



**DEC 11 2012**

The Honorable Mark Dayton  
Governor of Minnesota  
130 State Capitol  
75 Rev. Dr. Martin Luther King Jr. Boulevard  
Saint Paul, Minnesota 55155

Dear Governor Dayton:

This letter provides approval of those portions of the Minnesota Unified State Plan that relate to Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including the W-P Agricultural Outreach Plan, plans for coordination with Trade Adjustment Assistance (TAA), and Title V of the Older Americans Act. The Employment and Training Administration (ETA) received the Unified State Plan on September 17, 2012. This letter also responds to Minnesota's WIA waiver requests.

Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, and TEGL No. 21-11, Change 1 issued on August 8, 2012, provide guidance for states to submit their State Workforce Plans and waivers for Program Year (PY) 2012 and beyond. We appreciate the State's responsiveness to this guidance, and especially the State's efforts in developing a Unified Plan.

#### Plan Review and Approval

ETA reviewed the Minnesota Unified State Plan in accordance with Title I of WIA, the Wagner-Peyser Act, the Trade Act (as amended), the corresponding regulations, the Unified Plan Requirements (<http://www.doleta.gov/usworkforce/wia-planning/docs/unified-planning-guidance.pdf>), Title V of the Older Americans Act and corresponding regulations, TEGL No. 21-11, and corresponding Change 1. Pursuant to 20 CFR 661.230(e), 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 ETA is approving those portions of the Minnesota Unified State Plan that relate to Title I of the WIA, the Wagner-Peyser Act, and TAA for Program Years 2012-2016, July 1, 2012 through June 30, 2017. The annual W-P Agricultural Outreach Plan is approved for the period July 1, 2012 through June 30, 2013. The Senior Community Service Employment Program (SCSEP) State Plan has been reviewed by both ETA and the Administration on Aging, and is approved for Program Years 2012-2015, July 1, 2012 through June 30, 2016.

The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2012 through June 30, 2017.

### Unified Plan Partner Programs

Minnesota's Unified Plan includes the Vocational Rehabilitation Program (VR), Adult Education and Family Literacy Programs (AEFL), Temporary Assistance for Needy Families (TANF), the Food Stamp and Employment Training Program (FSET), 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, Agriculture, and the Department of Labor Veterans' Employment and Training Service (VETS) have the authority to approve those portions of the Unified State Plan relating to their respective programs. ETA provided these offices with a copy of your Unified State Plan and a copy of this letter.

### Performance Levels

Program performance goals for PY 2012 WIA and Wagner-Peyser have been reached in negotiations between the ETA Regional Administrator and your state workforce agency. Minnesota's goals were transmitted to the agency in the Regional Administrator's letter dated November 21, 2012. This letter also indicates that Minnesota's final performance goals for PY 2012 will be incorporated into the Regional and National Office copies of the Unified State Plan. Please include these final PY 2012 goals in the State's official copy of the State Plan. For your convenience, your final negotiated performance goals are enclosed with this letter.

### Waivers

As part of Minnesota's Unified State Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's request for 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 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.

#### Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State requested a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. ETA is unable to make a determination with the information provided in the request. TEGL 26-09, Change 1, provides guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

#### Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) to exempt the state from the requirement to conduct evaluations.

The State requested a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. ETA is unable to make a determination with the information provided in the request. TEGL 26-09, Change 1, provides guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

Waiver of 20 CFR 665.200(b)(3) to exempt the state from the requirement to disseminate training provider performance and cost information.

The State requested a waiver of the requirement to disseminate training provider performance and cost information. ETA is unable to make a determination with the information provided in the request. TEGL 26-09, Change 1, provides guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

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

The State requested 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 approval of this waiver through June 30, 2017. 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 areas 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 State and local areas 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 WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State requested 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 approval of this waiver through June 30, 2017.

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 areas 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 State and local areas 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 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State requested 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 approval of this

waiver through June 30, 2017. 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 of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State requested 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 approval of this waiver through June 30, 2017. 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 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 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 requested 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 approval of this waiver through June 30, 2017. 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 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 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.

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 requested 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 approval of this waiver through June 30, 2017. 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 ITAs are reflected in the individual service strategies for these youth.

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 requested 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 approval of this waiver through June 30, 2017. 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 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State requested 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 approval of this waiver through June 30, 2017. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide the above 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 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 requested 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 approval of this waiver through June 30, 2017. The State must continue to report outcomes in the Workforce Investment Act Standardized Record Database (WIASRD) for participants enrolled in on-the-job-training.

Waiver of WIA regulations at 20 CFR 666.300 to allow entrepreneurial training to be provided through state-level grants and local formula dollars with performance tracked and aggregated at the state level, but not included in local performance calculations.

This waiver is not needed. Please refer to page 3 of TEGl 26-09, Change 1, which provides guidance related to the exclusion of entrepreneurial training from local performance measures.

Waiver of performance measures for youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.

The State requested a waiver of the common performance measures for youth who participate in subsidized summer youth employment activities that utilize Temporary Assistance to Needy Families (TANF) funds and are co-enrolled in WIA-funded youth programs. The requested waiver

is approved and allows the State to use the work readiness indicator as the only indicator of performance for youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities. The approved waiver is effective from May 1, 2013 through September 30, 2013, and only applies to youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities and supportive services. This waiver does not apply to WIA youth participating in program elements beyond summer employment and supportive services.

Waiver to provide program design flexibility in serving youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.

The State requested a waiver of certain provisions under WIA Sec. 129(c) and 20 CFR 664 to allow Local Workforce Investment Area (LWIA) staff increased flexibility in program design. Through this waiver, the State will be able to provide program design flexibility in serving youth who participate in subsidized summer youth employment activities that utilize TANF funds and are co-enrolled in WIA-funded youth programs.

The requested waiver is approved. Specifically, the State is granted a waiver of statutory and regulatory provisions as follows:

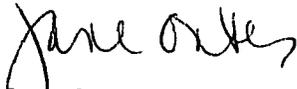
- Waiver of the requirement at WIA section 129(c)(1)(D) and 20 CFR 664.450(h) to provide a minimum of 12 months of follow-up services, to allow local areas to provide follow-up services with WIA Youth funds as deemed appropriate for such youth participants.
- Waiver of the requirement at WIA section 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.
- Waiver of the requirement at WIA section 129(c)(1)(C)(1) and (2) and 20 CFR 664.600(b) to provide direct linkages to academic and occupational learning, to allow local areas the flexibility to determine whether it is appropriate that academic learning be directly linked to summer employment for each youth served.

The approved waiver is effective from May 1, 2013 through September 30, 2013, and only applies to youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities and supportive services. This waiver does not apply to WIA youth participating in program elements beyond summer employment and supportive services.

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 are incorporated into the Unified State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and with the approved Unified State Plan. In addition, as described in TEGP No. 29-11, 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 2012 and beyond. Thank you for co-branding as a proud partner of American Job Center brand; we are available to provide technical assistance as needed. If you have any questions related to the issues discussed above, please contact Carl Stahlheber, the Federal Project Officer for Minnesota, at (312)-594-5415 or Stahlheber.Carl@dol.gov.

Sincerely,



Jane Oates  
Assistant Secretary

Enclosures

cc: Brenda Dann-Messier, Assistant Secretary for Vocational and Adult Education, U. S. Department of Education  
George Sheldon, Acting Assistant Secretary for Administration for Children and Families, U. S. Department of Health and Human Services  
Edward Anthony, Deputy Commissioner, Rehabilitation Services Administration, U.S. Department of Education  
Audrey Rowe, Administrator, Food and Nutrition Service, U. S. Department of Agriculture  
  
John Moran, Deputy Assistant Secretary, Veterans' Employment and Training Service  
Byron Zuidema, Regional Administrator, ETA Chicago Regional Office  
Carl Stahlheber, Federal Project Officer for Minnesota

<b>Workforce Investment Act and Wagner-Peyser Act</b> <b>Performance Levels for PY 2012</b>
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**Minnesota**

<u>Adult Measures</u>	<u>PY 2012</u>
Adult Entered Employment Rate	80.0
Adult Employment Retention Rate	84.0
Adult Six-months Average Earnings	\$12,750
Employment & Credential Rate	70.0
<u>Dislocated Worker Measures</u>	<u>PY 2012</u>
Dislocated Worker Entered Employment Rate	86.0
Dislocated Worker Employment Retention Rate	90.0
Dislocated Worker Six-months Average Earnings	\$20,000
Employment & Credential Rate	69.0
<u>Older Youth Measures</u>	<u>PY 2012</u>
Enter Employment Rate	71.0
Employment Retention Rate	85.0
Earnings Change	\$4,200
Credential/Certificate Rate	58.0
<u>Younger Youth Measure</u>	<u>PY 2012</u>
Skill Attainment Rate	92.0
Diploma or Equivalent Attainment	85.0
Retention Rate	78.0
<u>Customer Satisfaction</u>	<u>PY 2012</u>
Participants	76.0
Employers	77.0

Wagner-Peyser Act Performance Levels

<u>Measures</u>	<u>PY 2012</u>
Entered Employment Rate	59.0
Employment Retention Rate	83.0
Six-months Average Earnings	\$14,400

# Minnesota's Unified Plan

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## N. Waiver and Work-Flex Requests

*Will the state be requesting waivers as a part of this Unified Plan?*

Yes. The GWDC will review and approve all waiver requests.

*In answering this question, the following waiver provisions apply if the Unified Plan includes:*

*1. WIA Title I and Wagner-Peyser Act: States wanting to request waivers as part of their Unified Plan submission must attach a waiver plan, as required by 20 CFR 661.420(c), that includes the following information for each waiver requested:*

- *Statutory and/or regulatory requirements for which a waiver is requested.*
- *A description of the actions the state or local area has undertaken to remove state or local statutory or regulatory barriers.*
- *A description of the goals of the waiver, how those goals relate to Unified Plan goals, and expected programmatic outcomes if the waiver is granted.*
- *A description of individuals impacted by the waiver.*
- *A description of the processes used to monitor implementation, provide notice to any local workforce investment board affected by the waiver, provide affected local workforce investment boards an opportunity to comment on the waiver request, and ensure meaningful public comment, including comment from business and labor.*

### **WAIVER EXTENSION REQUEST: COMPETITIVE PROCUREMENT OF YOUTH PROGRAM ELEMENTS UNDER THE WIA YOUTH FORMULA GRANT PROGRAM**

#### **Statutory and/or regulatory requirements to be waived**

Minnesota requests the waiver of WIA Section 123, which requires the competitive selection of eligible providers of youth activities, for the following three program elements: paid and unpaid work experience, supportive services and follow-up services.

#### **Actions undertaken to remove state or local barriers**

We are unaware of any state or local barriers to implementing the requested waiver.

#### **Goals and expected programmatic outcomes of waiver**

This waiver request supports the following overarching goals pertaining to the delivery of youth services in Minnesota:

- Enhance continuity and efficiency of service delivery
- Minimize duplication of effort
- Maximize public investment
- Improve services to the neediest youth
- Leverage and coordinate resources

In some areas of the state, there are not enough service providers to make a selection on a competitive basis, and the administrative costs associated with the formality of a competitive

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process reduce the already limited resources available to serve the neediest youth. This waiver would give the fiscal agent/grant recipient the option of providing the three program elements above directly or through partner agencies.

Through co-enrollment, Minnesota Workforce Service Areas (WSAs) integrate the delivery of WIA youth services with services funded by other federal (e.g., Temporary Assistance to Needy Families [TANF]) and state (e.g., Minnesota Youth Program) resources. More flexibility in the procurement process will facilitate continued co-enrollment and integration.

The WIA youth program operates on the premise of long-term participation, during which time strong relationships are likely to be formed between youth participants and youth service provider staff. Strong relationships between the staff and youth are a key factor in youth success. When a different youth provider is sought through a competitive process, services may be disrupted and these relationships may be severed. The established relationship may end and youth are more likely to leave the program because of instability.

