

NOV 10 2009



The Honorable Edward G. Rendell
Governor of Pennsylvania
Room 225
Main Capitol Building
Harrisburg, Pennsylvania 17120

Dear Governor Rendell:

As part of Pennsylvania's modification to the State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act, the Commonwealth submitted waiver plans to request that its waivers of statutory and regulatory requirements under WIA be approved for the remainder of Program Year (PY) 2009 (copy enclosed). These requests are written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c) and appear to meet the standard for approval at 20 CFR 661.420(e). The following is the disposition of the Commonwealth's submission. This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, Subtitles B and E, and sections 8-10 of the Wagner-Peyser Act.

In a letter dated June 15, 2009, ETA granted Pennsylvania approval of the following waivers through June 30, 2010:

- Waiver to permit the Commonwealth to replace the performance measures at WIA Section 136(b) with the common measures; and
- Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The approvals for these waivers remain in effect. The letter dated June 15, 2009, granted temporary extensions of the remainder of Pennsylvania's waiver requests. The previous approval of the extensions is hereby terminated and replaced by decisions set forth in this letter. Unless otherwise indicated, all waiver approvals that follow apply to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009 (ARRA).

Requested Waivers

Requested Waiver: Waiver of WIA regulation 20 CFR 663.820 of the requirement that Dislocated Workers be enrolled in training by the end of the 13th week after layoff to receive needs-related payments.

Provisions related to eligibility of providers and participants are excluded from the WIA waiver authority, and cannot be waived. Therefore, we are denying this waiver. Eligible dislocated workers may still be served with WIA funds after the 13th week after layoff, however they may not receive needs-related payments.

Requested Waiver: Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The Commonwealth is requesting a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. Pennsylvania is granted this waiver through June 30, 2010. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the Commonwealth must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth may provide customized training to low-income adults with WIA Adult funds, and may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Requested Waiver: Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The Commonwealth is requesting a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. Pennsylvania is granted this waiver through June 30, 2010. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth may provide on-the-job training to low-income adults with WIA Adult funds, and may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Requested Waiver: Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The Commonwealth is requesting a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. Pennsylvania is granted this waiver through June 30, 2010. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs. As stated in ETA Training and Employment Guidance Letter (TEGL) No. 14-08, Section 19, issued on March 18, 2009, this waiver does not apply to funds made available through ARRA. However, the Commonwealth is permitted to transfer up to 30 percent of ARRA funds between programs under WIA and under the Department of Labor Appropriations Act of 2009. This authority is discussed in TEGL No. 14-08, change 1.

Requested Waiver: Waiver of the reallocation provisions at WIA Sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160.

The Commonwealth is requesting a waiver of the reallocation provisions at WIA Sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160. ETA denies this waiver. ETA believes that maintaining the statutory provisions of the law ensures that local areas have sufficient time to obligate and expend funds in a manner that best supports the needs of the customers in that area.

Requested Waiver: Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training and other statewide activities.

The Commonwealth is requesting a waiver to permit local area formula funding to be used for statewide activities, including incumbent worker training and other activities. Pennsylvania is partially granted this waiver through June 30, 2010. Under this waiver, the Commonwealth will be permitted to use up to 10 percent of local Dislocated Worker funds and up to 10 percent of local Adult funds for incumbent worker training only as part of a lay-off aversion strategy. Use of Adult funds must be restricted to serving low-income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA section 134(d), and Pennsylvania is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD).

The Commonwealth also requested the use of local funds for other statewide activities for the purpose of innovative training and service delivery approaches. ETA denies the portion of the waiver request to fund other statewide activities. ETA believes

maximizing the use of formula funding at the local level for WIA services is the best use of those funds in the current economic climate. The approval for the waiver for use of local funds for statewide activities, other than incumbent worker training, expires on the date of this letter. No new obligations are permitted effective the date of this letter; obligations made while this waiver was in effect may be fulfilled.

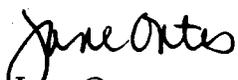
Requested Waiver: Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training and other statewide activities.

