

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



June 21, 2024

The Honorable J.B. Pritzker
Office of the Governor of Illinois
555 W. Monroe St., 16th Floor.
Chicago, IL 60661

Dear Governor Pritzker:

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 on March 27, 2024. This letter provides the Employment and Training Administration's (ETA) official response to your request. WIOA Section 189 (i)(3)(A)(I) establishes the limitations of the Secretary's general waiver authority for WIOA Title I, subtitles A, B, and E and the Wagner Peyser Act sections 8-10.

Requested Waiver: Waiver of WIOA Section 116(b)(2)(A) and 20 CFR 677.155 to exclude non-citizens with work authorization served only through Governor's Reserve funds or Statewide Rapid Response funds from the numerator and denominator of the WIOA performance calculations.

ETA Response: Illinois is requesting a waiver for the performance reporting requirements under WIOA Section 116(b)(2)(A) and 20 CFR 677.155 for non-citizens with work authorization served solely with WIOA statewide activities or statewide rapid response funds. Illinois requests to remove any non-citizen with work authorization receiving services solely from statewide activities or rapid response funds from the numerator and denominator calculation for performance measures.

WIOA Section 189(i)(3)(A)(i) establishes the limitations of the Secretary's waiver authority for WIOA Title I, subtitles A, B, and E and Wagner-Peyser Act sections 8-10. WIOA provisions that are considered "basic purposes" of administering WIOA may not be waived. In general, the WIOA performance reporting system constitutes a "basic purpose" of WIOA. Activities that provide a direct service must be measured and reported. Therefore, ETA cannot approve this waiver as requested. However, Illinois can use Governor's Reserve funds for statewide activities, including developing programs that do not directly serve individuals with employment and training services, as described in WIOA Section 134(a) and 129(b). Such statewide activities can be to develop sector strategies, capacity building initiatives, or a human-centered design project that prepares people for later employment and training services. Outcomes of these initiatives, which do not provide direct employment and training services to individuals, are not reported in the Workforce Integrated Performance System (WIPS). Rapid response activities are also not reported in WIPS. Additionally, the State may determine that the

workshops described in the State's waiver request, which provide large numbers of newcomers with information and assistance in filing Employment Authorization Document paperwork, are not direct workforce services to the attendees. Therefore, these individuals would not be reported as participants, nor would they appear in the numerator or the denominator of the State's performance calculations. Should the State enroll any workshop attendee as a participant in the WIOA Adult, Dislocated Worker, or Youth program, all WIOA performance requirements would apply.

Requested Waiver: Waiver to apply the State's definition of long-term unemployment from its Quality Jobs, Equity, Strategy, and Training (QUEST) Dislocated Worker Grant (DWG) to the eligibility determination of non-citizens served only through Governor's Reserve funds or Statewide Rapid Response funds.

ETA Response: Illinois seeks to pilot an expanded definition of "long-term unemployed" individuals used in the state's QUEST DWG and use that expanded definition for purposes of providing services to non-citizens with work authorization using Governor's Reserve and rapid response funds. With the exception of certain direct services to WIOA-enrolled youth, WIOA does not require the State to conduct an eligibility determination for services funded by the Governor's Reserve or Rapid Response. Therefore, the State does not need a waiver to serve non-citizens with work authorization with Governor's Reserve or Rapid Response funds. However, while there are no eligibility requirements, for individuals who receive direct services using statewide funds that cause them to be considered participants, WIOA performance requirements would apply.

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,



Jose Javier Rodriguez

Enclosure

cc: Julio Rodriguez, Deputy Director, Illinois Department of Commerce and Economic Opportunity, Office of Employment and Training
Pam Gerassimides, Regional Administrator, US Department of Labor, ETA Region 5
Arlene Charbonneau, Federal Project Officer, US Department of Labor, ETA Region 5



Illinois
Department of Commerce
& Economic Opportunity
OFFICE OF EMPLOYMENT & TRAINING
JB Pritzker, Governor

March 28, 2024

WIOA Waiver Coordinator
200 Constitution Ave, NW S-4203 Washington, DC 20001
ATTN: WIOA Waiver Coordinator

Under the Secretary of Labor's waiver authority outlined in Section 189(i)(3)(A) of the Workforce Innovation and Opportunity Act (WIOA) and 20 CFR 679.600, the Secretary may waive certain provisions of the WIOA Title I Subtitle A, B, and E. The Illinois Department of Commerce and Economic Opportunity Office of Employment and Training is requesting that the Secretary grant the following waiver request through the end of the 2024-2026 Unified State Plan:

- Waiver Request – Eliminate the performance requirement for any non-citizen with work authorization

Illinois is submitting a waiver request to remove any non-citizen with work authorization receiving services solely from statewide activities or rapid response funds from the numerator and denominator calculation for performance measures. Such performance relief is consistent with DWG performance guidance provided by USDOL ETA Region V focused on the State's current QUEST Disaster Recovery DWG, explaining that all QUEST participants are waived from performance measure indicators unless they are co-enrolled in another WIOA program.

