

MAY - 9 2011



The Honorable Rick Perry
Governor of Texas
Post Office Box 12428
Austin, Texas 78711

Dear Governor Perry:

This letter provides approval of an extension of Texas' 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 Texas' 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

Texas' 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 Texas' State Plan for WIA Title I and the Wagner-Peyser Act for PY 2011, July 1, 2011 through June 30, 2012. The State is eligible to receive WIA formula allocations for Adult and Dislocated Worker programs and W-P initial base program allocations, effective July 1, 2011, under the PY 2011 annual funding agreement for WIA and the PY 2011/Fiscal Year 2012 annual funding agreement for W-P.

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 2011 WIA and W-P final performance goals constitutes a modification to the State Plan. ETA will incorporate Texas' final performance goals for PY 2011 into the Regional and National Office copies of the State Plan. Please include these final 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 Texas' PY 2010 waivers of statutory and regulatory requirements under WIA for PY 2011. The disposition of the State's waiver extensions 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.

Extension of Waivers

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 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, a reimbursement amount of up to 75 percent for employers with 250 or fewer employees is permitted. 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 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 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State 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. The State is granted an extension of this waiver through June 30, 2012. 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 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 will be 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 lay-off 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 Workforce Investment Act Standardized Record Data system (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 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 lay-off 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 Workforce Investment Act Standardized Record Data system (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 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 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 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. 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.

Requested Waiver: Waiver of WIA Section 136(c) to allow greater flexibility when contracting performance measures with local workforce boards.

The State is granted an extension of the waiver through June 30, 2012 to exempt it from the requirements at WIA Section 136(c), which defines the local area performance measure indicators and the methodology for local areas to negotiate and reach agreement on the local area performance base on the State adjusted levels. The waiver permits the State to use local board-contracted measures that support integration. Under this waiver, the State will continue to meet applicable state performance requirements at WIA Section 136(b).

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 the reallocation provisions at WIA Sections 128(c)(3) and 133(c)(3), and 20 CFR 667.160.

The State is requesting a waiver of the reallocation provisions at WIA Sections 128(c)(3) and 133(c)(3), and 20 CFR 667.160(c) to permit it to reallocate recaptured funds according to state-developed criteria. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, the State has the discretion to consider additional factors described in its waiver plan in determining local area eligibility for a reallocation of recaptured funds. Specifically, the State can consider:

- the amount available for redistribution;

- amount requested by a local board;
- demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants;
- a demonstrated capacity to effectively expend funds to address the need for services in the workforce area;
- a local board's established plan for working with at least one of the Governor's industry clusters as specified in the board's plan; and
- the local workforce area's performance during the current and prior performance years.

The State must make public its reallocation procedure and policy, as well as any future changes to its policy. Please note that the approved waiver only applies to reallocation, and not recapture.

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, 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 Kajuana Donahue, the Federal Project Officer for Texas, at 972-850-4613 and Donahue.Kajuana@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Cc: Joseph Juárez, Regional Administrator, ETA Dallas Regional Office
Kajuana Donahue, Federal Project Officer

Texas Workforce Commission

A Member of Texas Workforce Solutions

Tom Fauken, Chairman

Ronald G. Gogleton
Commissioner Representing
Labor

Andres Alcantar
Commissioner Representing
the Public

Larry E. Temple
Executive Director

February 17, 2011

Ms. Janet Sten
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. Sten:

On behalf of the Texas Workforce Commission (TWC), the state's operational entity for the Title I Workforce Investment Act, I respectfully request a one-year extension of Texas's current *State Workforce Investment Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act (Plan)* for the period ending June 30, 2012, in accordance with Training and Employment Guidance Letter (TEGL) No. 17-10, Instructions for Submitting Workforce Investment Act and Wagner-Peyser Act State Plans and Waiver Requests for Program Year 2011, issued December 30, 2010.

Additionally, I am requesting an extension to continue previously granted waivers through June 30, 2012. In accordance TEGL 17-10, a summary of the applicable waivers is included with this request. TWC has reviewed each waiver and determined that it supports the State's strategies as outlined in the existing Plan and matches the needs of its workforce system.

These requests are made to enable TWC to meet Texas's current workforce needs effectively.

Your consideration in granting the waiver continuations and one-year extension of Texas's Plan would be much appreciated.

If you have any questions, please contact Reagan Miller at (512) 936-3563.

Sincerely,



Larry E. Temple
Executive Director

Enclosure

Janet Sten
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February 17, 2011

cc: Joseph C. Juarez, Regional Administrator, U.S. Department of Labor
H. E. (Gene) Crump, Jr., Deputy Executive Director, TWC

TEXAS'S ABBREVIATED WAIVER REQUESTS FOR PROGRAM YEAR 2011

Common Measures and Integrated Performance Waiver

This waiver was approved by the Department of Labor Employment and Training Administration (DOLETA) on July 1, 2006, and permits the TWC to replace the original 17 WIA performance measures set forth in WIA §136(b) with the six Common Measures.

