



JUN 30 2010

The Honorable Mitchell E. Daniels, Jr.
Governor of Indiana
206 State House
Indianapolis, Indiana 46204

Dear Governor Daniels:

This letter responds to your letter dated May 24, 2010 in which you request approval of the modification to Indiana's State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act for the period July 1, 2010 through June 30, 2011, submit new requests for waivers, and request an extension of Indiana's current waivers through June 30, 2011. The Employment and Training Administration (ETA) received the State's proposed modification and request for extension of waivers on June 1, 2010.

Training and Employment Guidance Letter (TEGL) No. 21-09, issued on April 15, 2010, provides guidance for states that choose to submit a modification of the existing State Plan for PY 2010. We appreciate the State's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the Indiana State Plan modification in accordance with Title I of WIA, the Wagner-Peyser Act, the corresponding regulations, the WIA/W-P Planning Guidance (73 Fed. Reg. 72853, December 1, 2008), and as appropriate Attachment A of TEGL 14-08. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA cannot approve the modification to Indiana's State Plan for the period July 1, 2010 through June 30, 2011, without additional information and clarification. ETA is extending the approval of Indiana's Program Year (PY) 2009 State Plan through August 30, 2010.

The enclosure sets forth the areas of concern that Indiana must address. Indiana must provide the additional information and clarification described in the enclosure in a revised modification and this revised modification must be submitted to ETA by July 30, 2010. The revised modification should be sent to Janet Sten, the Federal Coordinator for Plan Review and Approval, at WIA.PLAN@DOL.GOV, with a copy to Byron Zuidema, the Regional Administrator for Region V. ETA will provide notice of its determination upon review of the revised State Plan modification on or before August 30, 2010.

Prior to submission of the revised modification to ETA, Indiana should conduct vigorous outreach to gain the input of and ensure meaningful opportunity for public comment by representatives of business and labor, and chief elected officials. Indiana must provide at a later date, but no later than August 25, the outcome of the State's review of the public comments received.

The Grant Officer will issue a Notice of Obligation for the initial 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

Indiana has decided to extend its existing PY 2009 WIA and W-P performance goals for PY 2010. ETA has incorporated these performance goals, identified as PY 2010 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2010 goals in the State's official copy of the State Plan.

Waivers

As part of Indiana's modification of the WIA/W-P State Plan, and as described in TEGL 21-09, ETA has made determinations regarding an extension of Indiana'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.

ETA is only approving the waivers that follow, with the exception of the waiver related to summer youth flexibility, until August 30, 2010. The State does not need to submit an additional request to continue approval of the waivers through all of PY 2010; ETA will assume the State wishes to extend the waivers. Upon approval of the revised State Plan modification, the waivers approved with

the modified Plan will take effect and the waivers extended in this letter will terminate.

Extension of Waivers

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 August 30, 2010.

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 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 granted an extension of this waiver through August 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.

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 August 30, 2010. 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 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 August 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 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 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 August 30, 2010. 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. 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.

Application of WIA regulations at 20 CFR 661.300(f) to allow the state board to carry out the roles of a local board.

The State was previously granted a waiver to permit the state to apply 20 CFR 661.300(f) to the statewide regional planning area described in its State Plan. This provision allows states that operate as a single local workforce investment area to use the state workforce investment board to carry out the requirements of the local workforce investment board. To allow additional time to transition to a fully WIA-compliant local board and to allow revision of the Plan modification, we are extending this waiver through August 30, 2010.

Under the waiver, the Governor may designate the State Board to carry out the roles and responsibilities of the local board in the designated region encompassing the state, in the same manner as permitted in single service delivery area states. This waiver will not be extended beyond August 30, 2010.

New Waiver Requests

Requested Waiver: Waiver of performance measures for youth who participate in work experience only.

The State has requested a waiver of the common performance measures for out-of-school youth ages 18 to 24 who participate in work experience that occurs outside of the summer months.

