

DEC 29 2009



The Honorable Jon S. Corzine
Governor of New Jersey
State Capitol
Trenton, New Jersey 08625

Dear Governor Corzine:

We are responding to your requests for a waiver 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. 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).

In the letter of November 12, 2009, ETA denied New Jersey's request for two waivers, but indicated that ETA would reconsider these waivers if the State submitted additional information. New Jersey has submitted additional information. The following, based upon this reconsideration, is ETA's disposition of the State's request (copy enclosed).

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

The State is requesting a waiver to permit local area formula funding to be used for statewide activities, specifically incumbent worker training. The State is granted this waiver through June 30, 2010, effective November 12, 2009. This waiver approval applies to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009 (ARRA).

Under this waiver, the State will be permitted 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 low-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).

Requested 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 is requesting a waiver to permit use of rapid response funds made available through ARRA for incumbent worker training. ETA Training and Employment Guidance Letter No. 14-08, Section 19, issued on March 18, 2009, explained that in order to apply this waiver to funds made available through ARRA, states needed to submit a detailed justification. Because record numbers of unemployed individuals continue to seek the services of the workforce system, ETA believes that the use of ARRA funds for incumbent worker training would be inappropriate, and these funds should be devoted to serving those participants without jobs. Therefore, ETA denies this waiver. ETA has approved a waiver for other states that permitted the use of a portion of WIA rapid response funds for incumbent worker training, and will consider a request from the State for this purpose.

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 Holly O'Brien, the Acting Regional Administrator for Region I, at (617) 788-0170 or Obrien.Holly@dol.gov.

Sincerely,



Gerard F. Fiala
Deputy Assistant Secretary

Enclosure

cc: Thomas Dalton, Federal Project Officer for New Jersey, ETA Boston
Regional Office
Holly O'Brien, Acting Regional Administrator, ETA Boston Regional
Office

NOV 12 2009

The Honorable Jon S. Corzine
Governor of New Jersey
State Capitol
Trenton, New Jersey 08625

Dear Governor Corzine:

As part of New Jersey's modification to the State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act, the State submitted waiver plans to request that the State's waivers of statutory and regulatory requirements under WIA be approved for the remainder of Program Year (PY) 2009 (copy enclosed). The State also submitted a request for new waivers (copy enclosed). These requests are written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c) and appear to meet the standard for approval at 20 CFR 661.420(e). The following is the disposition of the State's submission. 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.

In a letter dated June 18, 2009, ETA granted New Jersey approval of the following waiver through June 30, 2010:

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

The approval for this waiver remains in effect. The letter dated June 18, 2009 granted temporary extensions of the remainder of New Jersey's waiver requests. The previous approval of the extensions is hereby terminated and replaced by decisions set forth in this letter. Unless otherwise indicated, all waiver approvals that follow apply to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009 (ARRA).

Requested Waivers

Requested Waiver: Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State is requesting 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, 2010. 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 low-income adults with WIA Adult funds, and 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.

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

The State is requesting 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, 2010. 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 may provide customized training to low-income adults with WIA Adult funds, and may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Requested Waiver: 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 is requesting 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, 2010. 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. As stated in ETA Training and Employment Guidance Letter (TEGL) No. 14-08, Section 19, issued on March 18, 2009, this waiver does not apply to funds made available through ARRA. However, the State is permitted to transfer up to 30 percent of ARRA funds between programs under WIA and under the Department of Labor Appropriations Act of 2009. This authority is discussed in TEGL No. 14-08, change 1.

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

The State is requesting a waiver to permit local area formula funding to be used for statewide activities, specifically incumbent worker training. ETA only intends to approve this waiver where incumbent worker training is part of a documented layoff aversion strategy. The State has not provided ETA sufficient information about its layoff aversion approach and how incumbent worker training under this waiver fits into that approach. Therefore, ETA denies this waiver. We will reconsider the waiver should the State wish to submit additional information.

Requested 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 is requesting a waiver to permit use of rapid response funds for incumbent worker training. ETA only intends to approve this waiver where incumbent worker training is part of a documented layoff aversion strategy. The State has not provided ETA sufficient information about its layoff aversion approach and how incumbent worker training under this waiver fits into that approach. Therefore, ETA denies this waiver. We will reconsider the waiver should the State wish to submit additional information.

Requested Waiver: 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 is requesting 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, 2010. 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.