This waiver limits duplication of overwhelming data reporting requirements, allows TWC to promote integration, improve consistency and reliability of data, and foster greater flexibility when contracting performance measures with the 28 Local Workforce Development Boards (Boards).

This waiver has resulted in streamlined performance reporting of the Common Measures, further simplifying service delivery as well as collection, reporting, and validation at the local level.

Transferring Funds between Adult and Dislocated Worker Programs Waiver

This waiver was approved by DOLETA on January 3, 2003, modified on June 29, 2010, and permits TWC to approve transfer amounts of up to 50 percent of local workforce development area (workforce area) allocations between adult and dislocated worker funding streams, as requested by Boards.

The waiver provides flexibility that allows Boards to better respond to changes within their workforce areas and use limited funds in the most effective way.

Reallocation of Recaptured WIA Funds Waiver

This waiver was approved by DOLETA on November 17, 2010, and permits TWC to reallocate recaptured funds according to state-developed criteria.

Under the waiver, TWC, at its discretion, may consider additional factors such as:

- The amount available for redistribution;
- The amount requested by a local Board;
- A demonstrated need for and ability to use additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants;
- A demonstrated capacity to effectively expend funds to address the need for services in the workforce area;
- A Board's established plan for working with at least one of the Governor's industry clusters as specified in the Boards' plan; and
- A workforce area's performance during the current and prior performance years.

The waiver allows the State to ensure that available funding is expended to provide assistance to WIA-eligible participants including low-income individuals, recipients of public assistance, dislocated workers, and UI claimants; and maximize the impact of limited available funds by targeting workforce areas that have the greatest need.

Contracting for Board Performance Measures Waiver

This waiver was approved by DOLETA on July 1, 2005, and permits TWC to develop methodologies that allow greater flexibility in contracting Board performance measures.

This waiver provides TWC with flexibility to select which performance measures Boards are expected to meet. TWC continues to track and report the nine reportable WIA Common Measures at the state and Board levels. However, TWC may choose to focus on a subset of these measures along with integrated Board-contracted measures that the agency has developed as the primary local performance measures.

Extension of Certification Period for Currently Certified Training Programs Waiver

This waiver was approved by DOLETA on January 3, 2003 and permits TWC to extend the period of eligibility for training programs currently certified under the WIA Eligible Training Provider System (ETPS).

This waiver allows TWC to extend the period of initial eligibility for training providers. This waiver has resulted in eligibility requirements being less burdensome and has allowed for an increase of the numbers of eligible training providers.

Employer Reimbursement for On-the-Job Training Waiver

This waiver was approved by DOLETA on November 17, 2010, effective October 1, 2010, and permits TWC to increase employer reimbursement for on-the-job training (OJT) through a sliding scale based on the size of the employer's business.

Under the waiver, TWC may provide a reimbursement amount of up to 75 percent for employers with 250 or fewer employees. The current statutory requirement of a 50 percent reimbursement rate will continue to apply to employers with more than 250 employees. TWC provides OJT to low-income adults with WIA adult funds and to dislocated workers using WIA dislocated worker funds.

This waiver allows Boards to maximize flexibility and provide assistance to WIA-eligible participants including low-income individuals, recipients of public assistance, dislocated workers, and UI claimants; and maximize the impact of limited available funds.

Rapid Response/Incumbent Worker Training Waiver

This waiver was approved by DOLETA on July 20, 2005, modified on June 29, 2010, and permits TWC to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. All training delivered under this waiver is restricted to skill attainment activities.

This waiver allows Boards the flexibility necessary to provide assistance to WIA-eligible participants including low-income individuals, recipients of public assistance, dislocated workers, and UI claimants; and maximize the impact of limited available funds.

WIA Formula Funds Used as Local Activity Funds Waiver

This waiver was approved by DOLETA on August 19, 2003, modified on June 29, 2010, and permits TWC to allow Boards to designate up to 10 percent of WIA dislocated worker funds and up to 10 percent of WIA adult funds as local activity funds to use for incumbent worker training only as part of a layoff aversion strategy. Use of WIA adult funds must be restricted to serving low-income adults under this waiver.

WIA formula funds have very restricted uses, while WIA statewide activity funds provide for greater flexibility. This waiver allows WIA formula funds to be designated as local activity funds with flexibility similar to that of WIA statewide activity funds.

Older and Out-of-School Youth Use of Eligibility Training Provider List Waiver

This waiver was approved by DOLETA on January 3, 2003, and permits TWC to give Boards the option of using ETPS to secure training providers for older and out-of-school youth through the use of Individual Training Accounts (ITAs).

Allowing older and out-of-school youth to use ITAs has resulted in access to preferred training providers through ETPS and a more timely provision of training services to older and out-of-school youth, which streamlines services and increases local flexibility.