



JUN 27 2011

The Honorable Andrew M. Cuomo
Governor of New York
State Capitol Building
Albany, New York 12224

Dear Governor Cuomo:

This letter provides approval of an extension of New York'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 New York'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

New York'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 New York's State Plan for WIA Title I and the Wagner-Peyser Act for PY 2011, July 1, 2011 through June 30, 2012. The State has already received its formula allotment for the WIA Youth program for PY 2011. The State 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

New York 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 State's official copy of the State Plan.

Waivers

As part of the State's extension of the WIA/W-P State Plan, and as described in TEGL No. 17-10, the State requested extensions of New York's PY 2010 waivers of statutory and regulatory requirements under WIA for PY 2011. The

disposition of the State's waiver 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 to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State was previously granted a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted an extension of this waiver through June 30, 2012.

This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

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

The State was previously granted a waiver of the requirement for competitive procurement of service providers for one of the youth program elements: follow-up services. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide the youth program element of follow-up services. 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.

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

The State 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. The State 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, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State 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; the State 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 the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

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

The State 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. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State 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 the State is required to report performance outcomes for any individual 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 WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State 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. The State 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, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State 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; the State 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.

The State 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. The State is granted an extension of this waiver through June 30, 2012. 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 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. The State 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 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

The State was previously granted a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the State to discontinue the collection of the following WIASRD elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The State is granted an extension of this waiver through June 30, 2012.

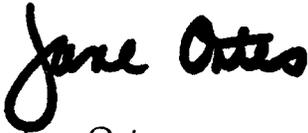
Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State 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. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State 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 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 described in TEGl No. 09-10, page 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 working together as you implement your State Plan for PY 2011. If you have any questions related to the issues discussed above, please contact Tricia Reynolds, the Federal Project Officer for New York, at either (617) 788-0130 or Reynolds.Tricia@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

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office
Tricia Reynolds, Federal Project Officer for New York



New York State Department of Labor
Andrew M. Cuomo, Governor
Colleen C. Gardner, Commissioner

April 7, 2011

Ms. Kimberly Vitelli
Federal Coordinator for Plan Review and Approval
Division of Workforce System Support
Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave., NW, Room S-4231
Washington, DC 20210

Dear Ms. Vitelli:

New York State's Strategic State Plan for Title I of the Workforce Investment Act (WIA) and Wagner-Peyser Act will expire on June 30, 2011. In accordance with Training and Employment Guidance Letter (TEGL) No.17-10, the New York State Department of Labor (NYSDOL), as the designated State agency responsible for overseeing implementation of WIA and Wagner-Peyser, and acting on behalf of the Governor and the State Workforce Investment Board, is requesting that the U.S. Department of Labor extend the life of the existing New York State WIA/Wagner-Peyser Act State Plan into Program Year 2011 (July 1, 2011 – June 30, 2012).

New York State will not be seeking to modify its current plan for PY 2011 given the recent changes in State government, pending changes to state planning guidance and the anticipation of new requirements resulting from WIA reauthorization. Extension of the current State Plan into Program Year 2011 will continue the State's emphasis on fostering regional initiatives and building upon existing partnerships to develop a public workforce system throughout the State that is responsive to the needs of job seekers and existing and emerging businesses.

New York State intends to extend its negotiated Program Year 2010 WIA and Wagner-Peyser performance goals through Program Year 2011. As required by TEGL No. 17-10, the State will notify the appropriate Regional Administrator of this intention.

New York State is also requesting an extension of existing waivers through Program Year 2011, in compliance with the guidance provided in TEGL No. 17-10. No new waivers for Program Year 2011 are requested.

For PY 2010, New York State was granted the following waivers:

- **Funds Flexibility:** Waiver of the requirement for a 50 percent employer contribution for customized training, to permit a sliding scale contribution for small- and medium-sized businesses;
- **Funds Flexibility:** Waiver to increase the employer reimbursement for on-the-job training for small- and medium-sized businesses;
- **Funds Flexibility:** Waiver to permit the use of a portion of local area formula allocation funds to provide incumbent worker training;
- **Funds Flexibility:** Waiver to permit a state to use a portion of rapid response funds to conduct incumbent worker training;
- **Youth:** Waiver of the prohibition on use of Individual Training Accounts for youth to allow flexibility in provision of training services to youth;
- **Youth:** Waiver of the requirement for competitive procurement of service providers for up to two youth elements (work experience and follow-up services) to ensure continuity of youth services;
- **Performance:** Waiver to permit implementation of (and reporting only) common measures in place of current measures;
- **Performance:** Waiver to permit a state to discontinue the collection of seven of the data elements in Section 1 of the WIASRD for incumbent workers. Under the waiver, a state will not need to collect from these participants the following WIASRD data elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126);
- **Eligible Training Providers/Other:** Waiver of the time limit on the period of initial eligibility for training providers, to address data collection barriers.

New York State has reviewed these waivers and has concluded that they continue to support the strategies outlined in its existing State Plan and match the needs of the State's workforce system. Therefore, New York State is requesting that these waivers be extended through Program Year 2011.

Notice of this request for an extension of the current WIA/Wagner-Peyser Act State Plan and waivers into Program Year 2011 has been made available on the NYSDOL website: www.labor.ny.gov. The current State Plan may be viewed there as well.

Thank you for your consideration of this request to extend our existing WIA/Wagner-Peyser Act State Plan and waivers into Program Year 2011.

Sincerely,



Karen A. Coleman
Director, Division of Employment
and Workforce Solutions