



JAN 29 2019

The Honorable Albert Bryan, Jr.
Governor of the U.S. Virgin Islands
Government House, 21-22, Kongens Gade
Charlotte Amalie
St. Thomas, Virgin Islands 00802

Dear Governor Bryan:

Thank you for the U.S. Virgin Islands' waiver requests on November 1, 2018, regarding certain statutory and regulatory provisions of the Workforce Innovation and Opportunity Act (WIOA) and the accompanying plan to improve the Territory's workforce development system (copy enclosed). This letter provides the Employment and Training Administration's (ETA) official response to the Territory's request and memorializes that the U.S. Virgin Islands will meet the outcomes and implement the measures identified in its plan to ensure accountability agreed to by the U.S. Virgin Islands 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 obligation of eligible training providers (ETPs) to collect and report on the performance data on all students in a training program at WIOA Sections 116(d)(4)(A) and (B) and 122(d)(2)(A) and 20 CFR 677.230(a)(4) and (5) and 20 CFR 680.430(b)(5).

ETA Response: The U.S. Virgin Islands' request to waive the obligation of ETPs to collect and report performance data on all students in a training program is approved through June 30, 2020. ETA reviewed the Territory's waiver request and plan and has determined that the requirements requested to be waived impede the ability of the U.S. Virgin Islands to implement its plan to improve the workforce development system. The Territory must provide information regarding how the Governor will take into account the outcomes of all students in an ETP program of study, with respect to their employment and earnings, as required for the demonstration of continued eligibility in 20 CFR 680.460(f)(1)(iii) and WIOA Section 122. The Territory will continue to collect and report data for all WIOA-funded participants in accordance with all statutory and regulatory requirements, including WIOA Sections 116 and 122, and as specified at 20 CFR 677.230 and 680.460. While ETA recognizes the importance of informing consumer choice through the provision of quality data on training outcomes, we also recognize that the systems and willingness to collect the required performance data from providers may discourage training provider participation, which is a critical component of the workforce development system.

Requested Waiver: Waiver to permit the Territory to exclude individuals affected by the disaster from the calculation of statewide and local performance measures identified in WIOA Section 116(b) and (c).

ETA Response: The U.S. Virgin Islands' waiver request to remove disaster-affected WIOA Title I and III program participants from statewide and local performance measures is approved, upon ETA acceptance of, and concurrence with, the additional information requested below. ETA reviewed the Territory's waiver request and plan and has determined that the requirements requested to be waived impede the ability of U.S. Virgin Islands to implement its plan to improve the workforce development system. Please provide ETA the following information:

- a description of how the Territory will identify and document participants who meet the criteria for exclusion from performance calculations; and
- the program year or years the Territory seeks to address with the waiver.

The current reporting system used for reporting to ETA under WIOA does not allow for a "global exclusions field"; however, ETA has a process for implementing this waiver request using the "Special Project ID" fields in the Participant Individual Record Layout (PIRL).

- Any participants who the Territory determines have met these criteria must be coded as Special Project ID "48IRMA1" in either PIRL elements #105, #106, OR #107 in the file upload to the Workforce Integrated Performance System (WIPS) for the quarterly and annual reports submitted to ETA. Individuals coded using this Special Project ID will be excluded from the WIPS calculations of the primary indicators of performance identified in WIOA Section 116(b) and (c). The Territory is expected to continue to collect and report to ETA the performance indicators for those participants, but they will be excluded from calculations of the Territory's overall progress toward established performance goals.

Requested Waiver: Waiver of the requirement that local programs provide each of the 14 youth program elements at WIOA Section 129(c)(2) as options available to youth participants affected by the disaster.

ETA Response: The U.S. Virgin Islands' request for a waiver of the requirement to make available all 14 youth program elements to disaster-impacted youth participants is approved through June 30, 2020. ETA grants this waiver to provide flexibility in services to youth in areas impacted by the hurricane.

