



JUN 8 2009

The Honorable Ted Strickland  
Governor of Ohio  
State Capitol  
Columbus, Ohio 43215-6108

Dear Governor Strickland:

The Employment and Training Administration (ETA) is pleased to be able to respond positively to your request for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA). This action is taken under the Secretary's authority to waive certain requirements of WIA Title I, Subtitles B and E, and sections 8-10 of the Wagner-Peyser Act. The requests are written in the format identified in WIA section 189(i)(4)(B) and 20 CFR 661.420(c), and appear to meet the standard for approval at 20 CFR 661.420(e). The following is the disposition of the State's submission (copy enclosed).

Requested Waiver: Waiver of the requirement under WIA section 123 and 20 CFR 664.610 regarding competitive selection of providers of youth 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. The State seeks the waiver to allow local areas to use local procedures to 1) expand existing competitively procured contracts and 2) conduct an expedited, limited competition to select service providers.

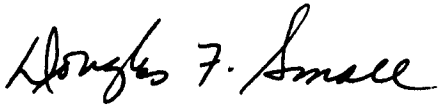
When submitting a waiver request, states must provide detailed justification for the waiver, describe reasonable accountability safeguards against unfair procurement practices, assure compliance with state and local procurement laws and policies, and describe how states will publicly announce summer employment providers, as indicated by the transparency provisions in the American Recovery and Reinvestment Act (Recovery Act) of 2009. See ETA Training and Employment Guidance Letter (TEGL) No. 14-08, Section 19, issued on March 18, 2009. The State's written request meets the ETA requirements outlined above. The waiver is intended to allow the State to select as quickly as possible the service providers necessary to develop and implement summer youth employment opportunities for the summer of 2009. The requested waiver is granted through September 30, 2009, to expand existing competitively procured contracts and conduct an expedited, limited competition to select service providers.

The waiver is only applicable to WIA Youth program funds made available through the Recovery Act, and only applies to the summer employment program element. The waiver is not to be construed as ETA approval of the process of selection, but rather approval under this waiver to use this procedure as a method of selecting summer youth employment providers, provided that the procedure meets Office of Management and Budget requirements (codified in 29 CFR Parts 95.40-95.48 and 97.36) and state and local procurement laws and policies.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, we encourage the State to address the impact this waiver has had on the State's performance in the WIA annual performance report, due on October 1 of each year.

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

Sincerely,

A handwritten signature in cursive script that reads "Douglas F. Small".

Douglas F. Small  
Deputy Assistant Secretary

Enclosure

cc: Corey Bulluck, Federal Project Officer for Ohio, ETA Chicago Regional Office



**Department of  
Job and Family Services**

**Ted Strickland, Governor**  
**Douglas E. Lumpkin, Director**

May 21, 2009

Ms. Janet Sten  
Federal Coordinator for Plan Review and Approval  
Division of workforce System Support  
US Department of Labor  
200 constitution Avenue, NW, Room S-4231  
Washington, DC 20210

RE: Waiver Request Submission

Dear Ms. Sten:

On behalf of the Ohio Department of Job and Family Services, please accept this correspondence as a formal request for the approval of the enclosed proposed waiver request for the State of Ohio.

The proposed waiver request was developed in accordance with WIA, Section 189(i)(4), 20 CFR 661.400-661.420, and the Training and Employment Guidance Letter 14-08 referencing the development and submission of guidelines for waiver request for the American Recovery and Reinvestment Act (ARRA) of 2009.

We appreciate the opportunity to submit this waiver request and look forward to the Secretary's approval. We believe there is an urgent need for this waiver and that it is essential in our efforts to provide Youth program participants with timely and valuable work experience.

If you have questions or require additional information, please call Mr. Kevin Giangola, Assistant Deputy Director, at (614) 644-5739, or reach him by email at [Kevin.Giangola@jfs.ohio.gov](mailto:Kevin.Giangola@jfs.ohio.gov).

Sincerely,



Sherry Keys-Hebron, Assistant Director  
Ohio Department of Job and Family Services

Enclosure: Waiver Request

cc: Susan Crotty  
Byron Zuidema  
Corey Bulluck  
John Weber  
Kevin Giangola  
Tom Hutter  
Lisa Patt-McDaniel

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State of Ohio  
Ohio Department of Job and Family Services  
**Request for Waiver**

**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 661.420(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/workforce/docs/workforceprof/ARRA\\_2009\\_WIA\\_Monitoring\\_Guidance.pdf](http://jfs.ohio.gov/workforce/docs/workforceprof/ARRA_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/workforceprof/FAPL\\_02.pdf](http://jfs.ohio.gov/workforce/docs/workforceprof/FAPL_02.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

may 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.

- 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;
- 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, provide 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

Local workforce areas were provided with the opportunity to discuss and comment on whether to pursue this request for waiver. The concept was thoroughly discussed with the local workforce areas during three technical assistance and training sessions held specifically for the ARRA. These sessions were held on April 8, 9 and 13 and attended by more than 400 local area staff. There was strong support amongst the local staff for the waiver. No objections were communicated. The official waiver request will be posted on [http://jfs.ohio.gov/workforce/workforceprof/Stimulus\\_Activities.stm](http://jfs.ohio.gov/workforce/workforceprof/Stimulus_Activities.stm).

### Notification of Approval if Granted

Providing this waiver is approved, ODJFS will announce the waiver authority and publish our policy through the ODJFS website and will transmit the new policy information to WIBs through email notification.