

**State of California**  
**Workforce Investment Act Request for Extension of Current Waivers**  
**for the Period of July 1, 2012 - June 30, 2013**

The California Workforce Investment Board requests a one-year extension of all eight (8) of the currently approved waivers included in California's Strategic Plan for Title I of the WIA of 1998 and the Wagner-Peyser Act. In addition, there are three waivers pending approval by the Department of Labor. Those waivers are also included in this request with the presumption that they will be approved. The individual waiver extension requests are as follows:

**1. Subsequent Eligibility of Training Providers**  
**WIA Section 122(c) and CFR 663.530**

This waiver request continues the suspension of subsequent eligibility certification requirements of WIA Section 122(c). Section 122 of the WIA requires states to establish a list of providers who are eligible to receive WIA funds for training services provided to adults and dislocated workers and establish two separate procedures for the Eligible Training Provider List (ETPL): initial eligibility and subsequent eligibility.

Recently enacted state legislation established the Bureau of Private Postsecondary Education that requires the submission of performance data for each individual who attends a private postsecondary education training program, whether or not these individuals' training was funded by WIA. The State Board is developing a policy that will implement the subsequent eligibility determination during Program Year 2012-13 in concert with the provisions of this Act.

At this time, the performance reporting requirements for "publicly funded" educational institutions are an impediment to the participation of the State's educational system on the ETPL. As such, the primary goal in requesting the extension of the waiver is to continue to increase the availability of publicly funded training programs and the accountability of training providers so to enhance the customer choice and the use of Individual Training Accounts (ITA), and to allow the State Board to opportunity to clarify its initial eligibility policy and establish a subsequent eligibility policy.

**2. Youth WIA Dollars to fund Individual Training Accounts for Older Youth**  
**20 CFR 664.510**

A youth is defined in WIA as those being between the ages of 14-21 years of age. As such, the older youth participant may be served as a youth, adult, or dislocated worker. 20 CFR 664.510 restricts the use of Individual Training Accounts to those 19 yrs and above.

This waiver of 20 CFR 664.510 continues to help maximize the service capacity of the One-Stop Career Centers by allowing the use of Youth funds to serve older youth, who are focused on employment, to have the same advantage of ITAs as adult and dislocated workers. Without this waiver, the workforce system would be forced to co-enroll older youth in the adult and dislocated worker programs to provide training opportunities through the use of ITAs. The continuation of this waiver streamlines customer service and administrative effort to serve these youth.

### **3. Use of Local Formula Funds for Incumbent Worker Training WIA Section 134(a)**

A majority of the WIA Adult, Dislocated Worker and Youth funds are provided to the local areas based on a formula allocation. The uses of these formula funds do not include providing incumbent worker training. That activity is reserved for other WIA funds reserved by the Governor to provide statewide activities.

The waiver of WIA Section 134 allows Local Boards to use up to 10 percent of local formula Adult funds and 10 percent of dislocated worker funds for incumbent worker training, allowing them to respond better to local economic changes and serving employers and their employees who require training. During the national economic downturn, the Local Boards need this flexibility to assist employers retain employees and to provide incumbent workers the opportunity to gain necessary skills to maintain employment.

By continuing this waiver, the Local Boards will be able to effectively market incumbent worker training to the private sector, thus expanding partnerships with employers in growth and demand industries.

This will reduce the risk of layoffs of employees who need skill upgrades and allow employers to create opportunities for new workers to take the place of existing workers who have moved up the career ladder.

### **4. Transferability of Adult and Dislocated Worker Formula Funds WIA 133(b)(4)**

WIA Section 133(b)(4) restricts the amount of funds to be transferred between the Adult and Dislocated Worker funding streams to a maximum of 20 percent. The waiver authorizes the transfer of up to 50 percent of funds between the Adult and the Dislocated Worker funding streams.

This waiver will continue to provide needed flexibility to Local Boards to respond to changes in their local labor markets and will help ensure that WIA funds are used in a way that maximizes customer service and other demand-driven needs of the business community. The need for this waiver is critical given the current economic shifts occurring in our state.