The Commonwealth is requesting a waiver to permit use of rapid response funds for incumbent worker training and other statewide activities. Pennsylvania is granted this waiver through June 30, 2010. Under this waiver, the Commonwealth is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a lay-off aversion strategy and the following statewide activities that enhance services to dislocated workers and outlined in the waiver request: grants that invest in skills assessments, remediation, contextualized learning, and credentials that create an accessible career pathway for dislocated workers and projects that promote strong connections between academic credentialing, industry certifications and occupational learning. The purpose of this waiver is to enhance services to dislocated workers, and so must not be used as a means to deliver WIA services to individuals who would not otherwise be served under a WIA program. Pennsylvania is required to report performance outcomes for any participant, including incumbent workers served under this waiver in the WIASRD. ETA TEGL No. 14-08, Section 19, explained that in order to apply this waiver to funds made available through ARRA, states needed to submit a detailed justification. Because record numbers of unemployed individuals continue to seek the services of the workforce system, ETA believes that the use of Recovery Act funds for incumbent worker training would be inappropriate, and these funds should be devoted to serving those participants without jobs. Therefore, this waiver does not apply to funds made available through ARRA.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as required by TEGL No. 14-00, Change 3, the Commonwealth should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to continuing our partnership with you and achieving better workforce outcomes. If you have any questions related to the issues discussed above, please contact Lenita Jacobs-Simmons, the Regional Administrator for Region II, at 215-861-5201 or Jacobs-Simmons.Lenita@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosure

cc: Matthew Heaney, Federal Project Officer for Pennsylvania, ETA Philadelphia Regional Office

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Appendix J – Waivers/Workflex

The following seven waivers have been approved by USDOL. TEGL No. 14-08 provides that the first two approved waivers are extended without full waiver plan submission. All waivers will be applicable to Recovery Act funds and activities, except as prohibited or restricted. Pennsylvania will restrict transfer of Recovery Act funds between the Adult and Dislocated Worker funding streams to twenty percent. The use of Recovery Act funds for Rapid Response will limit incumbent worker training to layoff aversion activities. All waiver requests address the elements required at WIA section 189(i)(4)(b) and were made available for public review and comment as part of the modification to the Strategic State Workforce Investment Plan, in compliance with 20 CFR 661.230(d).

1. Performance Measures for Workforce Investment Act Title I; Wagner-Peyser Act (Labor Exchange); Jobs for Veterans Act of 2002 (Title 38 USC); and Trade Act.
This waiver allows Pennsylvania to implement Common Measures in accordance with provisions of the waiver and USDOL approval.
2. Allow ITAs for Out-of-School Youth.
This waiver provides local flexibility by opening the approved training provider list to Out-of-School Youth.
3. Replace the required 50 percent customized training employer match with a match using a sliding scale from 10 percent to 50 percent (amount determined by established criteria)
4. Allow up to 100 percent transfer between Adult and Dislocated Worker funding streams
5. On-The-Job-Training Reimbursement
6. Threshold of Obligations and Reallocation Provisions
7. Permit use of LWIA formula funds and Statewide Rapid Response funds for Statewide Activities (incumbent worker training)

Pennsylvania is requesting continued authority for these waivers, with a change to the seventh waiver above to allow up to 50 percent of Rapid Response funds to be used for Statewide Activities, including incumbent worker training as part of a layoff aversion strategy.

The USDOL has recently approved two waiver requests for Summer Youth Employment Programs funded by the Recovery Act.

8. Identification of Eligible Providers of Youth Activities
9. Waiver of program design requirements and performance measures for youth who participate in ARRA-funded work experience activities only

The following new waiver request is submitted for consideration and approval.

10. Expand the timeframe provided for enrollment into WIA training programs for Dislocated Workers

Approved WIA Waiver Request

Statutory/Regulatory Provision:		Replace the required 50 percent customized training employer match with a match using a sliding scale from 10 percent to 50 percent (amount determined by established criteria)					
Citation: Statute:		Sec.101 (8);			Citation: Regulation:		20 CFR 663.715(c)
Entity:	Pennsylvania Department of Labor & Industry						
Contact:	Sandi Vito	Phone:	717-705-2630	Fax:	717-787-8826		
Address:	7th and Forster Sts.	City:	Harrisburg	State:	PA	Zip:	17121
Duration:	From:	August 3, 2005			To:	June 30, 2010	
Governor:	Edward G. Rendell						

Justification:

Pennsylvania requests a waiver of the statutory exclusion and regulatory prohibition of the customized training required minimum employer payment of 50 percent of the cost of training. The statutory minimum required payment has been determined to be the single greatest deterrent for employers in the Commonwealth who had considered customized training as a means to access or develop workforce skills necessary for growth in their respective industries. A sliding scale for the employer matching cost component will create more incentive for employers to participate in customized training that achieves high-skill, high-demand and/or high wage attainment.

