

State of Colorado
Workforce Innovation and Opportunity Act Waiver Requests
November 2, 2015

Waiver of Youth Program Element Procurement

1. Statutory Provisions to be Waived: WIOA Sec. 123 - Eligible providers of youth workforce investment activities: requirement to competitively select providers of the 14 youth program elements described in section 129(c)(2)(C),(G), and (I). USDOL previously granted this waiver to the majority of the states during the 15-year life of the Workforce Investment Act.

This waiver would allow elimination of the competitive selection of providers for three of the fourteen youth program elements, as follows:

- Follow-up services for not less than 12 months after the completion of participation, a required WIOA service for all youth participants
- Supportive services
- Paid and unpaid work experience, including
 - Summer employment opportunities and other employment opportunities available throughout the school year;
 - Pre-apprenticeship programs;
 - Internships and job shadowing; and
 - On-the-job training opportunities

2. State or Local Statutory Regulatory Barriers: There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

3. Goals and Programmatic Outcomes to be Achieved by the Waiver:

- Allow one-stop center case managers, who have developed this expertise over the last 15 years, to provide follow-up and supportive services to improve continuity of case management services, achieve a more efficient, effective and seamless one-stop service delivery system that can provide excellent customer service to jobseekers, and successfully implement the WIOA focus on services to disconnected/out-of-school youth.
- Allow one-stop center business services staff and partner agency counterparts to serve as the primary developers of all the types of work experience opportunities allowed for youth as an expansion and enhancement of Colorado's nationally-recognized Business Services Alignment Initiative; to provide a customer-centered one-stop system where businesses drive workforce solutions; and to effectively track outcomes for the potential WIOA performance measure on effectiveness of services to businesses.
- Avoid additional administrative costs and utilization of staff resources to conduct the procurement of the three elements, which in-house staff currently have the expertise to deliver; avoid the additional overhead costs associated with sub-contracting the three elements to outside entities, which in turn is expected to result in a higher cost-per for these services and a decrease in the number of youth participants that can be served by the WIOA youth programs across the state.

Follow-Up and Supportive Services:

The case management relationship with participants, which has been honed over the last 15 years of WIA, is based upon a thorough knowledge of the youth, their employment plan, expected outcomes, and barriers. Colorado's youth program operates on the premise of long-term participation during which time a strong relationship is formed. This is particularly critical to the success of disconnected youth, who require a strong support system to overcome barriers to the achievement of educational and occupational goals. When the youth exits the program and enters into the follow-up period, the requirement that follow-up services be provided by a different organization secured through a competitive process is likely to render services less effective. The established relationship with staff will not exist with a new organization contracted to do follow-up. A youth would be less likely to respond to follow-up contacts and therefore less likely to take advantage of available services that lead to more stability and longer retention. By allowing the local workforce case manager to continue their established relationship with the participant during the follow-up period, there will be greater effectiveness in quickly identifying the needs of the youth and offering assistance. A new third party conducting the follow-up would have to gather additional information and establish a relationship of trust and communication. This process would be more time intensive and costly than building upon an established relationship between the youth and the case manager.

Likewise, by allowing local workforce center case managers to identify and authorize payment for support services, the continuity of service stays intact. When a youth has to be referred to a third party to secure a support service, not only is there an additional party to whom the youth must expose confidential information, but it is a less efficient way to expedite the issuance of a voucher, purchase order, bus pass or other method for disbursing assistance. Due to the relatively small youth allocations for Colorado local areas, support services are generally limited and are used to provide help for transportation, clothing, eyeglasses, tools, physicals, and other small purchases. Those specific services may be a sole source purchase, such as in the case of bus passes, or based upon vendors who are willing to do business through purchase orders. Where there is a choice of vendors, multiple bids are gathered. This youth practice would be consistent with the way adult and dislocated worker services are provided through the one-stop centers. By creating a separate service provider for this youth program element, the delivery system becomes fragmented and less holistic for the participant, and more costly for the system.

Work Experiences:

The Business Services Alignment Initiative is a grassroots, locally driven initiative supported by state and local one-stop partners and the Colorado Workforce Development Council. Its charge is to provide a streamlined and more responsive, demand-driven approach to serving the business community in Colorado, as well as to develop job and work-based training and learning opportunities (including work experiences, pre-apprenticeships, internships, job shadowing, OJTs, and summer employment) for the one-stop customer base. Since its inception in 2011, this initiative has worked to streamline and standardize the business services efforts across the state's one-stop centers and to utilize technology and virtual tools to capture and report data on business services and its outcomes. It is currently poised to expand its efforts to include the business services programs of the key local partners in the one-stop system, including TANF, Vocational Rehabilitation, Adult Basic Education, and community based youth services organizations.