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

ETA Response: The U.S. Virgin Islands' request for a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth at WIOA Sections 134(a)(2)(B)(vi)) and 129(b)(1)(A) is approved through June 30, 2020. The Territory is requesting this waiver because of the perceived expense and lack of capacity to conduct

evaluations. ETA reviewed the Territory's waiver request and plan and has determined that the requirements requested to be waived impede the ability of the U.S. Virgin Islands to implement its plan to improve the workforce development system.

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

ETA Response: ETA approves the U.S. Virgin Islands' waiver request through June 30, 2020, for WIOA Title I Adult, Dislocated Worker, and Youth formula funds. ETA reviewed the Territory's waiver request and plan and has determined that the requirements requested to be waived impede the ability of the U.S. Virgin Islands to implement its plan to improve the workforce development system. Under this waiver, the Territory may reimburse OJT employer sponsors a portion of the participant's wage rate for the extraordinary costs associated with training using the following scale: up to 90 percent for employers with 50 or fewer employees and up to 75 percent for employers with more than 51 employees. WIOA regulations currently permit states and territories to authorize a 75 percent reimbursement rate (see 20 CFR 680.730). The Territory may modify any existing National Dislocated Worker Grant agreements to include the approved waiver.

ETA is available for further discussion and to provide technical assistance to the State to support achieving its goals. The Department of Labor proposed additional flexibility in its Fiscal Year 2018 and 2019 budgets to give governors more decision-making authority to meet the workforce needs of their states and will continue to propose these additional flexibilities in future fiscal years. If you have questions or wish to explore additional flexibility, feel free to contact my office at 202-693-2772.

Sincerely,


Molly E. Conway
Acting Assistant Secretary

Enclosure

cc:

Averil George, Acting Commissioner, U.S. Virgin Islands Department of Labor
Tim Martin, Acting Boston Regional Administrator, Employment and Training Administration
Minnie Holleran, Federal Project Officer, Employment and Training Administration

US VIRGIN ISLANDS WAIVER REQUESTS
WORKFORCE INNOVATION AND OPPORTUNITY ACT

WAIVER OF THE REQUIREMENT THAT ELIGIBLE TRAINING PROVIDERS COLLECT PERFORMANCE DATA FOR ALL STUDENTS IN A TRAINING PROGRAM

Statutory and/or Regulatory Requirement to be Waived

WIOA Section 116 (d)(4)(A) and 122; 20 CFR 677.230 (a)(4) and (5) and 20 CFR 680.400 – 680.530

Actions taken to Remove State of Local Barriers

There is no State or local statutory barrier for the implementation of the proposed waiver.

State Strategic Goal(s) and Department of Labor priorities supported by the waiver

The Virgin Islands seeks to align workforce development with economic development in order to rebuild the capacity of sectors debilitated by the storm. The Territory has no trade schools or community colleges; therefore, most of the training that occurs is provided by targeted provider training or by the local University. In order to maximize the resources of the University, the reporting burden needs to be eliminated. Additionally, eligible training providers are more likely to partner with the workforce system if the reporting burden is alleviated.

USDOL priorities include sector-based training and consumer choice, fueled by the availability of multiple providers. The workforce system's ability to attract high-functioning training providers with reduced paperwork requirements is dependent on this waiver.

Projected programmatic outcomes resulting from implementation of the waiver

This waiver will ensure that the pool of eligible training providers remains steady and increase the number of customers able to access training through ITA's.

Individuals, groups or populations benefitting from the waiver

This waiver will benefit all WIOA populations including Youth, Adults, Dislocated Workers, Individuals with Disabilities and Returning Citizens by increasing their choices of training offerings and training providers who offer different types and methods of training.

How the State plans to monitor waiver implementation, including collection of waiver outcome information

The Planning, Research and Monitoring Unit at the VI Department of Labor will conduct regularly scheduled reviews of the effectiveness of this waiver. Also, performance data collected through the State's MIS system will be analyzed to determine any patterns that result from usage.

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

The waivers will be posted for review and comment on the VI Workforce Development Board and VI Department of Labor's websites.