If this waiver is approved, expected outcomes include:

- Effective case management and follow-up services
- Less movement of youth participants among multiple service providers
- Longer participation of youth
- Effective use of limited resources to best meet the needs of participants
- Reduction in administrative costs of providing services when there are not enough providers in a region to warrant a competitive process
- Longitudinal tracking of data to better evaluate program outcomes

### **Individuals impacted by the waiver**

Eligible youth, youth service providers and fiscal agents/grant recipients will benefit from this waiver.

### **Process for monitoring progress in implementation**

Local areas wishing to implement this waiver are required to state so in their local unified plan. State staff review the implementation of this waiver during the annual onsite review of WIA youth programs.

### **Notice to affected local boards**

Local boards and staffs were notified of the waiver request and given a 30-day direct opportunity to comment on this specific waiver. The comment period ended on May 11, 2012.

### **Public comment**

The Minnesota Department of Employment and Economic Development (DEED) provided notice of the waiver request to local boards and staffs and posted the waiver request on its website for a 30-day public comment period, which ended May 11, 2012.

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No comments from the general public were received. DEED received the following comments from local boards/staff:

**WSA 10, City of Minneapolis (Teresa Harrold):**

"WSA 10 supports all five of the waivers proposed, especially the waiver to allow youth enrolled in alternative school programs to be classified as dropouts/out-of-school youth so the definition is the same under WIA and YouthBuild programs."

**WSA 8, Southeast MN (Marge Kuethe):**

"Workforce Development, Inc. is supportive of the waiver request."

Minnesota's revised youth procurement waiver is included below:

**Waiver Extension Request: Competitive Procurement of Youth Program Elements under the WIA Youth Formula Grant Program**

**Statutory and/or regulatory requirements to be waived**

Minnesota requests the waiver of WIA Section 123, which requires the competitive selection of eligible providers of youth activities, for the following three program elements: paid and unpaid work experience, supportive services and follow-up services.

**Actions undertaken to remove state or local barriers**

We are unaware of any state or local barriers to implementing the requested waiver.

**Goals and expected programmatic outcomes of waiver**

This waiver request supports the following overarching goals pertaining to the delivery of youth services in Minnesota:

- Enhance continuity and efficiency of service delivery
- Minimize duplication of effort
- Maximize public investment
- Improve services to the neediest youth
- Leverage and coordinate resources

This waiver would give the fiscal agent/grant recipient the option of providing the three program elements above directly or through partner agencies.

Through co-enrollment, Minnesota WSAs integrate the delivery of WIA youth services with services funded by other federal (e.g. TANF) and state (e.g. Minnesota Youth Program) resources. More flexibility in the procurement process will facilitate continued co-enrollment and integration.

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The WIA Youth program operates on the premise of long-term participation, during which time strong relationships are likely to be formed between youth participants and youth service provider staff. Strong relationships between the staff and youth are a key factor in youth success. When a different youth provider is sought through a competitive process, services may be disrupted and these relationships may be severed. The established relationship may end and youth are more likely to leave the program because of instability.

If this waiver is approved, expected outcomes include:

- Effective case management and follow-up services
- Less movement of youth participants among multiple service providers
- Longer participation of youth
- Effective use of limited resources to best meet the needs of participants
- Reduction in administrative costs of providing services when there are not enough providers in a region to warrant a competitive process
- Longitudinal tracking of data to better evaluate program outcomes

### **Individuals impacted by the waiver**

Eligible youth, youth service providers and fiscal agents/grant recipients will benefit from this waiver.

### **Process for monitoring progress in implementation**

Local areas wishing to implement this waiver are required to state so in their Local WIA Plan. State staff review the implementation of this waiver during the annual on-site review of WIA youth programs.

### **Notice to affected local boards**

Local boards and staffs were notified of the waiver request and given a thirty day direct opportunity to comment on this specific waiver. The comment period ended on May 11, 2012.

### **Public comment**

The Minnesota Department of Employment and Economic Development (DEED) provided notice of the waiver request to local boards and staffs and posted the waiver request on its website for a thirty day public comment period, which ended May 11, 2012.

No comments from the general public were received. DEED received the following comments from local boards/staff:

#### **WSA 10, City of Minneapolis (Teresa Harrold):**

"WSA 10 supports all five of the waivers proposed, especially the waiver to allow youth enrolled in alternative school programs to be classified as dropouts/out-of-school youth so the definition is the same under WIA and YouthBuild programs."

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**WSA 8, Southeast MN (Marge Kuethe):**

"Workforce Development, Inc. is supportive of the waiver request."

**WSA 7, South Central MN (Heather Gleason):**

"South Central is supportive of the waiver requests."

**WSA 5, Central MN (Rita Borchert):**

"Central MN Jobs and Training Services remains supportive of the waiver requests for the existing waivers and extends this support to the new requests."

**WSA 6, Southwest MN (Eriann Faris):**

"The SW MN PIC Youth Team supports the waivers."

**WSA 3, Northeast Minnesota (Ray Garmaker):**

"Northeast WSA supports the draft WIA Youth-Specific Waiver requests that Minnesota will submit with the PY2012 Unified Plan."

**WSA 2, Rural MN CEP (Vicki Leaderbrand):**

"RMCEP supports each waiver as they are written."

**WSA 17, Stearns-Benton (Sally Brenden):**

"SBETC has reviewed and supports all of the WIA Youth-Specific Waiver Requests."

Resubmitted via email to [wia.plan@dol.gov](mailto:wia.plan@dol.gov) on Tuesday, October 30, per DOL/ETA's request.

### **WAIVER EXTENSION REQUEST: USE OF INDIVIDUAL TRAINING ACCOUNTS FOR OLDER, OUT-OF-SCHOOL YOUTH UNDER THE WIA YOUTH FORMULA GRANT PROGRAM**

**Statutory and/or regulatory requirements to be waived**

Minnesota requests the waiver of 20 CFR 664.510, which prohibits the use of ITAs for youth participants.

**Actions undertaken to remove state or local barriers**

We are unaware of any state or local barriers to implementing the requested waiver.

**Goals and expected programmatic outcomes of waiver**

Approval of this waiver would support two key strategies identified in *Minnesota's Unified Plan*: 1) improve service effectiveness and efficiency to workers and job seekers, and 2) align workforce programs, policies, resources and strategies structurally to reduce duplication and focus on the agency core mission.

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The waiver is designed to enhance customer choice, allow older out-of-school youth to benefit from services provided by Minnesota's certified training providers and expand services without requiring local program operators to register participants in the adult program and track resources separately for each funding stream.

Program operators will be able to provide additional services to out-of-school youth who can benefit from them without having to go through the duplicative burden of registering for the adult program. Approval of this waiver would simplify the tracking of funds as program providers would not be required to use and track funds from the adult funding stream for Individual Training Accounts (ITAs) for eligible youth. The allowable service(s) would remain consistent with established policies for adults. Requiring additional registration adds no value to the program or the customer.

### **Individuals impacted by the waiver**

Under this waiver, ITAs could be used for older out-of-school youth (ages 18-21) served with regular WIA youth funds. These youth would have access to WIA-certified training providers to best meet their personal and professional goals without encountering additional paperwork that would be required if they were co-enrolled in the adult program.

Service providers will be positively impacted by simplified tracking if co-enrollment in the youth and adult programs is not required.

### **Process for monitoring progress in implementation**

Local areas wishing to implement this waiver are required to state so in their local unified plan, have a board-approved policy in place regarding the criteria for using ITAs with youth participants and are required to track funds used for ITAs in the Individual Service Strategies for the affected youth. State staff review the implementation of this waiver during the annual onsite review of WIA youth programs.

### **Notice to affected local boards**

Local boards and staffs were notified of the waiver request and given a 30-day direct opportunity to comment on this specific waiver. The comment period ended May 11, 2012.

### **Public comment**

DEED provided notice of the waiver request to local boards and staffs and posted the waiver request on its website for a 30-day public comment period, which ended May 11, 2012.

No comments from the general public were received. DEED received the following comments from local boards/staff:

#### **WSA 10, City of Minneapolis (Teresa Harrold):**

"WSA 10 supports the proposed waiver."

#### **WSA 8, Southeast MN (Marge Kuethe):**

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"Workforce Development, Inc. is supportive of the waiver request. Even though we do not currently use the Individual Training Account, we recognize that this is a valued tool used by others and entertain the idea of using them in the future."

### **WAIVER EXTENSION REQUEST: PROGRAM DESIGN FLEXIBILITY FOR YOUTH WHO ARE CO-ENROLLED IN WIA YOUTH FORMULA GRANT PROGRAM AND TANF-FUNDED SUMMER YOUTH EMPLOYMENT**

The Minnesota Department of Human Services (DHS) is making TANF funds available for a targeted summer youth employment project to improve the employment outcomes of teen parents receiving Minnesota Family Investment Program (MFIP) benefits. Minnesota's Teen Parent Summer Youth Project is an effort to improve the work participation rate for teen parents receiving MFIP benefits.

The state is requesting a waiver to allow flexibility in youth program design requirements for youth co-enrolled in Minnesota's Teen Parent Summer Youth Program and the WIA youth program only. Specifically, DEED requests flexibility in providing services to these youth as follows:

- Waive the requirement to provide follow-up services for not less than 12 months after the completion of the program, and allow local areas flexibility to provide follow-up services as they deem appropriate.
  - Given that summer employment programs usually run for eight to ten weeks, local Workforce Investment Boards (LWIBs) will have the flexibility to determine if and when the 12-month follow-up requirement will be required for youth participating only in the TANF-funded Teen Parent Summer Youth employment program. LWIBs should provide follow-up services when deemed appropriate for such individuals.
- Waive the requirement to provide an objective assessment, and grant local areas the flexibility to determine the type of assessment and individual service strategy (ISS) that is appropriate for each youth participant.
  - Although some level of assessment and development of an ISS is required, a full objective assessment and comprehensive ISS as specified in the WIA Regulations will not be required for these youth.
- Waive the requirement that summer employment opportunities be directly linked to academic and occupational learning.
  - Rather than requiring the linkage to academic and occupational learning for all youth participating only in the TANF-funded Teen Parent Summer Youth employment program, local areas will have the flexibility to determine for each youth participant whether academic learning must be directly linked to summer employment.

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This program flexibility will enable local areas to develop service strategies that will better meet the needs of these youth during the summer months. In particular, we anticipate it will be easier to work with these youth once they are actively engaged in work experience activities. As they enhance their work readiness skills, participate in career planning activities and gain a better understanding of available workforce development services, we believe that assessment and service strategy development will be an iterative process.

### **Statutory and/or regulatory requirements to be waived**

The state is requesting waiver of the following youth program design requirements in WIA Section 129:

- **Sec. 129(c)(1)(A)** Provide an objective assessment of the academic levels, skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs and developmental needs of such participant, except that a new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.
- **Sec. 129(c)(1)(B)** Develop service strategies for each participant that shall identify an employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives and appropriate services for the participant taking into account the assessment conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program.
- **Sec. 129(c)(1)(C)(1) and (2)** Programs need to provide (i) preparation for post-secondary educational opportunities, in appropriate cases; (ii) strong linkages between academic and occupational learning; (iii) preparation for unsubsidized employment opportunities, in appropriate cases and (iv) effective connections to intermediaries with strong linkages to (I) the job market and (II) local and regional employers.

### **Actions undertaken to remove state or local barriers**

We are unaware of any state or local barriers to implementing the requested waiver.

### **Goals and expected programmatic outcomes of waiver**

The goal of this waiver is to support Minnesota's efforts to improve services to the neediest youth as stated in *Minnesota's Unified Plan* and evidenced by our state's longstanding participation in the federal Shared Vision for Youth initiative and now the successor collaboration, the federal Interagency Working Group on Youth Programs.

Minnesota's Teen Parent Summer Youth Project is an effort to improve MFIP outcomes, particularly the Work Participation Rate (WPR) for teen parents. The waiver request supports

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Minnesota's attempts to increase the work participation rates of teen parents on MFIP through participation in a structured summer youth employment program.

