

U.S. Department of Labor

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



December 20, 2024

The Honorable Bill Lee
Governor of Tennessee
600 Charlottesville Avenue
Nashville, TN 37243

Dear Governor Lee:

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 24, 2024. This letter provides the Employment and Training Administration's (ETA) official response to your request. It memorializes that Tennessee will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by Tennessee and ETA. This action is taken under the Secretary's authority to waive certain requirements of WIOA under WIOA Section 189(i)(3).

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, up to \$10,000, and medium businesses, up to \$25,000 per-affected businesses.

ETA Response:

ETA approves through June 30, 2026, Tennessee's waiver request of the limitation on the use of funds for capitalization of businesses under WIOA 181(e) to allow funds to be used to capitalize small and medium-sized businesses up to \$10,000 per affected business. The following conditions apply to the use of funds for small and medium sized business capitalizations under this waiver.

1. Grant assistance must be used to capitalize both small and medium-sized businesses, up to \$10,000.
2. Use of funds to cover salaries is not permitted.
3. Use of funds for business capitalization revolving loans is not permitted.
4. Tennessee is required to obtain and document the receipt of legitimate estimates for expenses before disbursing funds. Tennessee 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.
5. Tennessee must have sufficient financial systems in place to track funds dispersed under this business capitalization waiver and recapture funds that were not used by eligible businesses in instances where the final receipt is less than the original estimate.
6. The policy developed by Tennessee to implement this waiver must be consistent with the conditions outlined in this letter. Applications for business capitalization must be approved by Tennessee by criteria developed by Tennessee 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.
7. Tennessee is required to monitor the local implementation of this waiver.

Please note that activities related to business capitalization must also conform to requirements articulated in other sources of federal law and regulations, such as appropriations law, Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), and others. ETA can assist the State in clarifying such requirements, where needed.

Tennessee 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 blue ink, reading "José Javier Rodríguez". The signature is written in a cursive, flowing style.

José Javier Rodríguez

Enclosure

cc: Deniece Thomas, Commissioner, Tennessee Department of Labor and Workforce Development
Renata Adjibodou, Atlanta Regional Administrator, ETA
Stephanie Holt, Federal Project Officer, ETA

Business Capitalization Waiver Request

Tennessee

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, and medium business, up to \$25,000 per affected business.

Due to the wide-spread devastation caused by Hurricane Helene, the Tennessee Department of Labor and Workforce Development (TDLWD) requests a WIOA waiver on the limitation of the use funds outlined in WIOA§181(e). The TDLWD requests Rapid Response funds be approved to capitalize small and medium-sized businesses¹ impacted by the disaster. Funding would not exceed \$10,000 per each affected small business and \$25,000 per each affected medium-sized business. This waiver will allow the state to assist disaster-affected businesses and create new employment opportunities.

Small businesses were especially hard hit and damaged in the aftermath of Hurricane Helene. 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.

Tennessee is actively responding to the needs of small and medium-sized businesses. The *Tennessee CAREs (Community Assistance for Recovery Employment)* initiative is helping support disaster-impacted businesses in Northeast and East Tennessee by offering assistance for labor costs associated with the recovery and rebuilding efforts.

In partnership with TN Department of Economic Community Development the TDLWD has identified a list of 211 employers in the Northeast potentially impacted by Helene. TDLWD and Local Workforce Board staff are contacting these businesses to address their needs. To date, fifty businesses have been contacted in the East Region. Additionally, a preliminary assessment, conducted by TEMA, of seven of the thirteen impacted counties (Carter, Cocke, Greene, Hamblen, Johnson, Unicoi, and Washington) identifies 142 disaster-impacted businesses. Of those, 97 were either completely destroyed or suffered major damage. Eight of the affected counties await damage assessment by TEMA.

The vast majority of the working population in the impacted counties are in small and medium-sized businesses. Of the impacted counties there are 152,463 workers in small business and 126,216 working in medium-sized businesses totaling 278,679 workers out of a total population of just over 800,000.

The following conditions apply to the use of funds for small/medium-sized business capitalization once approved via this waiver request:

1. TDLWD 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 small business and \$25,000 per medium-sized business.

¹ Small business is defined as 0-49 employees. Medium-sized business is defined as 50-499 employees.

3. Use of funds to cover salaries is not permitted.
4. Use of funds for business capitalization revolving loans is not permitted.
5. Submission of at minimum three estimates/bids for expenses in the application.
6. Businesses 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 must reimburse funds not utilized as approved.
8. TDLWD will put financial systems in place to track funds approved under this business capitalization waiver, as well as take on 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. Implementation of this waiver will be monitored by TDLWD.

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 approval of this waiver will provide the state an opportunity to achieve at least three (3) of our set goals outlined in the Tennessee WIOA Unified State Plan. Those goals include:

- Increase and sustain competitive Labor Force Participation Rate (LFPR)
- Implement our agencywide business engagement plan
- Implement superior service delivery across the public workforce system

The expected outcomes from this waiver for TDLWD are as follow:

- Support small and medium-sized businesses located in 13 disaster-declared counties, including all 7 counties in Northeast and 6 counties of East Tennessee affected by Hurricane Helene
- Accelerate the local economy and labor market restoration
- Avoid layoff of employees in small and medium-sized businesses affected by the disaster

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, to achieve greater access to employment opportunities in the affected region
- Create new opportunities for new workers and for unemployed and/or underemployed workers to return to full-time employment

- Increase the Labor Force Participation Rate in the region and, therefore, the State as a whole

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 due to the disaster
- Employees of small businesses who will be able to retain their jobs
- Sustaining entrepreneurs and sole proprietorships
- Unemployed and underemployed workers

Process for monitoring progress in implementation:

TDLWD will develop waiver guidelines and policies and will measure the impact of waivers on performance outcomes. TNLWD 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:

Waiver request does not amend Tennessee's WIOA Unified State Plan developed Spring 2024. This waiver is submitted as a result of FEMA disaster declaration related to Hurricane Helene. Only 2 of Tennessee's 9 Local Workforce Development Boards are in the impacted areas. The two (2) Local Workforce Boards have been in communication with the State in regard to this waiver.

Waiver Impact:

The Tennessee Department of Labor and Workforce Development Workforce Service Division (WFS) 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. WFS will report on the impact and outcomes of its approved waivers in the WIOA Annual Report.