The proposed scale will range from 10 to 50 percent, based on characteristics such as: the type of training, size of the business, number of persons being trained, the hiring needs of the employer, and industry or skill demand. Characteristics measurement will be based on alignment with the Commonwealth's workforce development goals, delineated in Pennsylvania's Strategic State Workforce Investment Plan, which focuses on training and programs that achieve high-skill, high-demand, high wage occupations and industries. The PA Department of Labor & Industry will develop the sliding scale and processes for application and implementation.

There are no state or local statutory or regulatory barriers to impede implementation of the requested waiver.

Outcomes/Benefits:

Goals to be Achieved by the Waiver:

- Increased flexibility at the local level to offer businesses training solutions tailored to respond to the specific needs of the business
- Elevated skill proficiencies for workers that will result in increased worker viability
- Increased responsiveness to labor market issues in the private sector
- Increased capability to attract new businesses into the Commonwealth
- Increased percentages of employers using customized training as a means of hiring and retaining a skilled workforce

- Increased percentages of workers trained and hired through customized training programs.

Description of the Individuals Impacted by the Waiver:

Employers will benefit from this waiver allowing customized training at a reduced cost. It will allow businesses to more readily adapt to changes in technology and the marketplace. Businesses will be capable of expanding or remaining competitive with affordable, customized training options, uniquely designed to achieve their specific developmental goals.

The waiver will also benefit Adults, Out-of-School Youth and Dislocated Workers who are eligible for services under WIA by the availability of customized training options. The eligible individuals who are most likely to benefit are those who have multiple barriers to employment, low basic skills or limited English language proficiency.

Trade-impacted workers would benefit by increased opportunities to gain relevant, transferable, and demanded skill proficiencies that will allow them to transition into other industries or occupations.

Monitoring/Evaluation Process

Description of the Process to Monitor Progress:

The Pennsylvania Department of Labor & Industry is the state administrative entity for the Workforce Investment Act. The waiver enables Pennsylvania the flexibility to design seamless delivery of services and to customize the education and training programs for job seekers, businesses and workers. Pennsylvania's workforce development goals are designed to achieve an industry-led, demand driven system and a highly-skilled workforce with emphasis on furthering customer satisfaction through choice, individual opportunity, and continuity of services. By following the guidelines, each LWIA can ensure an efficient and quality delivery system. The Pennsylvania Department of Labor & Industry will monitor the implementation and impact of the waiver, through a combination of reporting from the local level, state oversight, and evaluation. Performance measures from the Local Workforce Investment Areas will be regularly evaluated, to determine the impact of the waiver approval. The state will gather information through discussion on the progress of the implementation of the waiver, performance data, and obstacles encountered, if any. To ensure fiscal integrity, there will be both adequate oversight and complete, consistent reporting. The state will review applicable policies and procedures and modify them accordingly.

Other Comments Provided

Consistent with the general waiver request, the state is adhering to publication requirements to ensure the broadest participation possible, including informing appropriate partners and interested parties, such as labor, community based organizations, LWIBs and the PA Workforce Investment Board. A public comment period was provided from May 10, 2005 through May 23, 2005 and from June 24, 2009 through June 28, 2009. All comments received have been incorporated or otherwise addressed herein.

Approved WIA Waiver Request

Statutory/Regulatory Provision:		Allow up to 100 percent transfer between Adult and Dislocated Worker funding streams					
Citation: Statute:		Sec. 133(b)(4)			Citation: Regulation:		§ 667.140
Entity:	Pennsylvania Department of Labor & Industry						
Contact:	Sandi Vito	Phone:	717-705-2630		Fax:	717-787-8826	
Address:	7th and Forster Sts.	City:	Harrisburg		State:	PA	Zip: 17121
Duration:	From:	August 3, 2005			To:	June 30, 2010	
Governor:	Edward G. Rendell						

Justification (Narrative 1)

Pennsylvania requests a waiver of the statutory exclusion and regulatory prohibition of the transfer of no more than 20 percent of a program year's allocation between the Adult and Dislocated Worker funding streams. The waiver would grant individual LWIBs, with the Governor's approval, the ability to transfer up to 100 percent of each program year allocation between the Adult and Dislocated Worker funding streams, beginning in PY 2005.

