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Puerto Rico 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–Peyster Act in WIOA Section 189(i).

Requested Waiver: Waiver of the limitation on the use of funds for capitalization of business, under WIOA Section 181(e), to allow Governor's Reserve funds and National Dislocated Worker Grant (DWG) funds to be used to capitalize small business that were affected by emergencies, up to \$5,000 per affected business.

ETA Response: Puerto Rico requests the ability to provide up to \$5,000 for business capitalization to individuals who have completed entrepreneurial or micro-enterprise training. ETA grants approval to apply this waiver to the Irma/Maria DWG, DW-31161-17-60-A-72, through a grant modification. This waiver permits the use of DWG funds of up to \$5,000 to capitalize a small business in concert with entrepreneurial or small business training for the individual benefiting from the capitalization, within certain parameters. ETA also approves the use of this waiver for statewide Governor's reserve funds. The following conditions apply to the use of funds for small business capitalization under this waiver:

1. Grant assistance must be limited to no more than \$5,000 per individual/business.
2. Entrepreneurial and micro-enterprise training is required for the individual benefiting from the capitalization.
3. Use of funds to cover salaries is not permitted.
4. Use of funds for business capitalization revolving loans is not permitted.

5. The use of the DWG for business capitalization is limited to no more than 25 percent of the DWG funds provided to the Commonwealth.
6. The Commonwealth is required to obtain and document the receipt of legitimate estimates for expenses prior to disbursing funds. The Commonwealth also must require receipts after the item/service is provided, to ensure that the actual cost of the good/service is not less than the estimate.
7. The Commonwealth must have sufficient financial systems in place to track funds dispersed under this business capitalization waiver, as well as the ability to recapture funds that were not used by eligible businesses in instances where the final receipt is less than the original estimate.
8. The policy developed by the Commonwealth to implement this waiver must be consistent with the conditions outlined in this letter.
9. Applications for business capitalization must be approved by the Commonwealth in accordance with criteria developed by the Commonwealth that are consistent with the conditions contained in this letter. The applications must be reviewed by a committee prior to approval to ensure rigor and consistency in the handling of business capitalization requests.
10. The Commonwealth is required to monitor local implementation of this waiver.

In addition, other sources of federal law and regulations place restrictions on the use of federal funds, including WIOA funds, for activities related to business capitalization, such as appropriations law; Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance); and the Federal Acquisitions Regulations (FAR) set forth at 48 CFR part 31, Contract Cost Principles and Procedures. As with all WIOA waivers, ETA does not have the authority to waive provisions in appropriations laws, Cost Principles, or the FAR.

Requested Waiver: The Commonwealth is requesting a waiver of WIOA Section 134(c)(3)(H)(i) and 20 CFR 680.720(b) in order to increase on-the-job training (OJT) employer reimbursement up to 90 percent for businesses with 50 or fewer employees.

ETA Response: ETA conditionally approves the Commonwealth's waiver request through June 30, 2022, for the WIOA Title I Adult, Dislocated Worker, and Youth formula funds. Prior to implementation, the Commonwealth must update its waiver request to include projected quantifiable outcomes resulting from this waiver as well as information regarding results attained during its previous implementation of this waiver. ETA reviewed the Commonwealth's waiver request and plan and has determined that the requirements requested to be waived impede the ability of Puerto Rico to implement its plan to improve the workforce development system. Existing statutory authority permits the Commonwealth and its local workforce areas to increase the reimbursement rate for OJT contracts up to 75 percent. The Commonwealth may also reimburse up to 90 percent for OJT for businesses with 50 or fewer employees. ETA expects the utilization of OJT to increase as a result of this waiver.

Requested Waiver: Waiver of WIOA Section 134(d)(5) and 20 CFR 680.195 to allow up to 50 percent of WIOA Title I Adult and Dislocated Worker local formula funds to be used for the provision of transitional jobs.

ETA Response: ETA cannot approve the Commonwealth's waiver request at this time due to inadequate information provided in the request. ETA may provide approval upon receipt of more detailed information regarding the rationale for the waiver, projected quantifiable outcomes of its implementation, and a description of results from the Commonwealth's prior utilization of this waiver.

