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Director Ejecutivo del Consejo de Desarrollo Ocupacional y Recursos Humanos

Hon. Miguel Romero
Secretario Departamento del Trabajo y Recursos Humanos

20 de junio de 2011

Presidentes de Juntas de Alcaldes, Presidentes de Juntas Locales y Directores Ejecutivos de las Áreas Locales de Inversión en la Fuerza Trabajadora

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Director Ejecutivo

SOLICITUD DE COMENTARIOS SOBRE PLAN DE DISPENSAS BAJO EL WORKFORCE INVESTMENT ACT (WIA) AÑO PROGRAMA 2011-12

La Junta Estatal de Inversión en la Fuerza Trabajadora (JEIFT), el Departamento del Trabajo y Recursos Humanos (DTRH) y el Consejo de Desarrollo Ocupacional y Recursos Humanos (CDORH), invitan al público en general a emitir comentarios sobre la solicitud al *US Department of Labor* (DOL) de dispensas para los Programas de Jóvenes, Adultos y Trabajadores Desplazados para el Año Programa 2011-2012.

Las dispensas, también conocidas como *waivers*, constituyen excepciones de requerimientos de ley, los cuales se hacen disponibles a los estados con el propósito de flexibilizar aspectos que puedan redundar en atender situaciones específicas de los estados como estrategia de mejorar el sistema de inversión y promover el desarrollo económico.

El Plan de Dispensas se incluye como anejo para su revisión. Los comentarios o preguntas relacionadas al contenido del mismo, deberán ser enviados mediante correo electrónico a la atención de la Sra. Maria Avilés Cabán, Directora Auxiliar de Planificación y Evaluación a maviles@cdorh.org, en o antes del 24 de junio de 2011 a las 4:00 pm.

C: Miguel Romero, Secretario DTRH
Nicolas Muñoz, Presidente JEIFT
Joaquín Villamil, Presidente, Comité de Planificación JEIFT



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GOVERNMENT OF PUERTO RICO

WORKFORCE INVESTMENT ACT WAIVER REQUEST PY 2011-12

I. Collection of Performance Information for Determining Subsequent Eligibility and Dissemination of Performance Information on the State List

1. Statutory and Regulatory Requirements to be Waived

WIA section 122(c) and (d)(1) and WIA regulations at 20 CFR section 663.530-550 require and describe the subsequent eligibility process for Eligible Training Providers(ETP). Most WIA training services are provided through Individual Training Accounts (ITAs), that may be used to acquire training from only ETP.

The HRODC as the state administrative entity for WIA, requests a waiver to eliminate the subsequent eligibility process thus allowing the Local Workforce Areas (LWA) and area providers found initially eligible, to continue under the initial eligibility process and safeguards. Waving a subsequent eligibility requirement will allow the local Workforce System to be in compliance with WIA, while maintaining an eligible training provider list with a wide range of customer choices during these difficult times.

Requiring subsequent eligibility determinations have been found to be obstacles that limit choice, resulting most likely in a training shortage.

2. State or Local Statutory and/or Regulatory Barriers

There is no state or local barrier to be overcome, should the requested waiver be implemented.

3. Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes

The following goals will be achieved with the approval of the requested waiver:

- Reduce a significant amount of staff time and resources, when implementing a subsequent eligibility process.
- Increase customer choice and the number of ETP, by removing onerous data collection requirements upon the ETP's; and
- Streamline the information for customers.

4. Programmatic outcomes by the Waiver

The waiver will reduce a significant amount of staff time and resources, currently directed toward the collection of performance data and calculation of performance outcomes by provider and program. Freeing staff and resources from this task will enable us to improve the management information system, and provide more technical assistance toward performance outcomes. The onerous data collection requirements have also discouraged providers from applying for subsequent eligibility. Removal of this requirement will encourage more providers to apply, thereby giving customers more choices for their training.

5. Impacts on individuals by this Waiver

Approval of this waiver will have positive impacts on ETP, LWB, local staff, providers and One-Stop customers by waiving an administrative burden that limits customer choice.

6. Monitoring of the Waivers implementation

Upon notification of the approval of this waiver, a WIA State Bulletin will be issued to all LWIBs and other WIA system members, indicating the changes in the eligibility process. The state agency responsible for the monitoring of all WIA funded activities will incorporate the implementation of this waiver into existing procedures. LWIB will also continue monitoring of the activity.

7. Notice and opportunity to comment

To ensure transparency and allow for meaningful public comment from interested parties, this Waiver request will be available in both, the Puerto Rico Department of Labor and Human Resources, and the Occupational and Development Council websites.