WIA Section 133(b)(4) and 20 CFR 667.140(a) provide that with the approval of the Governor, LWIBs may transfer up to 20 percent of a program year's allocation for adult employment and training activities, and up to 20 percent of a program year's allocation for dislocated worker employment and training activities, between the two programs. Federal appropriations bills for PY 2003 and later years included provisions that allowed transfer of up to 30 percent of funding between both the adult and dislocated worker programs. The Commonwealth has found this additional transfer allowance to be beneficial in local planning and in meeting local services needs. This waiver, allowing up to 100 percent transfer, would further enhance local abilities to address workforce needs within the Local Workforce Investment Areas.

The direction of the current national workforce development principles and direction promotes cross-cutting of separate programs and silos wherever possible in order to enhance effectiveness of service delivery, both in customers' receipt of services and in program costs. Governor Rendell strongly endorses those principles. Approval of this waiver request would contribute to alignment of Pennsylvania's local-level workforce development strategy with the Governor's vision for a more integrated and effective workforce system. In addition, waiver approval would enhance alignment of Pennsylvania's workforce development strategies with USDOL's national strategic priorities, including enhanced integration of workforce investment systems to better be able to respond to the needs of customers; and provide greater flexibility in structuring workforce investment systems.

Upon USDOL notification of approval of this waiver request, state policies will be developed and issued to comply with the terms of the waiver, and to put in place the necessary mechanisms that ensure effective use of the new transfer authority, including outlining specific actions that each LWIB must take in requesting the Governor's approval to modify the current transfer percentage rate.

Outcomes/Benefits (Narrative 2)

Goals to be Achieved by the Waiver:

- **Improve the ability of LWIBs to respond to workforce and economic dynamics within their LWIAs;**
- **Increase local control for program delivery;**
- **Increase employer collaboration between industry need and worker training, enhancing the LWIB's ability to respond to employer needs for workers trained in employer-specific skills;**
- **Increase accountability at the state, local, and service provider levels;**
- **Improve performance outcomes; and**
- **Improve the ability of LWIBs to design programs and provide targeted assistance in response to customer needs.**

Description of the Individuals Impacted by the Waiver:

The waiver is expected to benefit LWIBs, PA CareerLink Partner programs, employers, service providers, and WIA customers overall.

- **LWIBs will have the flexibility to design programs based on local needs and priorities.**
- **PA CareerLink partner programs will be able to better align their service offerings with those of the LWIA programs.**
- **Employers will be better served through participants that acquire skills specific to each employer's needs.**
- **WIA program participants will receive services appropriate to the participant group(s) for which they are eligible.**
- **Increased utilization of funds will result in more participants being served in the aggregate.**

Monitoring/Evaluation Process (Narrative 3)

Description of the Process to Monitor Progress:

The Pennsylvania Department of Labor & Industry is the state administrative entity for the Workforce Investment Act. The waiver enables Pennsylvania the flexibility to design seamless delivery of services and to customize the planning and service delivery for applicable programs.

The Pennsylvania Department of Labor & Industry will monitor the implementation and impact of the waiver through a combination of reporting from the local level, state oversight, and evaluation. Financial data and performance measures from LWIAs will be evaluated regularly to determine the impact of the waiver approval. To ensure fiscal integrity, there will be both adequate oversight and complete, consistent reporting. The state will also gather information through discussion on the progress of the implementation of the waivers, addressing concerns and obstacles encountered, if any.

The state will review applicable policies and procedures developed for this waiver, as well as other policies and procedures, and modify them as necessary.

Other Comments Provided (Narrative 4)

Consistent with the general waiver request, the state is adhering to publication requirements to

insure the broadest participation possible, including informing appropriate partners and interested parties, such as labor, community based organizations, LWIBs and the State Workforce Investment Board. A public comment period was provided from May 10, 2005 through May 23, 2005 and from June 24, 2009 through June 28, 2009.

