



MAY 21 2013

The Honorable Martin O'Malley
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

Dear Governor O'Malley:

This letter provides conditional approval of Maryland's State Plan (excluding waiver requests) for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, and plans for coordination with Trade Adjustment Assistance (TAA). The Employment and Training Administration (ETA) received the State Plan on April 16, 2013. This letter also separately addresses Maryland's WIA waiver requests.

Plan Review and Approval

ETA has reviewed the Maryland State Plan in accordance with Title I of WIA, the W-P, the Trade Act (as amended), the corresponding regulations, the State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), and Training and Employment Guidance Letter (TEGL) No. 21-11. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is approving the WIA Title I, W-P and TAA portions of Maryland's State Plan for the period July 1, 2013 through June 30, 2017, PY 2013-PY 2016, with the exceptions noted below. The annual W-P Agricultural Outreach Plan (AOP) is approved for the period July 1, 2012 through June 30, 2013. The PY 2013 AOP must be developed and submitted in accordance with guidance in TEGL No. 23-12. ETA is approving the State Plan on the condition that the State provides the following items to meet the State Integrated Workforce Plan requirements:

- **Leveraging Resources:** The State Strategic Plan must address how the State will coordinate discretionary and formula-based investments across programs and include the planned commitment of Federal and non-Federal funds to these investments in accordance with WIA 112(b)(10). The State's discussion of leveraged resources does not adequately respond to the planning guidance. (Please refer to 'Leveraging Resources' in Section I of the State Integrated Workforce Plan Requirements.)

- **Veterans Priority of Service:** The State Operational Plan must incorporate priority of service for veterans and eligible spouses that meets the requirements of 20 CFR Part 1010. The Maryland State Plan indicates that “Once a veteran has identified himself to the Career Center staff, he or she is referred to the Local Veterans Employment Representative (LVER) and/or the Disabled Veterans Outreach Program (DVOP) representative. Staff manages the process of how veterans make use of their priority services.” This passage suggests that the State’s veteran priority of service policy may not be implemented in accordance with the State policy articulated in Assurance 38. The State’s discussion of POS must demonstrate that all American Job Center staff understand and help implement POS. (Please refer ‘Services to State Target Populations’ in Section II of the State Integrated Workforce Plan Requirements.)
- **Assurance 9:** The State Plan must include a written policy that identifies circumstances that might present a conflict of interest for any state or local workforce investment board member or the entity that s/he represents, and provides for the resolution of conflicts. The policy must meet the requirements of WIA Sections 111(f) and 117(g).
- **Assurance 10:** The State Plan must include a written policy that describes the State’s appeals process available to units of local government or grant recipients that request, but are not granted, designation of an area as a local area under WIA Section 116.
- **Assurance 11:** The State Plan must include a written policy and procedures that describe the State’s appeal process for requests not granted for automatic or temporary and subsequent designation as a local workforce investment area.
- **Assurance 12:** The State Plan must include a written policy that sets forth criteria to be used by chief local elected officials (CLEOs) for the appointment of local workforce investment board members. The hyperlink provides the policy governing the working agreement between CLEOs and local workforce investment boards, but does not establish selection criteria for board appointments.
- **Assurance 28:** The State Plan must include written criteria to be used by local workforce investment boards in awarding grants for youth activities, including criteria that the governor and local workforce investment boards will use to identify effective and ineffective youth activities and providers of such activities in accordance with WIA Sections 112(b)(18)(B), 123, and 129. The State’s response to Assurance 28 indicated that the State is not currently funding discretionary youth projects, but does not address the criteria used to identify the effectiveness of youth activities and service providers.
- **Assurance 37:** The State Plan must include policies, procedures, and criteria for prioritizing adult title I employment and training funds for use by recipients of public assistance and other low-income individuals in the local area when funds are limited in accordance with WIA Section 134(d)(4)(E) and 20 CFR 663.600. The policy provided discusses the State’s general eligibility policy, but does not discuss low-income priority of service.

The State must modify its State Plan to include the above required items, and submit a modification to ETA at your earliest convenience but no later than September 15, 2013. The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2013 through June 30, 2017, under the condition that the information identified above is provided.

Performance Levels

Each year, the Regional Administrator negotiates the forthcoming Program Year's performance goals with each state. Negotiations are completed by June 30th each year. Once the final goals are established, the Regional Administrator's letter advising the State of the PY 2013 WIA and W-P final performance goals constitutes a modification to the State Plan. At that time, ETA will incorporate Maryland's final performance goals for PY 2013 into the Regional and National Office copies of the State Plan. Please include these final PY 2013 goals in the State's official copy of the State Plan.

