



JUN 29 2010

The Honorable Phil Bredesen
Governor of Tennessee
State Capitol Building
Nashville, Tennessee 37243-0001

Dear Governor Bredesen:

This letter provides approval of an extension of Tennessee's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan and waivers for Program Year (PY) 2010. This letter also responds to Tennessee's requests for new and extended waivers.

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

Tennessee'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 Tennessee'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 program's 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 State of the PY 2010 WIA and W-P final performance goals constitutes a

modification to the State Plan. ETA will incorporate Tennessee'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 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 21-09, ETA has made determinations regarding an extension of Tennessee's PY 2009 waivers of statutory and regulatory requirements under WIA for PY 2010. The State also submitted a request for new waivers (copy enclosed). The State's request for new waivers is written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver extensions as well as its submission of new waiver requests 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 Extension: 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 and out-of-school youth program participants. The State is granted an extension of this waiver through June 30, 2011. Under this waiver, the State can use ITAs for older and out-of-school youth program participants. The State should ensure that funds used for ITAs are tracked and reflected in the individual service strategies for these youth.

Waiver Extension: 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, 2011.

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. Workforce Investment Act Standardized Record Data system (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.

Waiver Extension: 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, 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 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 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.

Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State was previously granted a waiver of the requirement for competitive procurement of service providers for three of the ten youth program elements: supportive services, follow-up services, and work experience. The State is granted an extension of this waiver through June 30, 2011. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide youth program elements. In utilizing this waiver, 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.

Waiver Extension: 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, 2011. 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 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.

New Waiver Request

Waiver Request: 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.

The State was previously granted a waiver to permit use of rapid response funds for incumbent worker training. The State is now requesting a waiver to permit use of rapid response funds for incumbent worker training and other statewide activities. The State is partially granted approval of this waiver through June 30, 2011. 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. The State is required to report performance outcomes for any incumbent workers served under this waiver in 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. 31-09, "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. As stated in TEGL No. 14-08, Section 19, issued on March 18,

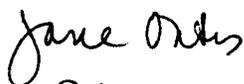
2009, this waiver does not apply to funds made available through the American Recovery and Reinvestment Act of 2009.

ETA denies the portion of the State's request to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA section 134(a)(3). ETA believes that rapid response funds should only be used to enhance services provided to dislocated workers including placement in employment, training, or provision of supportive services. The State's request did not specifically describe the activities it intends to carry out with rapid response funds, and thus fell outside these parameters. Should the State wish to describe the specific activities it will conduct with Rapid Response funds in PY 2010, ETA will be glad to reconsider the 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 working together as you implement your State Plan for PY 2010. If you have any questions related to the issues discussed above, please contact Helen Parker, the ETA Atlanta Regional Administrator, at 404-302-5300 or Parker.Helen@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Enclosure

cc: James G. Neeley, Commissioner, Tennessee Department of Labor and Workforce Development
Janet Sten, Federal Coordinator for Plan Review and Approval
Thomas Martin, Grant Officer
Helen Parker, Atlanta Regional Administrator
Linda Lundy, Federal Project Officer for Tennessee



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

220 French Landing Drive
Nashville, TN 37243
(615) 741-6642

PHIL BREDESEN
GOVERNOR

JAMES G. NEILEY
COMMISSIONER



May 12, 2010

Ms. Janet Sten
Division of Workforce System Support
Employment and Training Administration
United States Department of Labor
200 Constitution Ave., NW, Room S-4231
Washington, DC 20210

Dear Ms. Sten:

On behalf of the Tennessee Department of Labor and Workforce Development, Tennessee requests an extension of its Five Year Strategic Plan for Title I of the Workforce Investment Act of 1998 and The Wagner-Peyser Act, July 1, 2005 – June 30, 2011.

In accordance with TEGL No. 21-09, we are requesting approval and submitting the full waiver plan for the use of up to 50% of rapid response funds for allowable statewide activities. This waiver is currently approved for a transfer of up to 20% of rapid response funds for allowable statewide activities. (Attachment)

In addition, as directed by TEGL 23-09, Tennessee is submitting proposed levels of performance for PY 2010. The state would like to participate in the regression pilot contingent upon further information of details in using the regression analysis to negotiate.

