

NOT 13 2009

The Honorable Brian Schweitzer  
Governor of Montana  
State Capitol  
Post Office Box 200801  
Helena, Montana 59620-0801

Dear Governor Schweitzer:

As part of Montana'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 the letter dated June 30, 2009, ETA granted Montana approval of the following waivers through June 30, 2010:

- Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.
- Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The approvals for these waivers remain in effect. The letter dated June 30, 2009 granted temporary extensions of the remainder of Montana's waiver requests. The previous approval of the extensions is hereby terminated and replaced by decisions set forth in this letter. All waiver approvals that follow apply to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009.

#### Requested Waivers

Requested Waiver: Application of WIA regulations at 20 CFR 661.300(f) to allow the state board to carry out the roles of a local board.

The State is requesting a waiver to permit the State to apply 20 CFR 661.300(f) to the statewide regional planning area described in its State Plan. This provision allows states that operate as a single local workforce investment area to use the state workforce investment board to carry out the requirements of the local workforce investment

board. The State is seeking to use its state board to carry out the roles and responsibilities of the local boards in the designated region encompassing the state. We are granting the waiver through June 30, 2010. Under the waiver, the Governor may designate the state board to carry out the roles and responsibilities of the local boards in the designated region encompassing the state, in the same manner as permitted in single service delivery area states.

Requested Waiver: Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local area incentive grants.

The State is requesting an extension of the waiver to exempt it from the requirement to provide local areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted an extension of this waiver through June 30, 2010.

Requested Waiver: Waiver of WIA Section 136(c) to allow a state to eliminate local area performance measures and report one set of measures for the state.

The State previously was granted a waiver to allow the State to eliminate local area performance measures for the State. The State has withdrawn its request to extend this waiver. The waiver approval period has lapsed, and expires as of the date of this letter.

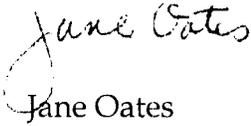
Requested Waiver: Waiver of WIA Section 134 (a) to permit local areas to use a portion of local funds for incumbent worker training.

The State previously was granted a waiver to permit local areas to use a portion of local funds for incumbent worker training. The State did not submit a request to extend this waiver. The waiver approval period has lapsed, and expires as of the date of this letter.

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 of these waivers 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 Joseph Juarez, the Regional Administrator for Region IV, at 972-850-4600 or [Juarez.Joseph@dol.gov](mailto:Juarez.Joseph@dol.gov).

Sincerely,

A handwritten signature in cursive script that reads "Jane Oates".

Jane Oates  
Assistant Secretary

Enclosure

cc: Jesus Morales, Federal Project Officer for Montana, ETA Dallas Regional Office  
Joseph Juarez, Regional Administrator, ETA Dallas Regional Office

State Of Montana  
Single Statewide Planning Area Wavier

WAIVER to allow a state board to carry out the roles of local boards for a Single Statewide Planning Area Structure

**1. Statutory Regulations to be Waived:**

Montana is requesting an extension of our current waiver to apply 20 CFR 661.300(f), which permits a state board to carry out the roles of a local board in a single statewide regional planning area. Montana requested to modify the State Plan to permit the state board to carry out the roles of a local board in a single local area on September 22, 2005. The modification was approved on October 1, 2005 and Montana has been operating under this structure since January 2006.

**2. Describe action the State has undertaken to remove State or local statutory or Regulatory barriers:**

There are no State or local statutory or regulatory barriers that have to be addressed to continue operating as a single statewide planning area.

**Background Information:**

Montana has two (2) designated local workforce investment areas; the 10 county Concentrated Employment Program (CEP) local area, and the 46 county Balance of State (BOS) local area. These areas were designated under the implementation of the Workforce Investment Act of 1998.

The CEP is an automatic designated area as provided in the WIA of 1998. Montana does not meet the population criteria for more than one other local area, and therefore the BOS is also considered an automatic designated area. Neither local area in Montana actually has the population numbers to be considered a separate workforce area, but since the CEP was grandfathered in with the WIA, we have two areas.