Waivers

As part of Maryland's State Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's requests for waivers are written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver requests 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 W-P.

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 requested a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted this waiver through June 30, 2017. Under the waiver, transfer authority is 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.

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

The State requested 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 this waiver through June 30, 2017. 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 age 18 and older 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 WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State requested 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 this waiver through June 30, 2017. 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 may provide on-the-job training to individuals age 18 and older 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 the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State requested 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 this waiver through June 30, 2017. 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 ITA is reflected in the individual service strategies for these youth.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State requested 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 this waiver through June 30, 2017.

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.

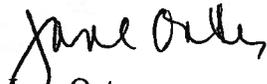
Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State requested 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 this waiver through June 30, 2017. 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.

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. 29-11, 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 Integrated Workforce Plan for PY 2013 and beyond. If you have any questions related to the issues discussed above, please contact Linda Avila, Federal Project Officer, at 215-861-5227 or Avila.Linda@dol.gov.

Sincerely,



Jane Oates

Assistant Secretary

Enclosure

cc: Lenita Jacobs-Simmons, Regional Administrator, ETA Philadelphia Regional Office
Linda Avila, Federal Project Officer for Maryland

From: [Ellen Flowers-Fields](#)
Date: Tuesday, April 16, 2013 3:21:52 PM
Posted At: WIA.PLAN
Conversation: Maryland State Plan Submission
Subject: Maryland State Plan Submission
Attachments: [Section I Strategic Plan - April 15 2013.pdf](#)
[Section II Operational Plan April 15 2013.pdf](#)
[image001.gif](#)
[image002.gif](#)

On Behalf of the State of Maryland's Department of Labor, Licensing & Regulation, attached find for your review our Integrated State Plan. Due to file size, the required attachments will be sent in a separate email.

We look forward to your review and comment. Please do not hesitate to contact me if you have any questions or concerns regarding this submission.

Thank you for your continued partnership and support.

Ellen Flowers-Fields
Deputy Assistant Secretary
Division of Workforce Development & Adult Learning
Department of Labor, Licensing & Regulation
1100 N. Eutaw Street, Room 108
Baltimore, MD 21201
410-767-3282
410-333-5355 fax
EFlowersFields@dllr.state.md.us
www.dllr.state.md.us

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ATTACHMENT H: State of MD Waiver Plan for Period: JULY 1, 2012- JUNE 30, 2017

Waiver 1

Waiver of the required 50 percent employer contribution for customized training at WIA Section 101 (8) (C) & (31)(B) to a contribution on a sliding scale, ranging from 10 to 50 percent, based on the guidance in TEGL 13-06 (Increased Use of Flexibility Provisions in WIA)

Statutory or Regulatory Requirements to be Waived

Maryland 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. Through this suggested approach, the employer match would range from a minimum of 10% to a maximum of 50% based on the size of the business.

State or Local Statutory or Regulatory Barriers

There are no current state statutory, local statutory or regulatory barriers related to this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

The State of Maryland's Workforce Development System's mission and vision is that economic success will be enhanced through an integrated, innovative and strategic approach to workforce development, contributing to a high quality of employment opportunities and prosperous business communities. Employers will have a competitively skilled workforce and workers will have quality employment and opportunities for career advancement. Customized Training optimizes the resources available under workforce development initiatives to meet the needs of employers and job seekers. However, the 50% employer match requirement limits the ability to offer the maximize benefits of customized training to many local employers. These added benefits would include:

- Increase the percentage of employers using customized training as a means to hire and retain skilled workers.
- Increase the percentage of workers trained and hired through customized training.
- Increase the flexibility at the local level to service business and industry through a demand driven approach to their specific needs.
- Equip workers with the relevant job training skills that lead to a more productive and therefore profitable business.
- Improve the ability of the LWIBs to respond to industry changing needs more expediently and impactful.
- LWIB will increase their participation rates for skilled job seekers. that received training and found employment

Local employers too often conclude that 50% match requirement creates costs that outweigh the benefits of participating in the WIA customized training programs. Allowing employers to apply the sliding scale to determine the match amount will increase employer participation in WIA customized training programs at a local level. The proposed sliding scale for the employer match will create the

necessary flexibility for employers to provide the required match at a rate that more appropriately represents a particular business' cost benefit ratio of contributing to a match amount to receive skilled employees.

The sliding scale will answer employers' primary reason for not participating in the training programs because of their Return on Investment (ROI) concerns especially for those small employers of less than 50 employees with limited resources but a great need for skilled workers.

