



**JUN 4 - 2012**

The Honorable Bob McDonnell  
Governor of Virginia  
State Capitol  
Third Floor  
Richmond, Virginia 23219

Dear Governor McDonnell:

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

#### Extension of State Plan

Virginia'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 Virginia's State Plan for WIA Title I and the Wagner-Peyser Act into PY 2012, July 1, 2012 through December 31, 2012. The Commonwealth has already received its formula allotment for the WIA Youth program for PY 2012. The Commonwealth is eligible to receive WIA formula allotments for Adult and Dislocated Worker programs and W-P initial base program allotments under the PY 2012 annual funding agreement for WIA and the PY 2012/Fiscal Year 2013 annual funding agreement for W-P.

#### Performance Levels

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

and National Office copies of the State Plan. Please include these PY 2012 goals in the Commonwealth's official copy of the State Plan. As required by TEGL 21-11, the Commonwealth must renegotiate its new PY 2012 goals upon submission of its full State Plan.

### Waivers

As part of the Commonwealth's extension of the WIA/W-P State Plan, and as described in TEGL No. 21-11, the Commonwealth requested temporary extensions of Virginia's PY 2011 waivers of statutory and regulatory requirements under WIA for PY 2012. The disposition of the Commonwealth's waiver extensions is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

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

The Commonwealth was previously granted a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The Commonwealth is granted an extension of this waiver through December 31, 2012. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

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

The Commonwealth was previously granted a waiver that allows the Commonwealth to replace the 17 performance measures under WIA Section 136(b) with the common measures. The Commonwealth is granted an extension of this waiver through December 31, 2012.

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

performance measures to negotiate goals and report outcomes for the WIA Youth program. Workforce Investment 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 Commonwealth 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 Commonwealth is granted an extension of this waiver through December 31, 2012. Under this waiver, the Commonwealth 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 Commonwealth 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 WIA Section 134(d)(4)(G) to allow the local areas within the Commonwealth to contract for training with WIA funds instead of using Individual Training Accounts (ITA's).

The Commonwealth was previously granted a waiver to allow local area workforce boards to develop class size contracts with training providers outside of the required ITA process for training provision. The Commonwealth may do this without a waiver. The Fiscal Year (FY) 2010 Appropriations Act and subsequent Appropriations Acts allow funds to be used to provide training through class-size contracts. Specifically, the Appropriations Act states "that a local board may award a contract to an institution of higher education or other eligible training provider if the local board determines that it would facilitate the training of multiple individuals in high demand occupations, if such contract does not limit customer choice." The Commonwealth must follow competitive procurement requirements when pursuing this option.

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

The Commonwealth was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The Commonwealth is granted an extension of this waiver through December 31, 2012. Under the waiver, the Commonwealth is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also

allows the Commonwealth to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

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

The Commonwealth was previously granted a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The Commonwealth is granted an extension of this waiver through December 31, 2012. Under this waiver, the Commonwealth is permitted to allow local areas to use up to 20 percent of local Dislocated Worker funds for incumbent worker training only as part of a layoff 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 Commonwealth is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver 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 and other statewide activities.

The Commonwealth was previously granted a waiver to permit use of rapid response funds for incumbent worker training and other statewide activities. The Commonwealth is granted an extension of this waiver through December 31, 2012. Under this waiver, the Commonwealth is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy and the following statewide activities that enhance services to dislocated workers and outlined in the waiver request: assistance to local workforce areas in the provision of employment and training services and employer services. The purpose of this waiver is to enhance services to dislocated workers, and so must not be used as a means to deliver WIA services to individuals who would not otherwise be served under a WIA program. The Commonwealth is required to report performance outcomes for any participant,

including 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. 31-09, "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 Commonwealth was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The Commonwealth is granted an extension of this waiver through December 31, 2012. Under this waiver, the Commonwealth can use ITAs for older youth and out-of-school youth program participants. The Commonwealth must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The Commonwealth should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

The approved waivers are incorporated by reference into the Commonwealth's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the Commonwealth's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the Commonwealth should address the impact these waivers have had on the Commonwealth's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to receiving your full State Plan for PY 2012 and working together as you implement it. If you have any questions related to the issues discussed above, please contact Toby Willis, the Federal Project Officer for Virginia, at 215-861-5524 and Willis.Tobby@dol.gov.

Sincerely,

  
Jane Oates  
Assistant Secretary

Enclosure

cc: Lenita Jacobs-Simmons, Regional Administrator, ETA Philadelphia  
Regional Office  
Tobby Willis, Federal Project Officer for Virginia



April 5, 2012

Ms. Lenita Jacobs-Simmons, Regional Administrator  
United States Department of Labor  
Employment and Training Administration, Region 2  
The Curtis Center, Suite 825 East  
170 South Independence Mall West  
Philadelphia, PA 19106-3315

Dear Lenita:

I am writing in response to Training and Employment Guidance Letter (TEGL) No. 21-11, Requirements for 2012 State Workforce Plans, dated March 27, 2012. The Commonwealth of Virginia hereby requests a temporary extension of its current Workforce Investment Act/Wagner-Peyser (WIA/W-P) State Plan and current negotiated performance targets into Program Year 2012. In accordance with the provisions of the TEGL, Virginia requests approval to submit its five-year state plan on September 15, 2012.

We are encouraged by the modifications to state plan requirements as outlined in the TEGL. The requested extension will allow us to engage in an integrated planning process that moves beyond compliance to a more meaningful strategic approach for the Commonwealth's public workforce system. This extension will provide our team with the necessary time to collaborate with a wide variety of workforce stakeholders, to include Local Workforce Investment Boards (WIBs), business and labor associations, community-based organizations, adult and secondary education representatives, and our state WIB. The extension will also enable us to closely coordinate our planning efforts with the Governor's newly appointed Director of Education and Workforce.

Please find enclosed a list of currently approved waivers that we request an extension of, through September 15, 2012. I welcome the opportunity to discuss this or other matters with you at your convenience. Thank you and your staff for your continued support and assistance in administering the WIA and related efforts in Virginia.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Craig Herndon".

Dr. M. Craig Herndon  
Vice Chancellor for Workforce Development

## **Request for Extension of Waivers**

In accordance with the provisions of Training and Employment Guidance Letter (TEGL), 21-11, Virginia is seeking extension of all existing WIA waivers that were approved by the US Department of Labor thru June 30, 2011. Virginia seeks an extension of these waivers thru September 15, 2012. The list of current waivers is summarized as follows:

**Waiver #1** – 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. (Transfer authority up to 50%)

**Waiver #2** – Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training. (Up to 20% of dislocated worker funds, only where part of layoff aversion strategy).

**Waiver #3** – 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 and other statewide activities. (Incumbent worker training as part of a layoff aversion strategy and activities to assist local workforce areas in the provision of employment and training services and employer services).

**Waiver #4** – Waiver of the prohibition at 20CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

**Waiver #5** – Waiver to permit the State to replace the performance measure at WIA Section 136(b) with the common measures.

**Waiver #6** – Waiver of the provision at 20CFR Part 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

**Waiver # 7** – Waiver of WIA section 123 requirements to competitively select providers of youth program elements which applies to section 129(c)(2)(D),(G), and (I); and 20 CFR 664.410(a)(4), (7), and (8),(9), and (10).

**Waiver # 8** – Waiver of WIA Section 134 (d)(4)(G)(i); WIA Implementing Rule 20 CFR Part 663.400; and WIA Implementing Rule 20 CFR Part 663.430. Exemption from Individual Training Accounts - Class Sized Training