U.S. Department of Labor

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

JUN 30 2010

The Honorable Ted Strickland
Governor of Ohio
77 South High Street, 30th Floor
Columbus, Ohio 43215-6117

Dear Governor Strickland:

This letter provides approval of the modification to Ohio's State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act (W-P), and approves the extension of Ohio's existing waivers for the period July 1, 2010 through June 30, 2011, Program Year (PY) 2010. The Employment and Training Administration (ETA) received the State's proposed modification on May 13, 2010. This letter also responds to Ohio's requests for new waivers.

Training and Employment Guidance Letter (TEGL) No. 21-09, issued on April 15, 2010, provides guidance for states that choose to submit a modification of the existing State Plan for PY 2010 or submit requests for new waivers. We appreciate the State's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the Ohio State Plan modification in accordance with Title I of WIA, the Wagner-Peyser Act, the corresponding regulations, the WIA/W-P Planning Guidance (73 Fed. Reg. 72853, December 1, 2008), and as appropriate Attachment A of TEGL 14-08. 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 modification to Ohio's State Plan for the period July 1, 2010 through June 30, 2011.

The Grant Officer will issue a Notice of Obligation for the "July portion" of the WIA formula allocations for Adult and Dislocated Worker programs, effective July 1, 2010, under the PY 2010 Annual Funding Agreement. The W-P program's Annual Funding Agreement for PY 2010/Fiscal Year 2011 will be sent to the designated state grantee agency for signature and return to the Grant Officer for execution, effective July 1, 2010. The W-P Annual Funding Agreement will provide for the initial base allocation of PY 2010 funds.

Performance Levels

Ohio has decided to extend its existing PY 2009 WIA and W-P performance goals for PY 2010. ETA has incorporated these performance goals, identified as

PY 2010 performance goals, into the Regional and National Office copies of the State Plan. Please include these PY 2010 goals in the State's official copy of the State Plan.

Waivers

As part of Ohio's modification of the WIA/W-P State Plan, and as described in TEGL 21-09, ETA has made determinations regarding an extension of Ohio's PY 2009 waivers of statutory and regulatory requirements under WIA for PY 2010. The State also submitted a request for new waivers (copy enclosed). The State's request for new waivers is 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 extensions as well as its submission of new waiver requests 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. Unless otherwise indicated, all waiver approvals that follow apply to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009.

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 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 State is granted an extension of this waiver through June 30, 2011. 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. 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 American Recovery and Reinvestment Act of 2009. However, the State is permitted to transfer up to 30 percent of ARRA funds between programs under WIA and under the Department of Labor Appropriations Act of 2009. This authority is discussed in TEGL No. 14-08, change 1.

Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State 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 State is granted an extension of this waiver through June 30, 2011. 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-

100 employees. For employers with more than 100 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 may provide customized training to low-income adults with WIA Adult funds, and 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 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State 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 State is granted an extension of this waiver through June 30, 2011. Under this waiver, the State will be 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 lay-off 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 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 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 State is granted an extension of this waiver through June 30, 2011. 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 lay-off 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. 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 American Recovery and Reinvestment Act of 2009.

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 was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older and out-of-school youth program participants. The State is granted an extension of this waiver through June 30, 2011. Under this waiver, the State can use ITAs for older and out-of-school youth program participants. The State should ensure that funds used for ITAs are tracked and reflected in the individual service strategies for these youth.

Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State was previously granted a waiver of the requirement for competitive procurement of service providers for three of the ten youth program elements: supportive services, follow-up services, and work experience. The State is granted an extension of this waiver through June 30, 2011. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide youth program elements. In utilizing this waiver, the State 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 to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State was previously granted 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 an extension of this waiver through June 30, 2011.

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.

Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

The State was previously granted a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the State to discontinue the collection of the following WIASRD elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The State is granted an extension of this waiver through June 30, 2011.

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 was previously granted 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 an extension of this waiver through June 30, 2011. 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.

