



**JUN 27 2011**

The Honorable Luis Fortuño  
Governor of Puerto Rico  
La Fortaleza  
Post Office Box 9020082  
San Juan, Puerto Rico 00902-0082

Dear Governor Fortuño:

This letter provides approval of an extension of Puerto Rico's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan for Program Year (PY) 2011. This letter also provides approval of extensions for Puerto Rico's waivers. Training and Employment Guidance Letter (TEGL) No. 17-10, issued on December 30, 2010, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2011.

Extension of State Plan

Puerto Rico's existing State Plan will expire on June 30, 2011. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that the Employment and Training Administration (ETA) is extending the approval of Puerto Rico's State Plan for WIA Title I and the Wagner-Peyser Act for PY 2011, July 1, 2011 through June 30, 2012. Puerto Rico has already received its formula allotment for the WIA Youth program for PY 2011. Puerto Rico is eligible to receive WIA formula allotments for Adult and Dislocated Worker programs and W-P initial base program allotments under the PY 2011 annual funding agreement for WIA and the PY 2011/Fiscal Year 2012 annual funding agreement for W-P.

Performance Levels

Puerto Rico requested to extend its existing PY 2010 WIA and W-P performance goals for PY 2011. ETA has incorporated these performance goals, identified as PY 2011 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2011 goals in the official copy of the State Plan.

## Waivers

As part of Puerto Rico's extension of the WIA/W-P State Plan, and as described in TEGP No. 17-10, Puerto Rico requested extensions of Puerto Rico's PY 2010 waivers of statutory and regulatory requirements under WIA for PY 2011. The disposition of Puerto Rico's waiver extensions is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

### Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

Puerto Rico was previously granted a waiver of the requirement for competitive procurement of service providers for three of the ten youth program elements: supportive services, follow-up services, and work experience. Puerto Rico is granted an extension of this waiver through June 30, 2012. Under this waiver, Puerto Rico is permitted to allow its One-Stop Career Centers or partner agencies to directly provide youth program elements. In utilizing this waiver, Puerto Rico and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

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

Puerto Rico was previously granted 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. Puerto Rico is granted an extension of this waiver through June 30, 2012. 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, Puerto Rico must use the appropriate program funds for the appropriate WIA-eligible population. Puerto Rico and local area may provide customized training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; Puerto Rico and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

Puerto Rico was previously granted a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. Puerto Rico is granted an extension of this waiver through June 30, 2012. Under this waiver, Puerto Rico is permitted to allow local areas 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 layoff aversion strategy. Use of Adult funds must be restricted to serving lower 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 Puerto Rico is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

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

Puerto Rico was previously granted 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. Puerto Rico is granted an extension of this waiver through June 30, 2012. 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, Puerto Rico must use the appropriate program funds for the appropriate WIA-eligible population. Puerto Rico and local area may provide on-the-job training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; Puerto Rico and local area 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.

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.

Puerto Rico was previously granted a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. Puerto Rico is granted an extension of this waiver through June 30, 2012. Under this waiver, Puerto Rico is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff 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. Puerto Rico is required to report performance outcomes for any incumbent workers served under this waiver in the WIASRD, field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

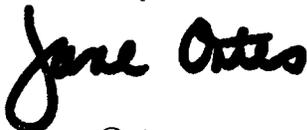
Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

Puerto Rico was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. Puerto Rico is granted an extension of this waiver through June 30, 2012. Under this waiver, Puerto Rico can use ITAs for older youth and out-of-school youth program participants. Puerto Rico must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). Puerto Rico should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

The approved waivers are incorporated by reference into Puerto Rico'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 Puerto Rico's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 09-10, page 3, Puerto Rico should address the impact these waivers have had on the Commonwealth's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your State Plan for PY 2011. If you have any questions related to the issues discussed above, please contact Tim Theberge, the Federal Project Officer for Puerto Rico, at either (617) 788-0139 or [Theberge.Timothy@dol.gov](mailto:Theberge.Timothy@dol.gov).