Comments will be solicited prior to submission, throughout a period to begin on June 20th, 2011 and end on June 30th, 2011. The waiver request will also be addressed at State and Local Workforce Investment Board open meetings that will include members that represent the private and public sectors.

II. Incentive Grants to Local Areas / Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt the state from providing local incentive grants

1. Statutory and Regulatory Requirements to be Waived

The HRODC requests a waiver of the requirement to provide incentive grants to local areas. WIA §134(a)(2)(B)(iii) and WIA Regulations at 20 CFR §665.200(e) require, as statewide workforce investment activities, to provide incentive grants for exemplary performance as displayed by local areas regarding performance measures.

This waiver would allow for the use of those funds to be used instead to provide Technical Assistance (TA) to the Local Workforce System.

Some of the areas in the scope for TA, are local areas with monitoring findings, areas that need new upgrades to their MIS system, and areas that are lacking in integration, Case management, elimination of Standalone job banks and Common Measures among others.

2. State or Local Statutory and/or Regulatory Barriers

There is no state, or local statutory and/or regulatory barrier that would prohibit the implementation of this waiver.

3. Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.

The following goals will be achieved with the approval of the waiver request.

- The available funds will be used to provide technical assistance and training workshops to all WIA system components.
- With the implementation of the SIAC system, the WIA system will need training in implementation and upgrades. The waiver will allow the continued provision of technical assistance on the use of this system, to the State as a whole.
- The funds will be put to a more meaningful use, given the currently limited WIA funding. Puerto Rico, as most other states, continues to receive WIA funding cuts. The amount of money each LWIB would receive as an incentive would be insignificant. But, on the other hand, if we were able to use the entire amount for technical assistance and training, it will prove to have been more efficiently used, and a sure benefit for all.
- Partner programs such as Trade, Wagner-Peyser, Education, Senior Community Service Employment Program (SCSEP) and Job Corps will be invited to attend the WIA TA sessions. These programs will send representatives, use their own program funds, and attend the TA reunions allowing for a statewide meeting in which to better coordinate services between the programs themselves, establishing yet another benefit for the WIA system.

4. **Impacts on individuals by this Waiver**

There will be a positive impact on individuals, because improved performance outcomes mean, the individuals receiving WIA services are also having positive outcomes in their lives. These positive outcomes also mean, that incentive funds should be increased on behalf of the WIA system to continue performing well all of its tasks. It is a win-win situation.

5. **Monitoring of the Waivers implementation**

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities, and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities.

6. **Notice and opportunity to comment**

To ensure transparency and allow for meaningful public comment from to all interested parties, this Waiver Request will be available and posted for public comment in both, the Puerto Rico Department of Labor (PRDOL), and in the Human Resources and Occupational and Development Council websites.

Comments will be solicited prior to submission, throughout a period to begin on June 20th, 2011 and end on June 30th, 2011. The waiver request will also be addressed at State and Local Workforce Investment Board open meetings that will include members that represent the private and public sectors.

III. To Eliminate 20% Limit on Fund Transfers between Adult and Dislocated Worker Programs

1. **Statutory and Regulatory Requirements to be Waived.**

The HRODC requests a waiver of 20% limitation in transferring local WIA funds between the Adult and Dislocated Worker programs so that, 100% of the Adult and Dislocated Worker formula funding is available to meet general workforce case needs as per the local area.

WIA §133(b)(4) and WIA Regulations at 20 CFR §667.140(a) limit the amount of funds that can be transferred between the Adult and the Dislocated Worker employment and training programs. The limit is 20% of the fiscal year allocations to the respective programs.

2. **State or Local Statutory and/or Regulatory Barriers**

There is no state or local statutory and/or regulatory barrier that would not permit the implementation of the current WIA provision or the requested waiver.

3. **Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes**

The following goals will be achieved with the approval of this waiver:

- Funds will be directed to where they are mostly needed, for Adult and/or Dislocated Worker clients;
- There would be greater flexibility for local workforce investment boards and their staff, in designing and implementing programs;
- There would be increased efficiency in local workforce investment boards and their staff performance, as they will be able to plan for a year at a time, with
- Improved, more certain responsiveness to local need and demand.

4. **Programmatic Outcomes by the Waiver**

The waiver will allow local areas to direct funds when and where they are needed to serve clients. The variance in economic conditions in Local areas could fluctuate Adult and Dislocated Worker participation due to the continuation of the requirement that funds be determined by past unemployment and layoff history. This waiver will increase efficiency and introduce more flexibility and creativity into designing and implementing employment and training activities for all Adult and Dislocated Worker clients. The HRODC will approve on a case to case basis, the implementation of this waiver.

5. **Impacts on Individuals by the Waiver**

With current budget constraints and WIA funding cuts, especially in the Dislocated Worker Program for PY 2011, without this waiver, fewer amounts of funds will be available to serve dislocated workers. With this waiver, funds will follow the needs of individual clients.

