

# Mass Workforce Issuance

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**Workforce Issuance No. 10-05**

Policy  Information

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**To:** Chief Elected Officials  
Workforce Investment Board Chairs  
Workforce Investment Board Directors  
Title I Administrators  
Career Center Directors  
Title I Fiscal Officers  
DCS Regional Managers

**cc:** WIA State Partners

**From:** Michael Taylor, Director  
Department of Workforce Development

**Date:** January 27, 2010

**Subject:** **WIA Waivers Profile for FY 2010**

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**Purpose:** To provide notification to Local Workforce Investment Boards, One-Stop Career Center Operators and other local workforce investment partners of Workforce Investment Act (WIA) waivers currently in effect in Massachusetts. These waivers have been approved by the U.S. Dept. of Labor (USDOL) and are related to the Workforce Investment Act (WIA) of 1998 and the American Recovery and Reinvestment Act (ARRA) of 2009.

**Background:** States may request a waiver of certain statutory or regulatory requirements of WIA in order to enhance their ability to improve the statewide workforce investment system. As part of the required FY 2010 State Planning process, and pursuant to guidelines set forth at Section 189(i) (4) (B) of the Act and at 20 CFR 661.420 (WIA regulations), the Commonwealth requested and was granted approval for the following waivers.

1. Waiver to permit local areas to use a portion of local funds for incumbent worker training. The approval represents an extension of a previously granted waiver allowing local areas to utilize up to 10% of their local formula funds for training incumbent workers. USDOL provided the following clarifications to the original approval language:
  - a. Under this waiver, use of Adult funds must be restricted to serving low-income Adults.
  - b. Incumbent worker training must be a part of a layoff aversion strategy.

- c. All training delivered under this waiver is restricted to skill attainment activities.
- d. Performance outcomes for individuals served under this waiver must be reported in WIASRD.

MassWorkforce Issuance No.08-44 will be revised for consistency with the USDOL clarification. The waiver is approved through 6/30/10.

- 2. 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 approval represents an extension of a previously granted waiver to enhance the Commonwealth's efforts to implement strategies focused on layoff aversion. USDOL provided the following clarifications to original approval language:
  - a. All incumbent worker training delivered under the waiver must be part of a layoff aversion strategy
  - b. All training delivered under this waiver is restricted to "skill attainment activities"
  - c. Performance outcomes for individuals served under this waiver must be reported in WIASRD.
  - d. The waiver does not apply to funds made available through ARRA.

A MassWorkforce policy issuance specific to this waiver is under development. The waiver is approved through 6/30/10.

- 3. Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to the local area. The approval represents an extension of a previously granted waiver allowing up to 50% of the local Adult or Dislocated Worker allocation to be transferred between the categories as a means of enhancing local areas' ability to effectively respond to local needs and circumstances. The waiver does not apply to funds made available through ARRA. The waiver is approved through 6/30/10.
- 4. Waiver of WIA Section 123 that requires providers of Youth program elements be selected on a competitive basis. The approval represents an extension of a previously granted waiver allowing follow-up services to be combined with youth program design framework services, without the need for undertaking a competitive procurement process [please refer to MassWorkforce Information Issuance No. 07-26 (5/5/07)]. The waiver is approved through 6/30/10.
- 5. Waiver of Language at WIA Section 101(8) (C) Requiring a 50 Percent Employer Contribution for Customized Training. The approval of this *new waiver* permits use of a sliding scale for employer contributions based of the size of the business: no less than a 10 percent match for employers with 50 or fewer employees; no less than a 25 percent match for employers with 51-250 employees. For businesses that employ more than 250 employees the statutory requirement of not less than a 50 percent match remains in effect. A MassWorkforce policy issuance specific to this waiver will be developed. The waiver is approved through 6/30/10.

## ARRA-Specific Youth Waivers

6. Waiver of Performance Measures for Youth. The approval allows local areas to waive the statutory WIA measures (Massachusetts is not a “common measures” state) and to use the work readiness indicator as the only measure of performance for youth who are:
  - 18 through 24 years of age
  - participants in work experience that occurs outside of the summer months, including those who are receiving support services and are not participating in any of the other youth elements.
  - served through WIA Youth program with funds made available through ARRA

NOTE: this waiver is only applicable for the period 10/1/09 through 3/31/10.

Please refer to MassWorkforce Issuance No. 09-52 (7/27/09)

7. Waiver of 12 Month Follow-Up and Objective Assessment / Individual Service Strategy Requirements for Youth Who Only Participate in Work Experience. The approval waives the provisions requiring the design framework of local youth programs to include all 10 elements for improving educational and skill competencies for participants of non-summer work experience. Under the waiver, local areas are not required to provide the minimum 12-month follow-up services and are, instead allowed to provide follow-up services *as deemed appropriate* for such youth participants.

In addition, the approval waives the requirement that the local area conduct an objective assessment and develop an individual service strategy (ISS) for each participating youth and, instead allows the local area to provide an assessment or ISS *as deemed appropriate* for such youth participants.

The waiver applies only to youth participants who are:

- 18 - 24 years of age
- participants in work experience that occurs outside of the summer months
- served through WIA Youth program funds made available through ARRA

NOTE: this waiver is only applicable from 10/1/09 through 3/3/10

Please refer to MassWorkforce Issuance No. 09-52 (7/27/09)]

8. Waiver to Permit the Use of Individual Training Accounts (ITAs) for Older and Out-of-School Youth. The approval allows local areas to expand training opportunities for youth while retaining limited adult funds to be used on adult training services. This waiver was granted without the need for a formal request as it has become a fundamental aspect of the operation of the workforce system. The waiver is approved through 6/30/10.

**NOTE: Expired Waiver**

Waiver of Competitive Selection of Providers of Summer Youth Employment Opportunities. A waiver to allow local areas under certain conditions to provide non-competitive companion contracts to existing competitively procured contracts was also approved by USDOL. As this waiver was granted only through September 30, 2009 for summer employment program youth, it is no longer in effect

Please refer to MassWorkforce Issuance No. 09-52 (7/27/09)].

**Required:** Local Workforce Investment Boards should review this issuance to determine if local implementation of any or all of the approved waivers would benefit the local area. LWIBs should assure that all appropriate organizations and individuals are apprised of the contents of this issuance.

**Inquiries:** Please direct inquiries to Diane Hurley at [DHurley@detma.org](mailto:DHurley@detma.org) or 617-626-5701.