



JUN 27 2011

The Honorable John Hickenlooper  
Governor of Colorado  
136 State Capitol  
Denver, Colorado 80203

Dear Governor Hickenlooper:

This letter provides approval of the modification to Colorado's State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act (W-P) for the period July 1, 2011 through June 30, 2012, Program Year (PY) 2011. The Employment and Training Administration (ETA) received the State's proposed modification on April 15, 2011. This letter also responds to Colorado's requests for new and extended waivers.

Training and Employment Guidance Letter (TEGL) No. 17-10, issued on December 30, 2010, provides guidance for states that choose to submit a modification of the existing State Plan or submit requests for new waivers. We appreciate the State's responsiveness to this guidance.

#### Plan Review and Approval

ETA has reviewed the Colorado State Plan modification in accordance with Title I of WIA, the Wagner-Peyser Act, the corresponding regulations, the WIA/W-P Planning Guidance (73 Fed. Reg. 72853, December 1, 2008), and as appropriate TEGL No. 17-10. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is approving the modification to Colorado's State Plan for the period July 1, 2011 through June 30, 2012. The State has already received its formula allotment for the WIA Youth program for PY 2011. The State is eligible to receive WIA formula allotments for Adult and Dislocated Worker programs and W-P initial base program allotments, effective July 1, 2011, under the PY 2011 annual funding agreement for WIA and the PY 2011/Fiscal Year 2012 annual funding agreement for W-P.

#### Performance Levels

Each year, the Regional Administrator negotiates the forthcoming Program Year's performance goals with each state. Negotiations are completed by June 30<sup>th</sup> each year. Once the final goals are established, the Regional Administrator's letter advising the State of the PY 2011 WIA and W-P final performance goals constitutes a modification to the State Plan. ETA will incorporate Colorado's

final performance goals for PY 2011 into the Regional and National Office copies of the State Plan. Please include these final PY 2011 goals in the State's official copy of the State Plan.

### Waivers

As part of Colorado's modification of the WIA/W-P State Plan, and as described in TEGL No. 17-10, the State requested extensions of Colorado's PY 2010 waivers of statutory and regulatory requirements under WIA for PY 2011. The State also submitted a request for new waivers (copy enclosed). The State's request for new waivers is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver extensions as well as its submission of new waiver requests is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

### Extension of Waivers

#### Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State was previously granted a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

#### Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State was previously granted a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted an extension of this waiver through June 30, 2012.

This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the

WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

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

The State was previously granted 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 extension of this waiver through June 30, 2012. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide youth program elements. In utilizing this waiver, the State and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

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

The State was previously granted a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide customized training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State was previously granted a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State is permitted to allow local areas to use up to 20 percent of local Dislocated Worker funds for incumbent worker training only as part of a lay-off aversion strategy. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the State is required to report performance outcomes for any individual served under this waiver in the WIASRD, field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

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

The State was previously granted a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2)

up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide on-the-job training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

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

The State was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

New Waiver Requests

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.

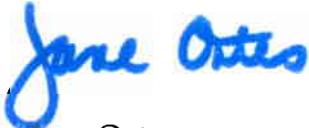
The State is requesting a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted this waiver through June 30, 2012. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a lay-off aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the 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.

The approved waivers are incorporated by reference into the State’s WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State’s WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 09-10, page 3, the State should address the impact these waivers have had on the State’s performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your WIA/W-P State Plan for PY 2011. If you have any questions related to the issues discussed above, please contact Cynthia Green, the Federal Project Officer for Colorado, at (972) 850-4619 or [Green.Cynthia@dol.gov](mailto:Green.Cynthia@dol.gov).

Sincerely,



Jane Oates  
Assistant Secretary

Enclosure

cc: Joseph C. Juarez, Regional Administrator, ETA Dallas Regional Office  
Cynthia Green, Federal Project Officer for Colorado

**ATTACHMENT 3**  
**STATE OF COLORADO WIA WAIVER PLAN FOR PY11**  
**FOR WORKFORCE INVESTMENT ACT and RECOVERY ACT PROGRAMS**  
**MARCH 21, 2011**

The Colorado Department of Labor and Employment (CDLE), the state administrative entity for the Workforce Investment Act (WIA), is submitting one new waiver, plus requesting the extension of 8 current waivers and the termination of two Recovery Act waivers, of the legal requirements under the Workforce Investment Act. This waiver plan addresses the requirements of TEGL 26-09, WIA Waiver Policy and Waiver Decisions for PY2009 and 2010, with new and extended waivers intended for implementation through June 30, 2012.