Flexibility in program design will allow a simplified and streamlined delivery of services that will allow local areas to serve a greater number of youth during the summer months. Co-enrolled youth participating only in the TANF-funded summer youth employment program will have more time to focus on career planning, to identify employment goals and to participate in additional workforce development activities that better prepare them for securing long-term future employment.

The waiver will allow Minnesota's WSAs/LWIBs to leverage TANF funds through DHS to pay participant wages, fringe and direct service costs for teen parents who are unlikely to be otherwise employed during the summer.

Youth participants in the Minnesota Teen Parent Summer Youth Program will gain work experience at a wage of at least \$7.25 per hour for up to 30 hours per week for up to 12 weeks. Older youth may work additional weeks or hours. The wages, fringe and direct service costs will be funded from TANF funds. WIA funds would be used to pay for other allowable services that cannot be funded with TANF funds.

The youth who are served through the Teen Parent Summer Youth Employment Program will be working with MFIP employment service providers prior to their enrollment in the summer youth employment program. Following the completion of the summer program, most of these youth will be engaged in education and services provided through MFIP to continue to build academic skills, employability skills and positive work habits and attitudes. For those participants who need additional services beyond what MFIP offers, service providers will be actively working to connect these youth to further education and training opportunities through WIA youth, WIA adult, WIA core services, other state-funded programs such as the Minnesota Youth Program and the Minnesota YouthBuild Program and/or programs operated by local educational agencies as appropriate on an individual basis.

### **Individuals impacted by the waiver**

Youth who will be served through Minnesota's Teen Parent Summer Youth Employment Project will be teen parents receiving MFIP.

### **Process for monitoring progress in implementation**

DEED will enter into an Interagency Agreement with DHS to access TANF funds for the Minnesota Teen Parent Summer Youth Project. Early implementation is critical to the success of this summer project.

The waiver will be incorporated into a state guideline distributed to all local areas and posted to the DEED website on a Teen Parent Summer Youth Project webpage. Technical assistance will be provided to all LWIBs by DEED and DHS as appropriate to ensure swift, successful implementation of the Minnesota Teen Parent Summer Youth Project.

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State staff will review the implementation of this waiver during the annual onsite review of WIA youth programs. Monitoring would ensure correct documentation of the youth participants who are co-enrolled in TANF and WIA funding which will be tracked and reflected in the Individual Service Strategy and Youth Employment Plan. Information related to the implementation of this waiver will be collected in the data collected from service providers on a regular basis.

### **Notice to affected local boards**

Local boards and staffs were notified of the waiver request and given a 30-day direct opportunity to comment on this specific waiver. The comment period ended May 11, 2012.

### **Public comment**

DEED provided notice of the waiver request to local boards and staffs and posted the waiver request on its website for a 30-day public comment period, which ended May 11, 2012.

No comments from the general public were received. DEED received the following comments from local boards/staff:

#### **WSA 10, City of Minneapolis (Teresa Harrold):**

"WSA 10 supports all five of the waivers proposed, especially the waiver to allow youth enrolled in alternative school programs to be classified as dropouts/out-of-school youth so the definition is the same under WIA and YouthBuild programs."

#### **WSA 8, Southeast MN (Marge Kuethe):**

"Workforce Development, Inc. is in agreement with the two waiver requests regarding co-enrollment with TANF-funded Summer Youth Employment."

### **WAIVER EXTENSION REQUEST: INDICATORS OF PERFORMANCE FOR YOUTH WHO ARE CO-ENROLLED IN WIA YOUTH FORMULA GRANT PROGRAM AND TANF-FUNDED SUMMER EMPLOYMENT**

DHS is making TANF funds available for a targeted summer youth employment project to improve the employment outcomes of teen parents receiving MFIP benefits. Minnesota's Teen Parent Summer Youth Project is an effort to improve the work participation rate for teen parents receiving MFIP benefits.

The state is requesting permission to waive the statutory WIA youth performance measures for youth who are co-enrolled in WIA youth activities and Minnesota's Teen Parent Summer Youth Project only. This waiver would use the Work Readiness Indicator as the only indicator of performance for youth who are co-enrolled in WIA youth and the Teen Parent Summer Youth Project.

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The use of such a waiver will allow Minnesota the flexibility to design a summer project that focuses on work readiness, work experience and preparing youth for long-term employment opportunities rather than on meeting performance measures that do not align with the purpose of a summer youth employment program.

### **Statutory and/or regulatory requirements to be waived**

Minnesota is requesting WIA Section 136(b)(2)(A) be waived to dismiss from consideration the WIA statutory performance measures and use the work readiness portion of the skill attainment rate as the only indicator of performance for youth co-enrolled in the WIA youth program and the Teen Parent Summer Youth Project.

### **Actions undertaken to remove state or local barriers**

We are unaware of any state or local barriers to implementing the requested waiver.

### **Goals and expected programmatic outcomes of waiver**

The goal of this waiver is to support Minnesota's efforts to improve services to the neediest youth as stated in *Minnesota's Unified Plan*, and evidenced by our state's longstanding participation in the federal Shared Youth Vision initiative and now the successor collaboration, the federal Interagency Working Group on Youth Programs.

Minnesota's Teen Parent Summer Youth Project is an effort to improve MFIP outcomes, particularly the WPR, for teen parents. The waiver request supports Minnesota's attempts to increase the work participation rates of teen parents on MFIP through participation in a structured summer youth employment program.

The goal of this waiver is to allow Minnesota's WSAs/LWIBs to leverage TANF funds through the DHS to pay participant wages, fringe and direct service costs for teen parents who are unlikely to be otherwise employed during the summer.

Youth participants in the Minnesota Teen Parent Summer Youth Project will gain work experience at a wage of at least \$7.25 per hour for up to 30 hours per week for up to 12 weeks. Older youth may work additional weeks or hours. The wages, fringe and direct service costs will be funded from TANF funds. WIA funds would be used to pay for other services allowable under WIA that cannot be funded with TANF funds.

The youth who are served through the Teen Parent Summer Youth Employment Project will be working with MFIP employment service providers prior to their enrollment in the summer youth employment project. Following the completion of the summer project, most of these youth will be engaged in services provided through MFIP to continue to build academic skills, employability skills and positive work habits and attitudes. For those participants who need additional services beyond what MFIP offers, service providers will be actively working to connect these youth to further education and training opportunities through WIA youth, WIA adult, WIA core services, other state-funded programs such as the Minnesota Youth Program

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and the Minnesota YouthBuild Program and/or programs operated by local educational agencies as appropriate on an individual basis.

### **Individuals impacted by the waiver**

Youth who will be served through Minnesota's Teen Parent Summer Youth Employment Project will be teen parents receiving MFIP.

### **Process for monitoring progress in implementation**

DEED will enter into an Interagency Agreement with DHS to access TANF funds for the Minnesota Teen Parent Summer Youth Project. Early implementation is critical to the success of this summer project.

The waiver will be incorporated into a state guideline distributed to all local areas and posted to the DEED website on a Teen Parent Summer Youth Project webpage. Technical assistance will be provided to all LWIBs by DEED and DHS as appropriate to ensure swift, successful implementation of the Minnesota Teen Parent Summer Youth Project.

State staff will review the implementation of this waiver during the annual onsite review of WIA youth programs. Monitoring would ensure correct documentation of the youth participants who are co-enrolled in TANF and WIA funding which will be tracked and reflected in the Individual Service Strategy and Youth Employment Plan. Information related to the implementation of this waiver will be collected in the data collected from service providers on a regular basis.

### **Notice to affected local boards**

Local boards and staffs were notified of the waiver request and given a 30-day direct opportunity to comment on this specific waiver. The comment period ended May 11, 2012.

### **Public comment**

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No comments from the general public were received. DEED received the following comments from local boards/staff:

#### **WSA 10, City of Minneapolis (Teresa Harrold):**

"WSA 10 supports all five of the waivers proposed, especially the waiver to allow youth enrolled in alternative school programs to be classified as dropouts/out-of-school youth so the definition is the same under WIA and YouthBuild programs."

#### **WSA 8, Southeast MN (Marge Kuethe):**

"Workforce Development, Inc. is in agreement with the two waiver requests regarding co-enrollment with TANF-funded Summer Youth Employment."

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### **WAIVER EXTENSION REQUEST: RELEASE MINNESOTA FROM WIA SECTION 134(A)(2)(B)(III) AND 20 CFR 665.200(E) REQUIRING PROVISION OF INCENTIVE GRANTS TO LOCAL AREAS**

DEED, as the Governor's designated administrator for Minnesota's WIA activities, requests a waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e), which requires the state administrative entity to provide incentive grants to local areas.

The intent of this waiver request is to reduce the number of statewide activities required under WIA law for the duration of the Governor's Reserve reduction from 15 percent to five percent. Without this funding, Minnesota will not be able to complete these activities, and will struggle in completing other mandatory activities.

#### **Statutory or regulatory requirements to be waived**

WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) requiring provision of incentive grants to local areas.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

Minnesota's goal in seeking this waiver is to offset the burden imposed by the elimination of the 10 percent discretionary budget. Local service providers will need to work solely with formula allocations, which were slightly increased. This reduction in funding will impact programmatic outcomes, as service providers often use local incentive award funding to provide direct services, such as to fund resource area staff and training programs. Over time, quality of service may decline slightly as local providers often used local incentive award funding to support ongoing training of staff and LWIB members.

#### **Description of the individuals impacted by the waiver**

This waiver will provide DEED with more flexibility in directing Governor's Reserve funds to the activities that best preserve basic functions of the statewide workforce investment system.

Depending upon the WSA, customers will be impacted by a reduction in funding available for direct services. Many local areas have grown to rely on these funds to pay for training for staff and LWIB members. We expect minimal impact on individual customers, as service providers received a slight increase in formula allocations.

#### **Process for monitoring progress in implementation**

As outlined in the waiver request template, the state will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system.

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DEEDs internal state monitoring unit will assist in monitoring this waiver. Given that this waiver, if granted, would reduce those activities required of administrative staff, one monitoring approach is to simply ensure that staff members are *not* pursuing unnecessary tasks.

### **Provide notice to any local board affected by the waiver**

DEED provided a copy of this waiver request to all WSA and LWIBs for their review during the 30-day public comment period.

### **Ensure meaningful public comment, including comment by business and organized labor**

DEED posted the announcement of this waiver request on DEEDs website to invite comment from the public, including comments from business representatives and organized labor representatives for 30 days, concluding on December 2, 2011.

Comments included the following:

#### **From members of the Minnesota Workforce Council Association (MWCA):**

If DEED does receive additional funding in the future, the reinstatement of local incentive awards to locals should be a priority.

Understanding that resources aren't allowing for program evaluation efforts right now, we do find them valuable and would encourage DEED to consider reinstating evaluation efforts with WSA-level data in the future. These allow us to improve services and advocate for the system.

It is understandable that some activities and processes will not be continued due to the loss of the 10 percent funds. This policy looks like a reasonable request to DOL.

#### **From a local service provider:**

I would like to share that other activities are critical to our program and hope they will not be cut:

- MN Performs and the participant rosters are critical tools that we use to track performance throughout the year in programs.
- These tools along with the monitoring visits and technical assistance are important to ensuring that program providers are up-to-date and aware of policy and procedure changes in programs and offer suggestions for best practices.

**WAIVER REQUEST: WIA SECTION 134(A)(2)(B)(II) AND 20 CFR 665.200(D), THE REQUIREMENT TO CONDUCT EVALUATIONS OF WORKFORCE INVESTMENT ACTIVITIES FOR ADULTS, DISLOCATED WORKERS AND YOUTH**

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DEED, as the Governor's designated administrator for Minnesota's WIA activities, requests a waiver of WIA Section 134(a)(2)(B)(ii), the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers and youth.

### **Statutory or regulatory requirements to be waived**

WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) requiring the conduct of evaluations of workforce investment activities for adults, dislocated workers and youth.

### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The intent of this waiver request is to reduce the number of statewide activities required under WIA law for the duration of the Governor's Reserve reduction from 15 percent to five percent. Without this funding, Minnesota will not be able to complete these activities, and will struggle in completing other mandatory activities.

The reduction to five percent in the WIA allotment for Program Year (PY) 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations, incentive grants to local areas, dissemination of training provider performance and cost information. The state's reduced funds are being used to cover the following required activities:

- Operating fiscal and management accountability information systems [WIA Section 134(a)(2)(B)(vi) and 20 CFR 665.200(b)(1)]
- Submitting required reports [WIA Section 136(f)]
- Disseminating the list of eligible training providers for adults and dislocated workers [WIA Section 134(a)(2)(B)(i) and 20 CFR 665.200(b)(1) and youth activities (20 CFR 665.200(b)(4))]
- Providing technical assistance to poor performing local areas [WIA Section 134(a)(2)(B)(iv) and 20 CFR 665.200(f)]

Minnesota's goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities deemed most essential to the basic functions of the workforce investment system.

By granting this waiver, service providers and administrative staff will be less burdened by required activities, thereby allowing a refocus of attention on the customer, which will have a positive impact. DEED staff do not expect to see any direct improvement to program operations, but expect a delay in direct feedback from a sample of customers, which may temporarily impact our ability to improve services overall.

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### **Description of the individuals impacted by the waiver**

This waiver will provide DEED with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

This waiver should not impact individual customers immediately. Over extended periods of time, however, program staff will not be as promptly aware of feedback from customers, which will limit our opportunities to make proactive, positive changes to services and program operations. By granting this waiver, service providers and administrative staff will be less burdened by required activities, thereby allowing a refocus of attention on the customer, which will result in a positive impact.

### **Description of the process for monitoring progress in implementation**

As outlined in the waiver request template, the state will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system.

DEEDs internal state monitoring unit will assist in monitoring this waiver. Given that this waiver, if granted, would reduce those activities required of administrative staff, one monitoring approach is to simply ensure that staff members are *not* pursuing unnecessary tasks. Providers and DEED staff need to reduce required activities in order to operate with a reduced budget.

### **Provide notice to any local board affected by the waiver**

DEED provided a copy of this waiver request to all WSAs and LWIBs for their review during the 30-day public comment period.

### **Ensure meaningful public comment, including comment by business and organized labor**

DEED posted the announcement of this waiver request on DEEDs website to invite comment from the public, including comment from business representatives and organized labor representatives for 30 days, concluding on December 2, 2011.

Comments included the following:

#### **From members of the Minnesota Workforce Council Association (MWCA):**

Understanding that resources aren't allowing for program evaluation efforts right now, we do find them valuable and would encourage DEED to consider reinstating evaluation efforts with WSA-level data in the future. These allow us to improve services and advocate for the system.

It is understandable that some activities and processes will not be continued due to the loss of the 10 percent funds. This policy looks like a reasonable request to DOL.

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### **From a local service provider:**

I would like to share that other activities are critical to our program and hope they will not be cut:

- MN Performs and the participant rosters are critical tools that we use to track performance throughout the year in programs.
- These tools along with the monitoring visits and technical assistance are important to ensuring that program providers are up-to-date and aware of policy and procedure changes in programs and offer suggestions for best practices.

### **WAIVER EXTENSION REQUEST: 20 CFR 665.200(B)(3) REQUIRING DISSEMINATION OF TRAINING PROVIDER PERFORMANCE AND COST INFORMATION**

DEED, as the Governor's designated administrator for Minnesota's WIA activities, requests a waiver of 20 CFR 665.200(b)(3), the requirement to disseminate training provider performance and cost information.

The intent of this waiver request is to reduce the number of statewide activities required under WIA law for the duration of the Governor's Reserve reduction from 15 percent to five percent. Without this funding, Minnesota will not be able to complete these activities, and will struggle in completing other mandatory activities.

#### **Statutory or regulatory requirements to be waived**

20 CFR 665.200(b)(3) requiring dissemination of training provider performance and cost information.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The goal of this waiver is to offset the burden imposed by elimination of the 10 percent discretionary budget, by removing an activity and freeing up staff time to pursue other critical activities. If granted, staff will be able to better focus time and energy on more pressing program planning and budget management.

#### **Description of the individuals impacted by the waiver**

In the short run, customers and counselors will not have complete information on which to base decisions when seeking training. However, in Minnesota, all WIA-certified training providers must be licensed, registered or otherwise exempt by the Minnesota Office of Higher Education, and the course and/or program must be listed on ISEEK. These measures will offset the lack of performance and cost information in the interim; therefore, DEED staff members expect no critical impact on customers.

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### **Process for monitoring progress in implementation**

As outlined in the waiver request template, the state will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system.

DEEDs internal state monitoring unit will assist in monitoring this waiver. Given that this waiver, if granted, would reduce those activities required of administrative staff, one monitoring approach is to simply ensure that staff members are *not* pursuing unnecessary tasks.

### **Provide notice to any local board affected by the waiver**

DEED provided a copy of this waiver request to all WSAs and LWIBs for their review during the 30-day public comment period.

### **Ensure meaningful public comment, including comment by business and organized labor**

DEED posted the announcement of this waiver request on DEEDs website to invite comment from the public, including comment from business representatives and organized labor representatives for 30 days, concluding on December 2, 2011.

Comments included the following:

#### **From members of the Minnesota Workforce Council Association (MWCA):**

Understanding that resources aren't allowing for program evaluation efforts right now, we do find them valuable and would encourage DEED to consider reinstating evaluation efforts with WSA-level data in the future. These allow us to improve services and advocate for the system.

It is understandable that some activities and processes will not be continued due to the loss of the 10 percent funds. This policy looks like a reasonable request to DOL.

#### **From a local service provider:**

I would like to share that other activities are critical to our program and hope they will not be cut:

- MN Performs and the participant rosters are critical tools that we use to track performance throughout the year in programs.
- These tools along with the monitoring visits and technical assistance are important to ensuring that program providers are up-to-date and aware of policy and procedure changes in programs and offer suggestions for best practices.

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### **WAIVER EXTENSION REQUEST: RELEASE MINNESOTA FROM WIA SECTION 101(8)(C), WHICH REQUIRES EMPLOYERS TO CONTRIBUTE 50 PERCENT OF A CUSTOMER'S CUSTOMIZED TRAINING COSTS**

#### **Statutory or regulatory requirements to be waived**

DEED requests a waiver of the employers' requirement to contribute 50 percent of the cost of a customer's customized training, outlined in WIA Section 101(8)(C), to permit the use of a sliding scale for the employer contribution based on the size of the business.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The intent of this waiver request is to encourage employers to pursue customized training for their employees in order to retain them and enhance their abilities as workers. Depending upon the size of the company, DEED seeks to reimburse a higher percentage of the customer's training.

Under the waiver, the following sliding scale is permitted:

- No less than 10 percent match for employers with 50 or fewer employees
- 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) will continue to apply. When determining the funding source of 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 program funds. Customized training provided with statewide funds must serve WIA-eligible individuals.

#### **Description of the individuals impacted by the waiver**

WIA-eligible adult program customers, specifically those who are already employed, would most benefit from this waiver, as employers will be more likely to offer training, given the prospect of a larger percentage of reimbursement. Additionally, WIA dislocated worker program customers will be impacted by this waiver, as customized training may become a more prominent training opportunity.

#### **Description of the process for monitoring progress in implementation**

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and

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performance accountability system. Where relevant, DEEDs monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEEDs internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 Workforce Service Areas, all of whom would be able to implement and benefit from this waiver.

### **Ensure meaningful public comment, including comment by business and organized labor**

For this initial waiver request and with each annual extension, local boards and WSA staff revealed overwhelming support for the freedom to operate with the ability to reimburse employers for a larger portion of customer's customized training. Providers want to continue encouraging partnerships with area employers; this is one way to do so.

## **WAIVER EXTENSION REQUEST: WIA SECTION 101(31)(B) TO INCREASE THE EMPLOYER REIMBURSEMENT FOR ON-THE-JOB TRAINING**

### **Statutory or regulatory requirements to be waived**

DEED requests a waiver of the employers' requirement to contribute 50 percent of the cost of a customer's on-the-job training, outlined in WIA Section 101(31)(B).

### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The intent of this waiver request is to encourage employers to offer on-the-job training for WIA program customers in order to enhance their abilities as workers and secure employment for those individuals. Depending upon the size of the company, DEED seeks to reimburse a higher percentage of the customer's on-the-job training.

Under the waiver, the following sliding scale is permitted:

1. No less than 10 percent match for employers with 50 or fewer employees
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) 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 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

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WIA dislocated worker program funds. On-the-job training provided with statewide funds must serve WIA-eligible individuals.

### **Description of the individuals impacted by the waiver**

WIA-eligible adult program customers, specifically those who are already employed, would most benefit from this waiver, as employers will be more likely to offer training, given the prospect of a larger percentage of reimbursement. Additionally, WIA dislocated worker program customers will be impacted by this waiver, as on-the-job training may become a more prominent training opportunity.

### **Description of the process for monitoring progress in implementation**

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system. Where relevant, DEEDs monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEEDs internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 WSAs, all of whom would be able to implement and benefit from this waiver.

### **Ensure meaningful public comment, including comment by business and organized labor**

For this initial waiver request and with each annual extension, local boards and WSA staff revealed overwhelming support for the ability to reimburse a larger portion of a customer's on-the-job training, as it encourages employers to partner and offer these opportunities, leading to sustainable employment for program customers.

## **WAIVER EXTENSION REQUEST: WIA SECTION 133(B)(4) TO INCREASE THE ALLOWABLE TRANSFER AMOUNT BETWEEN ADULT AND DISLOCATED WORKER FUNDING STREAMS ALLOCATED TO A LOCAL AREA.**

### **Statutory or regulatory requirements to be waived**

DEED requests a waiver of the requirement to limit the allowable transfer amount between adult and dislocated worker funding streams allocated to a local area. 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 appropriate for the WIA adult and dislocated worker programs.

### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

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### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The challenges that dislocated worker program participants and adult program participants face each year vary from region to region and over the course of the program year. If granted, this waiver would permit local areas to lessen these challenges by transferring funding to more effectively serve their customers. Further, some local areas have been able to secure other sources of funding to serve the same groups of individuals. This waiver will enable local areas to respond appropriately, transferring resources in order to maximize them on behalf of their customers.

### **Description of the individuals impacted by the waiver**

Depending upon the WSAs need, either adult program customers who have a demonstrated weak attachment to the labor force OR dislocated worker program customers will be impacted by increased funding.

### **Description of the process for monitoring progress in implementation**

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system. Where relevant, DEEDs monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEEDs internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 WSAs, all of whom would be able to implement and benefit from this waiver.

### **Ensure meaningful public comment, including comment by business and organized labor**

For this initial waiver request and with each annual extension, local boards and WSA staff revealed overwhelming support for the ability to transfer up to 50 percent of their WIA adult formula allocation to the dislocated worker program budget, and vice versa. Depending upon the challenges faced by program customers at that time, providers appreciate the ability to better serve the individuals most in need.

## **WAIVER EXTENSION REQUEST: WAIVER OF WIA SECTION 134(A) TO PERMIT LOCAL AREAS TO USE A PORTION OF LOCAL FUNDS FOR INCUMBENT WORKER TRAINING.**

### **Statutory or regulatory requirements to be waived**

DEED requests a waiver of WIA Section 134(a), which would permit local areas to use a portion of local funds for incumbent worker training.

### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

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### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

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.

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 Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL 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.

### **Description of the individuals impacted by the waiver**

Minnesota's employed WIA adult program participants who are at-risk of a layoff, especially those living with low incomes, will benefit from this waiver. Further, Minnesota's WIA dislocated worker program participants who have received a layoff notice may benefit from this waiver. By offering incumbent worker training to avert a layoff, service providers will be able to assist potential customers by helping to avoid the initial stress created by the layoff process. This leads to greater program operation efficiency by keeping the individual employed and working to develop working partnerships with local employers.