New Waiver Requests

Requested Waiver: Waiver of the requirement under WIA section 123 and 20 CFR 664.610 regarding competitive selection of providers of youth activities for summer youth employment activities.

The State has requested a waiver of the requirements under WIA section 123 and 20 CFR 664.610, stating that providers of summer youth employment opportunities must be selected by awarding a grant or contract on a competitive

basis. ETA denies this waiver. As described in TEGL No. 26-09, although ETA approved this waiver for summer of 2009 after passage of the Recovery Act in order to facilitate rapid implementation of summer 2009 summer youth activities with Recovery Act funds, ETA will not approve this waiver for summer 2010. States have had adequate time to plan for and competitively procure summer youth employment activities for summer 2010. TEGL No. 26-09 also states that ETA will issue separate guidance if a supplemental appropriation for summer youth employment activities is enacted.

Waiver of WIA Section 181(e) to permit the use of WIA funds of up to $5,000 to capitalize a small business in concert with entrepreneurial or small business training.

The State is requesting a waiver of WIA Section 181(e) to permit the use of WIA funds of up to $5,000 to capitalize a small business in concert with entrepreneurial or small business training. ETA denies this waiver. Entrepreneurship is important to job creation, however business capitalization is best supported by organizations and agencies whose mission and statutory authority directly relate to business development.

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, 2011. The State requested a sliding scale that would allow reimbursement up to 90 percent for employers with up to 100 employees. 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 may provide on-the-job training to low-income adults with WIA Adult funds, and 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.

The State also requested a waiver to permit it to pilot a program to reimburse employers up to 100 percent for on-the-job training based on the size of the business, the availability of health benefits, wage compensation above the minimum wage, and other factors. ETA has determined that since the state will be using only statewide discretionary "15 percent" funds to finance

reimbursements, no waiver is necessary. WIA Sec 134(a)(3)(A)(iii) allows statewide discretionary funds to be used for research and demonstrations, and the proposed pilot falls within this allowable use of funds.

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 required by TEGL No. 14-00, Change 3, 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.

We look forward to working together as you implement your State Plan for PY 2010. If you have any questions related to the issues discussed above, please contact Rebekah Woolley, the Federal Project Officer for Ohio, at 312-596-5513 and woolley.rebekah@dol.gov.

Sincerely,

Jane Oates
Assistant Secretary

Enclosures

cc: Douglas Lumpkin, Director, Ohio Department of Job and Family Services
Bruce Madson, Deputy Chief of Staff – Workforce Solutions, Ohio Department of Job and Family Services
John Weber, Deputy Director, Ohio Department of Job and Family Services
Byron Zuidema, Regional Administrator, ETA Chicago Regional Office
Janet Sten, Federal Coordinator for Plan Review and Approval
Thomas Martin, Grant Officer
Rebekah Woolley, Federal Project Officer for Ohio

TED STRICKLAND
GOVERNOR
STATE OF OHIO

May 13, 2010

Ms. Janet Sten
Federal Coordinator for Plan Review and Approval
Division of Workforce System Support
Employment and Training Administration
U.S. Department of Labor
200 Constitution Avenue, NW, Room S-4231
Washington, DC 20210

Dear Ms. Sten:

With this letter, I am informing you that Ohio has modified its Strategic State Plan for WIA Title I and the Wagner-Peyser Act for the period July 1, 2010 through June 30, 2011. As permitted by Training and Employment Guidance Letter No. 21-09, the modification has been posted on the following web site for your access: http://jfs.ohio.gov/owd/WorkforceProf/Final_State_Plan_TOC.stm. I certify that no changes will be made to the version posted on the web site after it has been submitted, without prior approval from the Employment and Training Administration.

Included in Ohio's plan modification are waiver requests for both new and existing waivers. In addition, the modification includes a request to extend the current levels of performance through June 30, 2011. A hard copy original of this letter and the signature page for the state plan modification, Attachment A, will be mailed to you.

If you have questions about this modification, please contact Bruce Madson, Deputy Chief of Staff of the Ohio Department of Job and Family Services, at 614-466-6283.

