

JUN 29 2012

The Honorable Steven L. Beshear
Governor of Kentucky
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

Dear Governor Beshear:

This letter provides approval of an extension of Kentucky's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan for a portion of Program Year (PY) 2012. This letter also responds to Kentucky's request for extended waivers. Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2012. In accordance with TEGL No. 21-11 and your extension request, the Commonwealth must submit a full five-year WIA/W-P State Plan and annual W-P Agricultural Outreach Plan by September 15, 2012.

Extension of State Plan

Kentucky's existing State Plan will expire on June 30, 2012. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that the Employment and Training Administration (ETA) is temporarily extending the approval of Kentucky's State Plan for WIA Title I and the Wagner-Peyser Act into PY 2012, July 1, 2012 through December 31, 2012. The Commonwealth has already received its formula allotment for the WIA Youth program for PY 2012. The Commonwealth is eligible to receive WIA formula allotments for Adult and Dislocated Worker programs and W-P initial base program allotments under the PY 2012 annual funding agreement for WIA and the PY 2012/Fiscal Year 2013 annual funding agreement for W-P.

Performance Levels

Kentucky requested to temporarily extend its existing PY 2011 WIA and W-P performance goals for a portion of PY 2012. ETA has incorporated these performance goals, identified as PY 2012 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2012 goals in the Commonwealth official copy of the State Plan. As required by TEGL 21-11, the Commonwealth must renegotiate its new PY 2012 goals upon submission of its full State Plan.

Waivers

As part of the Commonwealth's extension of the WIA/W-P State Plan, and as described in TEGl No. 21-11, the Commonwealth requested temporary extensions of Kentucky's PY 2011 waivers of statutory and regulatory requirements under WIA for PY 2012. The disposition of the Commonwealth'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.

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 December 31, 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 Commonwealth 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 December 31, 2012.

This waiver permits the Commonwealth to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures prescribed 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 and 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. Workforce Investment 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 Commonwealth 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 Commonwealth is granted an extension of this waiver through December 31, 2012. Under this 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 Commonwealth must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth and local area may provide customized training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the Commonwealth and local area may provide customized training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the Commonwealth 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 Time Limit 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 December 31, 2012. 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.

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 December 31, 2012. Under this waiver, the Commonwealth is permitted to allow local areas to use up to 10 percent of local Dislocated Worker 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. 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 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 worker 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 Decision 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 WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The Commonwealth 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 Commonwealth is granted an extension of this waiver through December 31, 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 Commonwealth must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth and local area may provide on-the-job training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the Commonwealth 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 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 Commonwealth 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 Commonwealth is granted an extension of this waiver through December 31, 2012. 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 layoff 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 Commonwealth 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.

Waiver to allow the Commonwealth to discontinue collection of 7 WIASRD data elements for incumbent workers.

The Commonwealth was previously granted a waiver of the requirements to reduce the data collection burden for employees participating in WIA-funded incumbent worker training programs. The waiver permits the Commonwealth to discontinue the collection of the following Workforce Investment Act Standardized Record Data (WIASRD) elements: single parent (117), unemployment compensation eligible status of participation (118); low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The Commonwealth is granted an extension of this waiver through December 31, 2012.

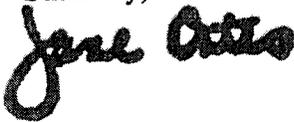
Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

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 youth and out-of-school youth program participants. The Commonwealth is granted an extension of this waiver through December 31, 2012. Under this waiver, the Commonwealth can use ITAs for older youth and out-of-school youth programs participants. The Commonwealth must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The Commonwealth should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

The approved waivers are incorporated by reference into the Commonwealth'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 Commonwealth's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGP No. 29-11, the Commonwealth should address the impact these waivers have had on the Commonwealth's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to receiving your full State Plan for PY 2012 and working together as you implement it. If you have any questions related to the issues discussed above, please contact Claudine Noel, the Federal Project Officer for Kentucky, at (404) 302-5368 and Noel.Claudine@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosure

cc: Helen Parker, Regional Administrator, ETA Atlanta Regional Office
Claudine Noel, Federal Project Officer for Kentucky