USDOL ETA has previously approved this relief of performance under WIOA in times of disasters and/or emergencies for Texas in 2017, Puerto Rico, and the Virgin Islands in 2018. Illinois is requesting to follow the same procedures outlined in the waiver approval letters to track the participants served by using the "Special Project ID" field in the Participant Individual Record Layout (PIRL), which will exclude these participants from the WIPS calculations of the primary indicators of performance identified in WIOA section 116(b) and (c).

The waiver was posted for public comment, and no comments were received.

The attached waiver plan provides further details on this request in keeping with DOL guidelines in TEGL 08-18. If the waiver is granted, Illinois' WIOA Unified State Plan will be revised to incorporate the change.

We thank you for considering this request. If you have any questions, please contact Lisa Jones at Lisa.D.Jones@illinois.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julio Rodriguez', with a stylized, flowing script.

Julio Rodriguez, Deputy Director
Office of Employment and Training

Attachment

cc: Arlene Charbonneau, USDOL ETA Region 5
Gerardo Lara, USDOL ETA Region 5
Pam Gerassimides, USDOL ETA Region 5 Administrator

WAIVER REQUEST – ELIMINATE THE PERFORMANCE REQUIREMENT FOR ANY NON-CITIZEN WITH WORK AUTHORIZATION RECEIVING SERVICES SOLELY FROM STATEWIDE ACTIVITIES FUNDS AND EXPAND PARTICIPANT ELIGIBILITY TO INCLUDE THE STATE’S DISASTER/EMERGENCIES LONG-TERM UNEMPLOYED DEFINITION.

The statutory and/or regulatory requirements the state would like to waive

The state must clearly cite the statute and/or regulation(s) in its request and ensure that the citations refer to the specific elements the state wishes to waive.

The State of Illinois is seeking a waiver from the following Section(s):

Section 116(b)(2)(A) and 20 CFR 677.155, which establishes the performance accountability measures that apply across the core programs to assess the effectiveness of States and local areas (for core programs described in subtitle B) in achieving positive outcomes for individuals served by those programs.

Specifically, Illinois is requesting to waive the following requirements:

A waiver of the requirement to apply performance by excluding from the numerator and denominator for all assessed levels of performance any non-citizen with work authorization served solely with WIOA Statewide Activities funds or Statewide Rapid Response funds, including enrollment under the State’s approved waiver using Disaster- related Statewide Rapid Response funds. Such performance relief is consistent with DWG performance guidance provided by USDOL ETA Region V focused on the State’s current QUEST Disaster Recovery DWG, explaining that all QUEST participants are waived from performance measure indicators unless they are co-enrolled in another WIOA program.

Illinois Governor JB Pritzker has issued an emergency disaster proclamation to ensure all state resources are available to support asylum seekers arriving nearly daily to Illinois. The proclamation enables the Illinois Emergency Management Agency (IEMA) and other state agencies, in close coordination with the City of Chicago, Cook County, and other local governments, to ensure the individuals and families receive the assistance they need.

USDOL ETA has previously approved this relief of performance under WIOA in times of disasters and/or emergencies for Texas in 2017, Puerto Rico, and the Virgin Islands in 2018. Illinois is requesting to follow the same procedures outlined in the waiver approval letters to track the participants served by using the “Special Project ID” field in the Participant Individual Record Layout (PIRL), which will exclude these participants from the WIPS calculations of the primary indicators of performance identified in WIOA section 116(b) and (c).

Actions the state has undertaken to remove state or local statutory or regulatory barriers

The state must provide a discussion of the steps it has taken to remove any potential obstacles in the waiver request as appropriate. Quite often, state or local policies do not present a conflict for the request, and a simple statement indicating that there are no state or local barriers is sufficient.

There are no state or local statutory or regulatory barriers to implementing the requested waiver. State of Illinois regulations and policy align with current federal law and regulations.