Sincerely,

A handwritten signature in black ink that reads "Jane Oates". The signature is written in a cursive style with a large, looping initial "J".

Jane Oates  
Assistant Secretary

Enclosure

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office  
Tim Theberge, Federal Project Officer for Puerto Rico



**GOVERNMENT OF PUERTO RICO**

**LUIS G. FORTUÑO**  
GOVERNOR

April 11, 2011

Division of Workforce System Support  
Employment and Training Administration  
U.S. Department of Labor  
200 Constitution Ave., NW, Room S-4231  
Washington, DC 20210

Re: Request For Extension of Puerto Rico's State Workforce Investment Act and  
Wagner Peyser's Plan and Existing Waivers For Program Year 2011-2012

To whom it may concern:

On December 30, 2010, the U.S. Department of Labor ("USDOL") issued a Training and Employment Guidance letter 17-10, "Instructions for Submitting Workforce Investment Act (WIA) and Wagner Peyser (WP) State Plans and Waiver Requests for Program Year 2011".

The content of this letter constitutes the Government of Puerto Rico's formal request for an extension of our current State Workforce Investment Act and Wagner Peyser's State Plan, along with our request to extend our current waivers through Program Year 2011-2012.

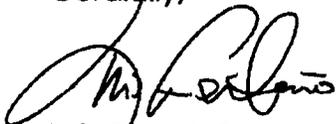
The Government of Puerto Rico and its Workforce Investment System's components appreciate the flexibility awarded through the use of waivers to address our particular local needs. Additional waivers are expected to be requested in the near future upon completion of evaluation and approval by the State Workforce Investment Board.

We look forward to our continued work with the representatives of the Department of Labor's National and Regional Office, which allows us to better serve the citizens of Puerto Rico.

Division of Workforce System Support  
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April 12, 2011

Please contact the Puerto Rico Labor Secretary, Miguel Romero, for further information at (787) 754-2119 or via e-mail at [mromero@dtrh.gobierno.pr](mailto:mromero@dtrh.gobierno.pr).

Cordially,



Luis G. Fortuño

c: Ms. Holly O'Brien, Regional Administrator, ETA  
Hon. Miguel Romero, PR Secretary of Labor and Human Resources  
Mr. Nicolás Muñoz, President, State Workforce Investment Board  
Mr. Aurelio González, Director-HRODC

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DEPARTAMENTO DEL  
**TRABAJO**  
Y RECURSOS HUMANOS  
GOBIERNO DE PUERTO RICO

**GOVERNMENT OF PUERTO RICO**  
**DEPARTMENT OF LABOR AND HUMAN RESOURCES**

**REQUEST FOR EXTENSION**  
**PUERTO RICO'S STATE WORKFORCE INVESTMENT ACT AND**  
**WAGNER PEYSER'S PLAN AND**  
**EXISTING WAIVERS FOR**  
**PROGRAM YEAR 2011-12**

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OFICINA DEL SECRETARIO ANIVERSARIO

**REQUEST FOR EXTENSION PUERTO RICO'S STATE WORKFORCE  
INVESTMENT ACT AND WAGNER PEYSER'S PLAN AND EXISTING WAIVERS  
FOR PROGRAM YEAR 2011-12**

To ensure meaningful public comment, this waiver request will be available for public review.

A public announcement was placed in a major circulation newspaper for information and comments from the general community. Also a hardcopy will be available in the Human Resources Occupational Development Council's ("HRODC") office, all 15 Local Workforce Investment Areas and at HRODC and Puerto Rico Department of Labor and Human Resources' respective web pages [www.cdorh.org](http://www.cdorh.org) and [www.dtrh.gobierno.pr](http://www.dtrh.gobierno.pr).