On August 30, 2005 the State board met and was presented with a report from Governor Schweitzer's designee on the Board, describing the statewide regional planning structure, and projecting the estimated reductions in duplicate administrative overhead costs, as well as the projected increases in participants and businesses that would be served under the statewide planning structure. Prior to the SWIB meeting on August 30, 2005, the announcement and agenda for the meeting were publicly announced on the SWIB website, 72 hours prior to the meeting. A notice to the interested person's for the SWIB which include the local elected officials, service providers, workforce partners, and other interested people was sent (this process was followed for each time a meeting was

scheduled or public comment was solicited and meets Montana laws on public meetings). At the meeting, there was a lengthy discussion and public comment. In alignment with the Governor's direction to the Board, the SWIB moved unanimously to: direct staff to draft a modification to Montana's 2-Year Strategic Plan to move to a statewide regional planning area; include the provision for applying for a waiver to apply 20 CFR 661.300(f), which permits a state board to carry out the roles of a local board in a single local area, to a statewide regional planning area; and allow no less than a 2 week public comment period. A meeting was scheduled for September 20, 2005 at which the SWIB would take action on the Plan Modification and waiver request. The Plan modification and waiver were announced to the general public as part of the plan modification review process, which included a process for soliciting review and comment during a two-week period, and reviewed, by the Governor's State Workforce Investment Board on or before their meeting on September 20, 2005. The County Commissioners on the CEP Council of Commissioners and the Chairs of each Local WIB received a personal phone call to advise them of the proposed change, and offer an opportunity to comment on the proposal. In turn, each of the local workforce boards were offered the chance to respond.

After the comment period, the State Plan Modification and Waiver request was submitted to USDOL on September 22, 2005 and was subsequently approved on October 1, 2005. A letter of support was signed by all of the County Commissioners from the CEP and was included with the submission.

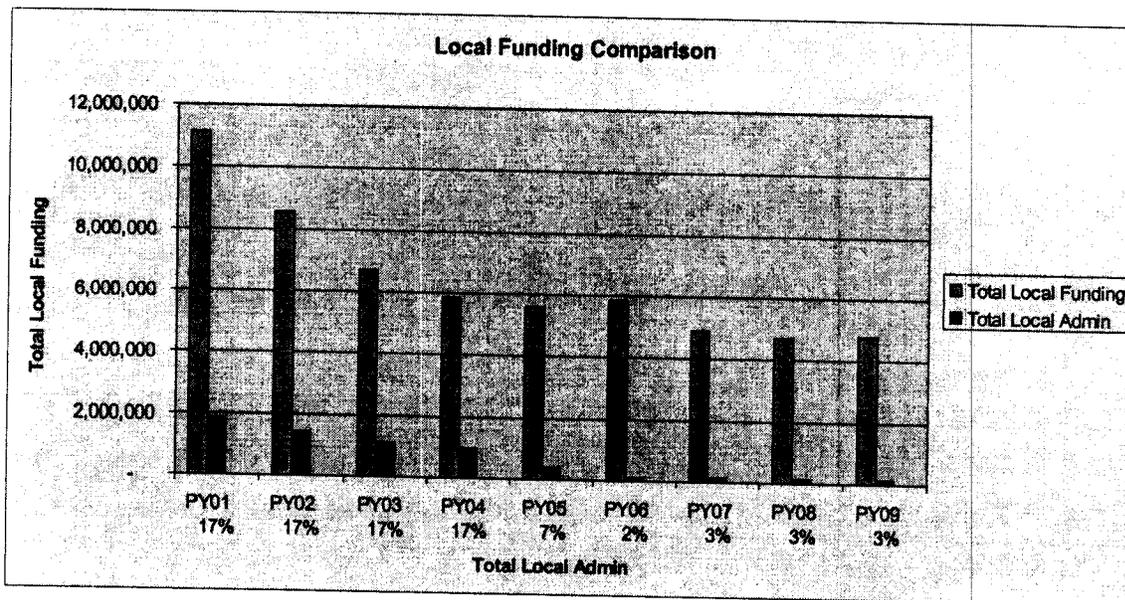
**3. Waiver goals and measurable programmatic outcomes, if the waiver is granted:**

The following were the goals that were identified in the original Waiver of the State Plan and were subsequently approved. The outcomes that have occurred as a result of the Waiver approval are outlined following each goal.

1. Reduce overhead costs and increase program dollars:
  - maximized the available money directed to training and services to business
  - savings to the workforce system in PY06 was an additional \$1.2 million going out to service providers for training and other services to Montana's citizens and businesses (this savings was from un-spent dollars from the local administrative entity for PY04 and PY05)
  - maximized the resources available to the citizens of Montana and to our businesses

The following chart shows the local administrative costs for operating the WIA from 2001 through present. You will clearly see the administrative savings Montana realizes with having the single statewide planning area structure. In PY01, 17% of the total local funding was spent on administration compared to today where only 3% of local funding is spent on administration. This allows

more funding to be spent for services directly to customers.