Requested Waiver: Waiver of the WIA regulations at 20 CFR 666.100 to exempt the state from reporting required performance outcome data on credential attainment for participants enrolled in on-the-job training.

The State is requesting a waiver to exempt it from reporting credential attainment outcomes for participants enrolled in on-the-job-training. The State is granted this waiver through June 30, 2010. However, credential attainment data should still be collected, and Workforce Investment Act Standardized Record Database (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual enrolled in on-the-job-training.

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. The State is granted this waiver through June 30, 2010. This waiver permits the State to 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 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 youth who achieves a degree or certificate as defined by TEGL 17-05.

Requested Waiver: Waiver of WIA section 134(d)(4)(G) to allow the local areas within the state to contract for class-size training for older youth with WIA funds instead of using Individual Training Accounts (ITA's).

The State has requested a waiver to allow local area workforce boards to develop class size contracts with training providers for older youth. ETA is not able to provide a final decision at this time. ETA's Regional Office will be in contact with the State to obtain additional information to clarify the state's request.

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. 14-00, Change 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 continuing our partnership with you and achieving better workforce outcomes. If you have any questions related to the issues discussed above, please contact Holly O'Brien, the Acting Regional Administrator for Region I, at (617) 788-0170 or Obrien.Holly@dol.gov.

Sincerely,



Gerard F. Fiala
Deputy Assistant Secretary

Enclosure

cc: Tom Dalton, Federal Project Officer for New Jersey, ETA Boston Regional Office

New Jersey Department of Labor and Workforce Development Layoff Aversion Plan

Executive Summary

The New Jersey Department of Labor and Workforce Development (LWD) recognizes that layoff aversion is about keeping workers in good jobs and when necessary quickly and seamlessly matching displaced workers into comparable employment at hiring companies. Through this approach, unemployment and the need for costly and long duration worker re-training efforts with often uncertain re-employment outcomes can be minimized. Averting layoffs is also considerably more cost effective to state and local governments than the cost of creating new jobs.

Layoff aversion is about keeping local companies in business. When a job is lost, the local area loses taxes and consumer spending and there is a trickle down effect which impacts other jobs and businesses in the region. Local companies are valuable resources that communities can't afford to lose. Often these local companies offer good wages and benefits that lessen the need for governmental expenditures like public assistance and charity care.

Traditionally, the workforce system's response to potential worker dislocation events has been reactionary. A Rapid Response team goes to the job site, delivers a presentation to the affected workers on how to apply for unemployment benefits, promotes the One-Stop Career Center and talks about support services that are available to the unemployed. Little or no effort is made to offer strategic alternatives to the employer that may keep workers in their present jobs or quickly move them into comparable new jobs.

Recognizing the limitations of the traditional Rapid Response team approach, LWD has embarked on an ambitious effort to better use data collection and analysis technology in conjunction with existing layoff aversion tools to inform and drive layoff aversion efforts.

New Jersey's Layoff Aversion Toolbox

LWD's layoff aversion toolbox contains strategies to assist companies and workers in all phases of the business cycle. Preemptive strategies include incumbent worker training to help employers remain globally competitive. Reactive strategies include helping workers move to new opportunities with as little disruption as possible.

While, intuitively, the workforce development system would like to reserve limited resources to those industry sectors or specific companies identified as more critical to the long-term success of the State or sub-state area, investing in the re-training of incumbent workers in declining industries *before* the workers become unemployed may lay the groundwork for the seamless transition that the workforce system desires.

- **Profiling Database** - Create a layoff aversion outreach database by cross matching historical WARN notices by industry, size and geography to active non-WARN employers using the same variables (industry, size and geography) to determine what companies may be in danger of mass layoff or closing in the future (econometric analysis). NJ's wage record system may be similarly employed.
- **Communication Network** - Create a cross-agency company contact database to ensure closer coordination between state and local business development entities.
- **Coordination Activities** - Link economic development entities to facilitate identification of business sectors needing layoff aversion services and develop coordinated intervention strategies.
- **Stakeholder Involvement** – Local elected officials, union members, chambers of commerce, trade associations, and others can provide useful insight to inform an Early Warning Network.

Skills Assessment and Skills Mapping

Skills assessment and skills mapping can be a useful worker transition tool to move workers up within a company and when necessary between companies.

