

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Waivers
	CORRESPONDENCE SYMBOL OWI
	DATE August 16, 2012

ADVISORY: **TRAINING AND EMPLOYMENT GUIDANCE LETTER
NO. 26-09, Change 1**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND
DIRECTORS
STATE LABOR COMMISSIONERS

FROM: JANE OATES 
Assistant Secretary

SUBJECT: Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for
PY 2009 and 2010, Change 1

1. **Purpose.** This Training and Employment Guidance Letter (TEGL) has two purposes:
- a. To provide updates and clarifications on waiver policies including those originally articulated in TEGL 26-09; and
 - b. To provide information on work-flex quarterly reports, and to announce renewal of Office of Management and Budget (OMB) approval for work-flex plan submission and quarterly reports.

2. **References.**

- The Workforce Investment Act of 1998; WIA Sections 189(i)(4) and 192;
- WIA Regulations at 20 CFR 661.420-430 and 663.600;
- TEGL No. 21-11, "Requirements for 2012 State Workforce Plans";
- TEGL No. 17-09, "Quarterly Submission of Workforce Investment Act Standardized Record Data (WIASRD)": Training and Employment Notice (TEN) No. 33-11, "Partnering with Temporary Assistance for Needy Families (TANF) Jurisdictions, State Community Services Block Grant (CSBG) Offices, and local CSBG Entities to Create or Expand Summer Youth Employment Opportunities";
- TEGL No. 12-10, "Supporting Entrepreneurial and Self-Employment Training through the Workforce Investment Act";

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

- *State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs* (OMB No. 1205-0398);
- *Planning Guidance for State Unified Plans and Unified Plan Modifications Submitted under Section 501 of the Workforce Investment Act (WIA)* (OMB No. 1205-0398);
- TEGL No. 09-11, “*Revised Fiscal Year (FY) 2012 “Advance” Funding Levels Available October 2011 for Workforce Investment Act (WIA) Programs and Clarification on the Level of Governor’s Reserve*”;
- TEGL No. 29-11, “*Workforce Investment Act (WIA) Program Year (PY) 2011 Annual Report Narrative*”;
- TEN No. 17-11, “*Workforce Investment Act/Wagner-Peyser Act (WIA/W-P) Waiver Database*”; and
- ETA Workforce Investment Act Waiver Database, Accessed June 13, 2012, www.waivers.doleta.gov.

3. **Waiver Clarifications and Decisions Since Program Year 2009.** The section below provides clarification on waiver policy decisions that have evolved since PY 2009 and information about waivers that are new to the public workforce system. Attachment A summarizes waiver decisions for PY 2011. States may also request waivers that are not listed in Attachment A.

A. New Waiver Decisions

i. *Waivers of Required Statewide Activities*

TEGL No. 09-11 clarified that Congress decreased the level of PY 2011 base funds and FY 2012 advance funds that governors may reserve for statewide activities by 10 percentage points, from 15 percent to 5 percent. The governor’s reserve will remain at five percent for PY 2012. ETA realizes that some states may be unable to fund all required activities due to a lack of funding. As a temporary measure and in order to help states prioritize the activities that are more essential to the functioning of their workforce systems, states may request waivers to exempt them from the requirements to carry out some of the required statewide activities described at 20 CFR 665.200(b)-(i) that would have been financed with PY 2011 or PY 2012 funds.

ETA will review and consider waiver requests on a case-by-case basis and in the context of each state’s unique circumstances. These requests must also include a justification that describes estimated costs to carry out the required activity for which the waiver is needed, how statewide funds are being used (for both required and allowable statewide activities), how funds are being prioritized across activities, and the extent to which the funding levels are insufficient to cover the activity for which a waiver is requested. The request must also address the anticipated impact of not funding the activity, and whether it may directly affect WIA participant services. ETA encourages states to explore less expensive methods for conducting statewide activities where possible, such as posting training provider information on the Internet.