The *proposed* employer match sliding scale will range from 10% to 50% based on the following employer size:

- Match up to 90% for employers with 50 or fewer employees; and
- Match up to 75% for employers with 51-200 employees; and
- Match up to 50% for employers with 200 or more employees.

Impacts of Waiver

Customized Training optimizes the resources available under workforce development initiatives to meet the needs of employers and job seekers.

Process for Monitoring Progress in Implementation

The DLLR/DWDAL Office of Workforce Development, Office of Workforce Investment Program & Performance Monitoring and Office of Budget and Fiscal will monitor the WIA customized programs. Technical assistance during the implementation phase of the waiver will cover areas as procurement, contracting and program design. Each LWIB and the DLLR/DWDAL/OWD/OWIPP and OBF will monitor performance reports and compare actual performance with prescribed benchmarks. DWDAL/OWD/OWIPP will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met for all WIA programs.

Waiver 2

Waiver of Requirement that businesses receiving On-the-Job Training (OJT) Services under WIA Section 101 (31) (B) and 20 CFR 663.700(a), 663.710(b) requiring that businesses receiving On-the-Job Training (OJT) services under WIA receive a maximum reimbursement of 50% of the newly hired employee's wages during OJT. Maryland 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 waiver would allow for reimbursements as follows: 1) up to 90 percent of the participant's wage for employers with 50 or fewer employees; 2) up to 75% of the participant's wage for employers with more than 51-250 employees; and 3) the current statutory requirements of 50 percent of the participant's wage for employers with 250 or more employees.

Statutory or Regulatory Requirements to be Waived

WIA Section 101 (31) (B) to increase the employer reimbursement for on-the-job training and 20 CFR 663.700(a), 663.710(b)

State or Local Statutory or Regulatory Barriers

There are no current state statutory, local statutory or regulatory barriers related to this waiver request.

Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

This waiver allows the state to encourage and expand the hiring of unemployed adult, low income and dislocated workers who lack some of the skills needed to meet employer's needs. The goals of the waiver are: to increase the number of individuals receiving OJT; to accelerate businesses hiring through OJT; to strengthen the labor pool by providing unemployed workers with marketable skills; to strengthen the business community by increasing its competitiveness in the global economy; to improve the capacity of local boards to market demand-driven services; and, to build beneficial relations with a greater number of businesses in the private sector and provide job seekers with opportunities to add new skill sets and learn new technologies while they return to the workplace and earn wages to support themselves and their families. This waiver request is consistent with State of Maryland Integrated WIA/Wagner-Peyser State Plan, which places strong emphasis on strengthening the business community and increasing the number of individuals who receive training through the One-Stop Career System.

Impacts of Waiver

The waiver will accelerate hiring and thus positively impact the population of unemployed workers who are hired through OJT in terms of skill acquisition and family income. In addition, the waiver will have a positive impact on the State's participating businesses with 100 or fewer employees, the State's workforce, and the State's economy.

Process for Monitoring Progress in Implementation

The State of Maryland will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system

Waiver 3

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.

Maryland was previously granted a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams; transfer authority is limited to 50 percent.

Statutory or Regulatory Requirements to be Waived

WIA Section 133 (b)(4)

State or Local Statutory or Regulatory Barriers

There are no current state statutory, local statutory or regulatory barriers related to this waiver request.

Goals of the waiver and expected programmatic outcomes if waiver is granted

This waiver provides the state and Local WIBs needed flexibility to respond to changes in their local labor markets and will help ensure that WIA funds are used in a way that maximizes customer service; while ensuring consistency with legislative intent regarding the level of funding appropriate for WIA Adult, Dislocated Worker programs and aligning with the demand-driven needs of the business community.

Impacts of Waiver

If granted, this waiver would permit local areas to lessen these challenges by transferring funding to more effectively serve their customers. It has been observed that some local areas have been able to leverage and secure other sources of funding to serve the same groups of individuals. However, this waiver will enable local areas to respond appropriately, transferring resources in order to maximize them on behalf of their customers. The need for this waiver is critical given the current economic shifts occurring in our state.

Process for Monitoring Progress in Implementation

Local areas are required to submit in writing to DLLR fiscal unit a request to implement the waiver, the amount of the transfer, and the justification of the need. Written approval of the transfer is issued to the LWIB and grand modifications are made. Ongoing, the State of Maryland will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance, and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system.

