



NOV 6 2009

The Honorable Pat Quinn  
Governor of Illinois  
State Capitol  
207 State House  
Springfield, Illinois 62706

Dear Governor Quinn:

As part of Illinois' 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 30, 2009, the Employment and Training Administration (ETA) granted Illinois approval of the following waivers through June 30, 2010:

- 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 30, 2009 granted temporary extensions of the remainder of Illinois' 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 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 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State is requesting a waiver of the requirement for competitive procurement of service providers for all ten youth program elements. The State is partially granted this waiver for three of ten youth program elements through June 30, 2010. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide the youth program elements of supportive services, follow-up services, and work experience. In utilizing this waiver for these elements, the State 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. ETA denies this waiver for these elements: tutoring, study skills training, and instruction; alternative secondary school services; summer employment; occupational skills training; leadership development; mentoring; and guidance and counseling. This waiver had been granted in the past due to insufficient providers. ETA believes that regular competitive procurement is the most efficient and cost-effective way to ensure the development of high-quality service providers. The approval for this waiver for these elements expires on the date of this letter. Obligations made while the waiver was in effect may be fulfilled. No new non-competitive obligations may be made for the denied elements effective the date of this letter, and a competitive procurement process must be initiated within 60 days of the date of this letter. Exceptions to this timeframe may be negotiated with the ETA Regional Office.

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 of up to 100 percent for on-the-job training. ETA denies this waiver. ETA does not believe that use of this waiver would meet the spirit Congress intended when it set a 50 percent employer reimbursement limit for on-the-job training of employees. Limiting

reimbursement to 50 percent signifies a recognition and commitment on the part of the employer regarding the importance of employee training and skill development. ETA has approved waivers for other states that sought a sliding scale for employer reimbursement based on employer size, and we are willing to consider a similar request from Illinois.

Requested Waiver: Waiver of WIA section 134(d)(4)(G) to allow the local areas within the state to contract for training with WIA funds instead of using Individual Training Accounts (ITA's).

The State has requested a waiver to allow local area workforce boards to develop class size contracts with training providers outside of the required ITA process for training provision. The State is granted this waiver through June 30, 2010. Under this waiver, the State may only contract with training providers on the eligible training provider list, must competitively procure contracts, ensure that all WIA eligible populations have access to training offerings and maintain customer choice. This waiver does not apply to funds made available under ARRA, however ARRA provisions do allow states to use ARRA funds for class size contracts. Training and Employment Guidance Letter (TEGL) No. 14-08, Section 6, discusses this authority.

Waiver Request: Waiver to allow the state to relax sequence of service requirements for Adult and Dislocated Worker programs.

The State has requested a waiver to relax the requirements for sequencing WIA core, intensive and training services. A waiver to streamline sequence of services is unnecessary. 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.

Requested Waiver: Waiver at WIA Section 195(10) and 20 CFR 667.264(a)(?) on the prohibition on the use of WIA funds for public service employment.

The State has requested a waiver of the provisions that prohibit the use of WIA funds for public service employment. This waiver is not approved. While ETA has at times provided this waiver in the case of severe natural disasters to aid in recovery efforts, ETA does not feel that it is an appropriate use of waiver authority to allow WIA funds to be used for public service employment outside of a disaster situation at this time. Public service employment would constitute a dramatic shift from Congressional intention for the use of WIA funds.

Waiver Request: Waiver of WIA Section 136(g) to exempt the state from performance sanctions for Program Year 2009.

The State has requested an exemption from all sanctions related to its performance outcomes for Program Year 2009. ETA believes that accountability is a key principle of both WIA and ARRA and, therefore, denies this waiver. ETA does not believe that economic conditions merit redesigned WIA performance measures. The State received a significant amount of money under ARRA, provisions of which emphasized the importance of transparency and accountability. Given the unprecedented amount of taxpayer funds being invested in workforce programs, it is critical that states be held accountable for outcomes.

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 Byron Zuidema, the Regional Administrator for Region V, at 312-596-5403 or [Zuidema.Byron@dol.gov](mailto:Zuidema.Byron@dol.gov).

Sincerely,

  
Jane Oates  
Assistant Secretary

Enclosure

cc: Julie Baker, Acting Federal Project Officer for Illinois, ETA Chicago Regional Office