



JUN 27 2011

The Honorable Jerry Brown
Governor of California
State Capitol; Suite 1173
Sacramento, California 95814

Dear Governor Brown:

This letter provides approval of an extension of California's current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan for Program Year (PY) 2011. This letter also provides approval of extensions for California's waivers. Training and Employment Guidance Letter (TEGL) No. 17-10, issued on December 30, 2010, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2011.

Extension of State Plan

California's existing State Plan will expire on June 30, 2011. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that the Employment and Training Administration (ETA) is extending the approval of California's State Plan for WIA Title I and the Wagner-Peyser Act for PY 2011, 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 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 determines the forthcoming Program Year's performance goals with each state. Once the final goals are determined, 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 California'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 the State's extension of the WIA/W-P State Plan, and as described in TEGL No. 17-10, the State requested extensions of California's PY 2010 waivers

of statutory and regulatory requirements under WIA for PY 2011. The disposition of the State's waivers are 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 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 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)(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 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 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 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 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 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 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.

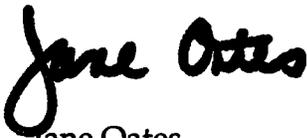
Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

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 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.

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 TEGP 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 State Plan for PY 2011. If you have any questions related to the issues discussed above, please contact Carol Padovan, the Federal Project Officer for California, at 415-625-7946 or Padovan.Carol@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosure

Cc: Richard Trigg, Administrator, ETA San Francisco Regional Office
Carol Padovan, Federal Project Officer for California

State of California
Workforce Investment Act Request for Extension of Current Waivers
for the Period of July 1, 2011 - June 30, 2012

The California Workforce Investment Board requests a one-year extension of all eight (8) of the currently approved waivers included in California's Strategic Plan for Title I of the WIA of 1998 and the Wagner-Peyser Act. These waiver extension requests are as follows:

1. Subsequent Eligibility of Training Providers
WIA Section 122(c) and CFR 663.530

This waiver request continues the suspension of subsequent eligibility certification requirements of WIA Section 122(c). Section 122 of the WIA requires states to establish a list of providers who are eligible to receive WIA funds for training services provided to adults and dislocated workers and establish two separate procedures for the Eligible Training Provider List (ETPL): initial eligibility and subsequent eligibility.

With the exception of certain types of customized and on-the-job training, only training providers through their training programs listed on the ETPL are eligible to receive WIA funds to train adults and dislocated workers. In order to be listed on the ETPL, training providers must submit an application to the local board in any Local Workforce Investment Area (local area) in which the training provider desires to offer programs and services.

The EDD is responsible for accepting information on training providers from Local Workforce Investment Boards (Local Boards), compiling a single statewide list of eligible training providers and disseminating the statewide ETPL to Local Boards for distribution to their One-Stop Career Centers.

Section 122 also requires a subsequent eligibility determination. This requires the submission of performance data for each individual who attended the training program, whether or not these individuals' training was funded by WIA. Community College programs are also offered through the ETPL, but due to confidentiality and data sharing impediments cannot provide the required performance data.

The Department of Labor has consistently granted this waiver to a majority of states. At this time, the performance requirements are an impediment to the participation of the State's educational system on the ETPL. As such, the primary goal in requesting the extension of the waiver is to continue to increase the availability of training and the accountability of training providers so to enhance the customer choice and the use of Individual Training Accounts (ITA).

**2. Youth WIA Dollars to fund Individual Training Accounts for Older Youth
20 CFR 664.510**

A youth is defined in WIA as those being between the ages of 14-21 years of age. As such, the older youth participant may be served as a youth, adult, or dislocated worker. 20 CFR 664.510 restricts the use of Individual Training Accounts to those 19 yrs and above.

This waiver of 20 CFR 664.510 continues to help maximize the service capacity of the One-Stop Career Centers by allowing the use of Youth funds to serve older youth, who are focused on employment, to have the same advantage of ITAs as adult and dislocated workers. Without this waiver, the workforce system would be forced to co-enroll older youth in the adult and dislocated worker programs to provide training opportunities through the use of ITAs. The continuation of this waiver streamlines customer service and avoids the need for an unnecessarily bureaucratic process.

3. Use of Local Formula Funds for Incumbent Worker Training WIA Section 134(a)

A majority of the WIA Adult, Dislocated Worker and Youth funds are provided to the local areas based on a formula allocation. The uses of these formula funds do not include providing incumbent worker training. That activity is reserved for other WIA funds reserved by the Governor to provide statewide activities.

The waiver of WIA Section 134 allows Local Boards to use up to 10 percent of local Dislocated Worker funds and up to 10 percent of Adult funds for incumbent worker training only as part of a lay-off aversion strategy, allowing them to respond better to local economic changes and serving employers and their employees who require training. During the national economic downturn, the Local Boards need this flexibility to assist employers retain employees and to provide incumbent workers the opportunity to gain necessary skills to maintain employment.