The state has made policy changes that align with human-centered design, such as expanding the definition of long-term unemployment for National Dislocated Worker Grant (NDWG) eligibility and including self-attestation where applicable; however, this doesn't go far enough to allow us to provide services to this population effectively.

Additionally, the state is testing the state-defined long-term unemployed definition used for the QUEST NDWG as a strategy to serve this population with significant and multiple barriers. This is why the state needs the flexibility of the approval of this waiver to remove this population from the numerator and denominator of the performance measures.

This aligns with State priorities and DOL directives to increase access to reemployment services for those with significant barriers to employment to succeed in the labor market.

State strategic goal(s) *The state must precisely articulate the goals it seeks to achieve by requesting a waiver. The state must also discuss how these goals relate to its Unified or Combined State Plan.*

The performance accountability system established in WIOA subtitle A ("System Alignment") in sec. 116 requires that the performance accountability requirements apply across all six core programs with few exceptions. This creates a disincentive and disadvantage in serving marginalized populations such as non-citizens with work authorization.

Enrolling Temporary Protected Status (TPS) participants can face several limitations. Addressing these limitations requires tailored strategies that consider the unique circumstances and needs of individuals with TPS, including performance considerations, outreach efforts, and targeted support services.

- **Uncertainty of Status:** Individuals with TPS may face uncertainty regarding their legal status, as it is subject to periodic review and extension by the U.S. government. This uncertainty can deter participation and successful completion in long-term programs like WIOA, creating time limitations and follow-up post-exit.
- **Work Authorization Constraints:** Although individuals with TPS are typically granted work authorization, there may be limitations on the types of employment they can pursue or the duration of their authorization, affecting their ability to engage in certain WIOA activities, such as long-term training or apprenticeships and performance outcomes.
- **Language and Cultural Barriers:** Participants displaced from their home country may face language and cultural barriers that could hinder their ability to navigate the enrollment process effectively. Flexibility in implementing strategies under Statewide Activities can lend additional support to performance outcomes.

The Department of Labor Employment and Training's Regional Office, along with Training and Employment Guidance Letter (TEGL) 2-22, encouraged states to review intake and eligibility policies and procedures to remove overly restrictive eligibility requirements to expand access to career and training services to those individuals in need of assistance. Illinois changed its long-term unemployed definition for the QUEST Disaster Recovery DWG and updated the dislocated worker eligibility policy to expand upon the definition of substantial layoff; however, it is too early to know the impact of the State's efforts to expand access to services. Expanding Statewide Activities participant eligibility to include long-term unemployed individuals aligns with State and Federal initiatives to increase access to reemployment services to assist those with significant barriers to succeed in the labor market, including underserved and historically marginalized populations.

The Illinois Workforce Innovation Board's (IWIB) Diversity, Equity, Inclusion, and Accessibility (DEIA) Committee has identified Illinois populations that are underserved and historically marginalized in need of targeted outreach and recruitment to make them aware of available services

and how to access those services to impact their path to employment.

The IWIB Diversity, Equity, Inclusion, and Accessibility (DEIA) Committee has also identified critical needs and opportunities that will be addressed: fully integrating an equity lens into the work of the IWIB, building a culture of equity in the Illinois workforce system, conducting and sharing data analysis to identify contributing factors to any disparities; diversifying workforce leadership and staff and providing system-wide training on equity, cultural competence, and cultural awareness and sensitivity for those served by the system; partnering with culturally competent organizations; and providing wraparound supports.

The State is addressing the influx of migrants, immigrants, refugees, asylum seekers, and newcomers through coordination with various State and local agencies, including those agencies and community-based organizations with experience and expertise in serving this population. By identifying the magnitude and the breadth of the types of services needed by this population that faces many complex challenges, the team can develop a coordinated response to comprehensively address those needs with support to assist in continued client engagement. State and local team efforts will continuously be reviewed and evaluated for opportunities for improvement to lead to better outcomes for this target population.

This aligns with the state's vision of fostering a statewide workforce development system that supports the needs of individuals and businesses to ensure Illinois has a skilled workforce to compete effectively in the global economy. This effort also aligns with State goals and strategies of providing support systems for workers to thrive, data-driven solutions, two-way connection between employers and workers, strong partnerships with businesses, cross-agency collaboration and connections, integrated service delivery, equitable access and opportunity for all populations; clear metrics for progress and success; and focus on continuous improvement and innovation.