ETA is unlikely to approve a waiver of the following activities that are central to state management of funds. These include:

- operating fiscal and management accountability information systems (WIA Section 134(a)(2)(B)(vi) and 20 CFR 665.200(b)(1),
- submitting required reports (WIA Section 136(f)),
- disseminating the list of eligible training providers for adults and dislocated workers (WIA Section 134(a)(2)(B)(i) and 20 CFR 665.200(b)(1), and youth activities (20 CFR 665.200(b)(4)), and
- providing technical assistance to poor performing local areas (WIA Section 134(a)(2)(B)(iv) and 20 CFR 665.200(f)).

ii. *Reallocation of recaptured funds*

In PY 2010, ETA approved a waiver of the reallocation provisions at WIA Sections 128(c)(3) and 133(c)(3), and 20 CFR 667.160(c) to permit a state to reallocate recaptured funds according to state-developed criteria. Under the waiver, a state has the discretion to consider additional factors in determining local area eligibility for a reallocation of recaptured funds. States must make public their reallocation procedure and policy, as well as any future changes to that policy.

ETA will approve this waiver on a case-by-case basis. A state requesting this waiver must provide justification that the state cannot fulfill the statutory requirement to reallocate recaptured funds based on the prescribed WIA formula without undue burden. States must propose an alternative policy for reallocation that is based on objective criteria, and demonstrate that the alternative policy was created in a transparent manner with adequate opportunity for comments from local boards, stakeholders, and the general public. States should describe in their request the actions that have been taken to ensure local areas promptly obligate and expend funds within required timeframes, and reduce as much as possible the amount of local area funds subject to recapture.

This waiver only applies to reallocation provisions, and not to the recapture provisions at WIA Sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160. A waiver request of the reallocation provisions will be considered on a case-by-case basis.

iii. *Excluding entrepreneurship trainees from local performance measure*

ETA does not negotiate with nor hold accountable individual local areas, and has concluded that a waiver to exclude entrepreneurship trainees from local performance measures is not necessary. States are responsible for negotiating performance levels with their local areas, and must ensure that the state's targets can be achieved. A state may also wish to consider renegotiating performance goals with the ETA regional office.

If a state chooses to allow a local area to exclude a certain group of participants from their local performance, outcomes for all individuals must still be reported through the WIASRD system. Such information is essential for effective program management and performance accountability. Note that the State has the authority to report additional alternative performance measures that may reflect the outcomes of entrepreneurial

trainees, and is encouraged to do so if it believes such a change would incentivize greater participation in such programs.

B. Waiver Policy Clarifications

- i. *Waivers related to use of funds for on-the-job training (OJT) and customized training***
The waiver of WIA Section 101(31)(B) allows flexibility regarding the 50 percent limit on reimbursement to employers for OJT to permit local areas to use a sliding scale to increase the reimbursement rate based on the size of the business. The waiver of WIA Section 101(8)(C) provides flexibility regarding the requirement for a 50 percent employer contribution rate for customized training to permit local areas to use a sliding scale to reduce the contribution based on the size of the business. States may use Adult and Dislocated Worker funds under these two waivers to serve WIA eligible participants for the respective funding stream being used. States should appropriately apply WIA low-income priority of service requirements when funds are limited (20 CFR 663.600).
- ii. *Waiver permitting use of the common performance measures***
This waiver permits states to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). 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. States approved to use this waiver should still administer customer satisfaction surveys, although there is no requirement to report those results to ETA. States must also continue to report older and younger youth participant and exiter counts on a quarterly basis in WIASRD (ETA 9090). Generally, ETA does not intend to approve a common measures waiver request for a program year when a state submits their request after December 31 of that program year. Such requests will be considered for the following program year.
- iii. *Waivers to promote subsidized employment opportunities for low-income youth***
As referenced in TEN No. 33-11, ETA encourages state and local areas to develop and strengthen partnerships with state and local human services agencies and Community Action Agencies (as defined under the Community Services Block Grant of 1981 as amended) to further support both systems' shared youth populations. In an effort to support increased subsidized employment opportunities for low-income youth, ETA is willing to consider state requests for two types of waivers where Temporary Assistance to Needy Families (TANF) and WIA Youth Program co-enrollment occurs for summer youth employment activities and/or where WIA Youth participate in summer employment activities funded by Community Services Block Grant (CSBG) funds. The following waivers would be effective from May 1 through September 30, if approved:

 - 1) Flexibility to use the work readiness indicator as the only performance measure for such co-enrolled youth; and
 - 2) Ability to apply the program design flexibility for summer youth articulated in TEGL No. 14-08 Section 16.A for such co-enrolled youth, specifically to provide follow-up services as deemed appropriate for such youth participants and to provide

an assessment and Individual Service Strategy as deemed appropriate for such youth.

