U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

OCT 6 - 2014

The Honorable Edmund G. Brown Jr.
Governor of California
State Capitol
Sacramento, California 95814

Dear Governor Brown:

The Employment and Training Administration (ETA) is responding to your request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA). 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. On July 22, 2014, the Workforce Innovation and Opportunity Act (WIOA) was enacted. Many of WIOA's provisions take effect on July 1, 2015, but the existing WIA state and local plan provisions remain in effect until July 1, 2016. ETA is conducting a review of WIOA's implementation timeline and provisions, and will be issuing guidance in the future regarding the new State Unified Plan provisions and waivers as part of its implementation actions. Current WIA waiver approval timelines have been adjusted in accordance with the expected end date (June 30, 2016) for the existing WIA State Plans.

<u>Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training</u>.

The State is requesting a waiver of the required 50 percent employer contribution for on-the-job training to permit the use of a sliding scale for the employer contribution based on the length of the participant's unemployment. The State is granted approval of this waiver for a sliding scale based on the length of unemployment through June 30, 2016. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent employer reimbursement where on-the-job training is provided to individuals unemployed for 51 weeks or more, and 2) up to 75 percent employer reimbursement where on-the-job training is provided to individuals unemployed between 16-51 weeks. Where on-the-job training is provided to individuals unemployed for less than 16 weeks, the current statutory requirements (50 percent reimbursement) will continue to apply. This scale may be used as an alternative to the sliding scale based on size of employer, for which the State was previously granted a waiver through June 30, 2016. The State is also permitted to apply a reimbursement rate of up to 90 percent for veterans and the disabled.

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 areas may provide on-the-job training to individuals age 18 or older with WIA Adult funds and must

provide priority to low-income individuals when funds are limited; the State and local areas 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. Under this waiver, the State must identify indicators or information gathering it will use to track improved outcomes, and report the results of the waiver in the WIA Annual Report.

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 three of the ten youth program elements. The State is granted this waiver through June 30, 2016. 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. Under this waiver, the State must identify indicators or information gathering it will use to track improved outcomes, and report the results of the waiver in the WIA Annual Report.

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. 06-13, 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 Carol Padovan, the Federal Project Officer for California, at (415) 625-7946 and Padovan.Carol@dol.gov.

Sincerely,

Portia Wu
Assistant Secretary

Enclosure

cc: Virginia Hamilton, Regional Administrator, ETA San Francisco Regional Office
Carol Padovan, Federal Project Officer for California

STATE OF CALIFORNIA
WORKFORCE INVESTMENT ACT (WIA)
WAIVER REQUEST

Waiver of Limitation on Employer Reimbursements for On-the-Job Training for Long Term Unemployed Veterans and Disabled Job Seekers

Currently, California's unemployment rate is 7.8 percent, the lowest since August 2008, yet there is still a large number of Californians who are unemployed. Of the 1.58 million unemployed Californians through April 2014, 38.5 percent had been unemployed for 26 weeks or longer, while 26.5 percent had been unemployed for 52 weeks and longer.

Even as California's economy has bounced back and in some parts of the state job opportunities are increasing, combating long-term unemployment continues to be one of the greatest challenges for policy-makers.

The U-6 unemployment rate, the broadest measure of labor underutilization, indicates total unemployment as well as those Californians who are working part-time for economic reasons and those considered long-term unemployed or marginally attached to the labor force.

The nationwide U-6 rate is 13.4 percent. California's is 16.5 percent, the highest in the nation, and Los Angeles County is even higher at 18.6 percent. Long-term unemployment is widespread and disproportionately affects certain groups.

Studies have found that there is a greater likelihood that a person with disabilities will suffer long-term unemployment than a person without disabilities.

Based on the most recent April 2014 Current Population Survey (CPS) data, of the nearly 3 million Californians with a disability, only 18.7 percent (561,000) participate in the labor force. Of those 561,000 Californians with disabilities in the labor force, 14.3 percent, or approximately 80,000 are unemployed. Some of these Californians with disabilities may also be returning veterans.

Currently the unemployment rate for veterans in California is 7.9 percent. Approximately 45.2 percent of the state's veteran population participates in the labor force. Veterans are typically older, males with a high school diploma or some postsecondary education. Veterans typically have lower unemployment rates than nonveteran populations in most demographic categories. More recent veterans, typically termed Post-9/11, tend to face higher levels of long-term unemployment. This fits within the current unemployment rates for those ages 20-24, 14.2 percent, and those aged 25-34, 8.3 percent.

To enable local workforce boards to more effectively serve the long-term unemployed veterans and disabled job seekers and address some of the barriers to reattachment to the workforce, the State Board is seeking a waiver to the reimbursement rate currently provided in WIA. Under this waiver, the reimbursement would allow up to 90 percent employer reimbursement for these targeted populations. This will allow local boards to negotiate a range of reimbursement based on the barriers to employment of the client. Local boards should work with employers in their priority sectors to establish OJTs that offer career pathways that lead to self-sufficiency.

This waiver will be effective immediately upon approval and for the full period of the California WIA Strategic Plan of June 30, 2017.

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

A. Statutory or Regulatory Requirements to be Waived

WIA Section 101(31)(B) and the WIA Regulations at 20 CFR 663.710 which limits to amount of wage reimbursement for OJT to fifty (50) percent of the wage rate of the participant.

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

The goal of this waiver is to increase employment opportunities for the long term unemployed veterans and disabled by providing wage reimbursement and assistance to employers that provide earn and learn opportunities to this targeted population of job seekers as they transition back to full productivity in the workplace. This waiver would also provide an additional and effective strategy to the local workforce boards to assist its clients to seek, find, and retain employment. This waiver is consistent with the California WIA Strategic Plan in using earn and learn models that provide career pathways that lead to middle-skill occupations that provide a self-sufficiency wage.

The success of this waiver will be determined over time as we monitor its effectiveness through the use quarterly reporting and data in the client record to determine number of clients served under this waiver and the associated outcomes for the client.

C. State or Local Statutory or Regulatory Barriers

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

D. Description of Individuals Impacted by the Wavier

All WIA eligible participants (long term unemployed veterans and those classified as having a disability as defined by this waiver request), local workforce boards and participating employers will be impacted by this waiver. Additional workforce partners that provide services to this client population, such as social services and other such entities, may be impacted through a reduction in the total number of clients receiving other public services and assistance.

E. Opportunity for Public Comment and the Process for Monitoring Implementation of the Waiver

This waiver was published for public comment on June 19, 2014 for a 30-day period under Information Notice 13-74. No comments were received during this period. The State Board and the EDD, as the administrative entity of the WIA in California, will continue to monitor local service delivery efforts. The State's current monitoring policy/procedures will be modified as appropriate to include a review of the activities covered by this waiver request.