Approved WIA Waiver Request

Statutory/Regulatory Provision:		On-The-Job-Training Reimbursement					
Citation: Statute:	§101(31)(B);	Citation: Regulation:			20 CFR 663.710(b)		
Entity:	Pennsylvania Department of Labor & Industry						
Contact:	Sandi Vito	Phone:	717-705-2630	Fax:	717-787-8826		
Address:	7th and Forster Sts.	City:	Harrisburg	State:	PA	Zip:	17121
Duration:	From:	July 1, 2007		To:	June 30, 2010		
Governor:	Edward G. Rendell						

Justification (Narrative 1)
 Pennsylvania requests a waiver to allow a change to the maximum employer reimbursement for On-the-job (OJT) training from the current 50 percent of the wage rate. The waiver request seeks to allow Pennsylvania to reimburse the employer on a graduated scale based on the size of the business. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with more than 50 but fewer than 100 employees. For employers with 100 or more employees, the current statutory requirements will continue to apply. The statutory maximum reimbursement has been determined to be a deterrent for small employers in the Commonwealth that had considered OJT as a means to develop workforce skills necessary for growth in their respective industries. A graduated scale of reimbursement will create more incentive for small employers to participate in OJT that achieves high-skill, high demand and/or high wage attainment and family sustaining jobs.

As required by 20 CFR 663.700, the length of an OJT will still be determined by the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. No reimbursement greater than 50 percent will remain in effect longer than three months.

Approval of this waiver will be especially beneficial to small businesses that provide most of the new jobs being created in the Commonwealth. Recent statistical analysis revealed that more than 271,000 new jobs were created by 58,000 PA small businesses (those employing fewer than 50 workers) in the last year, which indicates that an average of five new jobs annually are created by each small business.

- Outcomes/Benefit (Narrative 2)**
 Goals to be Achieved by the Waiver:
- Increased percentages of employers using OJT as a means of hiring and retaining a skilled workforce
 - Increased number and percentages of workers trained and hired through OJT programs
 - Elevated skill proficiencies for workers that will result in increased worker viability
 - Increased responsiveness to labor market issues in the private sector
 - Increased flexibility at the local level to offer businesses training solutions tailored to respond

to the specific needs of the business

Description of the Individuals Impacted by the Waiver:

Employers will benefit from this waiver allowing OJT at a reduced cost. It will allow businesses to more rapidly adapt to changes in technology and the marketplace. Businesses will be capable of expanding and remaining competitive with affordable OJT options uniquely designed to achieve their specific developmental goals. This waiver will make OJT a much more viable option, especially for small businesses looking to get started or expand.

The waiver will also benefit Adults, Dislocated Workers and Out-of-School Youth who are eligible for services under WIA by the availability of OJT options.

Monitoring/Evaluation Process (Narrative 3)

Description of the Process to Monitor Progress:

The Pennsylvania Department of Labor & Industry is the state administrative entity for the Workforce Investment Act. Pennsylvania's workforce development goals are designed to achieve an industry-led, demand-driven system and a highly skilled workforce. With emphasis on furthering customer satisfaction through choice, individual opportunity, and continuity of services, each LWIA can ensure an efficient and quality delivery system. The Pennsylvania Department of Labor & Industry will monitor the implementation and impact of the waiver, through a combination of reporting from the local level, state oversight, and evaluation. Performance measures from the Local Workforce Investment Areas will be regularly evaluated to determine the impact of the waiver approval. The state will gather information through discussion on the progress of the implementation of the waiver, performance data, and obstacles encountered, if any. To ensure fiscal integrity, there will be both adequate oversight and complete, consistent reporting. The state will review applicable policies and procedures and modify accordingly.

Other Comments Provided (Narrative 4)

Consistent with the general waiver request, the state is adhering to publication requirements to ensure the broadest participation possible, including informing appropriate partners and interested parties, community based organizations, LWIBs and the PA Workforce Investment Board. A public comment period was provided from April 20, 2007 through April 27, 2007 and from June 24, 2009 through June 28, 2009. All comments received have been incorporated or otherwise addressed herein.

Approved WIA Waiver Request

Statutory/Regulatory Provision:		Threshold of Obligations and Reallocation Provisions					
Citation: Statute:	§128 & 133	Citation: Regulation:	§667.160				
Entity:	Pennsylvania Department of Labor & Industry						
Contact:	Sandi Vito	Phone:	717-705-2630	Fax:	717-787-8826		
Address:	7th and Forster Sts.	City:	Harrisburg	State:	PA	Zip:	17121
Duration:	From:	July 1, 2007		To:	June 30, 2010		
Governor:	Edward G. Rendell						

Justification (Narrative 1)

Pennsylvania requests a waiver to allow a substitution for the current 80 percent threshold of obligations as the basis for re-obligation with a 70 percent requirement of accrued expenditures of all relevant funds available in a Program Year at the state to LWIA level. Although USDOL has provided training regarding the difference between obligations and accrued expenditures, the terms are neither well understood nor uniformly interpreted. This has led to confusion and unsatisfactory results within the system.