6. **Monitoring of the Waivers implementation**

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and fiscal and programmatic staff will review the impact of this waiver.

7. **Notice and opportunity to comment**

To ensure transparency and allow for meaningful public comment from all interested parties, this Waiver request, will be posted for public comment in both, the Puerto Rico Department of Labor (PRDOL), and the Human Resources and Occupational and Development Council websites.

Comments will be solicited prior to submission, throughout a period to begin on June 20th, 2011 and end on June 30th, 2011. The waiver request will also be addressed at State and Local

Workforce Investment Board open meetings that will include members that represent the private and public sectors.

IV. One-Stop Intake / Increased Core Services Capabilities at Local One Stop Centers

1. **Statutory or Regulatory Requirements to be Waived**

The HRODC requests approval of a waiver of 20 CFR 662.240(b)(10) to allow One-Stop Career Center staff whose work hours are funded by either WIA or Wagner-Peyser programs, to perform participant intake and eligibility determinations for all workforce programs without having to cost allocate the specific staff-time to each respective program. The requested waiver will allow the state to continue to consider participant intake and eligibility determination as it has always done.

2. **State or Local Statutory or Regulatory Barriers**

There is no state or local statutory and/or regulatory barrier that would prohibit the implementation of the proposed waiver.

3. **Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes**

The anticipated goal of this waiver is to allow the LWIBs to expand the services offered to customers at local One-Stop Career Centers without having to enter into unnecessary funding agreements. These services are consistent with the type of core services envisioned under WIA.

4. **Programmatic outcomes by the Waiver**

The waiver will allow the LWIBs to provide a needed service to its one-stop customers without having the administrative burden of cost allocation or the need to continually execute new funding agreements with the state entity responsible for those programs.

5. **Description of Individuals Impacted by the Waiver**

One-Stop customers will benefit from the increased level of services to be available at the One-Stop Career Centers thereby eliminating the need for them to spend extra time and effort going to other non-WIA funded staff for intake and eligibility determination for enrollment in other support service programs. This waiver will also increase the number of individuals coming in to the One-Stop Centers, increasing the number of individuals who can benefit from the workforce services offered there.

6. **Monitoring of the Waivers implementation**

The HRODC, as the state administrative entity of WIA, is responsible for monitoring all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and fiscal and programmatic staff will review the impact of this waiver provision.

7. Notice and opportunity to comment

To ensure transparency and allow for meaningful public comment from to all interested parties, this Waiver request, will be posted for public comment in both, the Puerto Rico Department of Labor (PRDOL) and the Occupational and Development Council websites.

Comments will be solicited prior to submission, throughout a period to begin on June 20th, 2011 and end on June 30th, 2011. The waiver request will also be addressed at State and Local Workforce Investment Board open meetings that will include members that represent the private and public sectors.

V. **State/Local WIB Membership Requirements WIA Section 111 (b) & 117(b)**

1. Statutory or Regulatory Requirements to be Waived

The HRODC requests the approval of a waiver from WIA Section 111(b) & 117(b) to streamline the membership of the State Workforce Board and Local Workforce Boards. This requirement for appointment of WIBs at the state and local level is in need of flexibility. Approval of a waiver to use those requirements set by law, would provide flexibility to the appointing authority and could result in smaller boards, a much more desirable goal for the makings of a more active and involved board.

2. State or Local Statutory or Regulatory Barriers

There is no state or local statutory and/or regulatory barrier that would prohibit the implementation the proposed waiver.

3. Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes.

The waiver will allow flexibility in workforce board appointments.

4. Impacts on individuals by this Waiver

The impact of this waiver would be to have a much smaller and more effective boards.

5. Description of Individuals Impacted by the Waiver

State and local boards will be impacted by the waiver and will be more efficient.

6. Monitoring of the Waivers implementation

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and fiscal and programmatic staff will review the impact of this waiver provision.

7. Notice and opportunity to comment

To ensure transparency and allow for meaningful, public comment from all interested parties, this Waiver request will be posted for public comment in both, the Puerto Rico Department of Labor (PRDOL) and the Human Resources and Occupational and Development Council websites.

Comments will be solicited prior to submission, throughout a period to begin on June 20th, 2011 and end on June 30th, 2011. The waiver request will also be addressed at State and Local Workforce Investment Board open meetings that will include members that represent the private and public sectors.