Proposed Levels for 2010

Program Group	WIA Performance Measure	Proposed Performance Level
Dislocated Worker	Entered Employment	86%
Dislocated Worker	Average Earnings	\$13,300.00
Dislocated Worker	Retention	86%

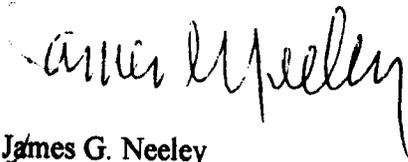
Ms. Janet Sten
Page 2
Extension of its Five Year Strategic Plan

Adult	Entered Employment	84%
Adult	Average Earnings	\$12,800.00
Adult	Retention	84%
Youth	Placement	65%
Youth	Attainment	65%
Youth	Literacy/Numeracy Gains	27%

The current State Plan and active waivers require no further changes or modifications and may be accessed for review at the following link: http://www.tn.gov/labor-wfd/et_services_prog_mgmt_plng.html.

We appreciate the opportunity to submit this extension request. Should you have any questions or require additional information, please contact Susie Bourque, Assistant Administrator, Workforce Development at 615) 741-1031 or Susie.Bourque@tn.gov.

Sincerely,



James G. Neeley

JN/SB

cc: Ms. Helen N. Parker, Regional Administrator
Ms. Linda Lundy, Federal Project Officer

Attachment

**STATE OF TENNESSEE
WAIVER REQUEST**

State Set-Aside Redistribution Waiver

The Tennessee Department of Labor and Workforce Development (TDLWD), as the administrative entity for the Workforce Investment Act (WIA) in the State of Tennessee, is requesting a waiver of the regulatory requirements found in 20 CFR 665.310 and 665.320 that limits the use of State Set-Aside Rapid Response funds. In doing so, the State of Tennessee would like to use up to 50% of the funds set aside for rapid response to further the Governor's initiatives funded under 20 CFR 665.200 and 665.210. Specifically, building partnerships with economic development activities under the Governor's Jobs Cabinet, providing increased incumbent worker training and apprenticeship training will result in workers upgrading their skills and the saving of existing jobs and the creation of new jobs.

In compliance with WIA Regulations 661.420 please accept the following as a request for a waiver.

Background:

As the U.S. and Tennessee moves through this time of economic downturn and with the passage of the American Recovery and Reinvestment Act, Tennessee is ready to take on the challenge of moving this economy forward. Tennessee companies, now more than ever, have a need to upgrade the skills of their incumbent workers in company related, work specific training that will save existing jobs and create new opportunities to create new jobs. United States Department of Labor (USDOL) Certified Apprenticeship Programs and Tennessee companies are prepared to take this time of slow productivity to provide training on company time that will result in future company growth, new business opportunities by upgrading the skills of their incumbent workforce and apprentices. We are requesting this waiver in order to reestablish these highly successful programs to the levels in previous years and build upon the efforts of the State Workforce Board and TDLWD to provide increased services to employers through incumbent worker training, apprenticeship assistance, on-the-job training, and skills training. Being granted the flexibility to access one instead of multiple funding sources with one set of rules would be less burdensome and a more efficient use of resources.

A. Statutory Regulation to be Waived:

- Section 189(i)(4) of WIA provides the Secretary of Labor general statutory authority to provide waivers if it is determined that the requirements requested to be waived impede the ability of the state or local area to implement their plans. We believe that the approval of this waiver request will remove such an impediment; and assist us with the ability to implement and continue development of a cohesive delivery system. We understand, in submitting this waiver request, the statutory exceptions to the Secretary's authority to

approve waivers. We are submitting a request for a waiver that does not violate or affect any requirements or provisions of WIA and its related Federal regulations. Tennessee requests a waiver of 20 CFR 665.310 and 665.320 to the extent that such regulations are not consistent with and do not allow for the delivery of services as outlined in 20 CFR 665.210. Specifically, the state is requesting to be allowed to utilize up to 50% of the funds set aside under Section 133 (a) (2) for allowable statewide activities described in 20 CFR 665.210. This will enhance flexibility for the State to provide support to the local areas through a variety of strategies to include incumbent worker training, on-the-job training, apprenticeship assistance, skill shortages and customized training that assists the local employers meet their local employer training demands while saving and creating jobs.

