



NOV 2 - 2009

The Honorable Haley Barbour
Governor of Mississippi
State Capitol
Jackson, Mississippi 39205

Dear Governor Barbour:

As part of Mississippi's modification to the State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act, the State submitted waiver plans to request that the State's 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 State'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 18, 2009, ETA granted Mississippi approval of the following waivers through June 30, 2010:

- Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.
- Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.
- Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The approvals for these waivers remain in effect. The letter dated June 18, 2009 granted temporary extensions of the remainder of Mississippi'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 Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State 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. The State 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 State 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 WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State 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. The State 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 State 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 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State is requesting a waiver to permit local area formula funding to be used for statewide activities, specifically incumbent worker training. The State is granted this waiver through June 30, 2010. Under this waiver, the State 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 the State is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD).

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.

The State is requesting a waiver to permit use of rapid response funds for incumbent worker training. The State is granted this waiver through June 30, 2010. Under this waiver, the State 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. ETA believes limiting incumbent worker training to 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. The State is required to report performance outcomes for any incumbent workers served under this waiver in WIASRD. As stated in TEGL No. 14-08, Section 19, this waiver does not apply to funds made available through ARRA.

Requested Waiver: Waiver of WIA regulations at 20 CFR 666.300 to allow entrepreneurial training to be provided through state-level grants and local formula dollars with performance tracked and aggregated at the state level, but not included in local performance calculations.

The State indicates that requiring the collection and reporting of performance information on entrepreneurial trainees at the local level discourages local boards from investing in this type of training. This request does not meet the higher standard for waiving the key WIA reform principle of increased accountability at 20 CFR 661.410(c), and therefore, cannot be approved. ETA has provided a considerable amount of flexibility in the use of funds to support self-employment options for WIA participants. We believe this flexibility offers ample incentive for local areas to invest in entrepreneurial training. We have been unwilling to waive the collection of local performance information for states because we believe it is essential for effective program management and performance accountability. Note that the State has the authority to report additional alternative performance measures that may reflect the outcomes of entrepreneurial trainees.

Requested Work-Flex Designation: Approval of the State's work-flex plan.

The State requests work-flex authority under WIA Section 192 and approval of its work-flex plan to use 20 percent of local funds for incumbent worker training, to provide cash incentives for participants who reach specific employment goals, and to allow local

areas to reimburse employers for on-the-job training by a flat fixed fee. The State includes in its work-flex plan that it intends to provide local areas a waiver of requirements for sequencing WIA core, intensive and training services. Please note that a waiver to streamline sequence of services is unnecessary. Training and Employment Guidance Letter (TEGL) No. 14-08, Section 13, provides clarification on requirements in WIA regulations related to sequence of services for the WIA Adult and Dislocated Worker programs. These clarifications indicate that provision of training or other needed services may be provided sequentially, concurrently, or in whatever order makes sense for the individual.

We are granting an extension of the State's work-flex plan through June 30, 2010. Under its work-flex authority, the State may grant waivers of WIA provisions applicable to local areas in accordance with 20 CFR 661.430(a).

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 State 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 Helen Parker, the Regional Administrator for Region III, at 404-302-5300 or Parker.Helen@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosure

cc: Deborah Bradley, Federal Project Officer for Mississippi, ETA Atlanta Regional Office