

MAR 14 2011



The Honorable Deval Patrick  
Office of the Governor  
Massachusetts State House  
Room 280  
Boston, Massachusetts 02133

Dear Governor Patrick:

This letter responds to your request for a waiver of statutory and regulatory requirements under the Workforce Investment Act (WIA) submitted on February 14, 2011. This request is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), and appears to meet the standard for approval at 20 CFR 661.420(e), with the exception discussed below. The following is the disposition of the State's submission (copy enclosed). 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.

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

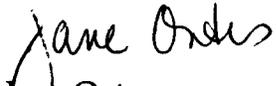
The State is requesting a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State is requesting that this waiver be effective for Program Year (PY) 2011, July 1, 2011 through June 30, 2012.

ETA is unable to provide approval of this state's waiver request for PY 2011 at this time. Waivers are a part of the State Plan, and we cannot approve a waiver beyond the lifespan of the WIA/Wagner-Peyser Act State Plan. The WIA waiver provisions and regulations at Section 189(i) and 20 CFR 661.420 require that waiver requests either be submitted with a State's five-year strategic plan or at any time subsequent to approval of the strategic plan. Massachusetts' State Plan approval ends June 30, 2011, prior to the requested effective date of the waiver.

We understand that Massachusetts intends to submit a State Plan modification in April 2011. The State should include with its modification submission a similar waiver request to permit the state to use the common measures. Upon review and approval of the Massachusetts State Plan for PY 2011, ETA intends to grant final approval of its request for a waiver of the 17 performance measures.

If you have any questions related to the issues discussed above, please contact Holly O'Brien, the Regional Administrator for Region I, at (617) 788-0166 or [Obrien.Holly@dol.gov](mailto:Obrien.Holly@dol.gov).

Sincerely,

  
Jane Oates  
Assistant Secretary

Enclosure

**Commonwealth of Massachusetts**  
**Department of Workforce Development**

**Waiver Request**

**Waive the requirement for reporting Performance Outcome Measures for Workforce Investment Act Title I; Wagner Peyser Act (Labor Exchange); Jobs for Veterans Act of 2002 (Title 38 USC); and Trade Act in order to implement Common Measures.**

The Massachusetts Department of Workforce Development (DWD), on behalf of the Executive Office of Labor and Workforce Development (EOLWD), is requesting a waiver of the seventeen (15 core and 2 customer satisfaction) indicators of performance delineated in section 136(b) of the Workforce Investment Act of 1998 (WIA). Approval of this waiver request will enable the Commonwealth's workforce development partners to implement the six (3 adult and 3 youth) common performance measures adopted by the United States Department of Labor Employment and Training Administration (ETA) for WIA as described in TEG L 17-05. As common measures has also been adopted by ETA for employment and training activities provided in conjunction with: the Wagner-Peyser Act as Amended; Title 38 United States Code as amended by the Jobs for Veterans Act of 2002; and the Trade Adjustment Assistance Act, the waiver to allow implementation of common measures would be applicable to these programs as well.

The Common Measures focus on employment placement and retention, earnings, placement in education, attainment of degree or certificate and literacy and numeracy gains. In making this request, the Commonwealth's intent, consistent with Federal vision, is to simplify and streamline the performance accountability system that comprises an integral element of workforce development system reform. This request is also consistent with the Governor's vision to effectively engage a broader spectrum of institutional partners in addressing the challenges in developing an educated, skilled and flexible workforce. A set of clear, concise and common outcome measures will ensure greater integration and accountability across multiple workforce development programs, while improving overall program management and performance.

The waiver request has been developed in accordance with the WIA guidelines in Section 189(i)(4)(B) and the WIA Federal regulations at 20 CFR 661.420.

The U.S. Department of Labor has approved a similar waiver for numerous states. We look forward to approval of this waiver for Massachusetts and, upon approval it is the Commonwealth's intent to implement the waiver effective July 1, 2011 for FY 2012.

**A. The statutory and/or regulatory requirements for which the waiver is requested:**

The statutory sections effected by this request are Workforce Investment Act of 1998 §189(i)(4), §129, §134, §168; 20 CFR WIA Final Rules §652.3, §661.400, §661.410, §661.420, §666.100; Wagner-Peyser Act, as Amended, Section 10(c) and 3(c); Title 38 United States Code as amended by the Jobs for Veterans Act of 2002; the Trade Act performance measures.

**B. Description of the actions the state or local area has undertaken to remove state or local barriers:**

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

**C. Description of the waiver goals; relationship of goals to the strategic plan goals; and expected programmatic outcomes:**

The waiver is consistent with national policy to develop a workforce system that is responsive to the demands of both individual and employer customers. The Commonwealth anticipates the following goals will be achieved with approval of the waiver request:

- Establish a simplified and streamlined performance measurement system.
- System-wide integration of performance accountability.
- Commonality of performance measurement across a broader spectrum of workforce development programs.
- Reduce paperwork and labor costs associated with performance data collection.
- Provision of clear and understandable information to the general public, Congressional and legislative leaders, the State Workforce Investment Board (SWIB), and to other system stakeholders with regard to the use of public funds and subsequent return on investment.
- Provision of a more effective program management tool.
- Focus on customer-driven rather than program-driven outcomes.
- Enhanced service coordination and information sharing among program operators.
- Improved efficiency in program delivery.

Local workforce investment partners have provided feedback with regard to implementation of Common Measures. A simplified methodology that uniformly measures performance across a significantly broader spectrum of programs and institutions will result in a more cohesive workforce development system focused on serving the needs of Massachusetts workers and employers with significantly greater effectiveness.

**D. Description of the individuals impacted by the waivers:**

Approval of this waiver will positively impact all customers, practitioners and stakeholders of the workforce investment system by providing a more broadly focused system of accountability while improving and streamlining program management and performance.

**E. Description of the process used to: Ensure meaningful public comment, including comment from business and labor; provide notice to any local board affected by the waiver; provide affected local boards the opportunity to comment; and monitor implementation:**

DWD actively sought the input of local regions during the development of this waiver request. As with all major workforce policies and procedures, the State has solicited dialogue and input from the local workforce boards and staff concerning the impact of implementing this waiver. The local workforce areas overwhelmingly support this request. To solicit public comment, this waiver request is also posted on the State Workforce Website: [www.massworkforce.org](http://www.massworkforce.org).

The Department of Workforce Development (DWD) will monitor implementation of this waiver and work with the 16 local workforce investment regions to develop the appropriate state and local policies to govern its use by local regions.