Sincerely,

Ted Strickland

Ted Strickland
Governor

cc: Byron Zuidema, Regional Administrator
Douglas E. Lumpkin, ODJFS Director
Lisa Patt-McDaniel, ODOD Director

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State of Ohio
Request for waiver
Employer Reimbursement of OJT Payments

Background

The Ohio Department of Job and Family Services as the State's administrative entity for the Workforce Investment Act (WIA), is requesting a waiver to change the reimbursement schedule for employers who have on-the-job training (OJT) contracts with our local service providers. Twenty states have already an implemented an improved system for such a reimbursement sliding scale. Further, this waiver is built on an already approved Ohio waiver for customized training.

Ohio would like to pursue two different programs under this waiver. The first program would change the OJT reimbursement rate to use a sliding scale based upon the size of a business. Second, Ohio would pilot a 100% OJT reimbursement rate for small employers who provide healthcare/other benefits, and pay more than minimum wage.

This waiver will encourage employers to participate in OJT by providing a financial incentive to hire individuals who meet job needs. The current employment market favors employers. The waiver will assist Ohio in best positioning dislocated workers and low-income adults for job opportunities in the recovering economy. For the job seeking participants of the employment and training system, this waiver will afford them the opportunity to receive highly relevant and job related training for positions for which there is a demand and enable one-stop customers to make a direct connection with an employer. This waiver would apply to our currently approved Program Year 2009 state plan.

This waiver request follows the required format identified in WIA Section 189 (i)(4)(B) and WIA Regulations at 20 CFR 661.420(c).

Section I: Statutory or Regulatory Requirements to be Waived

Pursuant to WIA Section 189(i)(4)(B) and the WIA federal regulations at 20 CFR 661.420(c), the State of Ohio is requesting a waiver of the requirement for employers to be reimbursed up to 50% of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT, as identified at WIA 101(31)(B).

Section II: State or Local Statutory or Regulatory Barriers Removed

There is no existing State or local statutory or regulatory barriers to the implementation of this waiver request.

Section III: Goals to Achieve Using the Waiver

OJT enhances the employment and training resources available to meet the needs of potential employers and trainees. These resources train individuals for jobs that exist and for which employers are willing to make investments. Employer-driven OJT programs directly meet the current needs of the labor market and provide the potential of meeting the employer needs of the future. These types of programs focus on employer and job seeker requirements while minimizing programmatic and bureaucratic barriers.

Ohio would like to pursue two different programs under the requested waiver.

The first program proposes to change the current maximum 50% reimbursement rate for an OJT participant based on a sliding scale, ranging from 50 to 90 percent, dependent on the employer's size. Specifically, Ohio will establish the following allowable reimbursement: not more than 90% of the wage rate for employers with 100 or fewer employees, 80% of the wage rate for employers with 101-150 employees, 70% of the wage rate for employers with 151-175 employees, 60% of the wage rate for employers with 176-200 employees, and 50% of the wage rate for employers with more than 200 employees. This program would be available for formula Adult and Dislocated Worker funds, ARRA Adult and Dislocated Worker funds, and statewide funds.

Almost 75% of Ohio's nongovernmental employers are small businesses that have less than 250 employees. Small business do not typically have a Human Resources Department that can provide extensive training to their employees which increases their cost of training to their new employees. The current 50 percent reimbursement limits the ability to market OJT programming to potential employers. Local employers often conclude that the 50 reimbursement limit is too little of a compensation to train inexperienced individuals. They acknowledge the benefits of training individuals for specific needed jobs but indicate that costs often outweigh these benefits. A sliding reimbursement fee schedule will give the State's local Workforce Investment Areas a tool to present a more favorable picture of the program and to encourage employers to hire one-stop customers first. It will afford local staff the flexibility of encouraging the OJT participation of employers with jobs in demands and in industries that are growing. Further, it will improve job placement performance for individuals that are hard to place.