These waivers apply to WIA-enrolled youth who participate in summer employment only or summer employment and supportive services only. If WIA Youth participate in program elements other than summer employment and supportive services, they would not be eligible to be a part of these waivers. ETA recognizes the importance of summer employment only for low income youth at a time of extremely high youth unemployment. This flexibility will allow for more appropriate performance measurement of this short-term intervention for such co-enrolled youth.

The use of TANF and CSBG funds must be consistent with the TANF and CSBG statute and regulations, as well as state rules and regulations. WIA waiver authority does not apply to TANF or CSBG funds. Requests should include the following information, in addition to requirements discussed in Section 4:

- An estimate of the number of youth who will be co-enrolled in the WIA Youth program and in TANF summer youth employment activities during Summer 2012 (May 1 to September 30) and/or an estimate of the number of WIA Youth who will participate in summer employment activities funded by CSBG funds;
- An estimate of the percent of Summer 2012 WIA Youth program enrollees who will be co-enrolled TANF summer youth employment participants only, and not participate in the WIA Youth program beyond summer and/or the percent of WIA Youth program enrollees who will participate in summer employment activities funded by CSBG funds;
- A description of how the state plans to use WIA Youth funds to support WIA/TANF co-enrolled summer youth participants and/or summer youth participants funded by CSBG funds; and
- A description of continued service plans for WIA/TANF co-enrolled participants and/or summer youth participants funded by CSBG funds served under the waiver, such as transition to the WIA Adult program or further education and training under WIA funded youth services.

iv. *State Board as Local Board Waiver*

The WIA regulations at 20 CFR 661.300(f) allow the State Board to carry out the roles of a Local Board. This regulation normally applies to the states that were single service delivery areas under the Job Training Partnership Act, and were designated as single local areas at the onset of WIA. This waiver does not, on its own, alter or eliminate a state's local areas. Furthermore, this waiver does not create a single state planning area; however, certain aspects of it have the practical effect of allowing the state to operate similar to a single state area, in cases where the state is acting for all local boards in the state. If approved, states must continue to allocate funds to local areas.

The following elements must be included in requests for this waiver, in addition to requirements discussed in Section 4:

- Description of the compelling reasons for the proposed governance structure and why a local Workforce Investment Board cannot or should not perform its functions;
- Discussion of how the state will ensure that local interests of the following stakeholders continue to be represented and engaged if the waiver is granted and the steps the state will take to ensure fair and equitable treatment of these stakeholders: geographic diversity across local areas (e.g. urban vs. rural), local businesses, including small business, vulnerable populations, local community based organizations, education and training providers, organized labor, and one-stop partners;
- Discussion of how resources will be distributed in a fair and equitable way;
- An explanation of the procurement policy for One-Stops;
- Inclusion of the state policy for ensuring that the functions of the local board are met by the state board, for instance, the establishment of Youth Councils;
- Documentation of the governor's consultation with the state board and local chief elected officials and other stakeholders, and consideration of any comments received through the public comment process;
- Discussion of how the state intends to monitor the state board acting in the capacity of the local board; and
- Discussion of all transition costs associated with the state assuming the functions of the local board or boards.

v. *Waivers for National Emergency Grants (NEGs)*

Grantees that wish to utilize waivers approved for their State's Adult and/or Dislocated Worker formula program for NEG projects must submit a request to apply the waiver to the NEG, either in the initial application, or in a subsequent grant modification. These waivers are not automatically applied.

4. **Waiver Requests.** States wishing to request waivers must submit full waiver plans to ETA. The waiver plan must include all of the required elements listed in the WIA regulations at 20 CFR 661.420(c) and discussed in TEGl 26-09, Section 9, *Waiver and Work-Flex Request Elements and Process*. States may use the submission template available at <http://www.doleta.gov/waivers/pdf/waiver-template.doc> (Attachment B) which provides a description of each element and submittal instructions. States wishing to include waiver requests in their PY 2012 State Plan should reference ETA's published guidance in TEGl No. 21-11.

