



JAN 11 2011

The Honorable Lincoln Chafee
Governor of Rhode Island
State Capitol
Providence, Rhode Island 02903

Dear Governor Chafee:

We are pleased to be able to respond to Rhode Island's requests for waivers of statutory and regulatory requirements under the Workforce Investment Act (WIA) submitted on December 23, 2010. 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). 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. These waivers apply to both WIA formula funds and funds made available under the American Recovery and Reinvestment Act of 2009, except where noted below.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State is requesting a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA section 134(a)(3), specifically incumbent worker training. The State is granted this waiver through June 30, 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 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. 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 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. 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.

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

The State is requesting 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 Workforce Investment Act Standardized Record Data (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 this waiver through June 30, 2011.

Waiver of the WIA regulations at 20 CFR 666.100 to exempt the state from including credential attainment outcomes for participants enrolled in on-the-job training in the credential performance measure calculations.

The State is requesting a waiver to exempt it from including credential attainment outcomes in the credential performance measure calculations for participants enrolled in on-the-job training. The State is granted this waiver through June 30, 2011. The State must continue to report outcomes in the Workforce Investment Act Standardized Record Database (WIASRD) for participants enrolled in on-the-job-training.

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 it constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as described by TEGL No. 09-10, the State should address the impact its 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 continuing our partnership with you and achieving better workforce outcomes. If you have any questions related to the issues discussed above, please contact Holly O'Brien, the Regional Administrator for Region I, at 617-788-0166 or Obrien.Holly@dol.gov.

Sincerely,



Jane Oates
Assistant Secretary

Enclosure

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



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Donald L. Carcieri
Governor
Sandra M. Powell
Director

November 4, 2010

Janet Sten
Federal Coordinator for Plan Review and Approval
US Department of Labor
200 Constitution Ave., NW, Room S-4231
Washington, DC 20210

Dear Ms. Sten:

Enclosed are four Workforce Investment Act (WIA) waiver requests that would give the State of Rhode Island needed flexibility in regard to: the use of rapid response funds for incumbent worker training; the discontinuation of the collection of specific data elements for incumbent worker training; the exemption of including credential/certificate attainment in performance measures; and the 50% limit on reimbursement to employers in On the Job Training (OJT) to allow a sliding scale based on company size.

The State of Rhode Island requests that the U.S. Department of Labor, Employment and Training Administration allow up to 20 per cent of Rapid Response funds to be used to support incumbent worker training activities as needed in the context of layoff aversion. This will allow us to provide needed training to workers who are at risk of job loss. The training could prevent or shorten the period of unemployment, thereby reducing strain on the unemployment insurance system.

The State seeks a waiver to discontinue the collection of seven of the data elements in Section 1 of the WIASRD for incumbent workers trained with State-level 15% or Rapid Response funds. This would reduce the data collection burden for businesses served under WIA-funded incumbent worker training programs.

The State also requests an exemption from including credential/certificate attainment outcomes for participants enrolled in the WIA On the Job training program. This will allow OJT program services to reach more employers and trainees alike.

Lastly, Rhode Island asks to allow the implementation of a sliding reimbursement scale, based on company size, for employers participating in the On the Job Training program.

The flexibility proposed in the attached waivers conforms to information provided in Training and Employment Guidance Letters #26-09 (WIA Waiver Policy and Waiver Decisions for PY 2009 and 2010), #30-09 (Layoff Aversion Definition and the Appropriate Use of Workforce Investment Act Funds for Incumbent Worker Training for Layoff Aversion Using a Waiver), and #18-05 (Using Workforce Investment Act Funds to Serve Incumbent Workers and Employed Workers).

We are proud of our commitment to support flexibility whenever possible. We believe that the approval of these waiver requests will have a positive impact on our ability to deliver workforce development services to the people and employers of Rhode Island.

If you have any questions, please feel free to contact me at (401) 462-8875.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Powell', with a long horizontal flourish extending to the right.