**YOUTH**

***Waiver to permit the use of Individual Training Accounts (ITA) for older youth and out-of-school youth program participants***

Waiver of statutory and regulatory requirements under the Workforce Investment Act (WIA) regulations at 20 CFR 664.510 on the use of ITA for older and out of school youth program participants.

Local Areas sometimes receive youth with different economic and social barriers to achieve their academic or employment goals. These youths present the need of youth programs services, like counseling, peer coaching, among others, but also they want to continue postsecondary trainings, graduate and achieve credentials. Through this waiver, the Local Areas can combine ITA with the ten Youth Elements to help some youth to achieve their personal goals. ITA will be tracked and reflected in the individual service strategies for these youths.

**Waiver of the requirement at WIA Section 123 that providers of youth program elements be selected on a competitive basis.**

Waiver of statutory and regulatory requirements under the WIA which requires that the ten program elements for youth be provided through a competitive procurement process. The waiver will allow One Stop Centers and partner agencies the direct provision of services related to Supporting Services, Follow-up Services and unpaid Work Experience. For the waiver to apply to the work experience program element, a local area must continue to document that there are no viable youth providers or that all current providers are underperforming.

Approval of this waiver to LWIBs will be applied on a case-by-case basis. The use of this waiver will not interfere with compliance of OMB requirements and any local and federal procurement laws and policies.

The Puerto Rico WIA system has allocated and invested significant administrative and operational funds in the training the staff of the Local Areas, in different services areas services as Case Management, Counseling and Orientation, Social Work, among other disciplines, to directly offer in-house youth program delivery of services. In economic terms, in-house services represent a reduction in costs of services versus services providers. With this system, youths have the advantage of receiving greater delivery of services. The service providers have hiring limitations whereas in the local areas the services are always available at any time.

**FUND FLEXIBILITY**

**Waiver to permit the use of State set-aside Rapid Response funds to support Incumbent Workers Training**

Waiver of the language that limits the authority to provide the activities identified in WIA Section 134(a)(3) to statewide reserve funds. This waiver will allow the use of up to 25% of

the funds reserved for rapid response activities under Section 133(a)(2) to provide statewide activities, including incumbent worker training, but excluding administration. LWIB, as required will report performance outcomes for any incumbent worker served under this waiver in the Workforce Investment Act Standardized Record Data (WIASRD).

**Waiver of the required 50% percent employer match for Customized Training to permit a match based on a Sliding Scale.**

This waiver will permit the use of a sliding scale for the employer match for customized training for the employer match based on the size of the business.

Under this waiver the following sliding scale is permitted:

- No less than % match for employers with 50 or fewer employees;
- No less than 25% match for employers with 51 to 100 employees.
- 50% for employers with more than 100 employees (current statutory requirement.)

This waiver will increase flexibility to serve business and industry based in their specific needs.

**Waiver to permit the use of 10% of Local Area formula funds to provide Incumbent Worker Training**

Waiver of the language that limits the authority to provide the activities indentified in WIA Sections 134(a)(3), to permit local areas to request as per evaluation and reasonable justification, to use up to 10 % of Local Area formula funds for adults and dislocated workers to provide statewide employment and training activities identified at WIA Section 134 including Incumbent Worker Training programs, excluding administration. LWIB, as required will report performance outcomes for any incumbent worker served under this waiver in the Workforce Investment Act Standardized Record Data (WIASRD).

**Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for On the Job Training (OJT)**

Waiver to permit an increase in employer reimbursement for OJT through a sliding scale based in the size of the business. Under this waiver the following reimbursement amount will be permitted:

- Up to 90% for employers with 50 or fewer employees
- Up to 75% for employers with more than 50 employees but less than 100 employees. For employers with 100 or more employees, the current statutory requirements will continue to apply.

Allowing businesses to apply these scales to determine the contribution amount will increase participation in the WIA OJT training program at the local level. Employers will benefit by having a labor pool with the marketable skills they require.