### **Description of the process for monitoring progress in implementation**

TEGL 26-09 and TEGL 30-09 provide policy guidance related to implementation of this waiver.

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system. Where relevant, DEEDs monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEEDs internal state monitoring unit will assist in monitoring this waiver.

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### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 WSAs, all of whom would be able to implement and benefit from this waiver.

### **Ensure meaningful public comment, including comment by business and organized labor**

For this initial waiver request and with each annual extension, local boards and WSA staff revealed overwhelming support for the ability to offer incumbent worker training in order to avert layoffs, especially for low-income individuals enrolled in the WIA adult program.

### **State of Minnesota Adult and Dislocated Worker Program WIA Waiver Extension Request:**

**Request to extend waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.**

#### **Statutory or regulatory requirements to be waived**

The Minnesota Department of Employment and Economic Development (DEED), as the Governor's designated administrator for Minnesota's Workforce Investment Act (WIA) activities, requests an extension of the waiver of WIA Section 134(a), which would permit local areas to use a portion of local funds for incumbent worker (iw) training.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to continuing implementation of the requested extension.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The United States Department of Labor Employment and Training Administration (US DOL/ETA) previously granted Minnesota a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding.

Under this waiver, the State is permitted to allow local areas to use up to 10 percent of local DW funds and up to 10 percent of local Adult funds for IW training only as part of a layoff aversion strategy. In addition to averting layoffs, use of Adult funds must be restricted to serving lower income adults under this waiver. DEED understands and supports US DOL/ETA's belief that limiting IW 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 the primary 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 Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL 30-09, "Layoff Aversion Definition and the

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Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

### **Description of the individuals impacted by the waiver**

Minnesota's employed WIA Adult program participants who are at risk of a layoff, especially those living with low incomes, will benefit from this waiver. Further, Minnesota's WIA DW program participants who have received a layoff notice may benefit from this waiver. By offering IW training to avert a layoff, service providers will be able to assist potential customers by helping to avoid the initial stress created by the layoff process. This leads to greater program operation efficiency by keeping the individual employed and working to develop working partnerships with local employers.

### **Description of the State and Local Area's overall layoff aversion approach, and how IW training fits into that approach**

DEED's Workforce Development Division (WDD) is deepening its partnership with its Labor Market Information shop (LMI) and Business and Community Development Division (BCD) to establish a network of support for employers and employees. Ultimately, business retention and layoff aversion carry the same goals.

DEED's DW and Adult program staff members have worked with Business Service Specialists to better understand the process of reaching out to businesses that could retain workers if they could access supportive resources. DEED's staff have discussed ways to share resources to not only address impacted workers at the point of layoff, but to work more closely with businesses to avert layoffs before they occur.

Local areas follow DEED's lead when it comes to overall layoff aversion, but have freedom in developing area-specific IW training, to be approved by DEED. To date, two local providers in Minnesota have developed partnerships with businesses by offering IW training. Generally, this training comes with matching funds; local providers will pay for a portion of the training if the employer is willing to contribute.

### ***Minnesota's Overall Layoff Aversion Approach includes, but is not limited to:***

1. Consultation with industry experts supported by BCD;
2. Consultation with economic development organizations supported by BCD;
3. Consultation with labor organizations supported by WDD and BCD;
4. Consultation with workforce development professionals;
5. Consultation with other community groups supported by WDD and BCD;
6. Where appropriate, forgivable or low-interest loans to support temporary business operation supported by BCD; and/or
7. Skills-based training – Incumbent Worker training – for current employees to increase a company or business' competitiveness supported by WDD.

The process by which we work with companies varies by circumstance; DEED staff members use

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a combination of the above named strategies to support businesses facing layoffs.

***Indicators of a Business Worthy of Layoff Aversion Support include, but are not limited to:***

- Declining sales;
- Supply chain issues;
- Adverse industry or market trends;
- Changes in management philosophy or ownership;
- Workers lack in-demand skills, which may mean training to update skills;
- Strong possibility of a job if a worker attains new skills; and/or
- Other "at risk" indicators outlined by the LWIB or service provider in partnership with the employer in need.

***Plan for how IW training will be delivered:***

- **Target industries and economic sectors vary from project to project:** Generally speaking, a business' industry and/or sector should demonstrate overall decline. On a case-by-case basis, DEED will approve a local provider's plan to spend a portion of local WIA funds on training to support incumbent workers. Currently, the primary target industry demonstrating need for IW training is manufacturing.
- **Type of training and resulting skills will vary from project to project:** All training will be focused on skills attainment. Currently, the primary training Minnesota's providers have offered stresses computer skill development and project management. As a result, workers in various manufacturing plants have been able to retain and even advance within their jobs as they are now able to manage projects effectively and use computers to do so.
- **Other One-Stop Career Center services offered to employees include:**
  - Access to resource rooms in all 48 WorkForce Centers;
  - Eligibility determination for programs offered through the WorkForce Center and elsewhere;
  - Access to job networking groups;
  - Access to resume-writing and job search workshops;
  - Intake and orientation to the information and other services available through the one-stop delivery system;
  - Initial assessments of skill levels, aptitudes, abilities, and supportive service needs;
  - Job search and placement assistance,
  - Where appropriate, career counseling;
  - Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including job vacancy listings;
  - Information on job skills necessary to obtain these jobs;
  - Information relating to local occupations in demand and the earnings and skill requirements for such occupations
  - Provision of performance information and program cost information on other training providers; and/or

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- Provision of information regarding filing claims for unemployment compensation.
- **Other services offered for employees and the employer**, including services leveraged from workforce system partners?
  - Provision of information related to training providers who offer training at little to no cost;
  - Provision of information related to job fairs;
  - Opportunities for partnership through on-the-job training; and/or
  - Opportunities for partnership through customized training.
- **Plan and budget approval:** o Local service providers must include the option of IW training in their annually updated local unified plans. As a part of this plan, they must stress the circumstances under which they would use local funds to pay for IW training, and must require at least a partial match from the employer. The State has discretion in approving and monitoring these services and expenditures.

### ***Criteria the State will consider in identifying appropriate uses of IW training:***

- **Employer Selection Process:**
  1. If a company's employees would benefit from IW training, representatives from the business will typically approach partners with the LWIB to seek out resources. In Minnesota, these relationships are key to ensuring that providers offer IW training to those employers who will make best use of the resources and remain true to their commitments to employees.
  2. If a company has announced layoffs, DEED's Rapid Response staff members will converse with human resources and other business representatives to notify them of resources available through the Workforce Development system, including IW training. This information comes in tandem with information about the DW program.
  3. If they have good reason, business service specialists and business representatives employed by DEED's BCD will reach out to leaders with these companies to notify them of availability for this funding partnership.
- **Determining appropriateness of IW training as a solution for the employer:**

*DEED staff members are working to complete this element of the planning and policy design process. Looking to other states that have had success with this type of training, such as Illinois and New York, DEED staff members will continue to detail guidance to make this judgment appropriately.*

  1. Employers must be willing to support the IW training with a partial match. This reflects partnership and a mutual benefit to the employer and employees at risk of layoff.
  2. Employers must demonstrate some distress to qualify for assistance, but also demonstrate strength enough to continue business.
  3. Employers must provide financial records demonstrating that they are not in serious danger of closing immediately so as to not waste these valuable dollars.

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- **Determining whether or not the training will provide the employer with the skills to maintain operations and avoid closure or layoffs:**

*DEED staff members are working to complete this element of the planning and policy design process. Looking to other states that have had success with this type of training, such as Illinois and New York, DEED staff members will continue to detail guidance to make this judgment appropriately.*

1. As they consult with various supportive entities such as industry, economic development and business development experts, local service providers in partnership with DEED staff members will be able to judge each proposal to determine its capacity for success.
2. As mentioned above, employers will need to provide financial data allowing DEED staff members and local service providers to ensure that the business will continue to operate, and will improve operations resulting from IW training.

- **Commitment from Employer to the Employee:**

1. Employers absolutely must commit to retaining the employee who benefits from the IW training. DEED staff members are working to determine a minimum period of time for this commitment and will seek guidance from other states, DOL/ETA and BCD. Preliminarily, DEED staff members believe two years is a sufficient period of time to retain a newly trained employee if the company is at risk of closing.
2. Considering that the employee ultimately benefits from additional marketable skills, these are not lost funds. DEED staff may allow employers to commit to a slightly shorter timeframe if they are concerned about the well-being of their company.
3. The employer would commit to retaining the newly trained employees under all circumstances except for reduction, closure or misbehavior.
4. In most cases, the employer should increase an employee's wages.
5. Grant criteria will differ by project and circumstance; DEED staff members reserve the right to negotiate with employers to ensure IW training is mutually beneficial to the region, the employee, and the employer.

- **Criteria the State will establish to guide local areas in applying for and using IW training:**

*DEED staff members are working to complete this element of the planning and policy design process. Looking to other states that have had success with this type of training, such as Illinois and New York, DEED staff members will continue to detail criteria to guide local areas in applying for and using IW training.*

1. To date, local areas have designed their own IW training using the same grant criteria in DEED's general grants. They have retained documentation verifying that the training has been to avert layoffs and provide training to employees who would otherwise be laid off. Minnesota is working to formalize this guidance, and will seek

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- technical assistance from DOL/ETA, BCD and other states.
2. In order to exercise this waiver, local areas would need to outline a plan in their annually updated local unified plan.
  3. Funding must first serve customers; local providers may only access this waiver if they have no waiting list for WIA Adult and WIA DW services.

**Finally, a grant to provide IW training will require at least a partial match from the employer.**

### **Description of the process for monitoring progress in implementation**

TEGL 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL 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 Minnesota develops policies, processes and forms for these grants, DEED staff members will also establish solid monitoring practices to ensure successful implementation of these grant opportunities. DEED staff members will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance, and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system. Where relevant, DEED's monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEED's internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 Workforce Service Areas (WSAs), all of whom would be able to implement and benefit from this waiver.

Additionally, LWIBS, service provider representatives, labor officials and local business representatives had an opportunity to view this draft waiver during Minnesota's 30 day comment period for the WIA Unified Plan. Comments were consistently supportive of this waiver, even from regions that have not been able to put it to use.

### **Ensure meaningful public comment, including comment by business and organized labor**

For this initial waiver request and with each annual extension, local boards and service provider staff revealed overwhelming support for the ability to offer IW training in order to avert layoffs, especially for low-income individuals enrolled in the WIA Adult program. Even local providers who have not taken advantage of this waiver expressed interest in retaining the ability to do so. As DEED staff members finalize a policy and procedure, we will seek public comment from all impacted stakeholders to ensure proper and efficient implementation of this waiver.

**Resubmitted via email to [wia.plan@dol.gov](mailto:wia.plan@dol.gov) on Thursday, October 25, per DOL/ETA's request.**

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### **WAIVER EXTENSION REQUEST: 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.**

#### **Statutory or regulatory requirements to be waived**

DEED requests a waiver of WIA Section 134(a)(1)(a), which would permit local areas to use a portion of funds reserved for rapid response activities to be used for incumbent worker training.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

Under this waiver, the state is permitted to allow local areas to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. 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.

#### **Description of the individuals impacted by the waiver**

Minnesota's employed WIA adult program participants, who are at-risk of a layoff, especially those living with low incomes, will benefit from this waiver. Further, Minnesota's WIA dislocated worker program participants who have received a layoff notice may benefit from this waiver. By offering incumbent worker training to avert a layoff, service providers will be able to assist potential customers by helping to avoid the initial stress created by the layoff process. This leads to greater program operation efficiency by keeping the individual employed and working to develop working partnerships with local employers.

#### **Description of the process for monitoring progress in implementation**

TEGL 26-09 and TEGL 30-09 provide policy guidance related to implementation of this waiver.

