U.S. Department of Labor
JUN 24 2010

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

The Honorable Bob McDonnell
Governor of Virginia
Patrick Henry Building
1111 East Broad Street, 3rd Floor
Richmond, Virginia 23219

Dear Governor McDonnell:

This letter provides approval of an extension of Virginia's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan and waivers for Program Year (PY) 2010.

Training and Employment Guidance Letter (TEGL) No. 21-09, issued on April 15, 2010, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2010, and included the option to receive an extension of the existing State Plan and waivers for an additional year without submitting a formal request.

Extension of State Plan

Virginia's existing State Plan will expire on June 30, 2010. 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 Virginia's State Plan for WIA Title I and the Wagner-Peyser Act for Program Year 2010, July 1, 2010 through June 30, 2011.

The Grant Officer will issue a Notice of Obligation for the "July portion" of the WIA formula allocations for Adult and Dislocated Worker programs, effective July 1, 2010, under the PY 2010 Annual Funding Agreement. The W-P programs annual funding agreement for PY 2010/Fiscal Year 2011 will be sent to the designated state grantee agency for signature and return to the Grant Officer for execution, effective July 1, 2010. The W-P annual funding agreement will provide for the initial base allocation of PY 2010 funds.

Performance Levels

Once the final goals are established, the Regional Administrator's letter advising the Commonwealth of the PY 2010 WIA and W-P final performance goals constitutes a modification to the State Plan. ETA will incorporate Virginia's final

performance goals for PY 2010 into the Regional and National Office copies of the State Plan. Please include these final PY 2010 goals in the Commonwealth's official copy of the State Plan.

Waivers

As part of the Commonwealth's extension of the WIA/W-P State Plan, and as described in TEGL 21-09, ETA has made determinations regarding an extension of Virginia's PY 2009 waivers of statutory and regulatory requirements under WIA for PY 2010. 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. 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.

Extension of Waivers

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 Commonwealth 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 Commonwealth is granted an extension of this waiver through June 30, 2011. 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 the American Recovery and Reinvestment Act of 2009. However, the Commonwealth 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.

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

The Commonwealth 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

Commonwealth is granted an extension of this waiver through June 30, 2011. Under this waiver, the Commonwealth will be permitted to allow local areas to use up to 20 percent of local Dislocated Worker funds for incumbent worker training only as part of a lay-off aversion strategy. 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 Commonwealth 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 Waivered Funds" provide policy guidance related to implementation of this waiver.

<u>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 and other statewide activities</u>.

The Commonwealth was previously granted a waiver to permit use of rapid response funds for incumbent worker training and other statewide activities. The Commonwealth is granted an extension of this waiver through June 30, 2011. Under this waiver, the Commonwealth 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 and the following statewide activities that enhance services to dislocated workers and outlined in the waiver request: activities to assist local workforce areas in the provision of employment and training services, specifically core, intensive or training services otherwise allowable under formula funds or employer services allowable under WIA. The purpose of this waiver is to enhance services to dislocated workers, and so must not be used as a means to deliver WIA services to individuals who would not otherwise be served under a WIA program. The Commonwealth is required to report performance outcomes for any participant, including incumbent workers served under this waiver, in the 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 Waivered Funds" provide policy guidance related to implementation of this waiver. As stated in ETA Training and Employment Guidance Letter No. 14-08,

Section 19, issued on March 18, 2009, this waiver does not apply to funds made available through the American Recovery and Reinvestment Act of 2009.

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

The Commonwealth 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. The Commonwealth is granted an extension of this waiver through June 30, 2011. Under this waiver, the Commonwealth can use ITAs for older and out-of-school youth program participants. The Commonwealth should ensure that funds used for ITAs are tracked and 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 Commonwealth was previously granted a waiver that allows the Commonwealth to replace the 17 performance measures under WIA Section 136(b) with the common measures. The Commonwealth is granted an extension of this waiver through June 30, 2011.

This waiver permits the Commonwealth to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The Commonwealth 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 Commonwealth will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The Commonwealth 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 measures performance 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.

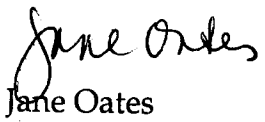
The Commonwealth was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530.

The Commonwealth is granted an extension of this waiver through June 30, 2011. Under the waiver, the Commonwealth is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the Commonwealth 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 required by TEGL No. 14-00, Change 3, the Commonwealth 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 2010. If you have any questions related to the issues discussed above, please contact Tobby Willis, the Federal Project Officer for Virginia, at 215-861-5524 and willis.tobby@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

cc: Peter Blake, Vice Chancellor, Virginia Community College System
John Broadway, Commissioner, Virginia Employment Commission
Lenita Jacobs-Simmons, Regional Administrator, ETA Philadelphia Regional Office
Janet Sten, Federal Coordinator for Plan Review and Approval
Thomas Martin, Grant Officer
Tobby Willis, Federal Project Officer for Virginia