When submitting a plan to request this waiver, the State must provide a justification for the waiver and address continued service plans for participants served under the waiver, such as transition to the WIA Adult program (i.e., co-enrollment in WIA Adult services) or further education and training activities under WIA or Recovery Act-funded youth services. See TEGL No. 14-08, Section 19, issued by ETA on March 18, 2009.

The State's written request meets the ETA requirements outlined above. The requested waiver is approved and allows the State to use the work readiness indicator as the only indicator of performance for such youth. The waiver only applies to youth served through WIA Youth program funds made available through the American Recovery and Reinvestment Act of 2009. The waiver is only applicable from October 1, 2009 through October 23, 2010.

In recognition that many older and out-of-school youth need supportive services to enable them to participate in work experience, this waiver can be applied to

out-of-school youth ages 18 to 24 that receive supportive services in addition to participating in work experience. The waiver would not apply to such youth participating in other WIA youth program elements.

Requested Waiver: Waiver of certain provisions under WIA section 129 and 20 CFR 664 to provide program design flexibility in serving youth who participate in work experience only.

The State has requested a waiver of certain provisions under WIA section 129 and 20 CFR 664, requiring the design framework of youth local programs to include 10 elements for improving the educational and skill competencies of its participants. Through this waiver, the State will be able to provide program design flexibility in serving out-of-school youth ages 18 to 24 who only participate in work experience that occurs outside of the summer months.

When submitting a plan to request this waiver, the State must provide a justification for the waiver and address continued service plans for participants served under the waiver, such as transition to the WIA Adult program (i.e., co-enrollment in WIA Adult services) or further education and training activities under WIA or Recovery Act-funded youth services. See TEGL No. 14-08, Section 19, issued by ETA on March 18, 2009.

The State's written request meets the ETA requirements outlined above. The State's waiver request is approved. Specifically, the State is granted a waiver of statutory and regulatory provisions as follows:

- Waiver of the requirement at WIA section 129(c)(2)(I) and 20 CFR 664.450(b) to provide a minimum of 12 months of follow-up services, to allow local areas to provide follow-up services with Recovery Act funds as deemed appropriate for such youth participants.
- Waiver of the requirement at WIA section 129(c)(1)(A) and 20 CFR 664.405(a)(1) to provide an objective assessment and the requirement at WIA section 129(c)(1)(B) and 20 CFR 664.405(a)(2) to develop an individual service strategy (ISS), to allow local areas to provide an assessment or ISS as deemed appropriate for such youth participants.

This waiver only applies to youth participants served through WIA Youth program funds made available through the American Recovery and Reinvestment Act of 2009. The waiver is only applicable from October 1, 2009 through October 23, 2010.

In recognition that many older and out-of-school youth need supportive services

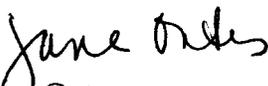
to enable them to participate in work experience, this waiver can be applied to out-of-school youth ages 18 to 24 that receive supportive services in addition to participating in work experience. The waiver would not apply to such youth participating in other WIA youth program elements.

The State also requested flexibility in providing academic remediation. Please note there are no statutory or regulatory requirements to provide academic remediation. The State may reference TEGL No. 14-08, Section 16, which describes the program design flexibility available for Recovery Act funded summer youth programs. The approval of this waiver provides for the same program design flexibility described in that TEGL beyond the summer months.

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.

If you have any questions related to the issues discussed above, please contact Stacy O'Keefe, the Federal Project Officer for Indiana, at 312-596-5527 or Okeefe.stacy@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Enclosure

cc: Mark W. Everson, Commissioner, Indiana Department of Workforce Development
Gina DelSanto, Senior Deputy Commissioner of Policy and Performance
Byron Zuidema, Regional Administrator, ETA Chicago Regional Office
Janet Sten, Federal Coordinator for Plan Review and Approval
Thomas Martin, Grant Officer
Stacy O'Keefe, Federal Project Officer for Indiana

**Additional Information and Clarification Required
For Indiana WIA Plan Modification**

The WIA/Wagner-Peyser State Planning Guidance, issued in the Federal Register on December 1, 2008, provides a suggested structure for State Plans and the following uses that structure in an effort to facilitate Indiana's revision of the Indiana State plan modification.

