



NEW YORK STATE WORKFORCE DEVELOPMENT SYSTEM TECHNICAL ADVISORY

Workforce Development System Technical Advisory # 10-19.1

TO: Workforce Development Community

DATE: August 2, 2011

SUBJECT: Program Year (PY) 2011 Waivers

Purpose:

To announce the United States Department of Labor's (USDOL's) approval of New York State's request to extend its PY 2010 waivers through PY 2011 and two new WIA Youth summer program waivers that are effective from May 1, 2011 to September 30, 2011.

Action:

Local Areas should complete the attached '**Request to Use Program Year 2011 WIA Waivers**' (**Attachment A**) and submit it to WDTD.Onestop@labor.ny.gov by **August 19, 2011** with "PY 2011 Request – WIA Waivers" in the subject line of the email.

In addition, local areas should complete the attached **Program Year 2010 Waiver Survey (Attachment B)** and submit it to WDTD.Onestop@labor.ny.gov with "PY 2010 Waiver Survey" in the subject line of the email by **August 31, 2011**.

Background:

The purpose of the general statutory and regulatory waiver authority made available under WIA is to provide flexibility to states and local areas and enhance their ability to improve the statewide workforce investment system. A letter approving the State's request to extend its approved PY 2010 waivers for PY 2011 was received from the Assistant Secretary on June 27, 2011. A letter approving two summer youth employment waiver requests was received from the Assistant Secretary on July 1, 2011. The approval from USDOL and the complete waiver requests that were submitted can be found in **Attachments C and D** to this Technical Advisory.

Policy:

USDOL has extended the following waivers through June 30, 2012. A full description of each of these waivers can be found in Technical Advisory #10-19, dated September 14, 2010.

1. Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.
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2. Waiver for the Inclusion of Youth Follow-Up Services and Work Experience as a Youth Program Framework Service.
3. Waiver of the Requirement for a 50 Percent Employer Match for Customized Training, to Permit a Graduated Scale Match to Increase Employer Connections with the One-Stop System.
4. Waiver for the Collection of Performance Information for Determining Subsequent Eligibility and Dissemination of Performance Information on the State List.
5. Waiver to Permit Local Areas to Request the Use of up to 10 Percent of the Local Area's Formula Allocation Funds for Adult and Dislocated Workers to Support Local Incumbent Worker Training Programs.

Note: Local Areas seeking to implement incumbent worker training (IWT) must contact their local Business Service Representative to make sure the IWT qualifies as layoff aversion, and that the training is appropriate and qualifies as skills attainment. In addition, they must complete the '**Request to use Local Adult and/or Dislocated Worker funds for Incumbent Worker Training (IWT)**' (**Attachment E**) and submit it to WDTD.Onestop@labor.ny.gov with "PY 2011 Request – Local Funds for IWT" in the subject line of the e-mail. A copy should also be submitted to their local Business Service Representative. If using Adult funds, local areas must provide their Self-Sufficiency definition on the form.

Any Local Areas conducting IWT programs can then use waiver Number 8 to discontinue the collection of seven of the data elements in the WIASRD for incumbent workers.

6. Waiver to Increase the Employer Reimbursement for On-the-Job Training (OJT) for Small- and Medium-Sized Businesses.
7. 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.
8. Waiver to Discontinue the Collection of Seven of the Data Elements in Section 1 of the WIASRD for Incumbent Workers Trained with WIA Funds.
9. Waiver of the Prohibition at 20CFR 664.520 on the Use of Individual Training Accounts (ITA) for Older and Out-of-School Youth.

In addition, USDOL has approved each of the following new waiver requests through September 30, 2011:

1. **Waiver of performance measures for youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.**

The State has requested to waive the common performance measures for youth who participate in subsidized summer youth employment activities that utilize Temporary Assistance to Needy Families (TANF) funds and who are co-enrolled in WIA-funded youth programs. The waiver allows the State to use the work

readiness indicator as the only indicator of performance for youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities. The waiver is effective from May 1, 2011 through September 30 2011. This waiver applies only to WIA Youth performance requirements; the State must comply with any reporting requirements established through the TANF program.

2. Waiver to provide program design flexibility in serving youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.

The State has requested to waive certain provisions under WIA Sec. 129 (c) and 20 CFR 664 to allow local area staff increased flexibility in program design. Through this waiver, the State will be able to provide program design flexibility in serving youth who participate in subsidized summer youth employment activities that utilize TANF funds and who are co-enrolled in WIA-funded youth programs.

The State is granted a waiver of statutory and regulatory provisions as follows:

- Waiver of the requirement at WIA section 129(c)(2)(I) and 20 CFR 664.450(b) to provide a minimum of 12 months of follow-up services, to allow local areas to provide follow-up services with WIA Youth funds as deemed appropriate for such youth participants.
- Waiver of the requirement at WIA section 129(c)(1)(A) and 20 CFR 664.405(a)(1) to provide an objective assessment and the requirement at WIA section 129(c)(1)(B) and 20 CFR 664.405(a)(2) to develop an individual service strategy (ISS), to allow local areas to provide an assessment or ISS as deemed appropriate for such youth participants.

The approved waiver is effective from May 1, 2011 through September 30, 2011, and only applies to youth who are co-enrolled in both the WIA Youth and TANF programs and are participating in subsidized summer youth employment activities. Youth who receive WIA-funded Youth services after September 30, 2011, must have in place an objective assessment and individual service strategy as required by WIA, and will be subject to WIA Youth common measures. The State may not apply this waiver to summer youth employment activities funded solely with WIA formula funds.

Additional Guidance Regarding the Use of the Youth Waivers

The intent of these waivers is to provide youth who are co-enrolled in TANF and the WIA Youth program with summer employment activities, including all related services such as assessment, work readiness preparation, and supportive services. Overall, the summer program must be jointly funded with resources from both programs. For example, youth may be enrolled and assessed at the local social service agency and referred to the WIA youth provider for enrollment in the WIA program to receive work readiness training and placement in a summer job. As noted above, these waivers cannot be used for summer youth employment activities funded solely with WIA formula funds. There will be customized reporting required for this program in OSOS. These

data entry guidelines will be released shortly.

Inquiries:

Please direct all questions regarding this Technical Advisory and WIA waivers to your State Representative.

References:

Workforce Investment Act of 1998, Sections 101(8)(c), 101(31)(B), 101(33), 101(39), 122(c)(5), 123, 129(c), 134(a)(3)(A)(iv)(I) and 134(e)(3)(B)(i)&(ii); Workforce Investment Act Final Rules, 20 CFR Sections 663.530, 663.700(a), 663.710(b), 663.715, 664.310, 664.405 and 667.300(a).

TEGL 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver."

TEGL 17-10, "Instructions for Submitting Workforce Investment Act and Wagner-Peyser Act State Plans and Waiver Requests for Program Year 2011."

TEGL 30-10, "Workforce Investment Act (WIA) Youth Program Guidance for Program Year (PY) 2011."

Attachments:

- A. Request to use Program Year 2011 WIA Waivers
- B. Program Year 2010 Waiver Survey
- C. June 27, 2011 USDOL Approval letter; WIA waiver requests for PY2011
- D. July 1, 2011 USDOL Approval letter; Summer Youth WIA waiver requests for PY2011
- E. Request to use Local Adult and/or Dislocated Worker funds for Incumbent Worker Training (IWT)