



**OCT 13 2009**

The Honorable Dave Heineman  
Governor of Nebraska  
Post Office Box 94848  
Lincoln, Nebraska 68509-4848

Dear Governor Heineman:

As part of Nebraska'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). 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. The following is the disposition of the State's submission.

In a letter dated June 29, 2009, ETA granted 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 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 29, 2009 granted temporary extensions of the remainder of Nebraska'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.

#### **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

transfer authority will be 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 the American Recovery and Reinvestment Act of 2009. 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.

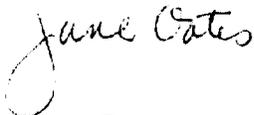
Requested Waiver: Waiver of WIA Section 134 (a) to permit local areas to use a portion of local Adult, Dislocated Worker and Youth funds for statewide activities.

The State previously was granted a waiver of the language that limits the authority to provide statewide activities, identified in WIA Section 134(a)(3), to statewide reserve funds, and to permit local area formula funding to be used for statewide activities. 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 waiver is 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 its 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

Enclosure

cc: Philip Moreland, Federal Project Officer for Nebraska, ETA Chicago Regional Office

**State of Nebraska**  
**Waiver Requests for Program Year 2009**

**Current Waivers (Requesting approval for remainder of PY 2009)**

- Waiver to allow the transfer of 100 percent between adult and dislocated workers funding streams (does not apply to Recovery Act funds). [Attached]
- Waiver to permit the use of a portion of local area formula allocation funds to provide incumbent worker training and other statewide employment and training activities. [Attached]

**New Waivers for the Recovery Act funded programs (Recently submitted to U S. Department of Labor and posted on the State Plans Web site)**

- Waiver related to WIA procurement requirements for youth summer employment providers. [Approved April 15, 2009]
- Waiver of performance measures for youth who participate in work experience only.

**Waivers Not Required to Submit on June 30<sup>th</sup> (included in State Plan Extension Request)**

- Waiver to permit implementation of and reporting only for the Common Measures.
- Waiver of the time limit on the period of initial eligibility for training providers.

**State of Nebraska**  
**Workforce Investment Act**  
**Waiver Request**  
**USE OF LOCAL AREA FORMULA FUNDS TO PROVIDE INCUMBENT WORKER**  
**TRAINING AND OTHER STATEWIDE EMPLOYMENT AND TRAINING**  
**ACTIVITIES**

The Nebraska Workforce Development/Department of Labor as the WIA Title I Grant Recipient Agency in Nebraska requests a waiver to permit the use of a portion of local area formula allocation funds to provide incumbent worker training and other allowable statewide employment and training activities.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(B) and 20 CFR Part 661.420(c), please accept the following request for a waiver:

- A. Statutory or Administrative Requirements to be Waived:**  
WIA Section 134(a)(3) and 20 CFR 665.210 limits the authority to provide the allowable statewide employment and training activities to the State. This waiver would extend up to the local areas the ability to utilize up to 15% of the local area adult and dislocated worker formula funds to provide allowable statewide employment and training activities.
- B. Goals of the Waiver and expected Outcomes:**  
The proposed use of up to 15% of local area adult and dislocated worker formula allocated funds to provide allowable statewide employment and training activities will give Local Boards greater flexibility for responding to changes in their local labor markets and other demand-driven needs of the business community. It would encourage Local Boards to expand their services and enhance their ability to meet the growing needs of existing customers, divert potential lay-offs by focusing improvement on job retention and in building relations with employers in high demand-growth industries.
- C. Actions Taken to Remove State or Local Statutory or Regulatory Barriers**  
There is no State or local statutory or regulatory barrier to implementing the proposed waiver.
- D. Programmatic Outcomes Expected to be Achieved if the Request is Granted**  
The State is required to report performance outcomes for any incumbent workers served under this waiver in the Workforce Investment Act Standardized Record Data (WIASRD). Local areas shall be required to meet performance goals for adults and dislocated workers
- E. Individuals Impacted by the Waiver**  
This waiver will benefit the participating employer, incumbent worker, job seeker and local service delivery area.

- F. Process for Monitoring Implementation of the Waiver**  
The State shall issue policy to provide Local Workforce Investment Boards with guidance on the planning, programmatic and financial reporting requirements. The State Monitors shall ensure that the policy is followed and these demonstration project participants are included as a part of the monitor review process.
- G. Opportunity for Public Comment**  
This issue was originally addressed at the March 6, 2007 Local WIA Administrators meeting with administrative staff of all three Local Workforce Investment Boards present. This waiver request has been posted on [NebraskaWorkforce.com](http://NebraskaWorkforce.com) (Go to Information/Workforce Investment Act/State Plans). It was included in the review by the Nebraska Workforce Investment Board at their meeting on June 17, 2009.