III. State Governance Structure

III.A. 2. In a narrative describe how the agencies involved in the workforce investment system interrelate on workforce, economic development, and education issues and the respective lines of authority.

The State Plan describes how the Local Veterans Employment Representatives (LVER) and Disabled Veteran Outreach Program (DVOP) staff are integrated into multi-functioning teams. The State Plan should clarify how staff of the LVER and DVOP programs perform the duties prescribed by DOL regulations and the Jobs for Veterans Act (JVA). (Page 21 of the Indiana State Plan)

VII. Integration of One-Stop Service Delivery

VII.B. What policies or guidance has the State issued to support maximum integration of service delivery through the One-Stop delivery system for both business customers and individual customers?

The statement that WorkOne employees "cross function" in their capacities, and that all WorkOne offices are integrated into functional units "and not separated by program or funding streams," does not acknowledge the distinct roles and responsibilities of the LVER and DVOP staff in the One-Stop system pursuant to DOL regulations and the JVA.

The State Plan should explain how the LVER and DVOP staff have distinct roles and responsibilities in the State's One-Stop System. (Page 43 of State Plan)

VIII. Administration and Oversight of Local Workforce Investment System

VIII.A.2. Include a description of the process used to designate such areas. Describe how the State considered the extent to which such local areas are consistent with labor market areas: geographic areas served by local and intermediate education agencies, post-secondary education institutions and

area career and technical education schools; and all other criteria identified in section 116(a)(1) in establishing area boundaries, to assure coordinated planning. Describe the State Board's role, including all recommendations made on local designation requests pursuant to section 116(a)(4). (§§112(b)(5) and 116(a)(1).)

The Plan modification does not include a description of the process used to designate the State's two local workforce areas, Indianapolis Private Industry Council (IPIC) and balance of state (BOS), nor does it indicate how the two local areas are consistent with the criteria identified in Section 116(a)(1).

The State should provide a description of the process used to designate the two local areas, including how the process ensured that the local areas are consistent with the criteria identified in Section 116(a)(1).

As reference, Section 116(a)(1) states:

...the Governor of the State shall designate local workforce investment areas within the State--

*(i) through consultation with the State board; and
(ii) after consultation with chief elected officials
and after consideration of comments received through the
public comment process as described in section 112(b)(9).*

*(B) Considerations.--In making the designation of local
areas, the Governor shall take into consideration the
following:*

*(i) Geographic areas served by local educational
agencies and intermediate educational agencies.*

*(ii) Geographic areas served by postsecondary
educational institutions and area vocational education
schools.*

*(iii) The extent to which such local areas are
consistent with labor market areas.*

*(iv) The distance that individuals will need to travel
to receive services provided in such local areas.*

*(v) The resources of such local areas that are
available to effectively administer the activities carried
out under this subtitle.*

VIII.B. Local Workforce Investment Boards -- Identify the criteria the State has established to be used by the Chief Elected Official(s) in the local areas for the appointment of Local Board members based on the requirements of section 117. (§§112(b)(6), 117(b).)

The Plan does not identify the criteria the State has established to be used by the Chief Elected Official(s) (CEOs) in the local areas for the appointment of Local Board members based on the requirements of Section 117. The State should identify the criteria used by the CEOs of the two local areas for the appointment of Board members and an explanation as to how the criteria ensure that the requirements of Section 117 are met.

