U.S. Department of Labor

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

JUN 27 2011

The Honorable Christopher Christie
Governor of New Jersey
State Capitol
Trenton, New Jersey 08625

Dear Governor Christie:

This letter provides approval of (1) an extension for Program Year (PY) 2011 of those portions of New Jersey's Unified State Plan that relate to Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act (W-P) and (2) an extension of WIA waivers for PY 2011. This letter also responds to New Jersey's request for a new waiver.

Training and Employment Guidance Letter (TEGL) No. 17-10, issued on December 30, 2010, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2011, 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

New Jersey's existing State Plan will expire on June 30, 2011. This letter constitutes a written determination under WIA Section 112 (29 USC 2822), and WIA Section 501 (20 USC 9271) which pertains to State Unified Plans, that the Employment and Training Administration (ETA) is extending the approval of those portions of the New Jersey Unified State Plan that relate to Title I of the WIA and the Wagner-Peyser Act for Program Year 2011, July 1, 2011 through June 30, 2012. The State has already received its formula allotment for the WIA Youth program for PY 2011. The State is eligible to receive WIA formula allotments for Adult and Dislocated Worker programs and W-P initial base program allotments under the PY 2011 annual funding agreement for WIA and the PY 2011/Fiscal Year 2012 annual funding agreement for W-P.

Unified Plan Partner Programs

New Jersey's Unified State Plan includes the Vocational Rehabilitation Program (VR), Adult Education and Family Literacy Programs (AEFL), Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), and Veterans' Programs. In accordance with WIA Section 501 (20 USC 9271), the Departments of Education (for both VR and AEFL), Health and Human Services, and Agriculture, and the Veterans' Employment and Training Service (VETS) have the authority to deem complete or approve those portions of the Unified State Plan relating to their respective programs. We have advised these Federal agencies that ETA is extending the approval of those portions of the New Jersey Unified State Plan that relate to Title I of WIA and the Wagner-Peyser Act, and provided their offices with a copy of this letter.

VETS concurs with ETA's extension of the approval of the WIA/W-P portions of the New Jersey Unified State Plan. VETS also notes that the Jobs for Veterans' State Grant (JVSG) Plans approved by VETS through a separate application process for Fiscal Years (FY) 2010-2014 are considered to be incorporated into your Unified State Plan by reference only. Therefore, your Unified Plan needs to refer to the FY 2010-2014 JVSG Plan, indicating that approval by VETS of the grant modification for the period beginning October 1, 2011 is pending.

The New Jersey Unified Plan also includes Trade Act Programs (TAA), the Senior Community Service Employment Program (SCSEP), and the Unemployment Insurance (UI) Program. ETA exercises administrative authority over these programs, and those portions of the New Jersey Unified State Plan that relate to SCSEP, TAA, and UI Programs are approved through June 30, 2012. Please note that New Jersey is still required to submit the State Quality Services Plan for UI.

WIA Title I Performance Levels

New Jersey has decided to extend its existing PY 2010 WIA and W-P performance goals for PY 2011. ETA has incorporated these performance goals, identified as PY 2011 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2011 goals in the State's official copy of the State Plan.

WIA Title I Waivers

As part of the State's extension of the WIA/W-P State Plan, and as described in TEGL 17-10, the State requested extensions of New Jersey's PY 2010 waivers of statutory and regulatory requirements under WIA for PY 2011. The State also submitted a request for a new waiver (copy enclosed). The State's request for a new waiver 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 a new waiver request, 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 WIA formula funds.

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 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, 2012. 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.

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, 2012.

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 required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State was previously granted 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 an extension of this waiver through June 30, 2012. 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 and local area may provide customized training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

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 is granted an extension of this waiver through June 30, 2012. 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 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, 2012. Under this waiver, the State is 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 layoff 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 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 a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of the WIA regulations at 20 CFR 666.100 to exempt the state from including credential attainment outcomes for participants enrolled in on-the-job training in the credential performance measure calculations.

The State was previously granted a waiver to exempt it from including credential attainment outcomes in the credential performance measure calculations for participants enrolled in on-the-job training. The State is granted in extension of this waiver through June 30, 2012. The State must continue to report outcomes in the WIASRD for participants enrolled in on-the-job-training.

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

The State was previously granted 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 an extension of this waiver through June 30, 2012. 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 and local area may provide on-the-job training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area 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.

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 youth and out-of-school youth program participants. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITA is reflected in the individual service strategies for these youth.

New Waiver Request

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

The State is requesting 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 this waiver through June 30, 2012. 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.