The second program would be operated on a pilot basis for a limited number of employers in Ohio. This program will provide a 100% reimbursement for employers who:

Provide health care benefits,
Pay more than minimum wage,
Include small businesses with fewer than 100 employees,
Commit to hire those individuals after the end of the OJT.

We are the targeting following industry sectors for this pilot: health care, logistics, manufacturing, and business services. The pilot program positions eligible for the maximum reimbursement will be at a rate higher than minimum wage due to the level of skill needed for these industries. Ohio is exploring a partnership with a metropolitan local based community based organization to implement this pilot program. This organization will develop or already have the capacity to work with the number of businesses to make this program a success. The selected organization will also be working with these small businesses, including minority-owned businesses (which will be a focus of the pilot program), to ensure they are aware of the tax credits that are available and how they can be integrated into this pilot program. The Columbus Area Chamber is currently surveying businesses to determine the scope of interest of the business community to determine how many would be willing to participate in this pilot. State staff will be assigned to work with this pilot to limit and remove some of the burdensome paperwork requirements that can be a part of OJT programs. The pilot would focus on serving low-income adults and dislocated workers with ARRA Adult, ARRA Dislocated Worker, and statewide funds.

By waiving the 50% reimbursement requirement local boards will be able to more effectively market OJTs to the employers in targeted growth industries and in-demand occupations. These proposals for the employer contribution are at rates that more appropriately represents a particular business' or industry's cost benefit ratio. The proposed changes to the reimbursement limit will increase the likelihood of job placement activity (both subsidized and unsubsidized).

The specific goals to be achieved by the waiver are to:

(1) Improve the ability of the State of Ohio to respond to changes in employer and industry needs;

(2) Increase control of program delivery;

(3) Increase Employer/Board collaboration to address industry needs and worker training;

(4) Provide greater flexibility in designing and implementing WIA programs.
(5) Connect job seekers with hiring employers.

Section IV: Programmatic Outcomes to Achieve Using the Waiver

In the use of this waiver we expect to see:
Increased entered-employment rates, employment retention rates, wage gain rates, and increased use of OJT training as a training model.

Section V: Individuals Impacted by the Waiver

Employers will benefit from this waiver because of the increased reimbursement schedule. This will make OJT an attractive employer option for obtaining employees trained to their specifications. By engaging in OJT through the employment and training

system, employers will become more aware of the valuable resources that the One-Stop can provide.

Job seekers will benefit from this waiver because they will be afforded the opportunity to be trained for high growth/high demand occupations in industries that are expected to grow. They will be obtaining training signifying their acquisition of transferable and valuable skills that can help them obtain future employment should the present employment situation change. Job seekers also benefit from having a direct connection with a hiring employer.

Individuals with multiple barriers to employment will benefit from this waiver since they will be an economic encouragement for employers to train these individuals for jobs with high potential for growth. OJT, as a training model, also offers a paycheck to the trainee. This aspect of OJTs is even more important as thousands of Ohio Unemployment Insurance claimants exhaust their benefits.

Local area One-Stop staff will benefit from this waiver by having an additional tool to offer job seekers and employers that can be customized to meet mutual needs

Local Area Workforce Board members will benefit from this waiver by having a firmer control on the services they can offer to employers and job seekers.

It is clear that this waiver will benefit a great number of people.

Section VI: Process to Monitor the Progress in Implementation of the Waiver

The Ohio Department of Job and Family Services, Office of Workforce Development (OWD) is the State entity responsible for administering WIA, Wagner-Peyser and Veterans Programs. OWD also houses SCOTI — Sharing Career Opportunities and Training Information, which is the integrated case management and reporting system that is used to track and monitor the changes and outcomes that are caused by this waiver and OhioMeansJobs.com, the state's job search tool.

OWD will be monitoring the implementation of this waiver through feedback from the local areas. Meetings between OWD staff, local board directors and administrative entities are currently held on a regular basis which serves as a venue to address any issue with the implementation of this waiver. Ohio has already has a positive experience with our Project Hire program with ARRA funds, where we have had almost 600 One-Stop customers already receiving Ohio Learning Accounts which features a strong OJT component. We anticipate similar success with this waiver.