The Plan also does not identify the CEOs for the State's designated local workforce areas. The State should identify the CEOs for the designated local workforce areas and describe how they were appointed. Since the BOS local workforce area contains multiple jurisdictions with multiple local elected officials, the State should describe how the agreement on the selection of CEO was reached. The State should attach a copy of any LEO/CEO agreement.

If the Governor is the CEO for the State Board and the BOS local board, the State should describe how it will ensure the independence of the two boards. The State should provide membership lists for the State Board and the two local boards.

Given the size and scope of the BOS workforce area, the State should describe how the State will ensure that the Board represents the diverse local areas that make up the BOS local workforce area.

While the Plan includes a detailed description of the roles and responsibilities of the Regional Boards, there is little information on the distinction between the roles and responsibilities of the BOS WIB versus these Regional Boards. The State should provide an outline of functions/roles and responsibilities of the BOS WIB and the Regional Boards.

VIII.D. Local Planning Process (§112(b)(2) and 20 CFR 661.350(a)(13)) -- Describe the State mandated requirements for local workforce areas' strategic planning, and the assistance the State provides to local areas to facilitate this process, including:

- 1. What oversight of the local planning process is provided, including receipt and review of plans and negotiation of performance agreements?**
- 2. How does the Local Plan approval process ensure that Local Plans are consistent with State performance goals and State strategic direction?**

The modification to the Plan does not include any information around the Local Planning Process. The State should describe the local planning process from development of plans to approval per section 112(b)(2) and 20 CFR 661.350(a)(13).

IX. Service Delivery

IX.C.4.b. Describe the reemployment services the State provides to unemployment insurance claimants and the Worker Profiling services provided to claimants identified as most likely to exhaust their unemployment insurance benefits in accordance with section 3(c)(3) of the Wagner-Peyser Act.

The modification does not include a plan for the use of the ARRA RES funds as required by TEGL 14-08. The State should provide a detailed plan for use of the ARRA RES funds.

IX.D.1. Identify the entity responsible for providing Rapid Response services. Describe how Rapid Response activities involve Local Boards and Chief Elected Officials. If Rapid Response activities are shared between the State and local areas, describe the functions of each and how funds are allocated to the local areas.

The Plan modification does not address the Planning Guidance criteria around Rapid Response, which includes identification of who is responsible for providing Rapid Response services and description of how Rapid Response activities involve Local Boards and Chief Elected Officials.

The State should provide additional description of the Rapid Response function in Indiana and more clearly identify and delineate the roles and responsibilities of Division of Workforce Development and local Rapid Response staff.



STATE OF INDIANA
OFFICE OF THE GOVERNOR

State House, Second Floor
Indianapolis, Indiana 46204

Mitchell E. Daniels, Jr.
Governor

May 24, 2010

Janet Sten
Federal Coordinator for Plan Review and Approval
U.S. Department of Labor, Employment and Training Administration
Division of Workforce System Support
Room S-4321
200 Constitution Avenue, NW
Washington, DC 20210

Dear Ms. Sten:

The State of Indiana is pleased to submit the Program Year 2009 Modification to the Strategic Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act, July 1, 2005 through June 30, 2010. In accordance with the United States Department of Labor's request, this plan modification describes changes in Indiana's workforce investment governance structure and provides additional details regarding the State's usage of Recovery Act funds. Additionally, this plan modification requests an extension of the waivers that enable the State to offer innovative programs of the highest quality.

As the Governor, I certify that the agencies and officials designated in this plan modification have been duly designated to represent the State in the capacities indicated for the Workforce Investment Act, Title I, and the Wagner-Peyser Act grant programs. Effective June 1, 2010, Mark W. Everson will serve as the Commissioner of the Indiana Department of Workforce Development and is designated as the WIA Title I Grant Recipient for the State of Indiana. Subsequent changes in the designation of officials will be provided to the U.S. Department of Labor as they occur.

I further certify that we will operate our Workforce Investment Act programs in accordance with the Plan and the assurances herein.

Sincerely,

M E Daniels, Jr.