- Over the past several years, under the leadership of Governor Bredesen and Commissioner of Labor and Workforce Development James G. Neeley, the Department has focused on one of the core principals of economic development, training the existing workforce. Statewide set-aside funds under the Workforce Investment Act have been essential in improving the skills of incumbent workers and apprentices establishing greater capacity to increase the number of training programs offered through our public colleges and universities. We have trained more than 45,500 incumbent workers and 1,961 apprentices. Related to new expansions and locations under the Governor's Fast Track initiative, we have supported 52 companies to expand creating 6,449 new jobs and have 16 companies currently under contract creating an additional 1,745 new jobs to include companies like VW, Asurion, Lennox Hearth Products and Akebono (which bought the Bosch plant retaining hundreds of jobs requiring the upgrade of skills.) As we look forward the State of Tennessee has received an additional 18 commitments or announcements of expansions occurring over the next three years to include Hemlock Semiconductor and Wacker Chemie, both exceed a \$1B investment into our economy. It is difficult to meet the needs of these new job skill requirements with limited dollars to support these new jobs. An increased waiver to 50% will offer needed support of these programs and investment.
- Companies projected saving up to 14,641 jobs lessening the impact on the UI Trust Fund due specifically to the Incumbent Worker Training and Apprenticeship Assistance Training. The flexibility granted from this waiver will allow greater flexibility to implement lay-off aversion and new job development strategies rather than simply developing and overseeing the strategy as stipulated in 20 CFR 665.220.
- Another area to note is that all our grant programs require a match from the employer receiving the grant. This has doubled the return on investment as we have been able to leverage significant contributions to accomplish industry specific training at a more efficient cost to the workforce system.

B. Goals to be achieved by the Waiver:

- Increase the enrollments to assist employers prevent layoffs and retain current employees
- Help companies to develop new skills for their employees to attract new business that will save jobs and create new jobs
- Save jobs, create new jobs and lessen the draw on the UI trust fund
- Provide more employees with higher technical skill levels through training and increase employment potential
- Meet the demands of a changing economy and train individuals in demand occupations
- Promote partnerships between businesses and the Workforce Development System by leveraging available funds
- Strengthen integration of services and programs
- Increase enrollments in the Incumbent Worker training, and Apprenticeship Assistance training programs back to previous program years when the 50% waiver was in place. (See attached Table)
- The waiver will allow local boards to promote cost benefits of improved administrative efficiencies, encouraging the increased leveraging of resources with the workforce investment areas.

C. State or Local Statutory or Regulatory Barriers:

Present regulations and policy statements are in compliance with current federal law. Upon notification of the approval of this waiver request, rules and policies will be amended to comply with the terms of the waiver.

D. Description of the Individuals Impacted by the Waiver:

- Tennessee Workforce Investment Boards that provide quality services will have access to additional resources to meet the needs of employers, incumbent workers, and demand-driven training services.
- This waiver will positively impact all eligible adult customers. These customers will benefit from having more training opportunities available to them.

E. Description of the Process to Monitor Progress:

- TDLWD will be the entity responsible for monitoring the progress in the IWT programs. We will also be responsible for monitoring the local area process during annual on-site reviews of each local area. (E&T Sub-recipient Monitoring Plan for PY 2010, Approved by Finance and Administration, Division of Resource Development and Support, October 2010.)

F. Opportunity for Local Board and Public Comment on Waiver Request

The draft waiver request will be posted on the Division's Web site for 30 days for public review and comment, and we will solicit additional, public input regarding this waiver request through notification to our state and local partners.

Consistent with general waiver request requirements, the State is adhering to publication requirements to insure the broadest participation possible including informing appropriate youth program partners such as schools, labor and community based organizations, local workforce boards, and the Tennessee Workforce Investment Board. In addition, we have posted this waiver on our Web site for public review and comment, and have consulted local boards and other interested stakeholders.

Send any comments or questions regarding the waiver request to Susie.Bourque@tn.gov or call 615-741-1031.