By continuing this waiver, the Local Boards will be able to effectively market incumbent worker training to the private sector, thus expanding partnerships with employers in growth and demand industries.

This will reduce the risk of layoffs of employees who need skill upgrades and allow employers to create opportunities for new workers to take the place of existing workers who have moved up the career ladder.

4. Transferability of Adult and Dislocated Worker Formula Funds WIA 133(b)(4)

WIA Section 133(b)(4) restricts the amount of funds to be transferred between the Adult and Dislocated Worker funding streams to a maximum of 20 percent. The waiver authorizes the transfer of up to 50 percent of funds between the Adult and the Dislocated Worker funding streams.

This waiver will continue to provide needed flexibility to Local Boards to respond to changes in their local labor markets and will help ensure that WIA funds are used in a way that maximizes customer service and other demand-driven needs of the business community. The need for this waiver is critical given the current economic shifts occurring in our state.

5. Customized Training Sliding Scale

WIA Section 101(8)(C), restricts the amount of funds to be used to provide customized training at 50 percent. Many small businesses that may find it difficult if not impossible to provide a full 50 percent match. In California, a majority of private sector employment is provided by small businesses. This waiver, along with the waiver of Section 134, will continue to provide a valuable tool to local boards in their support of California's small businesses and their employees. The sliding scale for employer match provides the necessary flexibility for small businesses to participate in the WIA customized training program, thereby increasing participation and employment rates for skilled job seekers. Employers benefit from the waiver by having a labor pool with the marketable skills they require.

The waiver allows the following sliding scale to be used to determine the employer's matching requirement: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25% match for employers with 51-250 employees. For employers with more than 250 employees, the 50 percent contribution continues to apply.

6. Common Measures

WIA requires states to report 17 performance measures for the Workforce Investment Act Title 1B programs. This waiver of WIA 136(b), authorizes the State to report the Department of Labor Common Measures.

In 2001, the President announced a budget and performance integration initiative. As part of this initiative, federal agencies were charged with developing common performance measures across similar programs. In response to this initiative, the U.S. Department of Labor (DOL) announced its intention to implement a set of common measures on July 1, 2005, for several workforce programs. The DOL common performance measures described in the TEGL 17-05 reflect the agreed upon measures for the federal employment and training programs, including programs administered by DOL and the Department of Education. (See Attachment 1)

This State initiative to move forward with consolidated measures reflects the Governor's desire to better evaluate the success of California's employment and training system. The key elements of the proposed waiver request include:

- Combining performance measurement of clients served with Adult and Dislocated Worker WIA funds;

- Using a single set of measures for clients served through the Youth funding stream, thus eliminating Older Youth as a sub-population for the purpose of the performance measurement;
- Eliminating the credential measure for Adults and Dislocated Workers; and
- Eliminating the customer satisfaction measurement system required by DOL.

7. Rapid Response funds for Incumbent Worker Training for Lay-Off Aversion Waiver of Section 134(a)(1)(A)

Fifty percent of WIA Rapid Response funds are provided to the local workforce investment areas by formula allocation. These funds are used locally to provide information and assistance to workers who have been dislocated due mass layoffs or a plant closure. This waiver allows Local Boards, at their discretion, to use up to 20 percent of Rapid Response funding for adults and dislocated workers to carry out Incumbent Worker Training only as part of a lay-off aversion strategy at the Local Area level.

This waiver positively affects businesses by reducing the risk of layoff or closure because workers have not kept current with new skills and technologies. It also has the potential, as businesses expand due to the enhanced skills of their current workers, to stimulate new, lower-skill positions and to create openings in positions vacated by incumbent workers who receive skills upgrade training. The training provided to individuals will make them more valuable to current and future employers. This waiver plan increases the role Local Boards as workforce intermediary and the role of business in the workforce development system.

8. Employer Reimbursement for On-the-Job Training – Section 101(31)(B)

WIA Section 101(31)(B) defines on-the-job training and restricts the amount of wage reimbursement authorized at 50 percent. This waiver increases flexibility in the use of WIA formula funds by permitting up to 90 percent reimbursement of the extraordinary costs of on-the-job training. Reimbursement would be provided on a sliding scale based on employer size: up to 90% for employers with 50 or fewer employees; up to 75% for employers with 51 to 250 employees; for employers with 251 or more employees, reimbursement would remain at the 50% statutory level.

The waiver allows the State to encourage and expand the hiring of unemployed adult and dislocated workers who lack some of the skills needed to meet an employer's needs. It will provide them with opportunities to add new skill sets and learn new technologies while they return to the workplace and earn wages to support themselves and their families.