This request also asks for a waiver of the reallocation provisions at WIA sections 128(c)(2) and 133(c), and 20 CFR 667.160 to provide states with additional flexibility in the targeting of WIA funds. Under this waiver, states will be permitted to implement the following features: 1) mid-year de-obligation and reallocation of local funds; 2) recapture of funds from LWIAs that have not expended at least 70 percent of their funds in the first year; 3) use of recaptured funds for Statewide Activities or reallocation to other eligible LWIAs; 4) use of additional factors in determining LWIA eligibility for a reallocation of recaptured funds, including demonstrated need and ability to use additional funds.

Accrued expenditures are not commonly understood. Local Workforce Investment Boards prefer not to expend all funds to remain flexible enough to meet unanticipated needs, with the realization that all LWIBs must make commitments for payments in future years. Obligations are a good internal management tool for determining the commitment of funds, but accrued expenditures are the common language of fiscal reporting requirements and present a much more accurate and consistent financial picture.

These requests are based on feedback from Local Workforce Investment Areas and precedents set by similar approved waivers in other states.

Outcomes/Benefits (Narrative 2)

The impact of this waiver at the local level will be a reduced backlog of unexpended funds, which will be reflected in the state's overall expenditure level. This will also impact on future WIA funding, since Congress determines the WIA budget on expenditure levels. If states fail to ensure adequate levels of funds are expended each year, funding will be decreased. Pennsylvania is striving to provide an

environment to support a market-driven workforce development system with clear goals to provide accountability to its customers. The purpose of this request is to ensure the workforce development system is fully funded and implemented statewide, and available funds are expended to provide more businesses and job seekers the services they need.

Monitoring/Evaluation Process (Narrative 3)

The Pennsylvania Department of Labor & Industry is the state administrative entity for the Workforce Investment Act. Pennsylvania's workforce development goals are designed to achieve an industry-led, demand-driven system and a highly skilled workforce. With emphasis on furthering customer satisfaction through choice, individual opportunity, and continuity of services, each LWIA can ensure an efficient and quality delivery system. The Pennsylvania Department of Labor & Industry will monitor the implementation and impact of the waiver, through a combination of reporting from the local level, state oversight, and evaluation. The state will gather information through discussion on the progress of the implementation of the waiver and obstacles encountered, if any. To ensure fiscal integrity, there will be both adequate oversight and complete, consistent reporting. The state will review applicable policies and procedures and modify them accordingly.

Other Comments Provided (Narrative 4)

Consistent with the general waiver request, the state is adhering to publication requirements to ensure the broadest participation possible, including informing appropriate partners and interested parties, community-based organizations, LWIBs and the PA Workforce Investment Board. A public comment period was provided from April 20, 2007 through April 27, 2007 and from June 24, 2009 through June 28, 2009. All comments received have been incorporated or otherwise addressed herein.

WIA Waiver Request

Statutory/Regulatory Provision:	Permit use of LWIA formula funds and Statewide Rapid Response funds for Statewide Activities (incumbent worker training)					
Citation: Statute:	Sec.128 (a) & (b); Sec. 129(b) & (c); Sec. 133(a) & (b); Sec. 134(a), (b) & (c); American Recovery and Reinvestment Act of 2009 (P.L. 111-5); TEGL No. 14-08.			Citation: Regulation:	\$ 665.110; §665.320(d)(2); § 667.130	
Entity:	Pennsylvania Department of Labor & Industry					
Contact:	Sandi Vito	Phone:	717-705-2630	Fax:	717-787-8826	
Address:	7th and Forster Sts.	City:	Harrisburg	State:	PA	Zip: 17121
Duration:	From:	August 3, 2005		To:	June 30, 2010	
Governor:	Edward G. Rendell					

Justification (Narrative 1)

Pennsylvania requests a waiver for Local Workforce Investment Areas to use up to 50 percent of local formula allocations for adults, dislocated workers and youth to provide allowable statewide employment and training activities (including incumbent worker training); and to transfer a percentage of the state set-aside Rapid Response funds to the state set-aside Governor's Reserve funds.