WAIVER TO ALLOW THE US VIRGIN ISLANDS TO EXCLUDE INDIVIDUALS AFFECTED BY THE DISASTER FROM THE CALCULATION OF STATE AND LOCAL PERFORMANCE MEASURES

Statutory and/or Regulatory Requirement to be Waived

WIOA Section 116 (b) and (c)

Actions taken to Remove State or Local Barriers

There is no State or local statutory barrier for the implementation of the proposed waiver.

State Strategic Goal(s) and Department of Labor priorities supported by the waiver

The US Virgin Islands Strategic Goals enhance the opportunities for workforce advancement through partnerships with occupational sectors, targeted employers and agencies, and through the self-reliance built by entrepreneurships. Temporary and immediate employment was sought by the individuals in the wake of the 2017 hurricanes. These individuals are not working on a career path; simply recovering from long term job loss therefore including them in the performance measures would not garner accurate results on employment.

USDOL's priority of improving job and career results would not be adequately reflected from an abundance of temporary employment in a few quarters only to fall off in subsequent quarters. Once the economic situation of the US Virgin Islands has been stabilized, and employment is based on permanent situations where employees return to either jobs previously held or advanced employment, collection and inclusion of this data will reflect a more accurate overall employment narrative.

Projected programmatic outcomes resulting from implementation of the waiver

This waiver will result in accountability for those jobs that are permanent and reflective of the economic environment in the Territory. It will also show the targeted activities of the workforce system at this point of recovery.

Individuals, groups or populations benefitting from the waiver

All WIOA populations will benefit from this waiver, particularly Dislocated Workers.

How the State plans to monitor waiver implementation, including collection of waiver outcome information

The MIS Unit can assign special project ID's to identify individuals affected by the storm and record it in the PIRL. Additionally, the Planning, Research and Monitoring Unit at the VI Department of Labor will conduct regularly scheduled reviews of the effectiveness of this waiver.

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

The waivers will be posted for review and comment on the VI Workforce Development Board and VI Department of Labor's websites.

WAIVER OF THE REQUIREMENT THAT LOCAL PROGRAMS PROVIDE EACH OF THE FOURTEEN (14) YOUTH PROGRAM ELEMENTS IN ORDER TO PRIORITIZE NEEDED SERVICES TO YOUTH PARTICIPANTS IN HURRICANE AFFECTED LOCAL AREAS

Statutory and/or Regulatory Requirement to be Waived

WIOA Section 129 (c)(2)

Actions taken to Remove State of Local Barriers

There is no State or local statutory barrier for the implementation of the proposed waiver.

State Strategic Goal(s) and Department of Labor priorities supported by the waiver

The ultimate goal of the Virgin Islands Workforce System is to prepare individuals for work; for them to be properly prepared to enter to the workforce; engaged in learning while working; and to develop career goals based on actual experience. This waiver allows young adults to immediately focus on attaining the outcome through relevant experience. It also opens doors for them to subsequently access advanced education and training needed to master the preliminary skills learned.

USDOL supports work-based learning in many variations. This waiver allows for the focus to be on work-based learning in several high-demand sectors. The remaining youth program elements will be infused as much as possible into the learning experiences. Employers will be encouraged to work with case managers on other needs that may arise for specific customers.

Projected programmatic outcomes resulting from implementation of the waiver

There are many work opportunities available for older and out of school youth in light of the reconstruction efforts taking place in the Territory. Young adults will enter employment, retain employment over several quarters and develop a work and wage history as a result of focusing on targeted program elements.

Individuals, groups or populations benefitting from the waiver

The WIOA Youth customer based will be the primary beneficiary of this waiver. The workforce system staff will also benefit due to emphasis placed on acquiring targeted program elements that most serve the youth population at this time rather than all fourteen.

How the State plans to monitor waiver implementation, including collection of waiver outcome information

The Planning, Research and Monitoring Unit at the VI Department of Labor will conduct regularly scheduled reviews of the effectiveness of this waiver. Also, performance data collected through the State's MIS system will be analyzed to determine any patterns that result from usage.

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

The waivers will be posted for review and comment on the VI Workforce Development Board and VI Department of Labor's websites.

