



**JUN 4 - 2012**

The Honorable Martin O'Malley  
Governor of Maryland  
State House  
100 State Circle  
Annapolis, Maryland 21401

Dear Governor O'Malley:

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

#### Extension of State Plan

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

#### Performance Levels

Maryland requested to temporarily extend its existing PY 2011 WIA and W-P performance goals for a portion of PY 2012. ETA has incorporated these performance goals, identified as PY 2012 performance goals, into the Regional

in the State's official copy of the State Plan. As required by TEGL 21-11, the State must renegotiate its new PY 2012 goals upon submission of its full State Plan.

### Waivers

As part of the State's extension of the WIA/W-P State Plan, and as described in TEGL No. 21-11, the State requested temporary extensions of Maryland's PY 2011 waivers of statutory and regulatory requirements under WIA for PY 2012. The State also submitted a request for a new waiver (copy enclosed). The State's request for a new waiver is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver extensions as well as its submission of a new waiver request is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

### 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 December 31, 2012. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

#### Waiver to permit the 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 December 31, 2012.

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

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

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

The State was previously granted a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted an extension of this waiver through December 31, 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 December 31, 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 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 December 31, 2012. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the 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 December 31, 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 Request

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 is requesting a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted this waiver effective July 1, 2011 through December 31, 2012.

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. 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 receiving your full State Plan for PY 2012 and working together as you implement it. If you have any questions related to the issues discussed above, please contact Linda A. Avila, the Federal Project Officer for Maryland, at 215-861-5227 and Avila.Linda@dol.gov.

Sincerely,



Jane Oates  
Assistant Secretary

Enclosure

cc: Lenita Jacobs-Simmons Regional Administrator, ETA Philadelphia  
Regional Office  
Linda A. Avila, Federal Project Officer for Maryland

April 27, 2012

Ms. Lenita Jacobs-Simmons  
Regional Administrator  
U.S. Department of Labor  
Employment & Training Administration  
The Curtis Center, Suite 825 East  
170 South Independence Mall West  
Philadelphia, Pennsylvania 19106-3315

Dear Ms. Jacobs-Simmons:

Maryland is requesting an extension on the submission of its integrated State Plan until September 15, 2012. This additional time will allow for the comprehensive process of integrating the local plans and strategies of our 12 workforce areas, as well as ensuring the appropriate public comment periods. Additionally, the State is requesting an extension of Maryland's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) activities, previously approved Waivers for Program Year (PY) 2012,

The March 27, 2012, Training and Employment Guidance Letter (TEGL) No. 21-11 provides the states options to have approved plans in place for Program Years 2012-2016. In addition, the current, previously approved waivers are summarized within along with a brief rationale for requesting an extension.

**New Waiver Request**

In compliance with WIA Section 189(i) (4) (B) and 29 CFR 661.420(c), please accept the following request for waiver. This Waiver is to reduce the number of statewide activities required and the requirement to provide incentive grants to local areas.

The intent of this Waiver request is to reduce the number of statewide activities required under the Workforce Investment Act Law for the duration of the Governor's Reserve reduction from 15 percent to 5 percent. Without this funding, we will not be able to complete these activities, and will experience difficulties in completing other mandatory activities that we are not allowed to waive.

**A. 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.

PHONE: 410.767-2999 - FAX: 410.333.5355 - INTERNET: [www.dllr.state.md.us](http://www.dllr.state.md.us)

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Martin O'Malley, Governor - Anthony G. Brown, Lt. Governor - Alexander M. Sanchez, Secretary

**B. State or Local Statutory or Regulatory Barriers**

There are no state statutory, local statutory or regulatory barriers related to this waiver request.

**C. Goals of the Waiver and Expected Programmatic Outcomes if Waiver is Granted**

The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of 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 activities:

- Providing technical assistance to local areas that fail to meet local performance measures. (WIA Section 134(a)(2)(B)(vi) and 20 C.F.R. 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 C.F.R. 665.200 (b)(1), and youth activities (20 C.F.R. 665.200 (b)(4));
- Assisting in the establishment and operation of One-Stop delivery systems, in accordance with the strategy described in the State workforce investment plan. (WIA sec. 112(b)(14);
- Operating a fiscal and management accountability information system, based on guidelines established by the Secretary after consultation with the Governors, chief elected officials, and One-Stop partners, as required by WIA section 136(f). (WIA sec. 129(b)(2), 134(a)(2), and 136(e)(2).

Our goal in seeking this waiver is to ensure that the state may prioritize the use of the Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system, releasing us from the requirements below.

**Individuals impacted by the Waiver**

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

**Process for monitoring progress in implementation**

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.

Our goal in seeking this waiver is to ensure that the state may prioritize the use of the Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system releasing us from the requirements below.

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

The goal of 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 room staff and training programs.