Regarding use of local formula funds for Statewide Activities:

The Commonwealth requests waiver of the language that limits the authority to provide the activities identified in WIA sections 129(b) and 134 to the state. The waiver will allow LWIAs to use, on a voluntary basis, up to 50 percent of local formula allocation funds for adults, dislocated workers and youth to provide allowable statewide employment and training activities (including incumbent worker training). LWIAs will submit a request to the state for approval prior to implementing this action. The transfer will enhance the ability of the state and LWIA to carry out WIA Title IB adult, youth, and dislocated worker activities. Funds will continue to be tracked by funding stream, and will not be combined, losing individual funding stream identity.

Regarding the use of Rapid Response funds for Statewide Activities:

Pennsylvania requests a waiver of 20 CFR 665.320(d)(2), for funds reserved for allowable state activities under WIA Sec. 133(a)(2), to allow the transfer of up to 50 percent of the state set-aside Rapid Response funds to the Governor's Reserve funds. The funds would be used only for program purposes allowable under Section 134(a), not administration as indicated in Section 134(a)((3)(A)(i) and (B). This transfer ability would be analogous, at the state level, to the ability of LWIAs to transfer among adult and dislocated worker funds.

Having the option to use up to half of the state's Rapid Response funds, including funds provided by the American Recovery and Reinvestment Act (Recovery Act) for additional Statewide Activities will help promote the development of projects statewide to improve job retention and avoid additional layoffs.

The direction of the current national workforce development principles promotes cross-cutting of separate programs and silos wherever possible in order to enhance effectiveness of service delivery, both in customers' receipt of services and in program costs. Governor Rendell endorses those principles. Approval of this waiver request would contribute to alignment of Pennsylvania's local-level workforce development strategy with the Governor's vision for an improved workforce system. In addition, waiver approval would enhance alignment of Pennsylvania's workforce development strategies with USDOL's national strategic priorities, including enhanced integration of workforce investment systems to better be able to respond to the needs of customers; and provide greater flexibility in structuring workforce investment systems.

Recovery Act funds provided for Rapid Response may not be used for incumbent worker training except as part of a layoff aversion strategy.

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Upon notification of approval of this waiver request, state policy will be amended to comply with the terms of the waiver, and applicable policies and procedures will be developed and issued to LWIBs.

Outcomes/Benefits (Narrative 2)

Goals to be Achieved by the Waiver:

This waiver is instrumental as a component in state workforce strategy, which is consistent with national policy direction, to develop a more integrated, efficient and effective workforce system.

- **Local responsiveness for program effectiveness:**
 - Improve the ability of Local Boards to respond to changes within their LWIAs.
 - Provide greater flexibility to Local Boards in designing and implementing WIA programs.
 - Increase local control for program delivery.
- **Statewide program effectiveness:**
 - Increase employer/board collaboration to address industry needs and worker training.
 - Enhance employment, reemployment, and job retention for job seekers and workers by providing education, training and other services necessary to assist individuals in moving along the wage and skill continuum.
 - Enhance effective access of individuals and businesses to training and Employment Services that meet workforce needs.
 - Contribute to maintaining and increasing the availability of a quality mix of jobs in all Pennsylvania communities.

Description of the Individuals Impacted by the Waiver:

The most immediate outcome of the requested transfer will be to increase the numbers of incumbent workers who would not otherwise be trained. That impact will be felt widely across the Commonwealth.

This waiver will benefit Local Boards, PA CareerLinks, employers, job seekers, and services providers, and Pennsylvania's communities. The following are specific impacts of the proposed waiver:

- Program participants will benefit because Local Boards will have added flexibility to design programs based on local needs and priorities.
- More customers will have access to essential services.
- Local Boards will be able to target more resources to layoff aversion activities involving incumbent worker training.
- The state will be able to more effectively target resources where most needed to provide incumbent worker services.
- Pennsylvanians will benefit from results of this waiver through an improved economy. By increasing the skill base of employees in local business and industry, Pennsylvania's employer community would strengthen their standing in competitive markets, leading to more robust local economies, thus benefiting the communities in which they are based.

Monitoring/Evaluation Process (Narrative 3)

Description of the Process to Monitor Progress:

The Pennsylvania Department of Labor & Industry is the state administrative entity for the Workforce Investment Act. The waiver enables Pennsylvania the flexibility to design seamless delivery of services and to customize the planning and service delivery for applicable programs.

Should this waiver request be granted, the state will ensure regular review of the funds utilized for this purpose to monitor outcomes and impacts and make appropriate adjustments. The state will also ensure that this waiver will not negatively impact local services mandated under WIA.

