

Mass Workforce Issuance

Workforce Issuance No. 11-09

Policy **Information**

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: February 10, 2011

Subject: **State Plan and Waivers for FY 2011, Revision II**

Purpose: To revise notice to Local Workforce Investment Boards, One-Stop Career Center Operators and other local workforce investment partners of the approval of the Commonwealth's State Plan and WIA-related waivers for FY 2011 as previously described in MassWorkforce Issuance No. 10-79, State Plan and Waivers Extension for FY 2011, Revised (10/1/2010). This Policy Issuance replaces Issuance No. 10-79.

In particular, this revision provides information with regard to a new waiver approved by the U.S. Department of Labor allowing for the increased reimbursement rate for on-the-job training. Details are found in No. 7, below.

Background: The U.S. Department of Labor (USDOL) has notified Governor Patrick of its approval of both the Commonwealth's State Plan and all waivers requested for FY 2011 (see Attachments A and B). In accordance with Workforce Investment Act section 189(i) states and local areas are permitted to request waivers of certain statutory and regulatory requirements in order to enhance the overall effectiveness of the workforce investment system in meeting statewide and local needs.

The waivers approved by USDOL for FY 2011 are:

1. 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. Details for implementing this waiver are described in *MassWorkforce Issuance No. 08-26 (7/15/08)*; see the following link:

[WIA Funds Transfer Authority Waiver](#)

The waiver is approved through 6/30/11.

2. Waiver of Language at WIA Section 101(8) (C) Requiring a 50 Percent Employer Contribution for Customized Training. The approval represents an extension of a previously granted waiver allowing 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 individuals the statutory requirement of not less than a 50 percent match remains in effect. The waiver is approved through 6/30/11 (*a MassWorkforce Issuance specific to this waiver is currently in development*).
3. 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. Requirements of the approved waiver include:
 - 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.

Details for implementing this waiver are described in *MassWorkforce Issuance No. 08-44 (10/21/08)*; see the following link:

[Waiver to Use Local WIA Funds for Incumbent Worker Training](#)

The waiver is approved through 6/30/11.

4. Waiver of certain language at 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. Requirements of the approved waiver include:

- 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.

The waiver is approved through 6/30/11 (*a MassWorkforce Issuance specific to this waiver is currently in development*).

5. Waiver to permit youth program follow-up services to be combined with framework services provided by either the local WIA grantee or its fiscal agent without having to follow a competitive procurement process as would normally be required under WIA Section 123. 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, if the combined follow-up and framework services are to be provided by a single provider, either the local WIA grantee or its designated fiscal agent. This waiver builds on the allowable non-competitive procurement of framework services in the case when said services are provided by either the local grantee or its designated fiscal agent as described at 20CFR section 664.405(4).

Follow-up and framework services may also be combined under a single provider when those services will be provided by an entity other than the local grantee or its designated fiscal agent, but in such cases the provider must be selected through a competitive procurement process consistent with WIA section 123.

Details of the requirements for implementing this waiver are described in WIA Communication No. 05-69, WIA Title I Youth-Related Waiver Authority (9/1/2005) and may be accessed through the following link:

[WIA Title I Youth-Related Waivers](#)

The waiver is approved through 6/30/11 [*see also MassWorkforce Issuance No. 07-26 (5/5/07)*].

6. 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 USDOL has determined that it has become a fundamental aspect of the operation of the workforce system.

Details of the requirements for implementing this waiver are described in WIA Communication No. 05-69, WIA Title I Youth-Related Waiver Authority (9/1/2005) and may be accessed through the following link:

[WIA Title I Youth-Related Waivers](#)

The waiver is approved through 6/30/11.

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

The Workforce Investment Act of 1998 allows no more than a 50% reimbursement rate to an employer that provides on-the-job training (OJT) services to newly hired workers. The approved waiver allows use of a sliding scale in determining the level of employer reimbursement for the provision of OJT. Under the waiver, the following reimbursement rates are permitted: up to 90% for employers with 50 or fewer employees and up to 75% for employers with 51-250 employees. For employees with more than 250 employees, the statutory limit of 50% remains in effect.

The waiver is applicable to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009.

The waiver is approved through 6/30/11.

Action

Required: Each local area intending to implement any of the waivers approved for FY 2011 must adhere to the requirements described herein.

Effective: Immediately.

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.

Attachments: U.S. Department of Labor Approval Letter