



JUN 27 2011

The Honorable Deval Patrick
Governor of Massachusetts
State House
Room 360
Boston, Massachusetts 02133

Dear Governor Patrick:

This letter provides approval of an extension of Massachusetts' current Workforce Investment Act (WIA) and Wagner-Peyser Act (W-P) State Plan for Program Year (PY) 2011. This letter also responds to Massachusetts' requests for new and extended 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

Massachusetts' 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 Massachusetts' State Plan for WIA Title I and the Wagner-Peyser Act for PY 2011, July 1, 2011 through June 30, 2012. The Commonwealth has already received its formula allotment for the WIA Youth program for PY 2011. The Commonwealth 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

Massachusetts requested to extend its existing PY 2010 WIA and W-P performance goals for PY 2011. ETA has incorporated these performance goals, identified as PY 2011 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2011 goals in the Commonwealth's official copy of the State Plan.

Waivers

As part of the Commonwealth's extension of the WIA/W-P State Plan, and as described in TEGL No. 17-10, the Commonwealth requested extensions of Massachusetts' PY 2010 waivers of statutory and regulatory requirements under WIA for PY 2011. The Commonwealth also submitted a request for a new waiver (copy enclosed). The Commonwealth's request for a new waiver 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 extensions as well as its submission of a new waiver request 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 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The Commonwealth 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 Commonwealth 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 of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The Commonwealth was previously granted a waiver of the requirement for competitive procurement of service providers for one of the ten youth program elements: follow-up services. The Commonwealth is granted an extension of this waiver through June 30, 2012. Under this waiver, the Commonwealth is permitted to allow its One-Stop Career Centers or partner agencies to directly provide youth program elements. In utilizing this waiver, 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 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 Commonwealth 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 Commonwealth must use the appropriate program funds for the appropriate WIA-eligible population. The Commonwealth 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 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 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The Commonwealth 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 Commonwealth is granted an extension of this waiver through June 30, 2012. 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. 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 Commonwealth 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 Commonwealth is granted 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 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 over age 18 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 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 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 Commonwealth is granted an extension of this waiver through June 30, 2012. Under this waiver, the Commonwealth is permitted to use up to 10 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 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 Commonwealth 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 Commonwealth is granted an extension of this waiver through June 30, 2012. 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 10 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.

New Waiver Request

Waiver to permit the Commonwealth to replace the performance measures at WIA Section 136(b) with the common measures.

In a February 15, 2011 letter, the Commonwealth requested a waiver to replace the 17 performance measures under WIA Section 136(b) with the common measures in PY 2011. In a letter dated March 14, 2011, ETA explained that this waiver could only be approved once the PY 2011 State Plan was approved. The State is now granted this waiver through June 30, 2012.

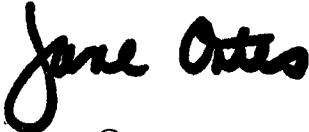
This waiver permits the Commonwealth to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The Commonwealth will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated 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. The 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.

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 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. 09-10, page 3, 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 Plan for PY 2011. If you have any questions related to the issues discussed above, please contact Christina Eckenroth, the Federal Project Officer for Massachusetts, at either (617) 788-0157 or Eckenroth.Christina@dol.gov.

Sincerely,

A handwritten signature in black ink that reads "Jane Oates". The signature is written in a cursive, flowing style.

Jane Oates
Assistant Secretary

Enclosure

cc: Holly O'Brien, Regional Administrator, ETA Boston Regional Office
Christina Eckenroth, Federal Project Officer for Massachusetts



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LT. GOVERNOR

JOANNE F. GOLDSTEIN
SECRETARY

March 30, 2011

Division of Workforce System Support
Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave., NW, Room S-4231
Washington, D.C. 20210
ATTN: Kimberly Vitelli

**Subject: Massachusetts Workforce Investment Act (WIA) and Wagner-Peyser (WP)
Act State Plan - Extension Request for Program Year 2011**

Dear Ms. Vitelli:

On behalf of the Commonwealth of Massachusetts, I am requesting an extension, into PY2011, of the current WIA/WP State Plan for Massachusetts.

On March 26, 2011, the Massachusetts Legislature approved an Act Reorganizing the Executive Office of Labor and Workforce Development (EOLWD). This legislation restructures and streamlines the EOLWD to ensure the most coordinated, efficient and economical operation of important state services. The passing of this act will result in organizational changes that will require a modification to the PY11 MA WIA/WP State Plan. However, these changes will not be finalized prior to the State Plan modification submission deadline of April 15, 2011; therefore, in accordance with TEGL #17-10, Massachusetts will submit a modification during PY2011.

Performance Levels:

On February 14, 2011, the Commonwealth submitted a request for approval of a waiver to implement the six common performance measures as adopted by ETA for programs provided under WIA, Wagner-Peyser, VETS and TAA. ETA has informed us of the intent to approve this waiver.

Pending official approval of the Common Measures waiver request, Massachusetts is proposing to extend its PY10 goals for all categories of Youth and Adult Performance Measures.

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Waivers:

Massachusetts is requesting a continuation of all current waivers for WIA funds. Please refer to Attachment A for a listing of currently approved Massachusetts waivers.

Thank you for your consideration of this extension request; we look forward to a positive response.

Sincerely,

A handwritten signature in black ink, reading "Joanne F. Goldstein". The signature is written in a cursive style with a large, stylized "J" and "G".

Joanne F. Goldstein

c: Holly O'Brien, USDOL, Region I Administrator
Christina M. Eckenroth, USDOL Region I
Jennifer James, Undersecretary, EOLWD
George Moriarty, Director, Department of Career Services

Attachment A

PY2011/FY2012 Massachusetts State Plan Extension

Request to Extend Current WIA Waivers

1. Use of Individual Training Accounts for Older and Out-of-School Youth
2. Use of Formula Funds for Incumbent Worker Training
3. Use of Rapid Response Funds for Incumbent Worker Training
4. Expanded Transfer Authority – Adult and Dislocated Worker Funds
5. Waiver of Requirement for Competitive Procurement of Youth Follow-Up Services
6. Sliding Scale Employer Match for Customized Training
7. Sliding Scale Employer Match for On-the Job Training