**Sandra M. Powell
Director**

CC: Holly O'Brien, Acting Regional Administrator

**WORKFORCE INVESTMENT ACT WAIVER REQUEST:
TO ALLOW THE STATE OF RHODE ISLAND TO USE RAPID RESPONSE FUNDS
FOR INCUMBENT WORKER TRAINING**

The State of Rhode Island Department of Labor and Training, the state's Workforce Investment Act's (WIA) administrative entity, requests a waiver to allow 20 percent of Rapid Response funds to be used to support Rhode Island Incumbent Worker Training activities as needed in the context of layoff aversion. This waiver would provide Rhode Island with the needed flexibility to meet the growing need of employers who are experiencing difficulty during this economic downturn. Rhode Island's unemployment rate continues to hover near the highest in the nation (July 2010 rate is 11.9%). This waiver has been approved for numerous other states and Rhode Island is confident that it will provide valuable resources to both employers and employees.

This waiver request applies to WIA formula funds only for the balance of Program Year 2010 and subsequent years.

This waiver request is written in the format identified in WIA Section 189(i)(4)(B) and in WIA Regulations 20 CFR 661.420 (c) of the Regulations. In addition, this waiver is identified in Training and Employment Guidance Letter (TEGL) # 26-09 as one that the Employment and Training Administration approved as a Program Year 2009 policy decision.

Background: When workers lack needed training and businesses experience skill gaps, the company's ability to retain workers can be compromised. Rhode Island's Incumbent Worker Training Program addresses such needs. The purpose of the program is to help established Rhode Island businesses provide training and education for current workers, resulting in layoff aversion and reduced employee turnover. The specific objectives of the program include upgrading employee skill, providing training in portable (transferable) skills and contributing to business retention. The WIA State Plan as well as the Strategic Workforce Plan for Rhode Island 2009-2014 both speak to the importance of maximizing the capacity of the workforce development system to align, unite and flexibly address the skill demands of all employers and job seekers.

The need for this flexibility in funding is clear. As an example, manufacturing in Rhode Island has been particularly hard hit and it is a necessity for companies who remain in business to reinvent themselves in order to continue to employ Rhode Islanders and meet the challenging demands of this economy.

A. Statutory Regulations to be Waived:

Rhode Island requests the waiver of WIA Section 134(a)(2)(A) and WIA Regulations 20 CFR 665.310 through 20 CFR 665.320 that establish allowable statewide Rapid Response activities and uses for set-aside Rapid Response funds.

B. Goals to be Achieved by the Waiver:

1) Broadly speaking, this waiver will enhance the state's efforts at providing prospects for individuals currently employed in companies struggling to avoid layoffs of employees. The local, state, regional and national economy will benefit from the upward mobility of workers.

2) Rhode Island's layoff aversion strategy was approved by the Governor's Workforce Board – Rhode Island in September of 2008, during the current recession. The Rhode Island Business Retention and Expansion Initiative (BREI) is both a service and potential investment strategy designed to retain and sustain business growth and employment. It is a collaborative effort comprised of many different organizations, each of whom bring distinctive areas of expertise as well as funding streams. Members include, but are not limited to, the Governor's Workforce Board, The Department of Labor and Training, Economic Development Agencies (both statewide and local), Chambers of Commerce, Industry Partners and educational institutions. The objective of the BREI is to provide and support various strategies that will, at a minimum, maintain the stability of a company, and therefore, its workforce. Although the BREI encompasses both business retention and workforce expansion, funds utilized under this waiver will only be used for layoff aversion activities and all training activities will be geared toward skill attainment.

At this time, no specific industry will be targeted; initially, the focus may be on companies participating in the Workshare program. These companies have already reduced the hours of their workers due to a slowdown in business. If the company, in conjunction with the BREI team, determines that training is an appropriate service which will allow the workers to remain employed, the rapid response incumbent worker training funds would be utilized to offset the cost of the training. Training may not always be the solution for the company; in those cases, all of the other available partner services will be made available, as appropriate, to the business.

