

**U.S. Department of Labor**

JUN 29 2009

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



The Honorable Jim Doyle  
Governor of Wisconsin  
State Capitol  
Madison, Wisconsin 53702-7863

Dear Governor Doyle:

As part of Wisconsin's request for an extension of the State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act, the State requested an extension of its waivers of statutory and regulatory requirements under WIA (copy enclosed). We are pleased to be able to respond positively to your request to extend the State's waivers into Program Year (PY) 2009. 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. The State also submitted an additional request for a new waiver, to which ETA will respond under separate cover.

Unless otherwise specified, the Employment and Training Administration (ETA) temporarily approves the requested waivers for PY 2009, until such time as ETA provides notice of our determination upon review of the State Plan modification required to be submitted by June 30, 2009, under Training and Employment Guidance Letter (TEGL) No. 14-08 to address changes in economic conditions and the utilization of funds provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act). As outlined in TEGL No. 14-08, states seeking approval of their waivers for the remainder of PY 2009 must submit a waiver plan for each waiver as part of the State Plan modification. Upon approval of the modified PY 2009 State Plan, the waivers approved with the modified Plan will take effect and the waivers extended in this letter will terminate.

**Extension of Waivers**

**Requested Waiver: Waiver to permit the use of up to 10 percent of local area formula funds to provide statewide activities, including incumbent worker training.**

The State is requesting an extension of the waiver of the language that limits the authority to provide the activities identified in WIA Section 134(a)(3) to the State. The State is granted an extension of this waiver into PY 2009. This waiver will continue to permit local areas to request to use up to 10 percent of local area formula allocation funds for adults and dislocated workers to provide statewide employment and training activities, identified at WIA Section 134(a)(3), including incumbent worker training, excluding administration. These funds must be tracked by funding stream. Further,

the State is required to report performance outcomes for incumbent workers served under this waiver in the Workforce Investment Act Standardized Record

Requested Waiver: Waiver of funds transfer limitation at WIA Section 133(b)(4) for the Adult and Dislocated Worker Programs.

The State is requesting an extension of the waiver of the transfer limitation at WIA Section 133(b)(4). The State is granted an extension of this waiver into PY 2009. The waiver allows the State to approve local area requests to transfer up to 100 percent of local area allocations between the WIA Adult and Dislocated Worker programs. As stated in TEGL No. 14-08, Section 19, issued on March 18, 2009, this waiver does not apply to funds made available through the Recovery Act.

Requested Waiver: Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State is requesting an extension of the waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted an extension of this waiver through June 30, 2010. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Requested Waiver: Waiver of the requirement at WIA Section 123 that providers of youth program elements be selected on a competitive basis.

The State is requesting an extension of the waiver of the requirement to competitively select providers of all 10 youth program elements for certain rural areas. The State is granted an extension for this waiver into PY 2009. Under this waiver, local areas in rural Wisconsin may request approval for additional flexibility in the procurement of qualified youth providers. The waiver allows for the direct provision of these services by One-Stop Career Centers or partner agencies. Approval by the State is on a case-by-case basis and approval is granted only when the local area provides documentation that there are no viable providers or that all current providers are underperforming. This condition applies to all of the youth program elements, except follow-up and supportive services. Because follow-up and supportive services are similar to WIA youth framework services, the waiver permits local areas to provide these services directly without meeting this condition. The State will provide ongoing oversight and onsite monitoring of the Local Boards that choose to take advantage of this waiver. In utilizing this waiver, the State and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR Parts 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

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

The State is requesting an extension of the waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted an extension of this waiver through June 30, 2010.

This waiver permits the State to report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer 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 State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program.

The approved waivers are incorporated by reference into the State'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, we encourage the State to address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to continuing our partnership with you and achieving better workforce outcomes. If you have any questions, please do not hesitate to call me at (202) 693-2700, or contact your State's Federal Project Officer in the Regional Office.

Sincerely,

  
Jane Oates  
Assistant Secretary

Enclosure

cc: Catherine Brooks, Federal Project Officer for Wisconsin, ETA Chicago Regional Office

**Attachment F**

**DOL Granted Waivers: Extension Requests into PY 09**

The Governor submitted a state waiver plan to DOL on August 29, 2008. (V.J.) that DOL responded to November 29, 2008. Given that the waivers have not been fully implemented for PY 08, the "performance outcomes achieved" element cannot be addressed at this time.

The Governor is requesting that the following DOL granted waivers be continued in PY 09:

1. Waiver to permit the State to replace the performance measures with only common performance measures, WIA Section 136 (b) The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker Programs, and the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth Program. The purpose of this waiver is to remove the burdensome complexities inherent in the current WIA program performance reporting, to improve the accountability system, and encourage complimentary cross-program outcomes. The Governor's focused areas in *Next Steps* will continue to transform the workforce investment system into regional economic development arenas emphasizing high-demand, high-growth industries and family-sustaining employment. The complexity and narrowly focused WIA Title I performance measures made conversations and cooperation with partners regarding dovetailing cross-program outcomes difficult. The common measures will aid in the alignment of these demand-driven strategies among the various workforce programs and substantially reduce barriers to cooperation among programs.
2. Waiver to transfer funds up to 100 percent between the Adult and DW local formula funds, WIA Section 133(b)(4). The State may approve WDB requests to transfer their formula allocation funds to address specific geographic, demographic, and industry needs for service delivery flexibility. The waiver would give local boards the ability to respond to on-going changes and significantly increase the WDB's flexibility over program delivery to best address the specific geographic, demographic and industry needs that change from community to community. With this flexibility, the WDBs will be able to maximize program effectiveness.
3. Waiver to use up to 10 percent of local formula funds to provide statewide employment and training activities, including incumbent worker training, WIA Section 134. The use of local funds to address the skill upgrade needs of job seekers, develop exemplary program activities, and expand local service delivery options within the 10 percent will still need to be tracked by funding stream. Individuals served in this targeted window will be reported in performance outcomes including those defined as "incumbent workers." The Governor's *Next Steps* includes priorities for "worker training," "advancing industry-led training initiatives" and "emerging industry skills partnerships," all of which support innovative incumbent worker training activities. The Governor emphasized that "By strengthening partnerships among schools, technical colleges, workforce development boards, labor unions, businesses and the state, we can deliver the training our workers need to improve their skills, knowledge and productivity and at the same time provide business with the qualified workers they need." Furthermore, this waiver supports the CWI's recommendation to "improve the participation of private sector employers for training, job placement and retention..."
4. Waiver regarding the competitive procurement process for youth providers in rural areas, WIA Section 123. The waiver is specifically for rural areas, and on a case-by-case State review of documented justification from the local area. The State will provide "on-going oversight and onsite monitoring" of the WDBs that have a State-approved waiver. The State needs this flexibility given that two-thirds of Wisconsin is comprised of rural areas. These areas have an insufficient number of eligible providers, or a network ill-equipped to deliver all ten youth program elements in a comprehensive and efficient manner.

5. Waiver to extend the period of initial eligibility of training providers which postpones the implementation of the subsequent eligibility provision, 20 CFR 663.530. The State has not determined a cost-effective way to implement the provision, and also anticipates WIA reauthorization to change the training provider requirements.

#### **New Waiver Issues**

New waiver issue areas for anticipated waiver plan requests:

- B. Waiver of WIA section 101(31)(B) to increase the employer reimbursement for on-the-job training for small and medium-sized businesses; and
- C. Waiver of WIA section 101(8) on the 50 percent employer match for customized training.