Skills assessment and skills mapping can be used in two strategic ways in New Jersey:

1. By mapping the skill sets of workers at downsizing employers to similar skill sets needed by hiring employers, more seamless transitions can be attained. Similar skills sets can be enhanced through incumbent worker training at the downsizing employer and/or the expanding company.
2. By mapping the skill sets of workers at different levels within an organization, the skills sets/credentials needed for career laddering can be documented giving entry level workers a clear guide for career advancement.

Practically, skills assessment and skills mapping are being done by employers who look for skilled workers from among companies experiencing downsizings. New Jersey worked with the DirectEmployers Association to provide employers with a vehicle for facilitating a more seamless matching of displaced skilled workers with employers in need of their skill sets.

Rapid Reemployment Initiative

The Rapid Reemployment Initiative (RRI) at jobcentral.com seeks to match downsizing employers with employers looking to hire workers with similar skill sets as those being laid off. Including worker skills assessment as part of a layoff aversion effort facilitates matching those workers either through the RRI or through a local information network driven by a skills crosswalk and managed employer database.

Partnerships

Assessing the potential for averting a layoff should be conducted in consultation with state and local economic development agencies, including private sector economic development entities. Various stakeholders should be working as a team. If there is an indication that a business closing or mass layoff might be averted, technical assistance may be provided to interested parties to investigate possible layoff aversion strategies.

Struggling businesses, of all types, may not be aware of the breadth of resources available in New Jersey. Groups involved with business retention/success include the NJ Business and Industry Association, NJ County College Consortium, NJ Restaurant Association, Rutgers University, various county colleges, Workforce Innovation in Regional Development grantees (BIO-1, Newark Alliance/Northern NJ WIRED, DVIN), state and local economic development authorities, other trade associations, chambers of commerce, Business Resource Center staff, county and local governments, etc.

LWD staff work with their counterparts to customize business solutions based on the needs of the employer. Outreach to businesses is coordinated among partners to ensure that business needs are being met and staff is not spending time duplicating each others efforts. The goal is to have a single point of contact for businesses that will coordinate all aspects of the layoff aversion response. Ideally, staff does not hand off responsibility for a customer account, but coordinate the response using various partner resources.

Measuring Success

Success of layoff aversion efforts is sometimes hard to quantify, but LWD strives to measure the number of company closings avoided, the number of companies that received layoff aversion services, and the number of workers who avoided unemployment or the need for occupational re-training.



State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

ION S. CORZINE
Governor

DAVID J. SOCOLOW
Commissioner

August 3, 2009

Holly O'Brien
Acting Regional Administrator
United States Department of Labor
Employment and Training Administration
John F. Kennedy Federal Building, Room E-350
Boston, MA 02203

Dear Acting Regional Administrator O'Brien:

As requested, attached are copies of Requests for Waivers from New Jersey. In addition to those you requested, others have been included.

- Waiver of Performance Measures for Youth who participate in work experience only under the American Recovery Act of 2009 (ARRA)
- Transfer of Funds Between Programs with American Reinvestment and Recover Act (ARRA) Funds
- Customized Training Match
- Incumbent Worker Training
- A portion of the Rapid Response funds in the American Reinvestment and Recover Act (ARRA) to be used for Incumbent Worker Training
- Youth ITAs and Competitive Bidding
- OJT Match
- Common Measures

Should you have any questions regarding this matter, please feel free to contact me at 609-292-2000 or at michelle.richardson@dol.state.nj.us.

Sincerely,

Michelle E. Richardson
Assistant Commissioner

cc: Tom Dalton

New Jersey is an Equal Opportunity Employer



AD-10G (7-06)

**NEW JERSEY
REQUEST FOR WAIVER
Incumbent Worker Training**

Identify the statutory or regulatory requirements for which a waiver is requested and the goals that the State or local area, as appropriate, intends to achieve as a result of the waiver and how those goals related to the Strategic Plan goals:

The State of New Jersey is requesting a two-part waiver pursuant to WIA Section 139 (1) (4) (B) and the WIA Federal regulations at 20 CFR 681.420.

First, the State of New Jersey is requesting a waiver of the restrictions on the use of local area WIA funds for Incumbent Worker Training at the local area level. The waiver would allow local Workforce Investment Boards to spend up to 10 percent of funds allocated to a local area under section 133(b) to carry out incumbent worker training programs targeting employed workers earning below self-sufficiency.