## 2. Expand the number of One-Stops in the State

Prior to Montana becoming a single statewide planning area, there were two certified One-Stops located in the State, one in the CEP (10 county region) and one in the BOS (remaining 46 counties). Montana had 22 other job service workforce center sites that provided Wagner-Peyser services with a spattering of other partner services across the state. With the current structure, Montana has been able to:

- promote the role of Community Management Teams (CMTs) that were organized under the original WIA 5-Year Plan
- include mandatory partners and many optional partners in One-Stops and CMT's
- share data and information about new and expanding businesses to build the economy across regions
- certify 24 One-Stop Centers including one Native American One-Stop located on the Blackfeet Reservation in Browning, Montana.

Currently, Montana has 24 comprehensive One-Stops with two satellite offices that provide services directly to customers either onsite, through regular outreach to targeted areas such as Montana's Indian Reservations, through electronic access, or referral to the following programs:

- Job Corps
- Carl Perkins Act Post-Secondary programs
- Office of Public Assistance
- Adult Education and Literacy programs

- Montana University System including Colleges of Technology
- Tribal Colleges
- Rural Employment Opportunities (REO)
- Tribal Employment Rights Office (TERO)
- Apprenticeship Programs
- Private for profit training entities
- Economic Development Organizations
- Local Businesses

Please see attached map of MACo (Montana Association of Counties) Districts and One-Stop Centers.

3. Redesign youth programs and target youth most at-risk
  - identified gaps and prioritized services to those youth who demonstrate the greatest need
  - Established a Youth Council that is a sub-committee of the SWIB. The Youth Council has thirteen members that represent various agencies such as Jobcorps, education, WIA Service Providers, corrections, tribal and private industry
  - established the following goals:
    - Move Montana to achieve the federal vision of prioritizing investments that serve the neediest youth: Youth transitioning out of Foster Care, Youth in the Juvenile Justice System, Youth of incarcerated parents, Migrant youth, Native American/Indian youth, and Youth with disabilities.
    - The Montana SWIB Youth Council is committed to contracting with youth providers who raise the literacy, social, and/or technical skills of the youth.
    - Assure that funding for youth programs is performance-based and that systems and programs are focused on outcomes.
    - Develop effective partnerships to create a greater connection between and among all youth programs and initiatives to eliminate duplication of services and provide more efficient services to youth.

With the single planning area structure and the SWIB establishing a statewide Youth Council, Montana has improved the services to our Youth with representatives from various agencies serving youth from across the state and more integration between the various programs. The Youth Council that we have in place now is very active and has a wide array of partners that coordinate and focus services for our youth.

#### 4. Strengthen administrative oversight and accountability processes

The Montana Department of Labor and Industry's Workforce Services Division consists of four separate bureaus: Statewide Workforce Programs and Oversight Bureau, Job Service Operations Bureau, Research and Analysis Bureau, and the 21<sup>st</sup> Century Workforce Bureau. Please see the attached organizational chart.

- The Statewide Workforce Programs and Oversight Bureau is a separate entity/bureau that provides monitoring and oversight to all WIA programs, Wagner-Peyser, Trade, and other state workforce programs. The Statewide Workforce Programs and Oversight Bureau has been designated by Governor Schweitzer as the administrative entity to the SWIB and reports directly to USDOL and the SWIB on all WIA matters including monitoring, compliance, and reporting. The Statewide Workforce Programs and Oversight Bureau has the responsibility of allocating WIA monies and contracting with service providers as directed by the SWIB.
- The Job Service Operations Bureau is the Wagner-Peyser and Trade Act service provider for Montana. They operate 24 local job service offices across the state with many of them being the One-Stop center in their area. The Job Service Operations Bureau is the WIA Dislocated Worker provider for the State and provides WIA Adult services in some locations. In other areas of the state, WIA Adult service providers are Community Colleges, private non-profit agencies, and community based organizations.
- The Research and Analysis Bureau works with the Bureau of Labor Statistics to develop Labor market Information for Montana and United States that businesses, educators, government agencies, researchers, students and others find useful. They also publish monthly employment statistics and issues a wide variety of publications designed to help Montanans better understand their economy.
- The 21<sup>st</sup> Century Workforce Technology Apprenticeship & Training Bureau houses the Apprenticeship and Training Program, Jobs for Montana's Graduates, Montana's WIRED Program, State Incumbent Worker Training program and outreach. The SWIB staff is also housed in this Bureau.

Current structure mirrors what it would be if we had two local boards, without the duplicative administrative costs.

