



October 20, 2022

The Honorable Pedro Pierluisi  
Governor of Puerto Rico  
La Fortaleza  
P.O. Box 9020082  
San Juan, PR 00902-0082

Dear Governor Pierluisi:

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) (enclosed). The waiver request was received on October 3, 2022. 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-Peyser 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, Adult, and Dislocated Worker funds to be used to capitalize small businesses that were affected by the disaster, up to \$10,000 per affected business.

ETA Response: ETA approves through June 30, 2024, Puerto Rico's request to provide up to \$10,000 for business capitalization to individuals who have completed entrepreneurial or micro-enterprise training. This waiver permits the use of statewide Governor's reserve funds as well as Adult and Dislocated Worker funds of up to \$10,000 to capitalize a small business in concert with entrepreneurial or small business training for the individual benefiting from the capitalization, within certain parameters. 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 \$10,000 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 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.



## **Business Capitalization Waiver Request**

### **Puerto Rico**

#### **Waiver of the limitation on the use of funds for capitalization of business under WIOA 181(e) to allow funds to be used to capitalize small business, up to \$10,000 per affected business.**

As a result of damage caused by Hurricane Fiona, PRDEDC requests a WIOA waiver of the limitation on the use of funds for capitalization of business under WIOA §181(e) to allow Governor' s Reserve and Adult and Dislocated Worker funds to be used to capitalize small business that were affected by the disaster, up to \$10,000 per affected business. This waiver will allow the state to assist disaster-affected business and create new employment opportunities. Under the waiver, individuals benefiting from the capitalization must complete entrepreneurial or microenterprise training.

In the three emergency scenarios that faced Puerto Rico in the last few years, the small and medium business were the most affected sector in the economy. The use of funds that will be allocated under this waiver is limited to emergency, disaster-related needs only. For example, businesses may use the funds to purchase a computer for contacting customers and reestablishing payroll records, lease a building for operations, buy supplies and materials, or for fees and tuition payments for operating licenses or staff certification and training.

Small and medium-sized established businesses represented 81.3% of private sector jobs, according to the Small Business Administration<sup>[1]</sup>. According to the SBA, the private sector accounted for 681,058 jobs in Puerto Rico. Of these, 555,945 or 81.3% were in businesses of 25 employees or less. It was estimated around 40,000 small and medium-sized business in Puerto Rico well known as PYMEs (the Spanish acronym for *Pequeñas y Medianas Empresas*). According to the SBA, 8 of 10 jobs openings in Puerto Rico came from PYMEs.

On June 12, 2018, DOLETA approved this waiver to Puerto Rico, until June 30, 2020, to allow the use of Irma and Maria Hurricanes NDWG funds up to \$5,000 to capitalize a small business in concert with entrepreneurial training for the individuals benefiting from the capitalization.

The following conditions apply to the use of funds for small business capitalization once approved this new waiver request:

1. The DEDC will create a fiscal evaluation system wherein evaluators will work together to review applications to ensure rigor and consistency in the handling of business capitalization requests.
2. Grant assistance must be limited to no more than \$10,000 per individual/business.
3. Use of funds to cover salaries is not permitted.
4. Use of funds for business capitalization revolving loans is not permitted.

5. Is required to submit as minimum three receipt of legitimate estimates for expenses in the application for the Committee evaluation.
6. Also, business must submit 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 business has to reimbursement the fund doesn't used as approved by the Committee.
8. DEDC financial systems in place to track funds approved under this business capitalization waiver, as well as the responsibility to recapture funds that were not used by eligible businesses in instances where the final receipt is less than the original estimate.
9. The DEDC Monitoring Unit is required to monitor the implementation of this waiver

Waiver for capitalization after hurricanes Irma and Maria was of great help to small and medium-sized business affected by hurricanes to restart their operations. The outcomes of this waiver included:

1. Development of an outreach and dissemination process by providing on-site orientation, related to the eligibility criteria, documentation, and application processes. We completed 1,453 orientations to small business and received 669 applications for the grants.
2. A policy and procedure to capitalization of business was approved by de PR Department of State and is in place to continue the implementation of this waiver request once approved.
3. The DEDC create an ad-hoc Business Capitalization Committee, in charge of evaluate and approve the applications, after the pre-screening process performed by case managers.
4. Until December 31, 2019, the Committee evaluated the 669 applications, with 499 approved, 153 rejected and another 17 that did not comply with the eligibility process.
5. From the total approved, 496 business completed the entrepreneurship training as part of the requirement for delegation of funds.
6. Total funds approved until December 31, 2019 were \$2,308,437.57, with a balance of \$191,562.43, related to the \$2,500,000 approved for business capitalization.
7. The Workforce Development Program has developed a follow-up process to verify the use of funds by business and the policy described before, including penalties and sanction for the wrong use of federal funds.

**Actions undertaken to remove state or local barriers:**

**Describe the actions undertaken to remove state or local barriers.**

There are no State or local statutory or regulatory barriers for the implementation of the proposed waiver.

**Goals and expected programmatic outcomes of waiver:**

**Describe and specify how the waiver will help the state achieve an identified strategic goal or set of goals that it has outlined in its State Plan. If possible and appropriate the type of waiver requested, provide quantifiable projections for programmatic outcomes that will result from the waiver.**

The expected outcomes from this waiver for the PRDEDC are as follow:

- Support Puerto Rico’s small business and entrepreneurial start-up economy;
- Accelerate the economy and the labor market restoration;
- Achieve the restart or maintain operation in 90% the business impacted by the capitalization funds; and
- Avoid layoff of employees of small and medium business affected by emergencies.

**Department of Labor’s policy priorities:**

**Describe how the waiver will align with the Department’s policy priorities:**

- Increase business usage of the workforce system flexibilities and thereby achieving greater access to employment opportunities; and
- Create additional opportunities for new workers, and for unemployed and underemployed workers to speed their return to full-time employment.

**Individuals impacted by the waiver:**

**Describe which populations the waiver will benefit, including how the waiver will impact services for disadvantaged populations or individuals with multiple barriers to employment.**

- Businesses, particularly small and medium-sized businesses needing to retain current workers, and/or hire additional workers to sustain or expand their productivity, and that do not have immediate resources to do so;
- Small business employees who will be able to retain their jobs; and
- Unemployed and underemployed workers.

**Process for monitoring progress in implementation:**

The Workforce Development Program (WDP) of PRDEDC developed waiver guidelines and policies and will measure the impact of waivers on performance outcomes. The WDP will monitor progress under this waiver by reviewing performance reports, and through its

monitoring and performance accountability system. The Monitoring Unit will be adding the monitoring of waivers to its monitoring processes to ensure compliance with waiver guidelines.

**Process for Notice of Local Boards and Opportunity to Comment:**

Prior to Hurricane Fiona, as part of its WIOA Unified State Plan developed in Spring 2022, Puerto Rico posted a similar waiver request for public comment for a period of two (2) weeks on the PRDEDC website, allowing for public comment on its content and potential impact. In addition, copies of workforce system waivers will be provided to the Major's boards, Local Boards and LDWA's.

**Waiver Impact:**

The Workforce Development Program will prepare quarterly reports regarding this waiver. The report will include the number of approved businesses, fund allocation and information related to any situation that would affect the waiver implementation. PRDEDC will report on the impact and outcomes of its approved waivers in the WIOA Annual Report.

[\[1\]](#) The SBA defines small business those that generate \$5 million in revenue a year or have less than 25 employees.