Should the waiver requests be granted, CDLE will be able to ensure the timely and effective implementation and expenditure of all grant funds in support of individuals and business during this period of slowed economic recovery. This will also provide greater flexibility and encourage increased innovation to drive system transformation through regional sector strategies that create talent pipelines to meet business needs.

This waiver request follows the format identified in WIA Section 189(i)(4)(B) (29 USCA Section 2939(i)(4)(B)) and WIA Final Regulations at 20 CFR Section 661.420(c).

**A. REQUEST TERMINATION OF TWO WAIVERS AS OF JUNE 30, 2011**

**Waiver Relating to Procurement Requirements for Youth  
Summer Employment Providers – Recovery Act Funds Only**

**Statutory Provisions to be Waived:** WIA Section 153, identification of eligible providers of youth activities.

Colorado will not need the extension of this waiver through PY11, as all Recovery Act funds impacted by the waiver will be spent by June 30, 2011.

**Waiver of the Common Measures for Youth Who Participate in the Summer Youth  
Employment Program with Recovery Act Funds**

**Statutory Provisions to be Waived:** WIA Sections 136 (b) (2) (A) (II) and 136 (c) (1) (A) (i) plus 29 CFR 666.100 (a) (3) (i) and (ii), which define the current WIA Title I performance measures. (Note: Colorado has implemented the common measures as a result of a previously granted waiver.)

Colorado will not need the extension of this waiver through PY11, as all Recovery Act funds impacted by the waiver will be spent by June 30, 2011.

## **B. REQUEST APPROVAL OF ONE NEW WAIVER FOR PY11**

### **Use of Rapid Response Funds for Incumbent Worker Training**

**Statutory Provisions to be Waiver:** Section 134(a)(2) that directs states to use Rapid Response funds for rapid response activities and additional assistance to local regions needing to address mass layoffs or plant closures

This waiver would allow the state to use up to 20% of Rapid Response funds for incumbent worker training as part of layoff aversion strategies, per Section 134(a)(3) of the Act. All training under this waiver would be restricted to skill attainment activities, with reporting of performance outcomes in the WIASRD for any incumbent workers served as a result of the waiver. Under 20 CFR 665.220, the State would also develop a policy for Rapid Response incumbent worker training that would establish:

- Worker eligibility for incumbent worker training
- Criteria for identifying how the potential for layoff aversion and the eligible employers would be determined
- Requirements for determining how, besides averting layoff, the skills attained contribute either to the maintenance of employment or increase in employment security for workers

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended to comply with the terms of the waiver.

#### **Goals and Programmatic Outcomes to be Achieved by the Waiver:**

- Increase the development of program strategies that reflect the USDOL goal of system innovation
- Assist the business community with the avoidance of down-sizing and business closures
- Increase worker skill attainment to impact potential business expansion. This would allow the “creation” of new jobs through promotions, resulting in open positions that could be filled by entry level job seekers.

#### **Individuals Impacted by the Waiver:**

- Incumbent workers in danger of layoff, who are in need of skills upgrade training
- Businesses that need assistance to avoid worker layoffs and possible facility closures
- Local boards that need greater flexibility to promote transformation of the system through innovative program models

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado’s network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite

utilizing outcome reports generated from CDLE's statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

## **C. REQUEST EXTENSION OF EIGHT WAIVERS THROUGH JUNE 30, 2012**

### **1. Replacement of WIA Performance Measures with the Common Measures Waiver**

**Statutory Provisions to be Waived:** Section 136(b), which defines the current WIA Title I performance measures.

This waiver allows the State to replace the existing 17 measures (15 core and 2 customer satisfaction) with the Common Measures delineated in TEG 17-05. Beginning with Program Year 2006, the State of Colorado has operated under the nine (9) common measures: Adult Entered Employment, Adult Retention, Adult Average Earnings, Dislocated Worker Entered Employment, Dislocated Worker Retention, Dislocated Worker Average Earnings, Youth Placement in Employment or Education, Youth Attainment of a Degree or Certificate, and Youth Literacy and Numeracy Gains.

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

#### **Goals and Programmatic Outcomes to be Achieved by the Waiver:**

- Provides for a simplified and streamlined measurement system, which is not only more cost effective, but is more transparent to our business partners and service providers.
- Provides for making the system more demand-driven, governed by business-led workforce investment boards. The existing 17 measures are difficult for staff to manage and board members to understand and successfully monitor
- Provides for more integrated management of the Wagner-Peyser, Veterans, and Trade Act Programs, which have already gone to the Common Measures
- Will allow redirection of resources to increased training opportunities and regional workforce strategies by reducing paperwork and labor costs associated with duplicative performance data collection.