The Pennsylvania Department of Labor & Industry will monitor the implementation and impact of the waiver through a combination of reporting from the local level, state oversight, and evaluation. Financial data and performance measures from LWIAs will be evaluated regularly to determine the impact of the waiver approval. To ensure fiscal integrity, there will be both adequate oversight and complete, consistent reporting. The state will also gather information through discussion on the progress of the implementation of the waivers, addressing concerns and obstacles encountered, if any.

The state will review applicable policies and procedures developed for this waiver, as well as other policies and procedures, and modify them as necessary.

Other Comments Provided (Narrative 4)

Consistent with the general waiver request, the state is adhering to publication requirements to ensure the broadest participation possible, including informing appropriate partners and interested parties, such as labor, community based organizations, LWIBs and the State Workforce Investment Board. A public comment period was provided from May 10, 2005 through May 23, 2005. The revised percentage waiver was posted for public comment from April 20, 2007 through April 27, 2007. The waiver request revised to include the use of

Recovery Act funds for incumbent worker training as part of a layoff aversion strategy was posted for public comment from June 24, 2009 through June 28, 2009.

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WIA Waiver Request

Statutory/Regulatory Provision:		Request waiver of requirements in 20 CFR WIA Final Rule §663.825(a)(2) regarding the enrollment of Dislocated Workers in WIA Training Programs.					
Citations:		Workforce Investment Act §189(i)(4); 20 CFR WIA Final Rule §663.825(a)(2); American Recovery and Reinvestment Act of 2009 (P.L. 111-5)					
Entity:	PA Department of Labor & Industry						
Contact:	Sandi Vito	Phone:	717-705-2630	Fax:	717-787-8826		
Address:	7 th & Forster Sts.	City:	Harrisburg	State:	PA	Zip:	17121
Duration:	From:	April 15, 2009		To:	June 30, 2010		
Governor:	Edward G. Rendell						

Justification-----**(Narrative 1)**

The Commonwealth of Pennsylvania seeks a waiver of the requirement that a Dislocated Worker enroll in a WIA Training Program reasonably promptly (13 weeks) after his most recent layoff or, if later, no more than 8 weeks after being notified that a short-term layoff will exceed 6 months.

The regulation was reasonable in the pre-recession environment but now serves to impede economic recovery rather than provide a workforce solution. Dislocated workers may decide not to pursue training within the required time frame (663.825(a)(2)), expecting to find employment within that period instead.

Higher unemployment rates, generous provisions in the ARRA for needs related payments, increased and extended unemployment compensation benefits and a growing realization by many dislocated workers that they need new or upgraded occupational skills have made training a more feasible option.

Approval of the waiver request would provide service delivery options for dislocated workers that are consistent with the standardization and simplification provided in the Trade Act reauthorization.

This waiver request is consistent with the provisions of WIA Sec. 189(i)(4).

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Outcomes/Benefits-----**(Narrative 2)**

Goals to be Achieved by the Waiver:

Increase workforce development efforts toward economic recovery.

Provide for customer-driven instead of program-driven outcomes.

Meet employer demand for highly skilled workers in priority occupations and targeted industries.

Description of the Individuals Impacted by the Waiver: Waiver approval would allow an increased number of Dislocated Workers take advantage of training to obtain the skills necessary for demand occupations, increasing both their employment opportunities and viability in the labor market.

The waiver will also help to meet employer demand and serve local economic development strategies focused on targeted industry clusters.

Monitoring/Evaluation Process----- (Narrative 3)

Description of the Process to Monitor Progress: The Pennsylvania Department of Labor & Industry is the state administrative entity for the Workforce Investment Act, the Wagner-Peyser Act, Trade Act, and Veterans Programs. The Pennsylvania Department of Labor & Industry will monitor the implementation and impact of the waiver, through a combination of reporting from the local level, state oversight, and evaluation. Performance measures from LWIAs will be evaluated quarterly, to determine the impact of the waiver approval. The state will gather information through discussion on the progress of the implementation of the waiver, performance data, and obstacles encountered, if any. The state will review applicable policies and procedures and modify them accordingly.

Other Comments Provided----- (Narrative 4)

Consistent with the general waiver request and transparency provisions of the ARRA, the state is adhering to publication requirements to insure the broadest participation possible, including notifying appropriate partners and interested parties, such as labor, community based organizations, LWIB and the PA WIB. A public comment period was provided from June 24, 2009 through June 28, 2009.