Section VII: Process to Provide Notice to Local Workforce Investment Boards and Opportunity to Comment

Workforce development stakeholders were notified of the proposed waiver request through an email alert. The email alert contained the proposed waiver request and instructions on how to submit comments. In addition, both the general public and stakeholders had access to the waiver request on our web site: http://jfs.ohio.gov/workforce/. The public comment period was open for seven days.

Waiver Questions and Comments Received, and the State's Responses:

Attachment A contains all comments and responses that were received during the public comment period. ODJFS communicated the State's response to the comments through a memo was sent via an email to the same recipients.

10. Waiver Request: Waive procurement requirements for ARRA Youth Program

Background

The American Recovery and Reinvestment Act of 2009 (ARRA), signed by President Obama on February 17, 2009, is intended to preserve and create jobs, promote the nation's economic recovery, and to assist those most impacted by the recession.

With the additional workforce funding provided in the ARRA and the increased employment and training services such funding will support, Ohio's workforce system will play a vital role in the economic recovery by assisting workers who are facing unprecedented challenges to retool their skills and re-establish themselves in viable career paths.

The State of Ohio's work to meet both the letter and the spirit of the law and fulfill its critical role in the economic recovery, the ARRA must be implemented expeditiously and effectively, with full transparency and accountability of the expenditure of funds.

The request for waiver is organized to align with the requirements outlined in 20 CFR 66 1.420(c) and TEGL 14-08.

Justification for this Waiver

The State of Ohio has conducted extensive technical assistance to help Local Area's launch the Youth Summer Employment Programs. While some WIBs plan to administer the summer youth employment program themselves, other WIBs have determined it necessary to seek outside providers for this program element. WIBs have expressed concern over short time frame for procurement implementation and requested ODJFS to submit this waiver request. If granted, this waiver will provide the state with specific statutory and regulatory relief for the expenditure of Youth program dollars. Ohio views this waiver as an emergency request in order for the state to support its WIBs in their effort to quickly implement the procurement process so enrollment of youth into summer work experience may begin on time.

If granted this waiver would accomplish the following:

1. Allow WIBs to expand existing competitively procured contracts.
2. Conduct expedited limited competitive procurement under 29 CFR 97.36 for the expenditure of Youth program dollars. This limited competition would be with proven service providers who have demonstrated performance.

These expanded contracts and expedited limited competitive contracts would be limited to a percentage equal to the percentage increase in the ARRA total allotment from the state.

Accountability Safeguards Against Unfair Procurement Practices

The State of Ohio will provide local areas with training and technical assistance to expand existing competitively procured contracts and provide for expedited limited competition to select service providers.

The state will use its network of monitoring services, which include audit and program staff, to scrutinize local area compliance with all applicable local, state, and federal competitive

procurement requirements, including this waiver. Moreover, these monitoring services will be used to provide safeguards against unfair procurement practices.

In addition to our customary WIA monitoring activities, the Office of Fiscal and Monitoring Services has also established additional monitoring activities and standards related to ARRA funds. These additional monitoring expectations are outlined in Stimulus Monitoring and Oversight Letter # 1.
http://jfs.ohio.gov/worM0rce/docs/workforceproflARRA~2009~WIA~Monitoring~Guidance.pdf

Assure Compliance with State and Local Procurement Laws and Policies

The Ohio Administrative Code 5101:9-4-07 outlines the requirements for procurement activities for Ohio's Workforce Development Agencies and the process for certain requirements to be waived. ODJFS has outlined the process for Workforce Development Agencies to seek this approval in Fiscal Administration Procedure Letter #2. **http://jfs.ohio.gov/workforce/docs/workforcepro~APLLO2.pdf**. Presently, local areas who are interested in expanding contracts which were competitively procured must complete the process outlined in this procedure letter in order to have those state procurement procedures waived. This can be a lengthy process as each request must be individually review by our Office of Legal and Acquisition Services before it is approved.