The type of training to be delivered will be based on individual company need and will run the full gamut of current training required by businesses, such as but not limited to: worker cross-training; technology; and lean training.

The identification and selection process for participating companies is addressed in the attached program application. In addition, the company will be asked to describe the resulting employer commitment to the worker (retention, higher wage, etc.), if the funds are awarded. These factors will also be taken into consideration in the review process.

C. State or Local Statutory or Regulatory Barriers

There are no state or local barriers to implementing the requested waiver.

D. Description of Waiver Goal and Programmatic Outcomes

This waiver will give the Business Retention and Expansion Team the resources to respond expeditiously to the needs of businesses and workers for layoff aversion. It will allow businesses to retain workers, thus recognizing a cost savings to not only the business but also to the Unemployment Insurance (UI) system. This is particularly important to small businesses, given their greater difficulty in hiring and retaining qualified workers and the impact a high UI experience rating can have on their bottom line.

The average incumbent worker will gain a great deal from this waiver. The worker will retain employment thus avoiding the mental, physical, and financial stress that comes from unemployment. The worker will gain upgraded skills that will allow him/her to better work within an expanding and more complicated economy. And in the event that a worker does get laid off after receiving incumbent worker training, they will need fewer (if any) dislocated worker program dollars to get them back on their feet and in a new career.

The state will use the established, applicable WIA performance measures and standards to assess the effectiveness and efficiency of the activities allowed under this waiver. The State of Rhode Island will report progress on these elements to federal authorities as required.

The use of rapid response funds for this purpose will not diminish the ability of Rhode Island to provide dislocated worker services as needed.

Should the waiver be granted, the RI Department of Labor and Training's State Workforce Investment Office will issue a Workforce Investment Notice (WIN). This guidance will spell out the programmatic and procedural requirements to be followed.

E. Description of the Individuals Impacted by the Waiver

Both employers and incumbent workers will be impacted by this waiver. It is imperative that employers have options to avert layoffs or plant closures. One option is that of retraining the current workforce to meet the growing needs of business. This may require new skills or advanced skills enabling an employee to multi task within an organization. For the employee, simply to remain employable may require the attainment of new skills and/or credentials. Rhode Island intends to use this waiver as one lay-off aversion strategy employers can utilize as they strive to remain in business.

F. Description of the Monitoring Process

DLT, as the state administrative entity of WIA, will be responsible for the monitoring of all WIA funded incumbent worker activities. This waiver will be incorporated into the administrative entity's monitoring procedures including a periodic review of how well the measures/standards are being met.

G. Public Comment on the Waiver Request

Rhode Island intends to place this waiver request on its web site, accept comments from the public either verbally at a public hearing or in writing, and discuss it at open meetings of the state workforce board to ensure transparency and to allow for meaningful public comment and input from all interested parties, including, but not limited to, business and organized labor.

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**WORKFORCE INVESTMENT ACT WAIVER REQUEST:
Discontinue the Collection of Seven of the Data Elements in Section 1 of the
WIASRD for Incumbent Workers Trained With WIA Funds**

The Rhode Island Department of Labor and Training, the state's Workforce Investment Act (WIA) administrative entity, requests a waiver to allow State to discontinue the collection of seven of the data elements in Section 1 of the WIASRD for incumbent workers trained with State-level 15% or Rapid Response funds. The State seeks to reduce the data collection burden for businesses served under WIA-funded incumbent worker training programs. Under the waiver, the State would not collect the following WIASRD data 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).

This waiver will apply to the balance of Program Year 2010 and subsequent years. It will apply, in the case of 15% State-level funds, to both formula and Recovery Act funds. In the case of rapid response funds, it will apply only to formula funds.

This waiver request is written in the format identified in WIA Section 189(i)(4)(B) and in WIA Regulations 20 CFR 661.420 (c) of the Regulations. In addition, this waiver is identified in Training and Employment Guidance Letter (TEGL) # 26-09 as one that the Employment and Training Administration approved as a Program Year 2009 policy decision.