WAIVER OF STATEWIDE REQUIRED ACTIVITIES TO CONDUCT EVALUATIONS

Statutory and/or Regulatory Requirement to be Waived

WIOA Section 129 (b)(1)(A) and 134 (a)(2)(vi); Section 116 (e) and Section 169 (a)

Actions taken to Remove State of Local Barriers

There is no State or local statutory barrier for the implementation of the proposed waiver.

State Strategic Goal(s) and Department of Labor priorities supported by the waiver

The Virgin Islands' Workforce System is built upon a network of providers, employers and partners. In order for the system to perform, all need to work in tandem with each other to offer a seamless experience for the customer. The Workforce Board encourages continuous improvement within the Workforce System and thus conducts annual evaluations of different components of the system. Partners, providers and employers have yet to fully recover from the severe damage of system infrastructure caused by the 2017 hurricanes therefore systems, programs and outcomes cannot be fully measured.

USDOL priorities also speak to continuous improvement of the workforce system based on data gathered from partners, providers and employers. This waiver is necessary to allow for the strengthening of education and training strategies and improving job and career results.

Projected programmatic outcomes resulting from implementation of the waiver

By waiving the requirement to conduct evaluations at this time, all entities of the system will be able to concentrate on restructuring their processes, both individually and collectively while keeping the functions of the overall system in mind.

Individuals, groups or populations benefitting from the waiver

The Virgin Islands Workforce System benefits from this waiver as evaluations will be conducted with the proper tools at a time when employers, partners and providers are in a more permanent environment and have access to the resources needed to collect and assess data.

How the State plans to monitor waiver implementation, including collection of waiver outcome information

The Planning, Research and Monitoring Unit at the VI Department of Labor will conduct regularly scheduled reviews of the effectiveness of this waiver. Also, performance data collected through the State's MIS system will be analyzed to determine any patterns that result from usage.

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

The waivers will be posted for review and comment on the VI Workforce Development Board and VI Department of Labor's websites.

WAIVER OF THE FIFTY PERCENT (50%) WAGE REIMBURSEMENT OJT CAP TO UP TO NINETY PERCENT (90%) FOR BUSINESSES WITH FIFTY (50) OR FEWER EMPLOYEES

Statutory and/or Regulatory Requirement to be Waived

WIOA Section 134 (c)(3)(H)(i) and 20 CFR 680.720 (b)

Actions taken to Remove State of Local Barriers

There is no State or local statutory barrier for the implementation of the proposed waiver.

State Strategic Goal(s) and Department of Labor priorities supported by the waiver

The Virgin Islands Workforce System seeks to enhance business engagement through a sector-based approach to workforce training. On-the-job training is a tried and true method of work-based training especially in times of recovery from natural or other disasters. Employers need a strong workforce but when one is not readily available, quick but effective turn around training is needed. The VI has seen a need for such activity especially in the construction industry. While general theoretical knowledge is necessary, learning through performance allows for a quick ramp up of the local workforce. Employers are able to meet their objectives and job seekers are introduced to and learn to perform (by doing) in an actual work environment. For smaller companies who do not regularly have a large workforce on standby, this waiver allows them the opportunity to employ individuals who may still be dislocated from other employment, while still being able to use their limited resources for other critical aspects of job performance.

USDOL also prioritizes the need for work-based learning situations. It connects education and training strategies and fulfills the gaps in sector-driven demand areas.

Projected programmatic outcomes resulting from implementation of the waiver

This waiver allows for smaller businesses to be more flexible with the use of their resources and increase their labor force thus making them more competitive for jobs often afforded to larger companies who are able to absorb the cost of a larger work force. It also builds capacity for smaller companies by allowing for the use of local talent rather than having to undergo costly recruitment from off-island.

Individuals, groups or populations benefitting from the waiver

This waiver benefits both employers and job seekers.

How the State plans to monitor waiver implementation, including collection of waiver outcome information

The Planning, Research and Monitoring Unit at the VI Department of Labor will conduct regularly scheduled reviews of the effectiveness of this waiver. Also, performance data collected through the State's MIS system will be analyzed to determine any patterns that result from usage.

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

The waivers will be posted for review and comment on the VI Workforce Development Board and VI Department of Labor's websites.