Approval of this waiver will enable the ODJFS Office of Legal and Acquisition Services to issue state policy which outlines the requirement, parameters and conditions by which WIBs can expand existing competitively procured contracts and conduct expedited limited competitive procurement. This policy will expedite procurement processes while safeguarding against unfair procurement practices. Local Elected Officials will then be able to modify local requirements or adopt the state policy for their respective counties and Workforce Development Agencies. WIBs may either adopt the state policy or modify their procurement policies to align with the new state issued policy.

Ensure Public Announcement and Transparency

The State of Ohio has used several strategies to publicly announce opportunities for youth program participation for youth participants and summer employment providers as indicated by the transparency provisions in the ARRA.

The State launched its ARRA website in February 2009. The purpose of the website is to make Ohioans aware of the program opportunities that arise from the ARRA and allows ay be considered for participation in the program. The website can be found at **http://www.recovery.ohio.gov/**

State leaders, including representation from the WIA program, have conducted regional meetings with taxpayers and businesses to make them aware of the opportunities to participate in ARRA funded programs. These meetings include discussions about youth program opportunities for youth participants and employment providers.
Local workforce areas have conducted intense program outreach activities in an effort to attract youth participants and summer employment providers. These outreach activities

include newspaper advertisements, press releases, public speaking, and public information announcements on the radio and television.

Local areas are required to provide the state with information about their summer employment providers. This information will be assembled by ODJFS and maintained on the department's website to ensure compliance with the transparency provisions in the ARRA. The list will be updated as necessary.

In addition to this, Local areas will follow their local WIA policies related to the announcement of contracts and awards.

This waiver request adheres to the format provided in WIA 189(i) (4) (B) and WIA Regulations 20 CFR 661.420(c).

1. Statutory or Regulatory Requirement to be Waived

The State of Ohio requests that the requirements for competitive selection of Youth program vendors and sub-grantees, outlined in WIA sections 123 and 117 as follows, be waived.

> o WIA section 123 (29 U.S.C. 2843) which requires that eligible providers of youth activities be identified by awarding grants or contracts on a competitive basis, based on recommendations from the youth council and the criteria contained in the State Plan;
>
> o WIA section 117(d) (2) (B) (29 U.S.C. 2832), requires that Local Boards identify eligible providers of youth activities by awarding grants and contracts on a competitive basis;

The State of Ohio requests that the United States Department of Labor, under the authority provided to the Secretary under WIA Section 189(i) (4) and set forth at 20 CFR 661.420(c) of the implementing regulations provides the state with specific statutory and regulatory relief for the expenditure of Youth program dollars.

***2.* State or Local Statutory or Regulatory Barriers**

There are no known state or local statutory regulatory barriers to implementing this waiver. Upon notification on the approval of this waiver, ODJFS will incorporate it into policy and distribute the new policy to the WIBs. Ohio assures DOL that the state will be in compliance with state and local procurement laws and policies.

3. Goals and Expected Programmatic Outcomes of this Waiver

This waiver will improve the statewide workforce investment system. The state and its local area partners will provide these program participants with timely and valuable work experience.

4. Individuals Affected by this Waiver

Youth in need of these services will benefit from this waiver. In alignment with a stated goal of the ARRA, Local workforce systems will expand the services to assist populations including more of the age individuals age 14-24, disadvantaged youth and those youth most in need.

5. Processes Used to:

Monitor the Progress of Implementing the Waiver

20 CFR 661.420(c) (v) describes the process used to monitor the progress in implementing such a waiver. ODJFS is the entity responsible for incorporating this waiver into policy that would be distributed to the WIBs. The ODJFS Office of Workforce Development in conjunction with the Office of Legal and Acquisition Services will provide additional technical assistance to WIBs on the implementation of the waiver. The Office of Fiscal and Monitoring Services will monitor the WIBs.