A. Statutory Regulations to be Waived:
20 CFR 667.300(a).

B. Goals to be Achieved by the Waiver and Relationship to Strategic Plan:
Because of the waiver, the State expects to reduce the data collection burden for businesses being served under WIA-funded incumbent worker training programs. The Strategic Workforce Plan for Rhode Island 2009-2014 puts a high emphasis on the value of employer involvement in training. This waiver will allow businesses to remain focused on training for the incumbent workers and other requirements rather than data collection.

C. State or Local Statutory or Regulatory Barriers
There is no existing state or local barrier to implementing the requested waiver.

D. Description of Waiver Goals and Programmatic Outcomes
The goal of this waiver is to minimize the data collection requirements of the employers for incumbent worker training so that they are not unnecessarily burdened with federal data collection requirements that do not provide relevant program information. Expected program outcomes include allowing the state flexibility to offer incumbent worker services and enhancing services to businesses along with increasing flexibility to engage and work with businesses in improving skills of the employer's workforce.

E. Description of the Individuals Impacted by the Waiver

The waiver will directly impact the staff of the businesses and the Department's reporting and recordkeeping staff. It may also make the process of participating in WIA funded incumbent worker training more attractive to employers, thus increasing business involvement and positive outcomes for companies and workers alike.

F. Description of the Monitoring Process

DLT, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures.

H. Public Comment on the Waiver Request

Rhode Island intends to place this waiver request on its web site, accept comments from the public either verbally at a public hearing or in writing, and discuss it at open meetings of the state workforce board to ensure transparency and to allow for meaningful public comment and input from all interested parties, including, but not limited to, business and organized labor.

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**WORKFORCE INVESTMENT ACT WAIVER REQUEST:
TO ALLOW THE STATE OF RHODE ISLAND TO WAIVE
CREDENTIAL/CERTIFICATE ATTAINMENT FOR PARTICIPANTS IN
THE ON THE JOB TRAINING PROGRAM**

The Rhode Island Department of Labor and Training, the state's Workforce Investment Act (WIA) administrative entity, requests a waiver to exempt the state from including credential/certificate attainment outcomes for participants enrolled in the WIA On-the-Job Training (OJT) program.

This waiver request applies to WIA formula and Recovery Act funds for the balance of Program Year 2010 and subsequent years, as appropriate.

This waiver request is written in the format identified in WIA Section 189(i)(4)(B) and in WIA Regulations 20 CFR 661.420 (c) of the Regulations. In addition, this waiver is identified in Training and Employment Guidance Letter (TEGL) # 26-09 as one that the Employment and Training Administration approved as a Program Year 2009 policy decision.

A. Statutory Regulations to be Waived:

Rhode Island requests the waiver of WIA Regulations 20 CFR 666.100 (a) (1) (iv) for Adults and 20 CFR 666.100 (a) (2) (iv) that requires attainment of a recognized credential/certificate for performance. This waiver is being requested to exclude individuals who are participating in OJT program services from inclusion in the WIA credential/certificate attainment standards. They will continue to be included in all other applicable performance standards.

B. Goals to be Achieved by the Waiver and Relationship to Strategic Plan:

Because of the waiver, the State expects that the OJT program services will expand to reach more employers and trainees alike. This goal directly aligns with the current WIA State Plan's target of providing access to training for an increased number of adults and dislocated workers. In addition, The Strategic Workforce Plan for Rhode Island 2009-2014 puts a high emphasis on the value of employer involvement in training.

C. State or Local Statutory or Regulatory Barriers

There is no existing state or local barrier to implementing the requested waiver.

D. Description of Waiver Goals and Programmatic Outcomes

The goal of the waiver is to give the local workforce investment areas greater flexibility and access to use of the OJT program without negatively impacting upon credential/certificate related performance standards. It allows the training program design to be more responsive to employer and employee needs as it can be specifically created for that industry, business or worksite. Eliminating the credential/certificate reporting requirement for those participating in the OJT program will encourage its use and have a positive effect on retention and average earnings performance outcomes.