- The WIA funds are allocated to each local area (BOS and CEP) based on formula that is used by USDOL to allocate funds to each state.

- The funds are held at the state and then allocated to each MACo District based on a formula the SWIB has approved. Please see attached MACo District map for the location of the various MACo districts.
- The WIA Funds are then directly contracted by the Statewide Workforce Programs and Oversight Bureau to the service providers.
  - The SWIB conducted a Request for Proposal (RFP) for all of the current WIA providers across the State in spring 2007. These contracts are valid for five years provided the service provider is meeting performance standards and has no serious issues with compliance.
  - Through the RFP process, the local Community Management Teams were involved in identifying/selecting local service providers to bid for operation of the WIA programs.

#### 5. Increased training opportunities

With the single planning area structure, Montana was able to serve 31.12% more participants with our allocation of WIA dollars between PY05 and PY08.

Montana will continue to be able to serve more people with our current structure than if we had to fund two local workforce boards and a separate administrative entity with our allocation of WIA monies.

#### 4. **Describe any individuals affected by the Waiver:**

The individuals affected by this waiver extension are the participants in the WIA program and the communities, businesses, and job seekers. Montana is able to serve significantly more participants (31.12% more) with the single planning structure and the additional dollars that are able to be directly contracted out to service providers. We were able to serve 31.12% more participants with a reduction in WIA dollars of 16% between PY05 and PY08.

The communities and businesses are also positively affected by this change in structure. Montana now has active, strong Community Management Teams that include area businesses, WIA providers, as well as other partner agencies serving the community. Through the CMT's, the communities are able to enhance the services to their businesses and job seekers with better cooperation and collaboration between the agencies that are located in each community.

#### 5. **Additional Considerations:**

If we were to go back to the structure prior to January 2006, it would affect Montana in the following ways...

- Less training and other participant services – The money we would use to support two local workforce boards allows us to train more people and

support them while they are in their training. We would serve approximately 31% less people if we needed to support two boards.

- Less consistency and cohesiveness – While each community is unique across the State, there are benefits of having some work processes the same. The current structure has allowed us to simplify work processes and get better results from our services. If we were to go back to having two separate local workforce boards, we would lose the consistency of policies and work processes that we have successfully brought together. One result of this consistency is having more valid data to provide to USDOL on our services.
- Less accountability – Two workforce boards operating independently in our small (population wise) state would lead to less accountability. Each board would be responsible for policies and oversight of their own areas. Currently, the staff of the Statewide Workforce Programs and Oversight Bureau are able to offer policies and oversight of the WIA programs consistently and have the appropriate checks and balances in place by reporting to the SWIB and USDOL.

#### **6. Describe the process used to:**

##### **(i) Monitor the progress of implementing this waiver:**

The waiver has already been implemented in Montana since January 2006. The Statewide Programs and Oversight Bureau continues to monitor the success of the current structure through quarterly reports from service providers, yearly monitoring, and general conversations with each provider on an on-going basis as well as performance reporting. The Statewide Workforce Programs and Oversight Bureau reports and is accountable to the SWIB and subsequently the local elected officials who are part of the SWIB. The Bureau will continue to function as the administrative entity to the SWIB and provide oversight and technical assistance to the WIA providers.

##### **(ii) Provide notice and opportunity to comment to any Local Board affected by this waiver:**

In September 2005, the Local Elected Officials and the chair of each local workforce board were notified by personal phone call on the waiver request and were asked to provide comment. The local elected officials in the CEP all supported the waiver and signed a letter of support. In turn, each of the local workforce boards were offered the chance to respond.

Currently, the local elected officials are part of the SWIB through the Montana Association of Counties (MACo) and will be notified of this waiver extension.

**(iii) Ensure the opportunity for meaningful public comment including comment by business and organized labor on the waiver:**

A general public comment period will be provided through posting the proposed Waiver request on the SWIB website for **10** days, and notifying all SWIB members and SWIB interested persons it is available for review and comment. This includes a notice to the local elected officials, service providers, and other partners of the workforce system. The process of posting the Waiver and notifying interested person's through email, is aligned with Montana State public meeting laws and Department of Labor and Industry policy. Any comments received on the waiver will be incorporated into the request prior to final submission.

State of Montana  
Waiver Request  
Workforce Investment Act  
Request: Waive the Incentive Grants to Local Areas for Exemplary Performance Requirement

**1. Statutory and Regulatory Requirements to be Waived.**

WIA §134(a)(2)(B)(iii) and WIA Regulations at 20 CFR §665.200(e) require, as statewide workforce investment activities, providing incentive grants for exemplary performance by local areas on the performance measures.