While ETA intends, in general, to approve waivers in alignment with the decisions provided in Attachment A, ETA will consider all requests. The unique circumstances in a particular state may result in the approval of a waiver request that ETA has disapproved in another state.

5. **Waiver Portal.** To improve transparency regarding waiver options, and provide the public workforce system and other stakeholders with information about the waiver request process and waiver decisions, ETA recently enhanced information available on its waiver Web site and developed new tools. The “waiver portal” provides menu-driven access to a variety of waiver resources. The portal provides a summary of the waiver request process and the applicable statute, regulations, and TEGs, as well as other tools and information. The waiver portal includes access to a WIA/W-P waiver database which features a number of interactive menu and tools, and provides information on waivers requested since PY 2009. Users of the database can review their own and other state waiver requests, the current status of waiver decisions, and ETA waiver response letters. Users may also search waivers by category and type, and can easily generate and customize reports to meet their particular review or research requirements. The database is available at www.waivers.doleta.gov.

6. **Work-Flex Quarterly Reports.** WIA Section 192 permits states to request Work-Flex designation. Under this authority, a state may grant waivers of WIA provisions applicable to local areas in accordance with 20 CFR 661.430(a). Work-Flex WIA regulations at 20 CFR 661.440(b) require a state to demonstrate that it has met agreed-upon outcomes contained in its Work-Flex plan. This can be demonstrated by describing how waivers and Work-Flex are used in the WIA Annual Report, as described in TEG No. 29-11. Additionally, in order to fulfill a state’s responsibility to demonstrate that it is meeting agreed-upon outcomes, states that have an approved Work-Flex plan in place should submit quarterly reports to the ETA containing the following information:
 - Waiver
 - Date received
 - Date granted
 - Local Area(s) requesting waiver
 - Purpose (brief statement)
 - Regulation/statute affected
 - State-imposed conditions of waiver use, as appropriate.

States that have an approved Work-Flex plan in place should submit the quarterly report to WIA.PLAN@dol.gov with a copy to the appropriate Regional Administrator within 30 days of the end of the quarter, e.g. by April 30 for the quarter ending March 31.

7. **OMB Approval of Work-Flex Plans and Quarterly Reports.** The requirements for submitting a Work-Flex plan (described in TEG No. 26-09 Section 9.B.) and the requirements for submitting quarterly reports (described in Section 6 of this TEG) are approved by OMB (OMB approval number 1205-0432), pursuant to the Paperwork Reduction Act of 1995, expiration date October 31, 2014, and were published in the Federal Register on October 31, 2011. The requirements for submitting a waiver plan were approved by OMB (OMB approval number 1205-0398) as part of the OMB approval for State Workforce Plan Requirements and expire February 28, 2015.

8. **Inquiries.** States should address their inquiries to their ETA Regional Office.

9. Attachments.

- Attachment A: Waiver Decisions: PY 2009 – PY 2011
- Attachment B: General Workforce Investment Act Waiver Request Template

Waiver Decisions

Waiver Name	Waiver Description	Policy Decisions, Program Year (PY) 2009 – 2011
Funds Flexibility		
Adult-Dislocated Worker Transfer	Waiver of WIA Section 133(b)(4) to increase the funds transfer limit between the Adult and Dislocated Worker programs.	ETA approved this waiver. The transfer authority may be increased to 50 percent.
Customized Training-Employer Contribution	Waiver of WIA Section 101(8)(C) of the requirement for a 50 percent employer contribution for customized training to permit local areas to use a sliding scale to reduce the contribution based on the size of the business.	ETA approved this waiver.
On-the-Job (OJT) Training- Employer Reimbursement	Waiver of WIA Section 101(31)(B) of the 50 percent limit on reimbursement to employers for OJT to permit local areas to use a sliding scale to increase the reimbursement based on the size of the business.	ETA approved this waiver.
Local Funds for Incumbent Worker Training (IWT) as a Statewide Activity	Waiver of WIA Section 134(a) to permit local areas to use a portion of local Adult, Dislocated Worker, and Youth funds for statewide activities, specifically IWT.	<p>ETA approved this waiver with the following parameters:</p> <ul style="list-style-type: none"> ▪ Local Adult and Dislocated Worker funds may only be used for IWT as part of layoff aversion and are limited to: <ul style="list-style-type: none"> ○ 20 percent of local Dislocated Worker funds for IWT OR ○ 10 percent of Dislocated Worker funds and 10 percent of Adult funds for IWT OR ○ 10 percent of Adult funds for IWT ▪ Youth funds may <u>not</u> be used for IWT. ▪ Local funds may <u>not</u> be used for any other statewide activities.