**WORKFORCE INVESTMENT ACT WAIVER REQUEST:
TO ALLOW THE STATE OF RHODE ISLAND TO INCREASE EMPLOYER
REIMBURSEMENT FOR ON THE JOB TRAINING**

The Rhode Island Department of Labor and Training, the state's Workforce Investment Act (WIA) administrative entity, requests a waiver to modify the requirements found in WIA Section 101 (31)(B) and 20 CFR 663.710. This waiver will allow the implementation of a sliding reimbursement scale, based on company size, for employers participating in the On the Job Training program. The following scale will be utilized:

- 1) no less than 10 percent match for employers with 50 or fewer employees
- 2) no less than 25 percent match for employers with 51- 250 employees
- 3) for employers with more than 250 employees, the current statutory requirements (50 percent contribution) will continue to apply

This waiver request applies to WIA formula and Recovery Act funds for the balance of Program Year 2010 and subsequent years, as appropriate.

This waiver request is written in the format identified in WIA Section 189(i)(4)(B) and in WIA Regulations 20 CFR 661.420 (c) of the Regulations. In addition, this waiver is identified in Training and Employment Guidance Letter (TEGL) # 26-09 as one that the Employment and Training Administration approved as a Program Year 2009 policy decision.

A. Statutory Regulations to be Waived:

Rhode Island requests a waiver of WIA Section 101(31)(B) and WIA Regulations 20 CFR 663.710 which states that employers may be reimbursed up to 50% of the wage rate of an OJT participant for the extraordinary costs of providing training and additional supervision related to the OJT.

B. Goals to be Achieved by the Waiver and Relationship to Strategic Plan:

Because of the waiver, the State expects that the OJT program services will expand to reach more employers and trainees alike. This goal directly aligns with the current WIA State Plan's target of providing access to training for an increased number of adults and dislocated workers. In addition, The Strategic Workforce Plan for Rhode Island 2009-2014 puts a high emphasis on the value of employer involvement in training.

C. State or Local Statutory or Regulatory Barriers

There is no existing state or local barrier to implementing the requested waiver.

D. Description of Waiver Goals and Programmatic Outcomes

The goal of the waiver is to provide the state a greater flexibility in responding to the local labor markets. WIA funds will be utilized in a manner that maximizes the state's response to the requests of businesses in need by delivering job training and workforce development services that are relevant to the local economy.

By increasing the current employer OJT reimbursement rate for businesses, the state workforce system will be able to more effectively market WIA funded on-the-job training. This increase will support job creation and create the necessary flexibility for

employers to be reimbursed at a level more suitable to their needs thus resulting in an increase of business participation and an improvement of the percentage of job seekers that receive training and training related employment.

The following goals and outcomes are expected:

1. Increase employment opportunities for harder to serve individuals such as the long term unemployed, older workers and those with limited or sporadic job histories
2. Increase percentage of employers using OJT as a means of hiring and retaining a skilled workforce
3. Increase number and percentages of workers trained and hired through OJT programs
4. Raise skill proficiencies for workers that will result in increased worker viability

E. Description of the Individuals Impacted by the Waiver

Adults and Dislocated Workers as well as participating employers will all be impacted by the waiver in that the OJT program will be more responsive to their needs.

F. Description of the Monitoring Process

DLT, as the state administrative entity of WIA, is responsible for the monitoring of all WIA funded activities and will incorporate the implementation of this waiver into existing procedures. The local workforce boards will also continue to monitor the activity.

G. Providing Notice to any Local Board affected by the Waiver

Both local boards have been notified of the waiver request and have participated in its development.

H. Opportunity for Local Boards to Comment on the Waiver Request

The local boards will have the opportunity to comment on the waiver request during the public comment period.

I. Public Comment on the Waiver Request

Rhode Island intends to place this waiver request on its web site, accept comments from the public either verbally at a public hearing or in writing, and discuss it at open meetings of the state and local workforce boards to ensure transparency and to allow for meaningful public comment and input from all interested parties, including, but not limited to, business and organized labor.

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