#### **D. Description of Individuals Impacted by the Waivers**

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

**WIA Section 134(a) (2) (B) (iii) and 20 CFR 665.200(e) requiring provision of incentive grants to local areas;**  
Depending upon the Local Workforce Investment Area customers will be impacted by a reduction in funding available for direct services. Some of Maryland's LWIAs rely on these funds to pay for training of staff. The expectation is there will be minimal on impact on individual customers as service providers received a slight increase in formula allocations.

#### **E. 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 frequent contact with the ETA Regional Project Officer and the State of Maryland monitoring, performance and accountability system.

#### **F. Notice to affected local boards and public comment**

Local workforce administrative entities will be provided a copy of this proposed waiver request as well as the US DOL/ETA's reply to this request. Local areas have already been notified (during a recent WIA Meeting) that no incentive grants will be made in Program Year 2012 due to the loss of Governor's 10 Percent WIA funds.

#### **G. Extension request for previously approved Waivers**

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

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

**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**

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**Waiver to permit the State to replace the performance measures at WIA Section 136 (b) with the Common Measures**  
Maryland was previously granted a waiver that allows the State to replace the 17 performance measures under WIA Section 136 (b) with the common measures.

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

Maryland was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530.

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

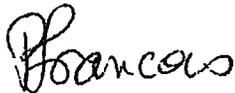
Maryland was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older and out-of-school youth program participants.

**Public Comment**

The proposed new waiver and extension of previous waivers request will be posted on the agency's official website with instructions regarding the submittal of comments and closing date for comments.

Should you have questions, please contact Paulette Francois, Assistant Secretary, Division of Workforce Development and Adult Learning at 410 767-2999 or [pfrancois@dllr.state.md.us](mailto:pfrancois@dllr.state.md.us).

Sincerely,



Paulette Francois  
Assistant Secretary  
Department of Labor, Licensing & Regulation  
Division of Workforce Development & Adult Learning

CC: Kim Vitelli, U.S. Department of Labor  
Alexander C. Sanchez, Secretary, DLLR  
Ellen Flowers-Fields, Deputy Assistant Secretary, DLLR/DWDAL  
Dorothee Norton, Director, Fiscal, DLLR/DWDAL  
Sheree Finley, Director, Office of Workforce Development

## Fox, Sean - ETA

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**From:** Avila, Linda - ETA  
**Sent:** Thursday, May 03, 2012 3:15 PM  
**To:** Fox, Sean - ETA; Avila, Linda - ETA  
**Subject:** FW: Maryland's State Plan letter

Sean,

I received this response from Maryland.  
What do you think about the evaluation response?

Thank you for your cooperation.

Linda A. Avila  
FPO

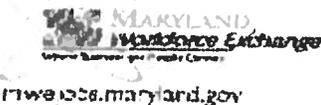
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**From:** Ellen Flowers-Fields [<mailto:eflowersfields@dllr.state.md.us>]  
**Sent:** Thursday, May 03, 2012 2:30 PM  
**To:** Avila, Linda - ETA  
**Cc:** Sheree Finley; Miller, Leo - ETA  
**Subject:** RE: Maryland's State Plan letter

Hi Linda,

Per your e-mail, I am assuming this email reply is sufficient as a response to your request. Please advise if additional information is needed. Please see my responses to your inquiries below.

*Ellen Flowers-Fields*  
Deputy Assistant Secretary  
Division of Workforce Development & Adult Learning  
Department of Labor, Licensing & Regulation  
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**From:** Avila, Linda - ETA [<mailto:Avila.Linda@dol.gov>]  
**Sent:** Thursday, May 03, 2012 2:11 PM  
**To:** Ellen Flowers-Fields

**Cc:** Sheree Finley; Avila, Linda - ETA; Miller, Leo - ETA  
**Subject:** RE: Maryland's State Plan letter

Ellen,  
The Region and National Office have reviewed Maryland's letter to extend the State WIA and Wagner-Peyser State Plan until September 15, 2012.

We would appreciate it if Maryland can send an email indicating that the State wants to extend the current negotiated performance measures into Program Year 2012. Please be advised that the State of Maryland would like to request the extension of the currently negotiated performance measures through Program Year 2012.

We are also requesting that you clarify that the only area that Maryland wants waive is the provision of local incentives with State-Set- Aside funds. This is correct  
Please clarify if the State plans to conduct the evaluation of the workforce system and/or it wants to waive this requirement? Maryland has decided that it will continue to retain its role in assessing the effectiveness of the workforce training programs. Our evaluation process includes the examination of outcomes related to placements for people accessing ITA's and an analysis of the utilization of funding by LWIA's in relationship to the number of individuals served. If additional evaluation is required under this area, we need clarification on that so that we can ensure we are meeting all expectations.

We would appreciate it if you can provide this information by May 7, 2012.

Thank you for your cooperation.

Linda A. Avila  
Federal Project Officer  
U.S. Department of Labor  
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"Live your dream....make a difference."