One of the team's most significant contributions has been the creation of a robust business services measurement system that tracks staff-assisted services to businesses, and monitors their effectiveness. The team's efforts have received national attention in the White House Paper, "Ready to Work: Job-Driven Training and American Opportunity," which identified Colorado as a leader in creating and implementing standardized reporting measures. In addition, Colorado has submitted this measurement system to USDOL through the NPRM comment process as a possible model for defining and implementing the "effectiveness in serving business" performance measure for WIOA.

The WIOA requirement to procure the development of work experiences and all types of work based training and learning opportunities has the potential to fragment and undermine the efforts underway to align business services in the state and effectively manage the tracking and reporting of business services outcomes. At the same time, because businesses consistently demand a single point of contact for all their service needs, the contracting of this segment of business services to outside organizations is expected to lead to decreased customer satisfaction, a critical aspect of performance. Additionally, as with the procurement of follow-up and supportive services, it has the potential to render business services on behalf of youth participants less effective, both in terms of cost and consistency of services to the youth, with the potential to reduce the number of businesses that can be served.

Cost Effectiveness:

Colorado's one-stop delivery system consists of 10 designated local areas, 9 of which are county operated while one is administered by the state, and locally delivered through state and county entities. In almost every local area, procurement of these services will require the use of additional administrative and staff resources to conduct the competitive process for three youth program elements that have been delivered by in-house staff under the WIA waiver. This redirection of resources will increase the cost-per-participant for work experiences, follow-up, and supportive services. In addition, because supportive services are already being purchased through an internal procurement process, subcontracting this element would mean paying outside staff to duplicate processes already in place, adding a layer of bureaucracy and complicating access to this critical service. Finally, because these services are the most commonly utilized youth program elements, the cost-per-participant is expected to increase and the number of youth served is expected to decrease, lowering overall cost-effectiveness.

In Summary:

The greater flexibility resulting from this waiver will allow workforce centers to

- Improve the continuity of services to youth;
- Implement a more cost-effective and integrated service delivery system; and
- Develop stronger ties with work experience host agencies and employers.

In the same manner, this waiver is expected to

- Promote the rapid implementation of the out-of-school youth focus of the Workforce Innovation and Opportunity Act of 2014;
- Facilitate the tracking and reporting of outcome data for the WIOA business services performance measure;
- Allow Colorado to continue achieving efficiencies in the delivery of all youth services;
- Keep the administrative costs of competitive procurement processes at a minimal level; and

- Direct more funds to program activities that will allow Colorado to serve a larger number of youth participants and lead toward performance improvement.

4. Individuals Impacted by the Waiver:

- Local boards needing to minimize administrative costs and redirect those funds to additional program activities that assist youth participants and lead to performance improvement, as well as the development of comprehensive one-stop centers in alignment with TEGL 4-15: Vision for the One-Stop Delivery System under WIOA.
- Older, out-of-school, low-income and disconnected youth, who have demonstrated the need for intensive youth program services and supports, most commonly work experiences, supportive services, and follow-up, the latter required by WIOA.
- Community Based Organizations: In some parts of the state, the procurement process will continue as before, where most or all of the services are contracted out to CBOs. In other parts of the state, community organizations seeking to partner with workforce boards will have the opportunity meet the needs of disconnected youth populations and the business community that their current resources alone cannot address.
- One-Stop Partners seeking to align their service delivery to youth and businesses with the one-stop system and leverage resources to meet customer needs.

5. Process Used to Monitor Progress in Implementing the Waivers: CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado’s network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE’s statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIOA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

Specifically, Colorado has issued Program Guidance Letter #15-13-WIOA: PY15 Waiver Policy that contains the following waiver oversight process:

E. Waiver Monitoring and Accountability:

In TEGL 26-09, USDOL stated its intent to enhance its oversight and monitoring of waivers to determine what impacts waivers have on performance outcomes, gain insight into how states are using waivers, and to ensure that the integrity of the waiver guidelines are maintained. To address the same areas, CDLE will be adding the monitoring of waivers to its quarterly and annual monitoring processes in order to track how waivers have changed the activities of the local areas and directly or indirectly affected local area performance, and to insure compliance with waiver guidelines. CDLE will utilize the following mechanisms to track and monitor the use of waivers in each region:

- *Local plans*
- *Expenditure Authorizations for WIOA and Wagner-Peyser formula programs that issue funding and serve as modifications to grant agreements*
- *Local policies*
- *Activity and performance reports*

6. Process for Notice of Local Boards and Opportunity to Comment: The waiver request will be published for a period of two weeks on the public websites maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local boards and one-stop operators. The waiver requests and any comments received will be submitted to the US Department of Labor.