Waiver Name	Waiver Description	Policy Decisions, Program Year (PY) 2009 – 2011
Rapid Response Funds for Incumbent Worker Training and Other Statewide Activities	Waiver of WIA Section 134(a)(1)(A) to permit states to use a portion of rapid response funds for IWT and other statewide activities.	ETA approved this waiver with the following parameters. <ul style="list-style-type: none"> ▪ Waiver granted to use up to 20% of rapid response funds for IWT as part of lay-off aversion only. ▪ ETA will still consider waiver requests to use rapid response funds for other statewide activities for the purpose of innovative training and service delivery approaches that enhance services to dislocated workers.
Recapture and Reallocation	Waiver of WIA Sections 128(c)(2) and 133(c)(2), and 20 CFR 667.160 to permit states to recapture local funds midway through the year, recapture of unexpended funds instead of unobligated funds, and reallocation based on local area expenditure rates. If requested, the waiver allowed for reallocation based on a variety of factors.	ETA did <u>not</u> approve this waiver for any state.
Reallocation	Waiver of the reallocation provisions at WIA Section 128(c)(3) and 133(c)(3) and 20 CFR 667.160 to state to reallocate recaptured funds according to state-developed criteria	ETA approved this waiver for one state.
Performance		
Alternative Seasonal Performance Measure	Waiver of WIA Section 136(b)(2)(A)(i)(II) and 20 CFR 666.140 to permit an alternate measure of employment retention for areas of the state where the majority of employment is seasonal.	ETA has approved this waiver on a case by case basis.
Common Measures	Waiver of WIA Section 136(b) to permit implementation of, and reporting only for, the common measures in lieu of the current WIA statutory measures.	ETA approved this waiver.

Waiver Name	Waiver Description	Policy Decisions, Program Year (PY) 2009 – 2011
Incentive Grants to Local Areas	Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt the state from providing local incentive grants.	ETA has approved this waiver on a case by case basis.
Reports as a Statewide Region	Waiver of WIA Section 136(c) and 136(d) to permit the state to report only statewide data.	ETA has considered this waiver on a case by case basis, but did <u>not</u> grant this waiver for any state.
WIASRD Elements for Incumbent Worker Training	Waiver of regulations at 20 CFR 666 and 667.300(a) to allow states to discontinue collection of 7 WIASRD data elements for incumbent workers.	ETA approved this waiver.
Local Performance Exemption for Entrepreneurship Training	Waiver of regulations at 20 CFR 666.300 to exclude entrepreneurship training from local performance measures.	Waiver not needed.
OJT Credential Performance	Waiver of regulations at 20 CFR 666.100 to exempt state from including credential attainment outcomes for participants enrolled in OJT in the credential performance measure calculations. All participants served and outcomes should be reported in the WIASRD.	ETA approved this waiver.
Performance Sanctions Applied to a Consortium	Waiver of WIA Section 136(h) and 20 CFR 666.420 to permit sanctions for poor performance to be applied to a consortium of multiple local areas, rather than to the individual local areas.	ETA approved this waiver.
Performance Negotiations as a Consortium	Waiver of regulations at 20 CFR 666.300 and 666.310 to permit a consortium of multiple local areas to negotiate performance goals with the State as one entity.	ETA approved this waiver.
Youth		
Youth Individual Training Accounts	Waiver of regulations at 20 CFR 664.510 of the prohibition on the use of ITAs for youth.	ETA approved this waiver.