The Montana Department of Labor and Industry (MDLI) requests a waiver of the requirement to provide incentive grants to local areas. The waiver would allow use of funds from this requirement to providing Technical Assistance to all WIA providers across Montana. In January 2006, Montana transitioned to a Single Planning area thus eliminating the two local workforce boards. Montana still has two workforce areas, the Concentrated Employment Area (CEP) and Balance of State (BOS) however; the State Workforce Investment Board (SWIB) is the only workforce board in Montana and provides direction and leadership on behalf of the Governor for the WIA.

The Statewide Workforce Programs and Oversight Bureau (Bureau) of MDLI has been providing one to two general technical assistance and training (TAT) conferences per year for all of the WIA providers. The Bureau brings all providers from across the State to a three day training session, once in the Spring and then again in the Fall. This has proven to be very helpful to our WIA providers, most specifically in relation to performance, since Montana was recently one of the seven states to receive Section 503 Incentive awards (from PY06). This award is given to States who meet performance goals for WIA Title 1B, Carl D. Perkins Vocational and Technical Assistance Act and Adult Education Family Literacy Act programs. We firmly believe that because we are able to hold these TAT sessions for all providers to attend, we have and continue to meet our performance goals.

Montana also uses the TAT money to provide training for new case managers in a central location when needed. This training consists of how to use the MIS system, MontanaWORKS. We also use this money to provide technical assistance to providers from monitoring findings, new upgrades to the MIS system, and Common Measures. The money that we spend on the TAT sessions and other technical assistance needs during a given year is approximately \$120,000.

This waiver request follows the format identified in WIA §189(i)(4)(B) and WIA Regulations at 20 CFR §661.420(c).

## **2. State or Local Statutory and/or Regulatory Barriers**

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

## **3. Goals to be Achieved by the Waivers**

The following goals will be achieved with the approval of the waiver request.

- The funds will be put to better, more proven use by continuing to provide technical assistance and training conferences to all of the WIA providers. When providers all hear the same message at the same time, it leads to better consistency and coordination.
- With the implementation of the new MontanaWORKS computer system (October 1, 2007) the WIA providers' still need training for upgrades to the system. The waiver will allow us to continue providing technical assistance to the State as a whole on the use of this system.
- The funds will be put to more meaningful use with the decline in WIA funds as a whole. Montana as most other states continues to receive cuts in WIA funding. The amount of money each provider would receive as an incentive would be insignificant, but if we are able to use the entire amount for technical assistance and training, it positively affects all providers. As an example, the amount of money Montana is able to use for the annual TAT sessions and other technical assistance to providers is \$120,000. There are thirty-six separate providers of WIA funds across the State. If all providers were eligible for an incentive with all the programs they operate (some operate more than one WIA program), the money they would receive would be approximately \$2000 per program. There is a possibility that we would need to split that \$120,000 fifty-eight ways because of the number of providers who operate WIA and most operate more than one program.
- Partner programs such as Trade, Wagner-Peyser, Education, and Job Corps are invited to attend the WIA TAT sessions. These programs send representatives, using their own program funds, to attend the TAT and this allows a statewide meeting to better coordinate services between the programs in turn benefitting people in Montana.

## **4. Programmatic Outcomes by the Waiver.**

The waiver will result in continued success in improving the State's performance outcomes because the funds will be used to

- 1) provide ongoing technical assistance to all WIA providers across the State, and
- 2) provide a more meaningful use of the incentive funds.

**5. Impacts on Individuals by the Waiver.**

There will be a positive impact on individuals because improved performance outcomes result in the award of Section 503 Incentive funds and positive performance outcomes means the individuals receiving WIA services are also having positive outcomes in their lives.

**6. Monitoring the Waiver's Implementation.**

The Bureau as the state administrative entity for the WIA will monitor the implementation and impact of the waiver through a combination of performance reporting and evaluation to identify obstacles and address them as they happen. The Bureau will review applicable policies and procedures and modify them accordingly.

**7. Notice and Opportunity to Comment.**

A general public comment period will be provided through posting the proposed Waiver request on the SWIB website for 10 days, and notifying all SWIB members and SWIB interested persons it is available for review and comment. This includes a notice to the local elected officials, service providers, and other partners of the workforce system. The process of posting the Waiver and notifying interested person's through email, is aligned with Montana State public meeting laws and Department of Labor and Industry policy. Any comments received on the waiver will be incorporated into the request prior to final submission.