**Individuals Impacted by the Waiver:** This waiver will benefit local Boards, One-Stop Centers, employers, customers, and service providers. The following are expected to be additional impacts of the proposed waiver:

- Program participants will benefit because local Boards will have added flexibility and resources to design programs based on regional needs and priorities.
- Businesses will benefit from regional strategies and greater integration of programs

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado's network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE's statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

## 2. Waiver to Use Local Funds for Statewide Activities

**Statutory Provisions to be Waived:** Title I, Subtitle B, Chapter 45, §134(d) regarding use of funds for employment and training activities, as well as implementing regulations found at 20 CFR §663.145.

This waiver allows local workforce development boards (Boards) in Colorado to use funds allocated to them under WIA §§ 157, 158, 132 and 133 in the same manner and fashion as Statewide Activity funds under WIA §§ 159 and 134 and implementing regulations found at 20 CFR §667.130. These funds are known as Local Activity Funds. CDLE understands that in order to receive approval for extension of this waiver, the limit on the amount of funds that are set aside is not to exceed 10% of the Adult or 20% of the Dislocated Worker (or 10% of Adult and 10% of Dislocated Worker ) funds allocated to each local region. In addition, CDLE is aware that should this waiver be extended:

- WIA eligibility and the Common Measures cannot be waived for any local funds set aside for statewide activities; and performance outcomes must be reported through the WIASRD
- No local formula youth funds may be set aside
- All funds set aside for statewide activities must be used for incumbent worker training related to documented layoff aversion strategies

- Any adult funds that are set aside must be targeted to low income adults
- All funds must be spent on skill attainment activities

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

**Goals and Programmatic Outcomes to be Achieved**

- Increase the development of program strategies that reflect the USDOL goal of system innovation
- Increase the development of strategies to assist the business community with avoidance of layoffs and business closures

**Individuals Impacted by the Waiver**

- Incumbent workers in danger of layoff, who are in need of skills upgrade training
- Businesses that need assistance to avoid worker layoffs and possible business closures
- Local boards that need greater flexibility to promote transformation of the system through innovative program models

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado’s network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE’s statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

**3. Waiver of the Limitation on Transfer of Funds  
Between the Adult and Dislocated Worker Programs**

**Statutory Provisions to be Waived:** WIA Section 133(b)(4) (29 USCA Section 2963(b)(4)) and WIA Final Regulations at 20 CFR Section 667.140, providing that with the approval of the governor, Local Workforce Investment Boards (LWIBs) may transfer up to 20% of a program year allocation for adult employment and training activities, and up to 20% of a program year

allocation for dislocated worker employment and training activities between the two programs.

Colorado's original waiver request, to increase the 20% transfer limit to 40%, was further expanded to allow a 100% transfer of funds between the Adult and Dislocated Worker programs, provided the State continued to meet or exceed performance standards for both programs. CDLE is aware that current USDOL policy will not allow the transfer to exceed 50% of the local allocation for either the regular Adult or Dislocated Worker program; or to exceed 30% of the local allocation for either the ARRA Adult or ARRA Dislocated Worker program.

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

**Goals and Programmatic Outcomes to be Achieved by the Waiver:** The increased flexibility and control to transfer funds between the Adult and Dislocated Worker programs resulting from the current waiver, has allowed local regions to further customize service delivery, maximize use of limited funds, and redirect resources where demand for services is greatest. In particular, this waiver has allowed local regions the flexibility to serve a greater number of low income adults when the unemployment rate was low and layoffs were limited. Conversely, during the last 12 months, when the economic downturn has resulted in increased layoffs, the transfer authority has allowed regions to redirect resources to serve the increasing numbers of dislocated workers. As the current economic swings continue, such flexibility will be critical to the rapid deployment of strategies to address worker and employer needs. Should this waiver extension be granted, Colorado would expect the goals and outcomes described above to apply for the next program year and continue providing significant benefit to local and regional economies.

**Individuals Impacted by the Waiver:** This waiver will benefit local Boards, One-Stop Centers, employers, customers, and service providers. The following further describes impacts of the proposed waiver:

- Program participants will benefit because local Boards will have added flexibility to design programs based on local needs and priorities.
- More customers will have access to employment and training services that are part of Colorado's sector strategies initiative
- Employers will receive additional services to address their needs for a skilled workforce

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado's network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE's statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

#### **4. Youth Program Element Procurement Waiver**

**Statutory Provisions to be Waived:** WIA section 153 requirements to competitively select providers of youth program elements which applies to section 159(c)(2)(D),(G), and (I); and 20 CFR 664.410(a)(4), (7), and (9)

This waiver allows elimination of the competitive selection of providers for the following youth program elements:

- Paid and unpaid work experience, including internships and job shadowing
- Supportive services
- Follow-up services for not less than 12 months after the completion of participation

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

**Goals and Programmatic Outcomes to be Achieved by the Waiver:** The greater flexibility resulting from this waiver has allowed workforce centers to improve the continuity of services to youth, implement a more cost-effective and integrated service delivery system, and develop stronger ties with work experience/internship host agencies and employers. In the same manner, this waiver promoted the rapid implementation of the summer youth jobs and year round youth programs mandated by the American Recovery and Reinvestment Act of 2009. Extension of this waiver will allow Colorado to continue achieving efficiencies in the delivery of all youth services; keep the administrative costs of competitive procurement processes at a minimal level; and direct more funds to program activities that lead toward performance improvement.

#### **Individuals Impacted by the Waiver**

- Local boards needing to minimize administrative costs and redirect those funds to additional program activities that assist youth participants and lead to performance improvement
- Older, out-of-school, low-income and disconnected youth, who have demonstrated the need for additional youth program services
- Community organizations seeking to partner with workforce boards to meet the needs of disconnected youth populations that their current resources alone cannot address

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado's network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE's statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

#### **5. Waiver of Limits on Employer Match for Customized Training**

**Statutory Provisions to be Waived:** WIA Section 101(8) (29 USCA Section 2801(8)), which defines customized training and requires employers to pay not less than 50% of the cost of training.

Colorado is proposing a sliding scale for employer match that will range from 0 to 50 percent, based on criteria developed by the State and local workforce regions and an assessment of a particular business' need for assistance with economic competitiveness in the current economic downturn. Allowing businesses and industry to apply a sliding scale to their match dollars will increase employer participation in WIA customized training and address the primary reason for their limited participation in customized training during this economic downturn. CDLE will issue policy guidance, with input from the local workforce investment regions, regarding implementation of the sliding scale, which will adhere to the principles of training workers in high-demand, higher skill, and higher wage occupations.

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

#### **Goals and Programmatic Outcomes to be Achieved by This Waiver**

- Maximize the flexibility needed to ensure speedy implementation of formula programs and discretionary grants
- Increase business usage of the workforce system
- Provide greater incentives for employers to retain and retrain current employees to avoid layoffs; and to create new jobs

- Create additional opportunities for unemployed and underemployed workers to speed their return to full-time employment
- Promote partnerships with training providers to create industry responsive training programs

**Individuals Impacted by the Waiver**

- Unemployed and underemployed workers who do not have transferrable or marketable skills
- Incumbent workers in danger of layoff due to business downturn or need for updated skill sets
- Businesses needing to retain current workers, and/or hire additional workers to sustain their productivity, who do not have the resources to do so
- Local boards needing greater flexibility for timely implementation of economic stimulus funding programs and initiatives
- Training providers needing additional resources to build capacity to respond to industry needs

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado’s network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE’s statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

**6. Waiver of Limits on Employer Reimbursement for On-the-Job Training**

**Statutory Provisions to be Waived:** WIA Section 101(31)(B) provides reimbursement to the employer for On-the-Job Training (OJT) of up to 50 percent of the wage rate of the participant, and for the extraordinary costs of providing for the training and additional supervision related to the training.

Colorado is proposing a sliding scale of reimbursement to the employer of up to 90% of the wage rate and extraordinary costs defined by the law, based on the following criteria:

- Up to 90%: Employers with 50 or fewer employees

- Up to 75%: Employers with 51-250 employees
- Up to 50%: Employers with more than 250 employees

Allowing businesses and industry to be reimbursed on a sliding scale will increase employer participation in WIA On-the Job Training and address the primary reason for their limited participation in OJT during this economic downturn. CDLE will issue policy guidance, with input from the local workforce investment regions, regarding implementation of the sliding scale, which will adhere to the principles of training workers in high-demand, higher skill, and higher wage occupations.

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

**Goals and Programmatic Outcomes to be Achieved by This Waiver**

- Maximize the flexibility needed to ensure speedy implementation of formula and discretionary grants
- Increase business usage of the workforce system
- Provide greater incentives for employers to retain and retrain current employees to avoid layoffs; and to create new jobs
- Create additional opportunities for new workers, and for unemployed and underemployed workers to speed their return to full-time employment
- Reduce the length of time for a UI claim, and reduce the need for usage of other public assistance benefits

**Individuals Impacted by the Waiver**

- Unemployed and underemployed workers who do not have transferrable or marketable skills
- Individuals entering the workforce for the first time
- Hard-to-serve low-income youth who are unable to compete for limited job openings
- Businesses needing to retain current workers, and/or hire additional workers to sustain their productivity, who do not have the resources to do so
- Local boards needing greater flexibility for timely implementation of economic stimulus funding programs and initiatives