VI. **Waiver of regulations at 20 CFR 667.300(a) to allow states to discontinue collection of WIASRD participant data for incumbent worker**

1. Statutory and Regulatory Requirements to be Waived

The HRODC requests a Waiver in order to permit the state to discontinue the collection of certain, case specific Workforce Investment Act Standardized Record Data (WIASRD) pertaining to the following elements;

- 1) Single parent (119)
- 2) Unemployment compensation eligible status at participation(118)
- 3) TANF(120)
- 4) Other public assistance(121)
- 5) Homeless individual and/or runaway (125)
- 6) And offender(126)

By allowing the approval of this waiver, the captured data will be streamlined enough to ensure that employers are not discouraged by federal data requirements. In accordance with Lay off Aversion strategies, this waiver will strengthen the ability of the workforce system to improve the skills of workers in their existing environment.

2. State or Local Statutory and/or Regulatory Barriers

There is no state or local statutory and/or regulatory barrier that would prohibit the implementation of the proposed waiver.

3. Describe the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver and expected programmatic outcomes

As a result of this waiver there will be an increase in service to employers, as well as a better and improved implementation of Lay Off Aversion strategies as a business model.

4. Programmatic outcomes by the Waiver

The waiver will allow LWB provide employed worker training and improve the economic condition in their region by upgrading the skills of incumbent workers.

5. **Impacts on individuals by this Waiver**

Incumbent workers will increase their competitiveness by obtaining upgraded skills and fill better positions within the organization.

6. **Monitoring of the Waivers implementation**

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and fiscal and programmatic staff will insistently review the impact of this waiver provision.

7. **Notice and opportunity to comment**

To ensure transparency and allow for meaningful public comment from to all interested parties, this Waiver request will be posted for public comment in both, the Puerto Rico Department of Labor (PRDOL) and the Occupational and Development Council websites.

Comments will be solicited prior to submission, throughout a period to begin on June 20th, 2011 and end on June 30th, 2011. The waiver request will also be addressed at State and Local Workforce Investment Board open meetings that will include members that represent the private and public sectors.

VII. **Credential/ Certificate Attainment for On-The-Job Training Program**

1. **Statutory Regulations to be Waived**

The HRODC requests a waiver in order to exempt LWA from including credential/certificate attainment outcomes for participants enrolled in the WIA On-the-Job Training (OJT) program, as identified in Training and Employment Guidance Letter (TEGL) No. 26-09.

This waiver pertains to WIA Regulations 20 CFR 666.100 (a) (1) (iv) for Adults and 20 CFR 666.100 (a) (2) (iv) that require attainment of a recognized credential/certificate for performance.

This waiver is being requested so that we may exclude individuals who are participating in OJT program services from requiring a credential/certificate at the end of their service term. These individuals, however, will nonetheless continue to be included in all other applicable WIA performance standards.

2. **Goals to be Achieved by the Waiver and Relationship to Strategic Plan:**

With this waiver, the State expects the OJT program services to expand and reach more employers and trainees. This goal directly aligns with current WIA State Plan goals, for providing access to training to an increased number of adults and dislocated workers.

3. **State or Local Statutory or Regulatory Barriers**

There is no existing state or local barrier to implementing the requested waiver.

4. **Description of Waiver Goals and Programmatic Outcomes**

The goal is to provide LWA greater flexibility and access to the use of an OJT program without negatively impacting it by requiring credential/certificate related performance

standards. It allows the training program design to be more responsive to employer and employee needs, as it can be specifically customized for that industry, business or worksite. By eliminating the credential/certificate reporting requirement for these participants, we will encourage its use; have a positive effect on retention; and increase the average earnings to be seen in the next performance outcomes.

The following goals and outcomes are expected:

- Increase in employment opportunities for harder-to-serve individuals, such as the long-term unemployed, older workers, and those with limited or sporadic job history
- Increase in the percentage of employers using OJT as a means for hiring and retaining a skilled workforce
- Increase in the number and percentage of workers trained and hired through OJT programs
- Raised skill proficiency in workers, something that will result in an increase in worker viability

5. *Description of the Individuals Impacted by the Waiver*

Impacted individuals will be the Adults and Dislocated Workers, as well as those participating employers due to the fact that the OJT program will become more responsive to their needs.

6. *Description of the Monitoring Process*

The HRODC, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. LWIBs will also continue to be monitored in their activities. The HRODC will track all transferred funds, and the fiscal and programmatic staff will review the impact of this waiver provision.

7. *Notice and opportunity to comment*

To insure transparency and allow for meaningful public comment from to all interested parties, this Waiver request will be posted for public comment on both, the Puerto Rico Department of Labor and Human Resources (PRDOLHR) and the Occupational and Development Council websites.

Comments will be solicited prior to submission, throughout a period to begin on June 20th, 2011 and end on June 30th, 2011. The waiver request will also be addressed at State and Local Workforce Investment Board open meetings that will include members that represent the private and public sectors.