**State of Nebraska  
Workforce Investment Act  
Waiver Request  
TRANSFER AUTHORITY**

The Nebraska Workforce Development/Department of Labor as the WIA Title I Grant Recipient Agency in Nebraska requests a general waiver to increase the transfer authority of the Local Workforce Investment Boards from 30% to 100% for Adult and Dislocated Worker funds. This proposed increase will provide the local boards with greater flexibility for responding to changes in local labor markets and economic conditions, and will help ensure that the WIA funds allocated to each local area are being utilized in a way that will maximize recruitment and customer service including demand-driven needs of the business community. The waiver was initially requested for Program Years 2005 and 2006. The Governor received an extension in Program Years 2007 and 2008 and is again requesting for Program Year 2009. This waiver request is for WIA Adult and Dislocated Worker funds with the understanding that it shall not be applied to Recovery Act funded programs.

In keeping with the guidelines set forth at WIA Section 189(i)(4)(B) and 20 CFR Part 661.420(c), please accept the following as a request for a waiver.

**A. Statutory or Regulatory Requirements to be Waived**

WIA Section 133(b)(4) and 20 CFR Part 667.140 provides the authority for workforce investment areas, with approval of the Governor, to transfer up to 20 percent of the Adult Activities funds to Dislocated Worker Activities, and up to 20 percent of Dislocated Worker Activities funds to Adult Activities. According to TEGL 14-08, Change 1, "the FY 2009 Omnibus Appropriations Act raised the transfer limits between Adult and Dislocated Worker funds to 30 percent, which is applicable for the life of the funds."

The State of Nebraska requests that Local Boards be allowed to transfer up to 100 percent of a program year allocation for Adult funds and up to 100 percent of a program year allocation for Dislocated Worker funds between the two funding streams.

**B. Goals the State or Local Area, as appropriate, Intends to Achieve and How Those Goals Relate to the Strategic Plan Goals**

The goal of the State is to provide more flexibility to Local Boards so they are able to respond to changes in local labor markets and economic conditions in a more efficient manner. This correlates to the Plan Goal 1 of being "a dynamic, demand-driven workforce development system" and Plan Goal 3 "to meet the changing long and short-term needs of businesses and individuals with a coordinated, efficient, and less bureaucratic delivery system."

This waiver will, also, help ensure that the WIA funds allocated to each local area are being utilized in a way that will maximize recruitment and customer service. The flexibility in this waiver may contribute to reaching Plan Goal 2 of increasing "the integration of services to employers and job seekers by multiple public and private partners."

**C. Actions Taken to Remove State or Local Statutory or Regulatory Barriers**

There is no State or local statutory or regulatory barrier to implementing the proposed waiver.

**D. Programmatic Outcomes Expected to be Achieved If the Request is Granted**

Nebraska has three Local Workforce Investment Areas with very diverse needs. The Greater Nebraska Workforce Investment Area must meet the needs of an 88 county, mostly rural population. In the past, it was necessary to move funds from Dislocated Worker funding to Adult program funding to meet the needs of low income participants. More recently, layoffs of major manufacturing plants have impacted entire rural counties. The Greater Omaha and Greater Lincoln Workforce Investment Areas have been affected by major layoffs and trade-affected events in recent years. By allowing for increased flexibility in the use of funds, the Local Workforce Investment Boards shall be able to respond more quickly and effectively to events in their areas.

**E. Individuals Impacted by the Waiver**

All Adults and Dislocated Workers shall benefit in that the funds available shall be expended in an efficient manner allowing for the needs of the communities and businesses to be met as timely as possible. Individuals on waiting lists who sometimes get discouraged shall be able to receive services sooner. One-Stop partner programs shall be able to better integrate their services with the local WIA programs since Local Boards shall have the resources available to design programs more responsive to customer needs. Employers shall benefit by having more workers trained in their demand industries.

Additionally, by allowing this fund transfer, it will help better ensure that the proposed 70% annual expenditure rate is met by the local areas.

**F. Process for Monitoring Implementation of the Waiver**

In order to ensure all population groups are served, the State shall require that all transfer requests be limited to 50% per quarter not to exceed 100% with justification of need provided. The State Monitors shall ensure this requirement becomes a part of the monitor review process.

**G. Opportunity for Public Comment**

This request was developed as a result of concerns expressed by local areas and their Workforce Investment Board members. The issue was initially addressed at the February 17, 2005, Local WIA Administrators meeting with representatives from all three local areas present. It was further considered by the Greater Lincoln Performance Review committee when it met on February 23, 2005. This committee notified the State that they agreed to support a recommendation of up to 100% transfer authority. This waiver consideration has been included in all of the State Plan postings since PY 2005 and was most recently included in the draft Strategic Plan posted on the NebraskaWorkforce.com Web site on April 15, 2009. This waiver was included in the State Plan extension request of April 8, 2009 (also posted on the NebraskaWorkforce.com Web site.)