Program year (PY) to date (July 1, 2023-February 1, 2024), 648 noncitizens with work authorization have enrolled in Title I WIOA programs. Additionally, State-led TPS/EAD workshops in Chicago have supported the following workforce services for PY23:

- 3,428 TPS/EAD applications have been submitted;
- 1,784 EADs have been received;
- 1,721 workforce interest forms collected; and
- Career Navigators have followed up with 1,625 individuals to share information on resources through the public workforce system.

Projected programmatic outcomes resulting from the implementation of the waiver *The state must provide an estimate of how the waiver will improve outcomes or provide other tangible benefits for jobseekers or employers. States have the discretion to determine how to measure a waiver's success and the specific data sources it intends to use to evaluate its impact.*

The State will hold large-scale workshops with legal aid providers and pro-bono attorneys to facilitate the application process for the newest targeted group of Temporary Protected Status (TPS) individuals and Employment Authorization Document (EAD) individuals. State-led efforts will move thousands of individuals through the TPS and EAD processes as quickly as possible. This will allow individuals to gain employment and self-sufficiency, alleviating the strain on state resources.

Workshops will be co-located with United States Citizenship and Immigration Services (USCIS) and the public workforce system to provide federal assistance and job search resources simultaneously.

Through February, the State aims to have submitted the applications of the roughly 11,000 TPS and/or EAD-eligible asylum seekers residing in the City of Chicago shelters, with thousands more to be completed in the following months.

The waiver will be measured by 1) the volume of migrants served by expediting resources to address this urgent crisis, 2) state and local service designs to address the economic vulnerabilities of foreign-born individuals with or applying for TPS/EAD and ensure equitable access to the anticipated influx of asylum-seeking migrants enrolled in WIOA services and 3) elevate the importance of priority of service and individuals with barriers to temporary employment by guiding performance accountability.

The provision of services for this population will increase if the performance measures are not applied when services are provided solely through Statewide Activities funds, consistent with the State's QUEST Disaster Recovery DWG funds. Without the approved performance waiver, Statewide Activities grantees may be disincentivized and disadvantaged in providing a full array of career and training services if such populations are included in all negotiated levels of performance due to the extenuating level of barriers and extensive services that would be required to achieve positive outcomes for this population.

Alignment with the Department of Labor's policy priorities

Describe how the waiver will align with the Department's policy priorities, such as:

- *Supporting employer engagement;*
- *Connecting education and training strategies;*
- *Supporting work-based learning;*
- *Improving job and career results; and*
- *Other priorities as articulated in guidance.*

The publicly funded workforce system envisioned by WIOA is quality-focused, employer-driven, customer-centered, and tailored to meet the needs of regional economies. It is designed to increase access to and opportunities for the employment, education, training, and support services that individuals need to succeed in the labor market, particularly those with barriers to employment. Expanding Statewide Activities participant eligibility to include long-term unemployed individuals aligns with State and Federal initiatives to increase access to reemployment services to assist those with significant barriers to succeed in the labor market.

The recently released Training and Employment Guidance Letter (TEGL) 10-23 reiterated the primary purpose of public workforce programs is "to increase, for individuals in the United States, particularly those individuals with barriers to employment, access to and opportunities for the employment, education, training, and support services they need to succeed in the labor market." The grants that the Employment and Training Administration (ETA) administers serve a wide range of job seekers with various needs, some with intersecting barriers that complicate eligibility determination and timely service delivery. When viewed from a customer experience perspective, navigating, and accessing these services comes with varying requirements that can result in significant wait times before participants can enroll or begin services. Such delays may cause individuals in need to miss out on getting critical support that can help to secure employment and establish or re-establish accompanying financial stability. Whether individuals are engaged in finding a first or new job, transitioning to a better job, recovering from job loss, or dealing with a natural disaster, these life adjustments often require time, support, and training or education to gain new skills. Such life transitions can be difficult for people to manage, along with additional challenges such as childcare, unreliable transportation, unstable housing, and language or cultural barriers.

In line with the December 2021 Executive Order on Transforming Federal Customer Experience and Service Delivery to Rebuild Trust in Government, federally funded human service programs, including workforce development programs, should design intake and eligibility processes to meet urgent participant needs as quickly and seamlessly as possible, emphasizing a customer experience that gets people what they need for relief rather than focusing on what may be a time-consuming process of securing documentation as a prerequisite for obtaining any program services. With

customer experience in mind, government-wide efforts are underway to establish a model of the federal delivery system working together—within programs, across programs, across levels of government — that creates solutions based on listening to people’s needs and is driven by “human-centered design” research. To further that work, this guidance identifies several opportunities to improve customer experiences by clarifying administrative and documentation requirements for ETA-administered grants.

