



DEC 10 2012

The Honorable Deval L. Patrick
Governor of Massachusetts
Massachusetts State House, Room 280
Boston, Massachusetts 02133

Dear Governor Patrick:

This letter provides approval of Massachusetts' State Integrated Workforce Plan for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, plans for coordination with Trade Adjustment Assistance (TAA), and Title V of the Older Americans Act. The Employment and Training Administration (ETA) received the State Integrated Workforce Plan on September 17, 2012. This letter also addresses Massachusetts WIA waiver requests.

Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, and TEGL No. 21-11, Change 1 issued on August 8, 2012, provide guidance for states to submit their State Workforce Plans and waivers for Program Year (PY) 2012 and beyond. We appreciate the Commonwealth's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the Massachusetts State Integrated Workforce Plan in accordance with Title I of WIA, the Wagner-Peyser Act, the Trade Act (as amended), the corresponding regulations, the *State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act, and Department of Labor Workforce Programs* (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), Title V of the Older Americans Act and corresponding regulations, TEGL No. 21-11, and the corresponding Change 1. Pursuant to 20 CFR 661.230(e), 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 ETA is approving those portions of the Massachusetts State Integrated Workforce Plan that relate to Title I of WIA, the Wagner-Peyser Act, and TAA for Program Years 2012-2016, July 1, 2012 through June 30, 2017. The annual W-P Agricultural Outreach Plan is approved for the period July 1, 2012 through June 30, 2013. The Senior Community Service Employment Program (SCSEP) State Plan has been reviewed by both ETA and the Administration on Aging, and is approved for Program Years 2012-2015, July 1, 2012 through June 30, 2016.

The Commonwealth is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2012 through June 30, 2017.

Performance Levels

Each year, the Regional Administrator negotiates the Program Year's WIA and W-P performance goals with each state. As required by TEGs No. 21-11 and 38-11 dated June 18, 2012, negotiations must be completed by December 31, 2012 for PY 2012. The Commonwealth has completed the negotiations process. Enclosed are the newly established WIA and W-P performance goals for PY 2012. ETA will incorporate Massachusetts' final performance goals for PY 2012 into the Regional and National Office copies of the State Integrated Workforce Plan. Please include these final PY 2012 goals in the Commonwealth's official copy of the State Workforce Plan.

Waivers

As part of Massachusetts' State Integrated Workforce Plan, the Commonwealth submitted requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The Commonwealth's request for waivers is written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the Commonwealth's 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.

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 requested 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 approval of this waiver through June 30, 2017. 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 ten 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.

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

The Commonwealth requested 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 approval of this waiver through June 30, 2017. Under this waiver, the Commonwealth 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 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. TEG 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 Commonwealth requested 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 Commonwealth is granted an approval of this waiver through June 30, 2017. 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. 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 Commonwealth 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 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 requested 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 approval of this waiver through June 30, 2017. 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 123 that requires that providers of Youth program elements be selected on a competitive basis.

The Commonwealth requested a waiver of the requirement for competitive procurement of service providers for one of the youth program elements. The Commonwealth is granted an approval of this waiver through June 30, 2017. Under this waiver, the Commonwealth is permitted to allow its American Job Centers or partner agencies to directly provide the youth program element of follow-up services. In utilizing this waiver for these elements, 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 the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The Commonwealth requested 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 Commonwealth is granted an approval of this waiver through June 30, 2017. 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 Commonwealth must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth and local area 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 Commonwealth 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 WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The Commonwealth requested 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 Commonwealth is granted an approval of this waiver through June 30, 2017. 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 Commonwealth must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth and local area 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 Commonwealth 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 to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The Commonwealth requested 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 approval of this waiver through June 30, 2017.

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.

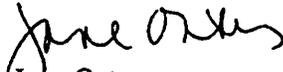
Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The Commonwealth requested 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 Commonwealth is granted this waiver effective through June 30, 2013.

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 are incorporated into the State Integrated Workforce Plan. A copy of this letter should be filed with the Commonwealth's WIA Grant Agreement and with the approved State Plan. In addition, as described in TEGP 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 working together as you implement your State Integrated Workforce Plan for PY 2012 and beyond. Thank you for co-branding as a proud partner of the American Job Center network; we are available to provide technical assistance as needed. If you have any questions related to the issues discussed above, please contact T. Lee Reynolds, the Federal Project Officer for Massachusetts, at (617) 788-0130 or reynolds.tricia@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Enclosures

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office
T. Lee Reynolds, Federal Project Officer for Massachusetts