

P. DOLETA State Plan Approval Letters

U.S. Department of Labor

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



JUN - 7 2013

The Honorable Edmund G. Brown
Governor of California
State Capitol
Sacramento, California 95814

Dear Governor Brown:

This letter provides approval of California's State Plan for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, and plans for coordination with Trade Adjustment Assistance (TAA). The Employment and Training Administration (ETA) received the State Plan on April 15, 2013. This letter also responds to California's WIA waiver requests.

Training and Employment Guidance Letter (TEGL) Number 21-11, issued on March 27, 2012, provides guidance for states to submit their State Workforce Plans and waivers for Program Year (PY) 2012 and beyond. We appreciate the State's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the California State 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>), and TEGL No. 21-11. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is approving the WIA Title I, W-P and TAA portions of California's State Plan for the period July 1, 2013 through June 30, 2017, PY 2013-PY 2016. The annual W-P Agricultural Outreach Plan (AOP) is approved through June 30, 2013. The PY 2013 AOP must be developed and submitted in accordance with guidance in TEGL No. 23-12. The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2013 through June 30, 2017.

Performance Levels

Each year, the Regional Administrator negotiates the forthcoming Program Year's performance goals with each state. Negotiations are completed by June 30th each year. Once the final goals are established, the Regional Administrator's letter advising the

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State of the PY 2013 WIA and W-P final performance goals constitutes a modification to the State Plan. ETA will incorporate California's final performance goals for PY 2013 into the Regional and National Office copies of the State Plan. Please include these final PY 2013 goals in the State's official copy of the State Plan.

Waivers

As part of California's State Plan submission, the State submitted requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's waiver requests are written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver requests are 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 W-P.

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 a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted this waiver through June 30, 2017. 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.

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 State is requesting a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted 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 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State is requesting 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 State is granted this waiver through June 30, 2017. Under this waiver, the State 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

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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 State 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 State is requesting 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 State is granted this waiver through June 30, 2017. Under this waiver, the State 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 State is required to report performance outcomes for any incumbent workers served under this waiver in 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 State is requesting 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 State is granted this waiver through June 30, 2017. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State 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 the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State is requesting 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 State is granted 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

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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 State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide customized training to individuals age 18 and older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State 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 State is requesting 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 State is granted 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 State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide on-the-job training to individuals age 18 and older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State 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 State requested a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted this waiver effective July 1, 2013 through June 30, 2017.

This waiver permits the State to negotiate and 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 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 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. 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.

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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 State 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 State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information. The State may implement a more rigorous local workforce investment area incentive grant policy described in its request without a waiver.

Waiver of WIA Section 129(b)(2)(C) and 20 CFR 665.200(h) to exempt the state from the requirement to provide additional assistance to local areas that have a high concentration of eligible youth.

The State is requesting a waiver of the requirement to provide additional assistance to local areas that have a high concentration of eligible youth. The State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)) to exempt the state from the requirement to conduct evaluations.

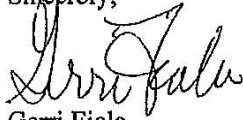
The State is requesting a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. The State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

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, as described in TEGL No. 29-11, the State should 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.

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We look forward to working together as you implement your State Integrated Workforce Plan for PY 2012 and beyond. If you have any questions related to the issues discussed above, please contact Carol Padovan, the Federal Project Officer for California, at (415) 625-7946 or Padovan.Carol@dol.gov.

Sincerely,



Gerri Fiala
Acting Assistant Secretary

Enclosure

cc: Virginia Hamilton, Regional Administrator, ETA San Francisco Regional Office
Carol Padovan, Federal Project Officer for California

U.S. Department of Labor

Assistant Secretary for
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The State 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 State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information. The State may implement a more rigorous local workforce investment area incentive grant policy described in its request without a waiver.

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Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)) to exempt the state from the requirement to conduct evaluations.

The State is requesting a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. The State did not provide a financial justification in its request; therefore, ETA denies this waiver. TEGL 26-09, change 1, and TEGL 27-12 provide guidance on the required information for this waiver, and the ETA Regional Office is available to answer questions regarding additional needed information.

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, as described in TEGL No. 29-11, the State should 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.

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Sincerely,



Eric M. Seleznow
Acting Assistant Secretary

cc: Virginia Hamilton, Regional Administrator, ETA San Francisco Regional Office
Carol Padovan, Federal Project Officer for California