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 described in TEGL No. 09-10, 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 Unified State Plan for PY 2011. If you have any questions related to the issues discussed above, please contact Thomas Dalton, the Federal Project Officer for New Jersey, at either (617) 788-0113 or Dalton.Thomas@dol.gov.

Sincerely,

Jane Oates

Jane Oates
Assistant Secretary

Enclosure

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office
Dr. Brenda Dann-Messier, Assistant Secretary for Vocational and Adult Education, U.S. Department of Education
Robert M. Shelbourne, Director, Division of State TANF Policy,
U. S. Department of Health and Human Services
Lynnae Ruttledge, Commissioner, Rehabilitation Services Administration, U.S. Department of Education
Jackie Windfeldt, Program Analyst, Food and Nutrition Service,
U. S. Department of Agriculture
Gordon Burke, Director of the Office of Operations, Grants and Transition Programs, Veterans' Employment and Training Service
Thomas Dalton, Federal Project Officer for New Jersey

State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
PO BOX 110
TRENTON, NEW JERSEY 08625-0110

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lieutenant Governor

HAROLD J. WIRTHS
Commissioner

April 15, 2011

Ms. Holly O'Brien
Regional Administrator
U.S. Department of Labor
Employment & Training Administration
John F. Kennedy Federal Bldg., Room E-350
Boston, MA 02203

Dear Ms. O'Brien:

This letter is to formally advise you of New Jersey's request for ETA's approval of a one year extension of the current WIA/Wagner-Peyser State Plan, through Program Year 2011 (July 1, 2011 – June 30, 2012) in accordance with Training and Employment Guidance Letter (TEGL) Number 21-09 (April 15, 2010), Option 1. As part of this request, the State also seeks to extend all existing WIA waivers (non-ARRA) for the same one year period. In addition, we would like consideration of an additional waiver (attached) which would provide local workforce areas the option of providing up to three of the required youth elements themselves. This waiver is included at the request of our local areas who believe this will assist them in the provision of services to young people.

In accordance with Training and Employment Guidance Letters (TEGL) Number 17-10 (December 30, 2010) and TEGL 23-09 (April 27, 2010), New Jersey is currently requesting an extension to its existing performance targets, pending USDOL release of its guidance on the matter referenced on page 8 of TEGL 17-10. WIA targets for this year were based upon the regression model provided by USDOL and it is our intent to again utilize that tool based upon your forthcoming guidance. Regarding the Wagner-Peyser program, we believe that these targets warrant reconsideration and await your guidance package on the subject to move forward.

New Jersey is proud of its past achievements and performance of its workforce investment system and is committed to providing the quality employment and training services that will help preserve and create the jobs necessary to work our way out of an unprecedented economic recession. The State is also acutely aware of the importance of program performance and accountability and believes that a thorough vetting of the performance targets based upon your guidance will assist our state in providing results reflective of the current economic environment.

As the State's subsequent negotiation of local area performance standards is critical to program planning we look forward to ETA's expeditions review of this request. Further, we would appreciate the guidance referenced in TEGL 17-10 so that we may finalize performance targets for both WIA and Wagner-Peyser for the upcoming year. Thank you for considering this request and I look forward to hearing from you. If you have any questions regarding this matter, please contact Assistant Commissioner Mary Ellen Clark at 609-292-2000.

Sincerely,

Harold J. Wirths
Commissioner

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State of New Jersey

Request for Waiver
Procurement Requirements for up to Three (3) Youth Program Elements to Ensure Continuity of Youth Services.

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 Section 189 (i) (4) (B) and WIA Regulations 661.420 (c) New Jersey is requesting a waiver of the statutory and regulatory requirements at WIA Regulations Section 123, IDENTIFICATION OF ELIGIBILE PROVIDERS OF YOUTH ACTIVITIES. The local boards, as per WIA requirements, have awarded grants or contracts on a competitive basis based upon the recommendations of the youth council and the criteria in the State plan, and conduct oversight with respect to the providers. These processes comply with OMB requirements codified in 29 CFR Parts 95.40-95.48 and 97.36.

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 give the local workforce investment areas greater flexibility and access to the eligible providers of Youth Services. Under this waiver, local areas would be allowed to waive the requirement for competitive procurement of service providers for up to three (3) youth elements (work experience, supportive services, and follow-up services) to ensure continuity of youth services.

Describe the individuals affected by the waiver:

Individuals affected by this waiver are WIA eligible Youth who will receive greater assistance via WIA-funded training and employment programs.

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, Office of Oversight and Compliance 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 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.