



JUN 26 2012

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

JUN 29 2012

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 a portion of Program Year (PY) 2012. This letter also responds to Massachusetts' requests for new and extended waivers. Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, provides guidance for states to secure approval of their WIA/W-P State Plans and waivers for PY 2012. In accordance with TEGL No. 21-11 and your extension request, the Commonwealth must submit a full five-year WIA/W-P State Plan and annual W-P Agricultural Outreach Plan by September 15, 2012.

#### Extension of State Plan

Massachusetts' existing State Plan will expire on June 30, 2012. This letter constitutes a written determination under WIA Section 112 (29 USC 2822) that the Employment and Training Administration (ETA) is temporarily extending the approval of Massachusetts' State Plan for WIA Title I and the Wagner-Peyser Act into PY 2012, for the period July 1, 2012 through December 31, 2012. The Commonwealth already received its formula allotment for the WIA Youth program for PY 2012. The Commonwealth is eligible to receive WIA formula allotments for the Adult and Dislocated Worker programs under the PY 2012 Annual Funding Agreement. The W-P Annual Funding Agreement on PY 2012/Fiscal Year 2013 will provide the W-P Act initial base allocation of PY 2012 funds.

#### Performance Levels

Massachusetts requested to temporarily extend its existing PY 2011 WIA and W-P performance goals for a portion of PY 2012. ETA has incorporated these performance goals, identified as PY 2012 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2012 goals in the Commonwealth's official copy of the State Plan. As required by TEGL 21-11, the Commonwealth must renegotiate its new PY 2012 goals upon submission of its full State Plan.

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## Waivers

As part of the Commonwealth's extension of the WIA/W-P Act State Plan, and as described in TEGL No. 21-11, the Commonwealth requested temporary extensions of Massachusetts' PY 2011 waivers of statutory and regulatory requirements under WIA for PY 2012. The Commonwealth also submitted a request for one 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 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 December 31, 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 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 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 December 31, 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 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 December 31, 2012. 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 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 December 31, 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 youth program elements. The Commonwealth is granted an extension of this waiver through December 31, 2012. Under this waiver, the Commonwealth is permitted to allow its One-Stop Career 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 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 December 31, 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 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 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 an extension of this waiver through December 31, 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 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 was previously granted 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 extension of this waiver through December 31, 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. 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.

New Waiver Request

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 is requesting 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 July 1, 2011 through December 31, 2012.

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 Commonwealth's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGL No. 29-11, the Commonwealth should address the impact that 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 receiving your full State Plan for PY 2012 and working together as you implement your statewide workforce strategies. If you have any questions related to the issues discussed above, please contact Christina Eckenroth, the Federal Project Officer for Massachusetts, at 617-788-0157 or [Eckenroth.Christina@dol.gov](mailto:Eckenroth.Christina@dol.gov).

Sincerely,



Jane Oates  
Assistant Secretary

Enclosure

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

**State Plan Extension Request into Program Year 2012**  
**April 14, 2012**  
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Massachusetts also requests an extension into PY 2012 of the following currently approved 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
8. Common Measures Implementation
9. Pending approval for PY11: Waiver of Requirement to Provide Incentive Grants to Local Areas – if approval for PY11, MA requests an extension of this waiver into PY12.

Massachusetts will submit its Integrated WIA/WP Five-Year State Plan along with all waiver requests and proposed performance goals on September 14, 2012. Approval of the extension will allow the additional time necessary to submit a Plan that fully addresses past challenges, highlights improvements made and outlines future plans to build on successes. The additional time will also allow for greater involvement of all of our partners to ensure a meaningful state plan process.

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

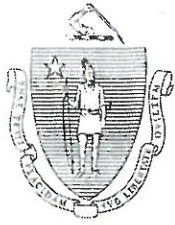
Sincerely,



George Moriarty

c: Holly O'Brien, USDOL, Region I Administrator  
Christina M. Eckenroth, USDOL Region I  
Jennifer James, EOLWD





THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF CAREER SERVICES

DEVAL L. PATRICK  
GOVERNOR

JOANNE F. GOLDSTEIN  
SECRETARY

TIMOTHY P. MURRAY  
LT. GOVERNOR

GEORGE MORIARTY  
DIRECTOR

April 13, 2012

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: Federal Coordinator for Plan Review and Approval

**Subject: State Plan Extension Request into Program Year 2012**

Dear Federal Coordinator:

This communication is in response to TEGL 21-11 that provides options for states to have approved plans in place for Program Years (PY) 2012-2016 for the Workforce Investment Act of 1998 (WIA) and Wagner-Peyser (W-P). Massachusetts is requesting a temporary extension of its current Workforce Investment Act-Wagner-Peyser State Plan (WIA/WP) into program year (PY) 2012.

In accordance with the Plan extension, the state is requesting that its PY 2011 negotiated performance goals be extended into PY 2012. It is understood that the PY 2012 performance goals negotiations may commence upon the submittal of the PY 2012 Integrated Plan, and when finalized, the goals will apply to the full PY 2012 performance period, from June 1, 2012 though June 30, 2013.