Waiver Name	Waiver Description	Policy Decisions, Program Year (PY) 2009 – 2011
Competitive Procurement for Youth Program Elements	Waiver of WIA Section 123 of the requirement for competitive procurement of service providers for some or all youth program elements.	ETA approved this waiver with the following parameters: ETA will allow One-Stop Operators or partner agencies to directly provide the following three elements: supportive services, follow-up, and work experience. ETA did <u>not</u> grant this waiver for other elements except in very limited circumstances in PY 2009.
Alternative School for Out-of-School Youth	Waiver of WIA Section 129(c)(4)(A) to allow certain alternative school enrollees to count toward the 30% out-of-school youth expenditure requirement.	ETA has considered this waiver on a case by case basis, but did not approve for any state.
Youth Program Elements	Waiver of WIA Section 129(c)(2) to allow local areas to choose which of the 10 youth program elements to make available to youth participants.	ETA did <u>not</u> grant this waiver for any state.
Youth Follow-up Services	Waiver of regulations at 20 CFR 664.450(b) of the requirement that all youth participants receive follow-up services for a minimum duration of 12 months.	ETA did <u>not</u> grant this waiver for any state.
Youth Eligibility	Waiver of WIA Section 101(13) to grant eligibility to children of parents who are WIA Adult participants.	ETA will <u>not</u> consider this waiver because it lies outside the waiver authority.
Work Readiness Indicator Only for Youth Co-enrolled in WIA Title 1 and TANF or CSBG for Summer Youth Employment Activities	Waiver of regulations at 20 CFR 664.460 to use the work readiness indicator as the only performance measure for youth co-enrolled in WIA and other programs for summer youth employment activities.	ETA has approved this waiver on a case-by-case basis.

Waiver Name	Waiver Description	Policy Decisions, Program Year (PY) 2009 – 2011
Waiver to Apply Program Design Flexibility for Youth Co-enrolled in WIA Title 1 and TANF or CSBG for Summer Youth Employment Activities	Waiver of WIA Section 129, 20 CFR 664.405(a), and 664.450(b) to apply the program design flexibility for youth co-enrolled in WIA and other programs for summer youth employment activities, specifically to provide follow-up services and/or an assessment and Individual Service Strategy as deemed appropriate for such youth.	ETA has approved this waiver on a case-by-case basis.
Governance		
State Board Acting as Local Board	Waiver of regulations at 20 CFR 661.300(f) to allow the State Board to carry out the roles and responsibilities of the Local Board.	ETA has approved this waiver on a case-by-case basis.
State WIB Membership Requirements	Waiver of WIA Section 111(b) to streamline the membership of the State Workforce Board.	ETA has approved this waiver on a case-by-case basis.
Other		
Exemption from the requirement to conduct evaluations	Waiver of requirement at WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) 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.	ETA has approved this waiver on a case-by-case basis.
Exemption from the requirement to disseminate training provider performance and cost information	Waiver of the requirement at 20 CFR 665.200(b)(3) to disseminate training provider performance and cost information that states are required to collect and maintain.	ETA has approved this waiver on a case-by-case basis.

Waiver Name	Waiver Description	Policy Decisions, Program Year (PY) 2009 – 2011
<p>Exemption of the requirement to provide additional funding to areas with a high concentration of WIA-eligible youth</p>	<p>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.</p>	<p>ETA approved this waiver on a case by case basis.</p>
<p>Eligible Training Provider (ETP) Initial Eligibility</p>	<p>Waiver of regulations at 20 CFR 663.530 of the time limit on the period of initial eligibility for training providers.</p>	<p>ETA approved this waiver.</p>
<p>ETP for Providers Adding Programs</p>	<p>Waiver of the ETP process for eligible providers adding programs.</p>	<p>ETA will <u>not</u> consider this waiver because it lies outside the waiver authority.</p>
<p>Public Service Employment</p>	<p>Waiver of WIA Section 195(10) and 20 CFR 667.264(a)(2) of the prohibition on the use of funds for public service employment.</p>	<p>ETA has considered this waiver on a case by case basis, but did <u>not</u> grant this waiver for any state in PY 2009-PY 2011.</p>
<p>Contracting for Training Outside of ITA's</p>	<p>Waiver of WIA Section 134(d)(4)(G) to allow local areas to contract for training outside the ITA process.</p>	<p>The FY 2011 and FY 2012 Department of Labor Appropriations Acts allow local areas to contract with providers for class-size training in high-demand occupations, if it does not limit customer choice. A waiver is not necessary for FY 2011 and 2012 WIA funds.</p>
<p>One-Stop Intake</p>	<p>Waiver of regulations at 20 CFR 662.240(b)(10) to allow WIA and W-P funded staff to perform intake for other programs.</p>	<p>ETA approved this waiver on a case-by-case basis.</p>
<p>Work-Flex</p>	<p>Waiver at WIA Section 192 to provide state authority to waive certain elements of WIA for local areas, based on submitted plan.</p>	<p>ETA will consider work-flex requests on a case-by-case basis.</p>