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system. Where relevant, DEEDs monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEEDs internal state monitoring unit will assist in monitoring this waiver.

#### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 WSAs, all of whom would be able to implement and benefit from this waiver.

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### **Ensure meaningful public comment, including comment by business and organized labor**

For this initial waiver request and with each annual extension, local boards and WSA staff revealed overwhelming support for the freedom to operate with the initial eligibility of training providers.

### **State of Minnesota Adult and Dislocated Worker Program WIA Waiver Extension Request:**

**Request to extend 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.**

#### **Statutory or regulatory requirements to be waived**

The Minnesota Department of Employment and Economic Development (DEED), as the Governor's designated administrator for Minnesota's Workforce Investment Act (WIA) activities, requests an extension of the waiver WIA Section 134(a)(1)(a), which would permit local areas to use a portion of funds reserved for rapid response activities to be used for incumbent worker training.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested extension.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The United States Department of Labor Employment and Training Administration (US DOL/ETA) previously granted Minnesota a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with statewide rapid response funding.

Under this waiver, the State is permitted to allow local areas to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. 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.

#### **Description of the individuals impacted by the waiver**

Minnesota's employed WIA Adult program participants who are at risk of a layoff, especially those living with low incomes, will benefit from this waiver. Further, Minnesota's WIA Dislocated Worker (DW) program participants who have received a layoff notice may benefit from this waiver. By offering incumbent worker training to avert a layoff, service providers will be able to assist potential customers by helping to avoid the initial stress created by the layoff process. This leads to greater program operation efficiency by keeping the individual employed, thereby avoiding unemployment insurance claims and additional expenses resulting from other training and counseling. Offering IW training also helps to develop working partnerships with local employers.

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### **Description of the State's overall layoff aversion approach, and how IW training fits into that approach**

DEED's Workforce Development Division (WDD) is deepening its partnership with its Labor Market Information shop (LMI) and Business and Community Development Division (BCD) to establish a network of support for employers and employees. Ultimately, business retention and layoff aversion carry the same goals.

DEED's DW and Adult program staff members have worked with Business Service Specialists to better understand the process of reaching out to businesses that could retain workers if they could access supportive resources. DEED's staff have discussed ways to share resources to not only address impacted workers at the point of layoff, but to work more closely with businesses to avert layoffs before they occur.

### ***Minnesota's Overall Layoff Aversion Approach includes, but is not limited to:***

1. Consultation with industry experts supported by BCD;
2. Consultation with economic development organizations supported by BCD;
3. Consultation with labor organizations supported by WDD and BCD;
4. Consultation with workforce development professionals;
5. Consultation with other community groups supported by WDD and BCD;
6. Where appropriate, forgivable or low-interest loans to support temporary business operation supported by BCD; and/or
7. Skills-based training – Incumbent Worker training – for current employees to increase a company or business' competitiveness supported by WDD.

The process by which DEED works with companies varies by circumstance; DEED staff members use a combination of the above named strategies to support businesses facing layoffs.

### ***Indicators of a Business Worthy of Layoff Aversion Support include, but are not limited to:***

1. Declining sales;
2. Supply chain issues;
3. Adverse industry or market trends;
4. Changes in management philosophy or ownership;
5. Workers lack in-demand skills, which may mean training to update skills;
6. Strong possibility of a job if a worker attains new skills; and/or
7. Other "at risk" indicators outlined by the LWIB or service provider in partnership with the employer in need.

### ***Plan for how IW training will be delivered:***

- Target industries and economic sectors vary from project to project: Generally speaking, a business' industry and/or sector should demonstrate overall decline. On a case-by-case basis, DEED will partner with a company, providing a grant from the rapid

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response budget on training to support incumbent workers. Currently, the primary target industry demonstrating need for IW training is manufacturing.

- Type of training and resulting skills will vary from project to project: All training will be focused on skills attainment. Currently, the primary training Minnesota's providers have offered stresses computer skill development and project management. As a result, workers in various manufacturing plants have been able to retain and even advance within their jobs as they are now able to manage projects effectively and use computers to do so.
- Other One-Stop Career Center services offered to employees include:
  - Access to resource rooms in all 48 WorkForce Centers;
  - Eligibility determination for programs offered through the WorkForce Center and elsewhere;
  - Access to job networking groups;
  - Access to resume-writing and job search workshops;
  - Intake and orientation to the information and other services available through the one-stop delivery system;
  - Initial assessments of skill levels, aptitudes, abilities, and supportive service needs;
  - Job search and placement assistance,
  - Where appropriate, career counseling;
  - Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including job vacancy listings;
  - Information on job skills necessary to obtain these jobs;
  - Information relating to local occupations in demand and the earnings and skill requirements for such occupations
  - Provision of performance information and program cost information on other training providers; and/or
  - Provision of information regarding filing claims for unemployment compensation.
- Other services offered for employees and the employer, including services leveraged from workforce system partners?
  - Provision of information related to training providers who offer training at little to no cost;
  - Provision of information related to job fairs;
  - Opportunities for partnership through on-the-job training; and/or
  - Opportunities for partnership through customized training.
- Plan and budget approval:
  - Because these training grants will be administered by DEED, internal grants and monitoring staff will approve plans and budgets using several standard grant operations criteria and nuanced qualifiers specific to the type of company and type

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of training. All grants will require at least a partial match from the company, which will be included in the contract itself.

### ***Criteria the State will consider in identifying appropriate uses of IW training:***

- **Employer Selection Process:**

1. If a company's employees would benefit from IW training, representatives from the business will typically approach partners with DEED seek out supportive resources. In Minnesota, these relationships are key to ensuring that providers offer IW training to those employers who will make best use of the resources and remain true to their commitments to employees.
2. If a company has announced layoffs, DEED's Rapid Response staff members will converse with human resources and other business representatives to notify them of resources available through the Workforce Development system, including IW training. This information comes in tandem with information about the DW program.
3. If they have good reason, business service specialists and business representatives employed by DEED's BCD will reach out to leaders with these companies to notify them of availability for this funding partnership.

- **Determining appropriateness of IW training as a solution for the employer:**

*DEED staff members are working to complete this element of the planning and policy design process. Looking to other states that have had success with this type of training, such as Illinois and New York, DEED staff members will continue to detail guidance to make this judgment appropriately.*

1. Employers must be willing to support the IW training with a partial match. This reflects partnership and a mutual benefit to the employer and employees at risk of layoff.
2. Employers must demonstrate some distress to qualify for assistance, but also demonstrate strength enough to continue business.
3. Employers must provide financial records demonstrating that they are not in serious danger of closing immediately so as to not waste these valuable dollars.

- **Determining whether or not the training will provide the employer with the skills to maintain operations and avoid closure or layoffs:**

*DEED staff members are working to complete this element of the planning and policy design process. Looking to other states that have had success with this type of training, such as Illinois and New York, DEED staff members will continue to detail guidance to make this judgment appropriately.*

1. As they consult with various supportive entities such as industry, economic development and business development experts, DEED staff members will be able to judge each proposal to determine its capacity for success.

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2. As mentioned above, employers will need to provide financial data allowing DEED staff members and local service providers to ensure that the business will continue to operate and improve operations resulting from IW training.

- **Commitment from Employer to the Employee:**

1. Employers absolutely must commit to retaining the employee who benefits from the IW training. DEED staff members are working to determine a minimum period of time for this commitment and will seek guidance from other states, DOL/ETA and BCD. Preliminarily, DEED staff members believe that two years is a sufficient period of time to retain a newly trained employee if the company is at risk of closing.
2. Considering that the employee ultimately benefits from additional marketable skills, these are not lost funds, even if the company closes in the long run. DEED staff may allow employers to commit to a slightly shorter timeframe if they are concerned about the well-being of their company.
3. The employer would commit to retaining the newly trained employees under all circumstances except for reduction, closure, or misbehavior.
4. In most cases, the employer should increase an employee's wages.
5. Grant criteria will differ by project and circumstance; DEED staff members reserve the right to negotiate with employers to ensure IW training is mutually beneficial to the region, the employee, and the employer.

**Finally, a grant to provide IW training will require at least a partial match from the employer.**

### **Description of the process for monitoring progress in implementation**

TEGL 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL 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 Minnesota develops policies, processes and forms for these grants, DEED staff members will also establish solid monitoring practices to ensure successful implementation of these grant opportunities. DEED staff members will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance, and other reports, through regular contact with the DOL/ETA regional office liaisons, and through its monitoring and performance accountability system. Where relevant, DEED's monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEED's internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 Workforce Service Areas (WSAs). Additionally, service provider representatives, labor officials, and local business representatives had an opportunity to view this draft waiver during Minnesota's 30 day comment period for the WIA Unified Plan. Comments were consistently

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supportive of this waiver.

### **Ensure meaningful public comment, including comment by business and organized labor**

For this initial waiver request and with each annual extension, local boards and service provider staff revealed overwhelming support for the ability to offer IW training in order to avert layoffs, especially for low-income individuals enrolled in the WIA Adult program. As DEED staff members finalize a policy and procedure, we will seek public comment from all impacted stakeholders to ensure proper and efficient implementation of this waiver.

**Resubmitted via email to [wia.plan@dol.gov](mailto:wia.plan@dol.gov) on Thursday, October 25, per DOL/ETA's request.**

### **WAIVER EXTENSION REQUEST: PROVISION AT 20 CFR 663.530 THAT PRESCRIBES A TIME LIMIT ON THE PERIOD OF INITIAL ELIGIBILITY FOR TRAINING PROVIDERS.**

#### **Statutory or regulatory requirements to be waived**

DEED requests a waiver of 20 CFR 663.530, which prescribes a time limit on the period of initial eligibility for 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.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

Under this waiver, the state is permitted to postpone the determination of subsequent eligibility of training providers. The waiver allows the state to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

If granted, this waiver would release Minnesota from the responsibility of maintaining a promptly updated list of training providers. Instead, DEED would be able to prioritize funds for other, more urgent and pressing, activities.

#### **Description of the individuals impacted by the waiver**

If granted this waiver, individuals seeking training through a newly certified provider would be able to begin that training in a timely manner. Additionally, training providers would benefit from the ability to begin training in greater alignment with the academic calendar rather than waiting first for certification and then for the quarter or semester to commence.

#### **Description of the process for monitoring progress in implementation**

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and

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performance accountability system. Where relevant, DEEDs monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEEDs internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED staff provided electronic notification of these waiver requests to the 16 LWIBs and the 16 WSAs, all of whom would be able to implement and benefit from this waiver.

### **Ensure meaningful public comment, including comment by business and organized labor**

This initial waiver request and with each annual extension, local boards and WSA staff revealed overwhelming support for the freedom to operate with the initial eligibility of training providers.

### **NEW WAIVER REQUEST: WIA SECTION 136, REQUIRING THE CONDUCT OF PERFORMANCE ACCOUNTABILITY SYSTEM FOR PERFORMANCE MEASURES FOR INDIVIDUALS ENROLLED IN ON-THE-JOB TRAINING.**

DEED, as the Governor's designated administrator for Minnesota's WIA activities, requests a waiver to exclude on-the-job training (OJT) in the adult and dislocated worker employment and credential/certificate rate performance measure for PY12 and beyond.

The intent of this waiver request is to increase OJT activities by the LWIBs. OJT is a critical training activity as it provides an immediate employment opportunity under WIA. Unlike occupational skills training provided in a formal educational program, OJT allows employers the flexibility to develop a training option that is individualized to meet their specific needs. This demand-driven training does not customarily lead to a nationally recognized certificate or credential, which is required for the WIA adult and dislocated worker employment and credential/certificate performance measure.

In compliance with WIA Section 189(i)(4)(B) and 29 CFR 661.420(c), please accept the following request for a waiver.

### **Statutory or regulatory requirements to be waived**

DEED requests a waiver of WIA Section 136, which requires the conduct of performance accountability system for performance measures for all program individuals.

### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

Minnesota has a history of developing creative work-based initiatives to assist with job creation. OJT is also a proven service strategy that benefits both employers and job seekers in

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Minnesota. Several prominent success stories have resulted from an OJT opportunity, demonstrating the mutual benefits of the program. Despite this success, DEED staff members have concern that LWIBs may be deterred from offering OJT as readily as possible due to the potential for negative impact on the credential/certificate performance measure.

**Figure N.1 – WIA Adult and Dislocated Worker Performance – OJT vs. Total Served**

Federal Dislocated Worker Performance - OJT vs. Total Served										
	PY07		PY08		PY09		PY10		PY11 to date	
	OJT	Total Served	OJT	Total Served						
<b>Number Served</b>	59	4,626	81	7,503	232	12,832	136	10,529	50	7,514
<b>Entered Employment</b>	91.7%	89.1%	93.0%	90.5%	94.1%	89.8%	95.2%	89.4%	91.9%	84.5%
<b>Employment Retention</b>	95.8%	92.0%	97.2%	94.3%	97.8%	87.9%	96.9%	93.4%	93.7%	91.7%
<b>Employment and Credential</b>	68.0%	71.5%	24.4%	63.6%	57.9%	65.9%	67.3%	70.9%	64.6%	65.2%
<b>Average Earnings</b>	\$14,466	\$17,532	\$13,964	\$19,269	\$15,784	\$18,173	\$19,289	\$21,348	\$17,352	\$19,976

Adult Program Performance - OJT vs. Total Served										
	PY07		PY08		PY09		PY10		PY11 to date	
	OJT	Total Served	OJT	Total Served	OJT	Total Served	OJT	Total Served	OJT	Total Served
<b>Number Served</b>	28	2,365	24	2,804	68	4,459	66	3,247	21	2,203
<b>Entered Employment</b>	92.9%	88.8%	82.4%	83.9%	88.2%	83.0%	86.1%	77.7%	84.2%	77.6%
<b>Employment Retention</b>	86.0%	84.9%	84.0%	86.9%	85.7%	84.8%	78.3%	85.5%	87.7%	82.6%
<b>Employment and Credential</b>	71.9%	85.4%	35.0%	78.5%	27.8%	75.9%	56.5%	69.0%	40.4%	66.8%
<b>Average Earnings</b>	\$11,315	\$12,466	\$10,922	\$12,715	\$11,626	\$14,669	\$9,936	\$13,144	\$14,411	\$12,623

During PY10 202 WIA participants in Minnesota benefitted from an OJT program. To date in PY11, only 71 individuals are participating in an OJT program, a marked decline as compared to PY10.

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Analyzing performance standards side-by-side for WIA adult and dislocated worker program participants who pursue training as compared with other adult and dislocated worker program participants reveals that individuals who participate in OJT partnerships have higher rates of entering and retaining employment than those WIA program participants who pursue other training avenues, or no training at all. Credential rates are consistently lower, largely due to the fact that OJT does not count in the credential measure, deterring providers from pursuing OJT opportunities for customers. Unless providers can figure out some method of pairing an OJT with credentialed training, they forfeit the positive impact on performance.

Through this proposed waiver, LWIBs will have an incentive to increase OJT activity, as encouraged by both ETA and DEED, without adversely impacting overall performance.

### **Description of individuals impacted by the waivers**

- Overall: The waiver will encourage LWIBs to include OJT as a training option, thus increasing services to both employers and WIA-eligible adults and dislocated workers.
- Employers: Through the proposed waiver, LWIBs will be able to encourage job creation among employers in their WSA by providing a qualified pool of job applicants that may be trained to meet specific employer requirements.
- WIA-eligible adults and dislocated workers: WIA-eligible adults and dislocated workers seek OJT training because it offers an immediate attachment to the workforce and minimizes the expense of longer term occupational skills classroom training. OJT provides an immediate income, especially important for dislocated workers who have fixed expenses that exceed their unemployment benefits. It also provides an income to those who have exhausted their unemployment insurance benefits.

### **Process used to monitor the progress in implementation**

WIA participants enrolled in OJT will continue to be included in the WIASRD and will be subject to all legacy performance measures with the exception of the employment and credential measure. Reports on the progress of these individuals will be monitored quarterly.

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system. Where relevant, DEEDs monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEEDs internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED is submitting this waiver request in direct response to requests from local area service providers.

DEED will provide a copy of this waiver request to all WSAs and LWIBs for their review during the 45-day public comment period for *Minnesota's Unified Plan*.

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**Ensure meaningful public comment, including comment by business and organized labor**  
This waiver request will be discussed by LWIBs, area business representatives, WSA leadership and organized labor representatives as they consider the entire draft of *Minnesota's Unified Plan*.

### **State of Minnesota Adult and Dislocated Worker Program WIA Waiver Request:**

**Request to waive WIA regulations 20 CFR 666.100, thereby exempting Minnesota from including credential attainment outcomes for participants enrolled in OJT in the credential performance measure calculations. The waiver applies for all participants enrolled in OJT, regardless of funding source. The State will continue to report outcomes in the WIASRD for participants enrolled in OJT.**

The Minnesota Department of Employment and Economic Development (DEED), as the Governor's designated administrator for Minnesota's Workforce Investment Act (WIA) activities, requests a waiver to exclude On-the-Job Training (OJT) from the Adult and Dislocated Worker employment and credential/certificate rate performance measure for PY 2012 and beyond.

The intent of this waiver request is to increase OJT activities by the local Workforce Investment Boards (LWIBs). OJT is a critical training activity as it provides an immediate employment opportunity under WIA. Unlike occupational skills training provided in a formal educational program, OJT allows employers the flexibility to develop a training option that is individualized to meet their specific needs. This demand-driven training does not customarily lead to a nationally recognized certificate or credential, which is required for the WIA Adult and Dislocated Worker employment and credential/certificate performance measure.

In compliance with WIA Section 189(i)(4)(B) and 20 CFR 661.420(c), please accept the following request for a waiver.

#### **Statutory or regulatory requirements to be waived**

DEED requests to waive WIA regulations 20 CFR 666.100, thereby exempting Minnesota from including credential attainment outcomes for participants enrolled in OJT in the credential performance measure calculations. The waiver applies for all participants enrolled in OJT, regardless of funding source. The State will continue to report outcomes in the WIASRD for participants enrolled in OJT.

#### **Actions undertaken to remove state or local barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

#### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

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Minnesota has a history of developing creative work-based initiatives to assist with job creation. OJT is also a proven service strategy that benefits both employers and job seekers in Minnesota. Several prominent success stories have resulted from OJT opportunities, demonstrating the mutual benefits of the program. Despite this success, DEED staff members have concern that LWIBs may be deterred from offering OJT as readily as possible due to the potential for negative impact on the credential/certificate performance measure.

WIA Dislocated Worker Performance - OJT vs. Total Served										
	PY 2007		PY 2008		PY 2009		PY 2010		PY 2011	
	OJT	Total Served								
Number Served	59	4,626	81	7,503	232	12,832	136	10,529	50	7,514
Entered Employment	91.7%	89.1%	93.0%	90.5%	94.1%	89.8%	95.2%	89.4%	91.9%	84.5%
Employment Retention	95.8%	92.0%	97.2%	94.3%	97.8%	87.9%	96.9%	93.4%	93.7%	91.7%
Employment and Credential	68.0%	71.5%	24.4%	63.6%	57.9%	65.9%	67.3%	70.9%	64.6%	65.2%
Average Earnings	\$14,466	\$17,532	\$13,964	\$19,269	\$15,784	\$18,173	\$19,289	\$21,348	\$17,352	\$19,976

WIA Adult Program Performance - OJT vs. Total Served										
	PY 2007		PY 2008		PY 2009		PY 2010		PY 2011	
	OJT	Total Served	OJT	Total Served	OJT	Total Served	OJT	Total Served	OJT	Total Served
Number Served	28	2,365	24	2,804	68	4,459	66	3,247	21	2,203
Entered Employment	92.9%	88.8%	82.4%	83.9%	88.2%	83.0%	86.1%	77.7%	84.2%	77.6%
Employment Retention	86.0%	84.9%	84.0%	86.9%	85.7%	84.8%	78.3%	85.5%	87.7%	82.6%
Employment and Credential	71.9%	85.4%	35.0%	78.5%	27.8%	75.9%	56.5%	69.0%	40.4%	66.8%
Average Earnings	\$11,315	\$12,466	\$10,922	\$12,715	\$11,626	\$14,669	\$9,936	\$13,144	\$14,411	\$12,623

During PY 2010, 202 WIA participants in Minnesota benefitted from an OJT program; during PY 2011, only 71 individuals participated in an OJT program demonstrating a marked decline.

Analyzing performance standards side-by-side for WIA Adult and Dislocated Worker program participants who pursue training as compared with other Adult and DW program participants reveals that individuals who participate in OJT partnerships have higher rates of entering and retaining employment than those WIA program participants who pursue other training avenues, or no training at all. Credential rates are consistently lower, largely due to the fact that OJT does not count in the credential measure, which may deter providers from pursuing OJT opportunities for customers. Unless providers can figure out some method of pairing an

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OJT with credentialed training, they forfeit the positive impact on performance.

**WIA participants enrolled in OJT will continue to be included in the WIASRD and will be subject to all legacy performance measures *with the exception of the employment and credential measure*. Through this proposed waiver, local WIBs will have no barrier to increasing OJT activity, as encouraged by both US DOL/ETA and DEED. Providers will be able to do so without adversely impacting overall performance.**

### **Description of individuals impacted by the waivers**

*WIA-eligible Adults and Dislocated Workers:* WIA-eligible Adults and Dislocated Workers seek OJT training because it offers an immediate attachment to the workforce and minimizes the expense of longer term occupational skills classroom training. OJT provides an immediate income which is especially important for dislocated workers who have fixed expenses that exceed their unemployment benefits. OJT also provides an income to those who have exhausted their unemployment insurance benefits.

*Overall:* The waiver will encourage LWIBs to include and encourage OJT as a training option, thus increasing services to both employers and WIA-eligible adults and dislocated workers.

*Employers:* Through the proposed waiver, local WIBs will be able to encourage job creation among employers in their workforce service area by providing a qualified pool of job applicants that may be trained to meet specific employer requirements.

### **Process used to monitor the progress in implementation**

WIA participants enrolled in OJT will continue to be included in the WIASRD and will be subject to all legacy performance measures *with the exception of the employment and credential measure*. DEED's monitoring team and program staff will monitor the progress of OJT participants on a quarterly basis.

DEED will monitor progress and ensure accountability for federal funds in connection with these waivers by reviewing monthly expenditure, performance, and other reports, through regular contact with the ETA regional office liaisons, and through its monitoring and performance accountability system. Where relevant, DEED's monitoring unit will look for information regarding this waiver in local unified plans, updated annually. DEED's internal state monitoring unit will assist in monitoring this waiver.

### **Provide notice to any local board affected by the waiver**

DEED is submitting this waiver request in direct response to requests from local area service providers.

DEED provided a copy of this waiver request to all Workforce Service Areas and Investment Boards for their review during the 30-day public comment period for *Minnesota's Unified Plan*.

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**Ensure meaningful public comment, including comment by business and organized labor**

This waiver request has been discussed by LWIBs, area business representatives, Workforce Service Area leadership and organized labor representatives as they considered Minnesota's entire draft State Unified Plan. Overall, DEED staff members received supportive, encouraging feedback on this draft waiver request.

Resubmitted via email to [wia.plan@dol.gov](mailto:wia.plan@dol.gov) on Thursday, October 25, per DOL/ETA's request.

**NEW WAIVER REQUEST: WAIVER OF WIA SECTION 136, REQUIRING THE CONDUCT OF PERFORMANCE ACCOUNTABILITY SYSTEM FOR PERFORMANCE MEASURES FOR INDIVIDUALS PURSUING ENTREPRENEURIAL TRAINING AND ACTIVITIES.**

DEED is requesting a waiver to exclude customers engaged in entrepreneurial training from the calculations for legacy performance measures of the adult and dislocated worker funding streams. The requested waiver would encourage LWIBs to spend adult and dislocated worker program resources to train customers to establish and operate their own businesses. Minnesota would further assist these customers by providing advice and appropriate support through its Business and Community Development Division helping to ensure the viability of the individual enterprise.