Public Comment and Notice of the Waiver Request

Workforce development stakeholders were notified of the proposed waiver request through an email alert. The email alert contained the proposed waiver request and instructions on how to submit comments. In addition, both the general public and stakeholders had access to the waiver request on our web site: http://jfs.ohio.gov/workforce/. The public comment period was open for seven days.

Waiver Questions and Comments Received, and the State's Responses:

Attachment A contains all comments and responses that were received during the public comment period. ODJFS communicated the State's response to the comments through a memo was sent via an email to the same recipients.

3. Waiver Request: Waive the provision in WIA Section 181(e), which prohibits the use of funds for capitalization of businesses, in order to permit the use of WIA funds to capitalize a small business up to $5,000.

Background

This waiver was only recently implemented in Ohio. This waiver will continue to give Ohio the flexibility to design and deliver workforce services that will continue to effectively respond to economic downturns. The State of Ohio has been overwhelmed with large scale layoffs, causing our unemployment rate to remain consistently higher than the national average. In these negative economic conditions, the State of Ohio needs to generate new business opportunities that foster growth and lead to sustainable, well paid jobs. One of the main mechanisms for achieving this goal of producing greater employment prospects is cultivating and helping small businesses grow by providing them with new business opportunities. The intention of this waiver is to enable our workforce development community to devise the best strategies that achieve this goal.

In order to utilize this waiver, this activity should be conducted in concert with entrepreneurial or microenterprise training for the individuals benefiting from the capitalization.

Section I: Statutory or Regulatory Requirements to be Waived

WIA Section 181(e) and the accompanying regulations in 20 CFR 667.262 are requested to be waived.

Section II: State or Local Statutory or Regulatory Barriers Removed

There is no known state or local barriers to the implementation of this waiver

Section III: Goals to Achieve Using the Waiver

- Greater involvement of the small business community in regional workforce development initiatives
- More opportunities for entrepreneurial and microenterprise training to small businesses
- More vibrant small business activities that generate an increased supply of sustainable and well-paid job opportunities throughout Ohio
- Stronger collaboration between local governments and workforce and economic development communities that target high-growth industries

Section IV: Programmatic Outcomes to Achieve Using the Waiver

The basic rationale behind this waiver request is that businesses that benefit from this capitalization will create new employment opportunities for job-seekers. The expected programmatic outcome is creation of strong and viable small businesses that will provide the workforce development system with jobs and generate prosperity for jobseekers and local communities.

Section V: Individuals Impacted by the Waiver

Businesses, local and regional economic entities, and jobseekers will be impacted by this waiver. Small businesses are expected to directly benefit from this waiver because it enables local areas to develop services to help small businesses grow and develop. Entrepreneurs will be better trained to make decisions that will foster economic growth and generate jobs. The workforce system will benefit as it will be better suited to meet the needs of small businesses in terms of helping them with lay-off aversion, business retention, expansion and attraction of well trained and qualified workers.

Section VI: Process to Monitor the Progress in Implementation of the Waiver

The Ohio Department of Job and Family Services, Office of Workforce Development (OWD) is the State entity responsible for administering WIA, Wagner-Peyser and Veterans Programs. OWD also houses SCOTI – Sharing Career Opportunities and Training Information, which is the integrated case management and reporting system that is used to track and monitor the changes and outcomes that will be caused by this waiver.

This waiver has just been implemented and we will be monitoring the implementation of this waiver through feedback from the local areas. Meetings between OWD staff, local board directors and administrative entities are currently held on a regular basis, which serves as a venue to address any issue with the implementation of this waiver.

Section VII: Process to Provide Notice to Local Workforce Investment Boards and Opportunity to Comment

Workforce development stakeholders were notified of the proposed waiver request through an email alert. The email alert contained the proposed waiver request and instructions on how to submit comments. In addition, both the general public and stakeholders had access to the waiver request on our web site: http://jfs.ohio.gov/workforce/. The public comment period was open for seven days.

Waiver Questions and Comments Received, and the State's Responses:

Attachment A contains all comments and responses that were received during the public comment period. ODJFS communicated the State's response to the comments through a memo was sent via an email to the same recipients.