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado's network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE's statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** CDLE actively sought the input of local regions regarding this waiver. The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

### 7. ETPL Initial Eligibility Time Limit Waiver

**Statutory Provisions to be Waived:** WIA Section 122(c)(5) and Title 20 CFR 663.530 dealing with the time limit for initial eligibility that is part of the Eligible Training Provider List (ETPL) requirements

Colorado is proposing to extend the period of initial ETPL eligibility for all training programs currently in their initial eligibility period and those approved for initial eligibility by June 30, 2011. WIA regulations allow an initial eligibility period that does not exceed 18 months, and can be extended up to six additional months in the limited circumstance of subsequent performance data not being available.

**a. Application of Waiver to All Training Programs:** Reporting of subsequent eligibility on all students has continued to be problematic for community colleges and many of the private vocational training providers. In some instances providers have elected not to participate in the ETPL because the data cannot be provided, thus limiting customer choice, particularly in rural areas. Expanding training options is a critical part of all workforce programs and requires flexibility not allowed under the current law and regulations.

**b. Application of Waiver to E-Learning Programs:** In the case of e-learning, a new and growing segment of post secondary education, schools are experiencing even greater difficulty in meeting the ETPL subsequent eligibility reporting requirements. To increase the number of e-learning opportunities for all WIA customers, CDLE is requesting up to a 24-month period of initial eligibility for all e-learning programs, given that WIA formula funds may be utilized in addition to discretionary grant funds for the costs of e-learning ITAs.

**State or Local Statutory Regulatory Barriers:** There are no state or local statutory or regulatory barriers to implementing the proposed waiver. State Workforce Development Board and CDLE policies are currently in compliance with Federal guidelines. However, upon notification of approval of this waiver request, CDLE policies will be amended as appropriate to comply with the terms of the waiver.

#### **Goals and Programmatic Outcomes to be Achieved by the Waiver**

- Maximize the flexibility needed to ensure speedy implementation of all formula and discretionary grants

- Increase training opportunities for unemployed and incumbent workers, as well as hard-to-serve youth and adults, particularly in rural areas that have limited access to classroom training programs
- Encourage development of just-in-time e-learning programs by training providers to support sector strategies in high-growth industries
- Increase efficiencies in performance reporting

**Individuals Impacted by the Waiver**

- Rural WIA participants with limited access to classroom training opportunities
- Hard-to-serve youth and adults who need the flexibility of e-learning options that allow self-paced learning
- Businesses requiring the development of just-in-time training programs to meet their needs for trained workers
- Unemployed, underemployed, and incumbent workers that need 24/7 access to training opportunities so that they can continue to earn wages while in training
- Local boards that need greater flexibility for timely implementation of economic stimulus funding programs and initiatives

**Process Used to Monitor Progress in Implementing the Waivers:** CDLE has a long standing, comprehensive monitoring and performance accountability system that measures and evaluates results for job seekers and employers accessing Colorado’s network of One-Stop centers. On a monthly and quarterly basis, CDLE reviews and analyzes client enrollment and service levels, program expenditures, and performance outcomes. In addition, State program monitors conduct quarterly reviews designed to assure that contract requirements are being met for all WIA programs. On an annual basis, comprehensive compliance monitoring is conducted onsite utilizing outcome reports generated from CDLE’s statewide databases. Should this waiver request be granted, CDLE will ensure regular review of WIA programs and discretionary grants to monitor the outcomes and impacts of this waiver authority.

**Process for Notice of Local Boards and Opportunity to Comment:** CDLE actively sought the input of local regions regarding this waiver. The waiver will be published for a period of 25 days, beginning March 21, 2011, and ending April 15, 2011, on the public web site maintained by the Colorado Department of Labor and Employment and the Colorado Workforce Development Council, allowing for public comment on its content and potential impact. In addition, a copy of the waiver will be available for public inspection at CDLE offices, and electronic copies of the waiver will be sent via e-mail to local Boards and workforce centers. Comments received will be provided shortly after April 15, 2011.

**8. Limitations on Use of Eligible Training Provider System for Older and Out-of-School Youth Waiver**

**Statutory Provisions to be Waived:** WIA 20CFR 664.510 prohibiting use of Individual Training Accounts (ITAs) for older and out-of-school youth.

Colorado is proposing that local workforce regions have the option to offer customer choice regarding training providers and use the same training awards process for older and out-of-school youth as is currently in place for adults and dislocated workers. For this to happen at the