This effort at entrepreneurship is in keeping with DOL's emphasis at helping customers start their own businesses as a way of promoting economic and social self-sufficiency. Minnesota's recent success with Project GATE II is clear evidence of the importance with helping individuals achieve the American dream of owning their own businesses. This waiver is in keeping with this emphasis by encouraging WIA resources to be spent on the effort.

Project GATE II is a three-year demonstration project designed to serve dislocated workers who are at least 45 years of age in launching or growing a business. Having just closed on December 31, 2011 Minnesota is proud of the accomplishments of the program's participants. With 669 individuals served, 443 individuals progressed through to the business consulting phase of the program. Individuals launching a business totaled 144, with 123 operating for at least one year and 93 operating for at least two. For this demonstration project, local providers in Minnesota were allowed to exclude program participants from the four legacy performance measures, which incented program enrollment.

As providers submitted their local unified plans, they were asked to respond to the following question:

"Through Project GATE II, we were able to exclude participants from local program performance. In addition to working to do this in the future, what additional strategies would your organization recommend and employ to encourage self-employment as a viable reemployment tool?"

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Nearly all providers expressed appreciation and strong support of continuing to offer the ability to exclude aspiring entrepreneurs from program performance measures.

At present, LWIBs are reluctant to spend resources on entrepreneurship because of the adverse effect on performance standards, specifically:

- The wages of customers who successfully complete the training and start their own businesses are not shown on wage detail files and supplemental data is inadmissible for the performance standard of average wage
- In spite of efforts made on behalf of small businesses, a large majority of them fail

Because of these two factors, local boards do not spend dollars on this viable way of ensuring self-sufficiency.

### **Statutory or regulatory requirements to be waived**

WIA Section 136 and subsequent Training and Employment Guidance Letters (e.g., 17-05, February 17, 2006) describe the performance accountability system to which states and WSAs are subject. These references outline the definition of the various performance measures, the methodology of computing these measures and the individuals to whom performance measures apply. An examination of these issuances indicates that local areas that utilize WIA resources to train customers to develop and run their own businesses are penalized when computing the performance standards that apply to the program's measures. These areas are not allowed to use supplemental data in computing average wages, an important consideration since entrepreneurs' earnings are generally not included in wage detail files. Further data show that a majority of small businesses fail within the first year of operation despite all the assistance that might be given to help them succeed. This failure obviously would have a detrimental effect on those other performance measures. Therefore, in order to encourage local WSAs to use WIA funds for entrepreneurship, DEED is requesting that adults and dislocated workers who are engaged in such training be excluded from performance measures.

### **State or local statutory or regulatory barriers**

DEED staff members are unaware of any state or local barriers to implementing the requested waiver.

### **Goals of the waiver and expected programmatic outcomes if waiver is granted**

The intent of this waiver is to increase the number of customers who are being trained with WIA adult and dislocated worker program resources in entrepreneurship. A number of WSAs have indicated a desire to devote more resources to the effort but have expressed reservations because of the possible detrimental effects on local performance standards. The exemption of such customers from performance standard calculations would remove this barrier. Due to lack of experience with a waiver like this, Minnesota is hesitant to propose a specific average wage standard at this time. However, based on recent success with Project GATE II, Minnesota would expect to serve at least 250 aspiring entrepreneurs each year.

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If granted, this waiver would increase local activity flexibility to the LWIBs. These principles would be in keeping with the goals of WIA including:

- Empowering customers to obtain needed services and information to enhance their employment and economic and social self-sufficiency opportunities
- Providing increased state and local flexibility to implement innovative and comprehensive workforce investment systems

If granted, this waiver would support the national emphasis at providing business opportunities to those customers who might not have any such chance. Through DEEDs Business and Community Development Division, staff would provide continuing financial and counseling assistance to these promising enterprises hoping to ensure continued success. These new businesses could then, in turn, be used to provide employment for other appropriate WIA customers.

In approving requests for entrepreneurship training, a LWIB would analyze its particular area's economic and marketing conditions to determine where opportunities existed for new businesses (i.e., demand-driven analysis). Working with DEEDs Research and Statistics Unit, DEEDs Business and Community Development Division and local economic development agencies, an LWIB would determine those economic enterprises that would have the greatest opportunity for success. Based on this determination, the local board would develop a priority list indicating those economic areas in which it would like to see new businesses. Requests for entrepreneurship training that match this list would be given priority for funding.

An LWIB would have the option of approving requests for training in "non-prioritized areas" with appropriate justification as determined locally with the approval of the state. Approval of specific participant requests would also be based on assessments of a trainee's ability to develop and run a business.

This waiver would give an additional tool to the LWIB in providing an economic self-sufficiency opportunity to a customer. Additionally, local and the state economies would benefit with tax revenues from the additional business in an expanding industry. Moreover, the local Minnesota WorkForce Center would gain the reputation of being able to meet the needs of two important audiences: the business and the customer. WIA will enhance its reputation as being business friendly.

### **Description of the individuals impacted by the waiver**

The individuals that will be directly impacted by this waiver are:

- LWIBs that will be able to offer entrepreneurship training without fear that local performance measures will be adversely affected

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- Potential entrepreneurs who are now WIA customers that will be afforded the opportunity to obtain training to run their own businesses
- Local WIA programs that will obtain potential placement sites for other WIA customers
- Local economies that will benefit from the increased tax revenue coming from new businesses
- The WorkForce Center that will forge new and beneficial relationships with state and local economic development agencies

The flexibility afforded to LWIBs by this waiver will encourage them to increase their services and to become more responsive and innovative to meet existing and new customer needs.

### **Description of the process for monitoring progress in implementation**

DEEDs monitoring unit will monitor the progress of this waiver by ascertaining the degree to local areas have increased access to entrepreneurship training and working partnerships with small business development training resources. DEEDs monitors will implement these practices both onsite and at desk review levels. Monitors and DEED staff will use Management Information System (MIS) information to determine the level of enrollment in entrepreneurial training activities in the WIA Title I-B adult and dislocated worker programs and will use budgetary information to determine expenditure levels. DEEDs monitors will compare these pieces of information with that submitted in the local unified planning documents. DEED staff will take corrective action as appropriate, including the possible removal of the waiver at the local level.

### **Provide notice to any local board affected by the waiver**

DEED will provide a copy of this waiver request to all WSAs and LWIBs for their review during the 45-day public comment period of *Minnesota's Unified Plan*.

### **Ensure meaningful public comment, including comment by business and organized labor**

This waiver request will be discussed by LWIBs, area business representatives, WSA leadership and organized labor representatives as they consider *Minnesota's Unified Plan*.

*2. Vocational Rehabilitation: If a state requests a waiver of the statewide requirement identified in assurance number 13 for the vocational rehabilitation program in Section III of this Unified Planning guidance, the request must be made in accordance with the provisions of 34 CFR 361.26(b).*

### **Vocational Rehabilitation Services (VRS) Request for Waiver of Statewideness**

VRS requests continuation of the waiver with respect to delivery of vocational rehabilitation services in Minnesota Independent School District No. 2170, which includes the cities of Staples and Motley in north central Minnesota.

VRS serves students with disabilities in all public school districts and most private schools through Minnesota WorkForce Centers and satellite offices. Uniform statewide provision of services is required by the Rehabilitation Act, except when waived.

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Independent School District 2170 and VRS use a service model, pursuant to waiver, under which a full-time counselor provides services exclusively to the district's eligible students. The school district employs the counselor, sharing costs with VRS. Hiring authority and case supervision is a responsibility of the VRS area manager. The contract under which this collaboration is carried out is negotiated and administered by the local rehabilitation area manager to meet specific local needs. This written contract provides that all non-federal funds allocated by the agreement are made available to VRS, that all services provided under the agreement are subject to VRS approval, and that all state plan requirements apply to all services approved under the contract.

State Services for the Blind have made no formal waiver requests.

## **Waiver Extension Request: Competitive Procurement of Youth Program Elements under the WIA Youth Formula Grant Program**

### **Statutory and/or regulatory requirements to be waived**

Minnesota requests the waiver of WIA Section 123, which requires the competitive selection of eligible providers of youth activities, for the following three program elements: paid and unpaid work experience, supportive services and follow-up services.

### **Actions undertaken to remove state or local barriers**

We are unaware of any state or local barriers to implementing the requested waiver.

### **Goals and expected programmatic outcomes of waiver**

This waiver request supports the following overarching goals pertaining to the delivery of youth services in Minnesota:

- Enhance continuity and efficiency of service delivery
- Minimize duplication of effort
- Maximize public investment
- Improve services to the neediest youth
- Leverage and coordinate resources

This waiver would give the fiscal agent/grant recipient the option of providing the three program elements above directly or through partner agencies.

Through co-enrollment, Minnesota WSAs integrate the delivery of WIA youth services with services funded by other federal (e.g. TANF) and state (e.g. Minnesota Youth Program) resources. More flexibility in the procurement process will facilitate continued co-enrollment and integration.

The WIA Youth program operates on the premise of long-term participation, during which time strong relationships are likely to be formed between youth participants and youth service provider staff. Strong relationships between the staff and youth are a key factor in youth success. When a different youth provider is sought through a competitive process, services may be disrupted and these relationships may be severed. The established relationship may end and youth are more likely to leave the program because of instability.

If this waiver is approved, expected outcomes include:

- Effective case management and follow-up services
- Less movement of youth participants among multiple service providers
- Longer participation of youth
- Effective use of limited resources to best meet the needs of participants

- Reduction in administrative costs of providing services when there are not enough providers in a region to warrant a competitive process
- Longitudinal tracking of data to better evaluate program outcomes

#### **Individuals impacted by the waiver**

Eligible youth, youth service providers and fiscal agents/grant recipients will benefit from this waiver.

#### **Process for monitoring progress in implementation**

Local areas wishing to implement this waiver are required to state so in their Local WIA Plan. State staff review the implementation of this waiver during the annual on-site review of WIA youth programs.

#### **Notice to affected local boards**

Local boards and staffs were notified of the waiver request and given a thirty day direct opportunity to comment on this specific waiver. The comment period ended on May 11, 2012.

#### **Public comment**

The Minnesota Department of Employment and Economic Development (DEED) provided notice of the waiver request to local boards and staffs and posted the waiver request on its website for a thirty day public comment period, which ended May 11, 2012.

No comments from the general public were received. DEED received the following comments from local boards/staff:

##### **WSA 10, City of Minneapolis (Teresa Harrold):**

"WSA 10 supports all five of the waivers proposed, especially the waiver to allow youth enrolled in alternative school programs to be classified as dropouts/out-of-school youth so the definition is the same under WIA and YouthBuild programs."

##### **WSA 8, Southeast MN (Marge Kuethe):**

"Workforce Development, Inc. is supportive of the waiver request."

##### **WSA 7, South Central MN (Heather Gleason):**

"South Central is supportive of the waiver requests."

##### **WSA 5, Central MN (Rita Borchert):**

"Central MN Jobs and Training Services remains supportive of the waiver requests for the existing waivers and extends this support to the new requests."

##### **WSA 6, Southwest MN (Eriann Faris):**

"The SW MN PIC Youth Team supports the waivers."

**WSA 3, Northeast Minnesota (Ray Garmaker):**

"Northeast WSA supports the draft WIA Youth-Specific Waiver requests that Minnesota will submit with the PY2012 Unified Plan."

**WSA 2, Rural MN CEP (Vicki Leaderbrand):**

"RMCEP supports each waiver as they are written."

**WSA 17, Stearns-Benton (Sally Brenden):**

"SBETC has reviewed and supports all of the WIA Youth-Specific Waiver Requests."