Requested Waiver: Waiver associated with the requirement at WIOA Section 129(a)(4)(A) and 20 CFR 681.410 that the Commonwealth and local areas expend 75 percent of Governor's reserve youth funds and local formula youth funds on out-of-school youth (OSY).

ETA Response: ETA conditionally approves for PYs 2019 and 2020, which includes the entire time period for which states are authorized to spend PY 19 and 20 funds, the Commonwealth's request to waive the requirement that it expend 75 percent of Governor's reserve youth funds on OSY. Puerto Rico may lower the expenditure requirement of Governor's reserve funds to 50 percent for OSY. Prior to implementation of this waiver, the Commonwealth must update its waiver request to include projected quantifiable outcomes (i.e., for the core indicators under WIOA or short-term state-defined indicators) for WIOA youth served under the waiver.

In addition, ETA conditionally approves for PYs 2019 and 2020, which includes the entire time period for which states are authorized to spend PY 19 and 20 funds, the Commonwealth's request to waive the requirement that local areas expend 75 percent of local youth formula funds on OSY. Puerto Rico may lower the local youth funds expenditure requirement to 50 percent for OSY. Prior to implementation of this waiver, the Commonwealth must update its waiver request to include projected quantifiable outcomes (i.e., for the core indicators under WIOA or short-term state-defined indicators) for WIOA youth served under the waiver. As a result of this waiver, ETA expects that the number of in-school youth served will increase and performance accountability outcomes for overall WIOA Youth (including both in- and out-of-school youth) will remain steady or increase for the majority of the WIOA Youth performance indicators.

Requested Waiver: The Commonwealth is requesting a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth at WIOA Section 134(a)(2)(B)(vi) and WIOA Section 129(b)(1)(A).

ETA Response: ETA cannot approve the Commonwealth's waiver request at this time due to inadequate information provided in the request for a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth. The Commonwealth is requesting this waiver due to lack of capacity to conduct evaluations as it continues disaster recovery efforts. ETA may provide approval upon receipt of more detailed information regarding Puerto Rico's plan to improve its capability to conduct evaluations by the beginning of PY 2021. Evaluations provide crucial information regarding the effectiveness of

workforce services, and ETA will only consider granting this waiver a single year while Puerto Rico continues to put in place systems that would support evaluation activities. ETA can provide technical assistance regarding lower cost evaluation options and other acceptable evaluation activities.

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) 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 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 Puerto Rico to implement its plan to improve the workforce development system. Therefore, ETA approves this waiver through June 30, 2022 under the following conditions:

- The Governor, or any federal agency, declares an emergency in the local area (or areas) where the Commonwealth 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 Commonwealth collects and tracks use of funds under this waiver and complies with all WIOA-required performance and fiscal reporting.

Additionally, all waivers approved above are subject to the following condition:

- Puerto Rico must address all of the fiscal and programmatic deficiencies and issues identified by ETA in the June 2020 issued Puerto Rico open findings report. This includes Puerto Rico completing all required corrective actions listed in the findings report, within the time frames provided by ETA. Additionally Puerto Rico must attend, at minimum, monthly grant management meetings with ETA, where Puerto Rico will report on and present evidence of all activities related to resolving open findings with the goal of safeguarding ETA investments. Finally, Puerto Rico must respond, within two business days, to all ETA requests for information related to financial and program findings and issues.

The Commonwealth must report its waiver outcomes and implementation of the approved waivers 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. 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, feel free to contact my office at (202) 693-2772.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Pallasch". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Pallasch".

John Pallasch

cc: Manuel Laboy Rivera, Secretary, Department of Economic Development and Commerce  
Natasha Vazqueztell-Cordero, Director, Department of Economic Development and  
Commerce  
Carlos Rivera Santiago, Secretary, Department of Labor and Human Resources  
Leo Miller, Boston/Philadelphia Regional Administrator, ETA  
Carmen Rodriguez, Federal Project Officer, ETA