## **5. Customized Training Sliding Scale**

WIA Section 101(8)(C), restricts the amount of funds to be used to provide customized training at 50 percent. Many small businesses that may find it difficult if not impossible to provide a full 50 percent match. In California, a majority of private sector employment is provided by small businesses. This waiver, along with the waiver of Section 134, will continue to provide a valuable tool to local boards in their support of California's small businesses and their employees. The sliding scale for employer match provides the necessary flexibility for small businesses to participate in the WIA customized training program, thereby increasing participation and employment rates for skilled job seekers. Employers benefit from the waiver by having a labor pool with the marketable skills they require.

The waiver allows the following sliding scale to be used to determine the employer's matching requirement: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25% match for employers with 51-250 employees. For employers with more than 250 employees, the 50 percent contribution continues to apply.

## **6. Common Measures**

WIA Section 136(b) requires states to report 17 performance measures for the Workforce Investment Act Title 1B programs. This waiver of WIA 136(b) authorizes the State to report the Department of Labor (DOL) Common Measures, which were developed through a Presidential mandate to measure performance across federal programs that had similar goals.

See Attachment 1 for a more detailed explanation of which WIA performance measures are either no longer being reported (pursuant to the approved waiver request) or are being consolidated. The enactment of Senate Bill 698 "High Performing Boards" requires the development of additional performance metrics which will assist policy makers and stakeholders in evaluating overall performance of the local boards in addition to those elements required by the DOL.

The key elements of the proposed waiver request include:

- Combining performance measurement of clients served with Adult and Dislocated Worker WIA funds;
- Using a single set of measures for clients served through the Youth funding stream, thus eliminating Older Youth as a sub-population for the purpose of the performance measurement;
- Eliminating the credential measure for Adults and Dislocated Workers; and
- Eliminating the customer satisfaction measurement system required by DOL.

**7. Rapid Response funds for Incumbent Worker Training for Lay-Off Aversion Waiver of Section 133(b)(1).**

Fifty percent of WIA Rapid Response funds are provided to the local workforce investment areas by formula allocation. These funds are used locally to provide information and assistance to workers who have been dislocated due mass layoffs or a plant closure. This waiver allows Local Boards, at their discretion, to use up to 20 percent (20%) of Rapid Response funding for adults and dislocated workers [WIA Section 133(b)] to carry out Incumbent Worker Training programs specifically for layoff aversion at the Local Area level.

This waiver positively affects businesses by reducing the risk of layoff or closure because workers have not kept current with new skills and technologies. It also has the potential, as businesses expand due to the enhanced skills of their current workers, to stimulate new, lower-skill positions and to create openings in positions vacated by incumbent workers who receive skills upgrade training. The training provided to individuals will make them more valuable to current and future employers. This waiver plan increases the role Local Boards as workforce intermediary and the role of business in the workforce development system.

**8. Employer Reimbursement for On-the-Job Training – Section 101(31)(B)**

WIA Section 101(31)(B) defines on-the-job training (OJT) and restricts the amount of wage reimbursement authorized at 50 percent. This waiver increases flexibility in the use of WIA formula funds by permitting up to 90 percent reimbursement of the extraordinary costs of OJT. Reimbursement would be provided on a sliding scale based on employer size: up to 90% for employers with 50 or fewer employees; up to 75% for employers with 51 to 250 employees; for employers with 251 or more employees, reimbursement would remain at the 50% statutory level.

The waiver is similar to the “Customized Training Sliding Scale” waiver (number five herein) but applies specifically to OJT – where the individual being trained is engaged in productive work while simultaneously gaining the skills needed to meet the employer’s needs. It will provide unemployed adults and dislocated workers with opportunities to add new skill sets and learn new technologies while they return to the workplace and earn wages to support themselves and their families.

**9. Waiver of Mandatory WIA Activities – Evaluations**

WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) requires the state to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth. The reduction to five percent in the WIA allotment for Program Year 2011 Governor’s Reserve funds restricts the state’s ability to effectively fund and carry out all of the required statewide workforce investment activities.

#### **10. Waiver of Mandatory Activities – Incentive Grants to Local Areas**

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) requires the provision of incentive grants to local areas. The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities.

#### **11. Waiver of Mandatory Activities – High Concentration of Youth Grants**

WIA Section 129(b)(2)(C) and 20 CFR 665.200(h) requires the provision of additional assistance to local areas that have a high concentration of eligible youth. Due to the reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. This waiver was submitted on February 3, 2012 for PY 2011-12. If this waiver is approved, we request it be extended for an additional year.