Training and Employment Notice (TEN) 28-16 informs the workforce system with examples, best practices, partnership models, and information on how to align resources available under the Workforce Innovation and Opportunity Act (WIOA) to increase services to English Language Learners (ELL) with substantial cultural and language barriers to employment. It further provides information to the workforce system, including partner programs and entities jointly responsible for workforce and economic development, educational, and other human resource programs, about aligning their efforts to provide basic career services, individualized career services, and training services.

Individuals, groups, or populations affected by the waiver

States must describe the potential impact of a waiver on various system stakeholders, including how the waiver will impact services for disadvantaged populations, persons with barriers to employment, or businesses.

Refugees from many countries who seek asylum status face a severe humanitarian emergency due to a political and economic crisis, as well as human rights violations and abuses and high levels of crime and violence that impact access to food, medicine, healthcare, water, electricity, and fuel, and have led to high levels of poverty in the countries. Expanded participant eligibility will increase access to reemployment services for this population with multiple barriers to employment.

In Illinois, our 2022 WIOA Unified State Plan identified several critical industries with significant job openings, including food processing, clean energy, health care, transportation, warehousing, and more. Through an expanded process, state governments could sponsor individuals to work in critical industries. This would unquestionably contribute “significant public benefit” to Illinois’ labor shortages while providing non- citizens, like the thousands of asylum seekers we serve, a faster and more streamlined pathway to self-sufficiency.

As the asylum seekers we serve have begun to build lives for themselves and their families in Illinois, we have witnessed the dangerous work conditions and exploitation that often result when individuals lack access to legal work and the protections that come with it. All workers in Illinois deserve to feel safe at work. The precarious legal status of non-citizen workers exposes them to a higher risk of mistreatment, especially when employers wield the power to determine the lawful presence of an employee. We strongly recommend that in the development of this program, worker safety and worker choice are prioritized, and a worker’s legal presence is not solely tied to their employment by a single employer.

Note that the Department of Homeland Security has designated Temporary Protected Status (TPS) designations for the following countries: Afghanistan, Burma (Myanmar), Cameroon, El Salvador, Ethiopia, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, and Yemen.

State plans for monitoring waiver implementation, including collection of waiver outcome information

States must describe how they intend to oversee effective waiver implementation and any unique protocols that may be used in their waiver requests.

The State will use the following approach for monitoring progress in implementation:

- The State will assign a special project ID in the data system recorded in the PIRL for all non-citizens with work authorization served with Statewide Activities funds.
- State staff involved with administering programs will provide ongoing technical assistance and oversight regarding the appropriateness and effectiveness of this waiver. This information will be submitted regularly to the IWIB Continuous Improvement Committee.
- Annual WIOA on-site programmatic reviews will include evaluating the waiver's impact on programmatic goals and outcomes.
- Additionally, the IWIB Continuous Improvement Committee will track how the goals for the waiver are achieved. Furthermore, the information gathered from the waiver will inform new or policy changes and provide best practices. The outcomes of the waiver will be reported in the WIOA Annual Performance Report Narrative.

This strategy ensures that the goals described above, as well as those outlined in the State's Unified Plan and the IWIB Strategic Plan, are consistent with established objectives of the WIOA and federal and state regulations.

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

WIOA does not prescribe a specific amount of time for states to post a potential waiver for comment, but it does require the state to demonstrate a reasonable opportunity for public review and comment by all stakeholders, including businesses and organized labor. Submit any comments or concerns collected in this manner and the outcome of the state's review of the public comments received. The state must also provide affected local boards with notice and opportunity to comment on the proposed waiver.

This waiver is being submitted separately to modify the Unified State Plan. Modifications to the Unified State Plan are subject to the same public review and comment requirements in [§ 676.130\(d\)](#) that apply to the development of the original Unified State Plan. Illinois posted this request on our website for comment and review by required parties and the public.

Local Boards via Board members and Board staff, WIOA partners, and other interested stakeholders participate in policy development. Additionally, LWIBs receive the opportunity to participate in the public comment period that includes informational webinars.

Waiver outcomes for existing waivers.

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.

This is a new waiver request.