Waiver of Limits on Employer Reimbursement for On-the-Job Training

1. Statutory Provisions to be Waived: WIOA Section 134(c)(3)(H)(i) provides reimbursement to the employer for On-the-Job Training (OJT) of up to 50 percent of the wage rate of the participant, and for the extraordinary costs of providing for the training and additional supervision related to the training. It also allows up to 75% reimbursement of the wage rate if a local board approves this policy and identifies the size or type of employers receiving each level of reimbursement.

Colorado is proposing a sliding scale of reimbursement to the employer of up to 90% of the wage rate and extraordinary costs defined by the law, based on the following criteria:

- Up to 90%: Employers with 50 or fewer employees
- Up to 75%: Employers with 51-250 employees
- Up to 50%: Employers with more than 250 employees

2. State or Local Statutory Regulatory Barriers: There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

3. Goals and Programmatic Outcomes to be Achieved by This Waiver

- Maximize the flexibility needed to ensure speedy implementation of work-based learning opportunities that WIOA encourages for both formula and discretionary grants;
- Increase business usage of the workforce system and thereby achieve greater access to employment opportunities for youth job seekers;
- Provide greater incentives for employers to retain and retrain current employees to avoid layoffs; and to create new jobs;
- Create additional opportunities for new workers, and for unemployed and underemployed workers to speed their return to full-time employment;
- Support Colorado's small business and entrepreneurial start-up economy; and
- Address skills gaps within Colorado's middle skills occupations to increase the talent pipeline needed for expanding and relocating businesses, and for sector partnerships.

Multiple factors impact Colorado's request to expand the OJT sliding scale to 90% of the hourly wage:

- Colorado is a small business state with over 96% of its companies employing 50 or fewer employees. This translates to 240,048 of the 249,356 businesses registered with the Unemployment Insurance tax system, with only 8,277 employers having 51-250 employees and 1,031 having more than 250 employees. At the same time a June 10,

2013, article in Forbes Magazine highlighted the “entrepreneurial renaissance” in Colorado by quoting the 2012 Colorado Start-up Report, which states that Colorado launches a new startup company every 72 hours, or over 120 per year. The Kaufman Index for 2015, which is based on research conducted by the Kaufman Foundation in partnership with the US Census Bureau, indicates that Colorado is ranked as 4th among the states regarding the number of startup businesses per 100,000 of population. (A startup is defined as a business less than 1 year old that has at least one employee.) Together startups and established small businesses account for the vast majority of job growth within the state, but have limited resources to train staff.

- Although Colorado’s overall economy has demonstrated a sustained pattern of growth during 2015, there are still pockets of double-digit unemployment, particularly in the rural parts of the state. This is in contrast to the chief complaint that local business services representatives hear from employers across the state: they are unable to find qualified employees with the skill sets they need. Colorado’s recently published 2015 Talent Pipeline Report states that the “skills gap” identified by employers correlates directly to educational achievement levels, with the lowest achievement levels attributable to racial minorities and low income populations. These individuals represent a significant segment of the groups with barriers to employment that WIOA sets as a priority for enrollment in both the youth and adult programs.
- From 2009-2010, with the state unemployment rate reaching 8.8%, Colorado launched the Hire Colorado initiative with TANF reserve funds made available through the federal Recovery Act, and targeted to unemployment insurance claimants meeting TANF income requirements. This highly successful program focused on work-based learning strategies including OJTs and transitional jobs, serving 1,122 employers and resulting in a 75% entered employment rate for the 1,721 participants. In addition, participating businesses provided overwhelmingly positive feedback to customer satisfaction surveys conducted during the project. In support of WIOA’s focus on work-based learning and effectiveness in serving businesses, Colorado is seeking to expand OJT opportunities to both formula and upcoming discretionary initiatives, utilizing the successes of the Hire Colorado model.

In Summary:

Increasing the maximum sliding scale reimbursement for OJT to 90% will allow local areas to expand their OJT programs to address the needs of Colorado’s small businesses and serve those with barriers to employment. It will also allow the state and local areas to model OJT initiatives after proven work-based learning strategies. CDLE will issue policy guidance, with input from the local workforce investment regions, regarding implementation of the sliding scale, which will adhere to the principles of training workers in high-demand occupations and ensure accountability on the part of local boards and service providers.

4. Individuals Impacted by the Waiver

- Unemployed and underemployed workers who do not have transferrable or marketable skills, including transitioning military service members and long-term unemployed veterans;
- Individuals entering the workforce for the first time;
- Disconnected out-of-school youth who are unable to compete for limited job openings;

- Businesses, particularly small businesses and entrepreneurial startups, needing to retain current workers, and/or hire additional workers to sustain or expand their productivity, who do not have immediate resources to do so; and
- Local boards needing greater flexibility for timely implementation of grants and initiatives that can offer work-based learning opportunities.

5. Process Used to Monitor Progress in Implementing the Waivers: CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado’s network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE’s statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIOA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

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