Secondly, the State of New Jersey is also requesting a waiver of the performance measurement of a wage increase for adults who are employed but earn below self-sufficiency. The design of the performance measurement has had negative implications for those who are working. A waiver to exempt employed workers earning below self-sufficiency from the core indicator of performance of Section 136 (2)(A)(ii)(II), would allow local boards to target improving skills of these workers with anticipation of only marginal increases in salaries.

Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers:

There are no existing State or local statutory or regulatory barriers to implementation of this waiver request.

Describe the goals of the waiver and the expected programmatic outcomes if the request is granted:

The goals of this waiver request are twofold: 1) to provide local Workforce Investment Boards the option to spend a portion of their WIA funding on training targeting employed workers earning below self-sufficiency; and 2) to exempt this population from the performance measurement for adult wage increase and thereby disallow marginal increases in salaries of this population segment to affect performance outcomes negatively.

Describe the individuals affected by the waiver:

Individuals affected by this waiver are employed adults earning below self-sufficiency.

Describe the processes used to:

Monitor the progress in implementing the waiver.

The State Employment and Training Commission (SETC) and the New Jersey Department of Labor and Workforce Development, Division of One-Stop Coordination and Support will monitor the progress in implementing the waiver.

Provide notice to any Local Board affected by the waiver.

The local Workforce Investment Boards will have an opportunity to comment concerning the waiver request at the monthly scheduled meetings hosted by the State Employment and Training Commission.

Provide any local Board affected by the waiver an opportunity to comment on the request.

The local Workforce Investment Boards will have an opportunity to comment concerning the waiver request at the monthly scheduled meeting hosted by the State Employment and Training Commission.

Ensure meaningful public comment including comment by business and organized labor on the waiver.

Business and labor are represented on the State Employment and Training Commission and the local Workforce Investment Boards. Information about the waiver request will be disseminated through these Boards to the necessary groups.



State of New Jersey

Request for Waiver

**A portion of Rapid Response funds in the American Reinvestment and Recovery Act (ARRA) to be used for Incumbent Worker Training
(Note: As per TEGL 14-08, p. 38, this must be part of lay-off aversion strategies)**

Identify the statutory or regulatory requirements for which a waiver is requested and the goals that the State or local area, as appropriate, intends to achieve as a result of the waiver and how these goals related to the Strategic Plan goals:
Pursuant to WIA Section 189 (l) (4) (B) and 29 CFR 661.420 (c), New Jersey is requesting a waiver of the statutory and regulatory requirements at WIA Section 133 (b) to carry out incumbent worker training programs under ARRA, which target currently employed workers in order to retain their employed status. Under WIA New Jersey has received prior waiver approval for incumbent worker training in 2005.

Describe the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers:
There are no existing State or local statutory or regulatory barriers to implementation of this waiver request.

Describe the goals of the waiver and the expected programmatic outcomes if the request is granted:
The goal of the waiver is to provide continued employment for incumbent workers. TEGL 14-08 states that rapid response is a critical strategy in a time of economic downturn. The TEGL further states that incumbent worker training can be an effective layoff aversion component of a state's rapid response effort. This waiver intends to increase the state's effectiveness and impact by utilizing incumbent worker training as an effective layoff aversion strategy.

Describe the individuals affected by the waiver:
Individuals affected by this waiver are incumbent workers who would benefit from training in layoff aversion strategies under ARRA funding.

Describe the processes used to:

Monitor the progress in implementation the waiver:

The process of acquiring valid data will be monitored by the State Employment and Training Commission (SETC) and the New Jersey Department of Labor and Workforce Development, Division of One-Stop Coordination and Support utilizing the Department of Labor and Workforce Development's and SETC's existing monitoring procedures.

Provide notice to any Local Board affected by the waiver:

The local Workforce Investment Boards will have an opportunity to comment concerning the waiver request at the monthly scheduled meeting hosted by the State Employment and Training Commission.

Provide any local board affected by the waiver an opportunity to comment on the request:

The local Workforce Investment Boards will have an opportunity to comment concerning the waiver request at the monthly scheduled meeting hosted by the State Employment and Training Commission.

Ensure meaningful public comment, including comment by business and organized labor on the waiver:

Business and labor are represented on the State Employment and Training Commission and the local Workforce Investment Boards. Information about the waiver request will be disseminated through these Boards to the necessary groups.