Waiver 4

Waiver to permit the State to replace the performance measures at WIA Section 136 (b) with the Common Measures

Maryland was previously granted a waiver that allows the State to replace the 17 performance measures under WIA Section 136 (b) with the common measures.

Statutory or Regulatory Requirements to be Waived

Waiver of the core indicators of performance and the customer satisfaction measures required at WIA Section 136(b)(2) and (c)(1), as well as accompanying regulations in CFR 20 666.100(a) and 666.300(a), of the Workforce Investment Act.

State or Local Statutory or Regulatory Barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver

Goals of the waiver and expected programmatic outcomes if waiver is granted

The State of Maryland has adopted and reports on the Common Measures, as delineated in TEGL #17-05, for federal job training and employment programs. The goal of this waiver if granted is to simplify and streamline performance accountability and reporting; improve program management and performance; enhance the state's ability to assess the effectiveness and impact of workforce development efforts; and provide a more effective means of determining performance.

Impacts of Waiver

This request continues to support the Maryland State's Strategic Plan to align strategy, services to customers and accountability across the workforce investment system and programs administered by DLLR/ DWDAL. The streamlined approach and focus on the common measures rather than seventeen (17), will allow for administrative efficiencies while focusing on key performance measures.

Process for Monitoring Progress in Implementation

The State of Maryland issues quarterly performance reports to each of the local areas, identifying areas of deficiency and progress. Technical assistance and performance management training are provided ongoing via face to face meetings and webinars. Annual programmatic performance reviews

observe and document best practices and deficiencies in operations that can assist areas in developing process improvements that enhance performance outcomes.

Waiver 5

Waiver of the provision WIA Section 122(c)(5) and WIA Regulations 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers

This waiver requests an extension of the initial eligibility period, deferring the implementation of the subsequent eligibility process. Additionally, the waiver provides an opportunity for training providers to re-enroll as initial eligible providers.

Statutory or Regulatory Requirements to be Waived

WIA Section 122(c)(5) 20 CFR 663.530

State or Local Statutory or Regulatory Barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver

Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

Maryland realizes that as workforce development resources become scarce and demand has skyrocketed, it is imperative that Maryland's investment in training, skills enhancement yield maximum benefits. Maryland understands the need for accountability and supports efforts to ensure customers are making informed decisions based on quality data. Access to training providers and a diverse menu of training options is necessary to meet the growing needs of Maryland's economy.

Impacts of Waiver

All WIA-eligible customers will be positively impacted by this waiver. Individual customers will continue to have a choice in selecting their training providers, employers will continue to have a steady flow of skilled workers entering the job market, and training providers will be able to continue serving present and new customers.

Process for Monitoring Progress in Implementation

The State of Maryland's Higher Education Commission will monitor providers as appropriate and advise the DWDAL as necessary.

Waiver 6

Waiver of the Prohibition at WIA Regulation 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth

Maryland was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older and out-of-school youth program participants.

Statutory or Regulatory Requirements to be Waived

WIA Regulations 20 CFR 664.510

Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted

The goals of the waiver are to ensure the local workforce investment areas have the flexibility to design and deliver programs based on the needs of their customers, rather than restrictions based

solely on age; without this waiver, the workforce system would have no alternative but to co-enroll older youth in the adult program to provide training opportunities through the use of ITAs. Adult funding in Maryland is limited and therefore opportunities for these youth to participate in training are further limited.

Impacts of Waiver

The impact of this waiver will be streamlining of customer service and avoidance of the need for an unnecessarily bureaucratic process. Reduction in paperwork and tracking processes requirement in dual enrollment (Youth/Adult) as is necessary for older youth to access training through the Adult ITA's. Further, this waiver will offer youth the real-life learning experience of making an informed decision that has a direct impact on his/her life. Using the ITA process with older youth and out-of-school youth offers case managers the opportunity to discuss the process of decision-making (training provider, finances, etc.) and the possible results. Service capacity of the One-Stops will be maximized by allowing the use of Youth funds to serve older youth, who are focused on employment, to have the same advantage of ITAs as adult and dislocated workers and increase youth performance.

Process for monitoring progress in implementation

The State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditures, performance and other reports through frequent contact with the local workforce investment areas and state internal monitoring of program, performance, expenditures and other reporting/accountability systems as well as through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards and public comment

Local workforce administrative entities are provided a copy of each of these proposed waiver request as well as the US DOL/ETA's reply to this request. Local areas have already been notified (during a recent WIA Meeting) that no incentive grants will be made in Program Year 2012 due to the loss of Governor's 10 Percent WIA funds.