Waiver Name	Waiver Description	Policy Decisions, Program Year (PY) 2009 – 2011
Business Capitalization	Waiver of WIA Section 181(e) to permit the use of a limited amount of WIA funds to capitalize a small business in concert with entrepreneurial or small business training.	ETA did <u>not</u> grant this waiver for any state for formula funds, but approved one state for this waiver for a National Emergency Grant for a disaster-related event on a case by case basis.
Needs Related Payments for Dislocated Workers	Waiver of regulations at 20 CFR 663.820 of the requirement that dislocated workers must be enrolled in training by end of 13 th week after lay-off to receive needs-related payments.	ETA will <u>not</u> consider this waiver because it lies outside the waiver authority.
Sequence of Service	Waiver to streamline sequence of service.	Waiver not needed; refer to TEGL 14-08, Section 13.

Attachment B

General Workforce Investment Act Waiver Request Template

The Workforce Investment Act Section 189(i)(4)(B) identifies elements that must be included in a waiver request. These elements and the request process are also discussed in Training and Employment Guidance Letter number 26-09. In keeping with those requirements, ETA has developed this template that states may use when requesting a waiver. States may also request a waiver using their own format or form, as long as elements required by WIA are addressed in the request. After reviewing a state's initial request, ETA may request additional information if necessary to complete its review. ETA will render a decision within 90-days of the receipt of the waiver request.

To submit a waiver request, e-mail this completed template (or state-developed form) along with a cover letter to WIA.Plan@dol.gov and the appropriate ETA regional office. ETA will also accept hard copy submissions with an original signature sent to the Federal Coordinator for Plan Review and Approval and to the appropriate ETA Regional Administrator. The address for the Federal Coordinator is as follows:

Office of Workforce Investment
Division of WIA Adult Services and Workforce Systems
Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave., NW, Room S-4209
Washington, DC 20210
ATTN: Federal Coordinator for Plan Review and Approval

Date:

State:

Agency:

Provide narrative for the following elements:

Statutory and/or regulatory requirements to be waived

Indicate which part of the WIA or the regulations the state would like to waive.

Actions undertaken to remove state or local barriers

Describe the actions undertaken to remove state or local barriers.

Goals and expected programmatic outcomes of waiver

Describe and specify how the waiver will help the state achieve an identified strategic goal or set of goals that it has outlined in its State Plan. If possible and appropriate to the type of waiver requested, provide quantifiable projections for programmatic outcomes that will result from the waiver.

Individuals impacted by the waiver

Describe which populations the waiver will benefit, or that the waiver will otherwise affect. Beneficiaries may include workforce systems and processes.

Process for monitoring progress in implementation

Describe processes the state has established or will establish to support waiver implementation; identify steps for implementing the waiver; discuss plans to monitor implementation including programmatic review, financial oversight, and accountability.

Notice to affected local boards

Address how local boards affected by the waiver were notified of the request.

Public Comment

Provide a description of the proactive solicitation of public comments. At a minimum, post the proposed waiver request to the state's official website or in the newspaper for comment. Ideally, develop a targeted outreach strategy to collect input and comment from all affected stakeholders. Submit any comments or concerns collected in this manner and the outcome of the state's review of the public comments received.