

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 an extension of Minnesota'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 Minnesota'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

Minnesota's existing State Plan will expire on June 30, 2012. 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 the Employment and Training Administration (ETA) is temporarily extending the approval of those portions of Minnesota's Unified State Plan that relate to WIA Title I and the Wagner-Peyser Act into PY 2012, for the period July 1, 2012 through December 31, 2012. The State already received its formula allotment for the WIA Youth program for PY 2012. The State is eligible to receive WIA formula allotments for the Adult and Dislocated Worker programs under the PY 2012 Annual Funding Agreement. The W-P Annual Funding Agreement for the PY 2012/Fiscal Year 2013 will provide the W-P Act initial base allocation of PY 2012 funds.

Unified Plan Partner Programs

Minnesota's Unified State Plan includes the Vocational Rehabilitation Program (VR), Adult Education and Family Literacy Programs (AEFL), Temporary Assistance for Needy Families (TANF), Food Stamp and Employment Training Program (FSET), and

NCURRENCES	Initials <	AEA	HF	CO	AA/CO				
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	Office Symbol <	DWASWS	DWASWS	DWASWS	OWI	OASET	OASET		

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 Veterans' Employment and Training Service (VETS) have the authority to deem complete or approve those portions of the Unified State Plan relating to their respective programs. We have advised these Federal agencies that ETA is extending the approval of those portions of the Minnesota Unified State Plan that relate to Title I of WIA and the Wagner-Peyser Act, and provided their offices with a copy of this letter.

The Jobs for Veterans' State Grant (JVSG) Plans approved by VETS through a separate application process for Fiscal Years (FY) 2010-2014 are considered to be incorporated into your Unified State Plan by reference only. Therefore, your Unified Plan needs to refer to the FY 2010-2014 JVSG Plan, indicating that approval by VETS of the grant modification for the period beginning October 1, 2012 is pending.

The Minnesota Unified Plan also includes Trade Act Programs (TAA), the Senior Community Service Employment Program (SCSEP), and the Unemployment Insurance (UI) Program. ETA exercises administrative authority over these programs, and those portions of the Minnesota Unified State Plan that relate to TAA, SCSEP, and UI Programs are approved through December 31, 2012.

Performance Levels

Minnesota 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 Unified State Plan. Please include these PY 2012 goals in the State's official copy of the Unified 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 Act Unified State Plan, and as described in TEGL No. 21-11, the State requested temporary extensions of Minnesota's PY 2011 waivers of statutory and regulatory requirements under WIA for PY 2012. The State also submitted a request for new waivers (copy enclosed). The State's requests for new waivers are 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 134(a)(2)(B)(ii) and 20 CFR 665.200(d) to exempt the state from the requirement to conduct evaluations.

The State was previously granted 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. The State is granted an extension of this waiver through December 31, 2012.

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 was previously granted 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 an extension of this waiver through December 31, 2012.

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 was previously granted a waiver of the requirement to disseminate training provider performance and cost information. The State is granted an extension of this waiver through December 31, 2012.

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 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 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 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 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 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 December 31, 2012. 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 was previously granted a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted an extension of this waiver through December 31, 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 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 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.

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 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 December 31, 2012. 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.

New Waiver Requests

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

The State has 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 waiver is effective from May 1, 2012 through September 30, 2012. This waiver applies only to WIA Youth performance requirements; the State must comply with any reporting requirements established through TANF. 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 has 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)(2)(I) and 20 CFR 664.450(b) 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, 2012 through September 30, 2012, and only applies to youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities. Youth transitioning to year-round WIA Youth services after September 30, 2012 must have in place an objective assessment and individual service strategy as required by WIA. The State may not apply this waiver to summer youth employment activities funded solely with WIA formula funds.

Waiver of the provision at 20 CFR 664.310 that defines youth dropout status.

The State has requested a waiver of 20 CFR 664.310 so that youth who are enrolled in alternative school programs at the time of registration can be classified as dropouts/out-of-school youth. ETA denies this waiver. Eligibility provisions are excluded from the WIA waiver authority per Sec. 189(i)(4)(A)(i). Furthermore, high school drop-out data suggest that a considerable population of out-of-school youth is present in the State who could be served by WIA Youth funds.

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 that 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 Unified State Plan for PY 2012 and working together as you implement your State workforce strategies. 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

Enclosure

cc: Byron Zuidema, Regional Administrator, ETA Chicago Regional Office
Carl Stahlheber, Federal Project Officer for Minnesota