



FEB 4 2002

The Honorable Don Siegelman  
Governor of Alabama  
State Capitol  
601 Dexter Avenue  
Montgomery, Alabama 36130

Dear Governor Siegelman:

One of the key reform principles embodied in the Workforce Investment Act of 1998 (WIA) is increased flexibility for states and local workforce investment areas (local areas). Under WIA, the Secretary has authority to grant waivers of a variety of statutory and regulatory provisions when requested by a Governor. In addition, all states are eligible to apply for WIA Work-Flex authority under which the Secretary would delegate a portion of her waiver authority to a Governor. By taking full advantage of waiver opportunities, states and local areas can design workforce investment systems that meet their unique labor market needs. The purpose of this letter is to highlight the potential of these mechanisms to increase the agility and responsiveness of the workforce investment system. In addition, a summary of waiver requests that have been approved under WIA to date is enclosed for your information.

General Waiver Authority:

WIA section 189 authorizes the Secretary of Labor to waive for a state, or a local workforce investment area in a state, statutory and regulatory requirements of WIA title I, subtitles B and E. Some of the statutory and regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act are also subject to waivers. While there are several areas that cannot be waived [section 189(i)(4)(A)(i) and (ii)], a great deal of flexibility exists under the statute and the implementing regulations at 20 CFR part 661. While waivers can be requested for all local areas within a state, or just a few areas, waivers must always be requested as part of a waiver plan submitted by a Governor. The specific information that must accompany the waiver plan and the standards for approval are outlined in the WIA regulations at 20 CFR 661.420. Generally, waivers will be approved if the Secretary determines that the provisions requested impede the ability of the state or local area to implement the State's plan to improve the workforce investment system. The Secretary will approve waivers of provisions essential to the key WIA reform principles only in extremely unusual circumstances where the provisions can be demonstrated as impeding reform.

The following are some examples of WIA provisions that are subject to waivers:

1. *More Flexibility in Transferring Funds to Critical Needs:* Some states have inquired about the authority to transfer funds among adult and dislocated worker programs to fit critical local needs, such as the effects of an economic emergency. Under WIA, a local Workforce Investment Board may transfer up to 20 percent of a program year allocation for adult



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employment and training activities, and up to 20 percent of a program year allocation for dislocated worker employment and training activities, between the two programs. Before making a transfer, the Board must obtain the Governor's approval. Transfers of funds to or from the youth program are not authorized. States can request a waiver of the statutory provision limiting the transfer amount to 20 percent for the adult and dislocated worker programs in order to permit local areas to transfer amounts greater than 20 percent between these two funding streams. However, there is no authority to expand the transfer authority to include the youth program.

2. *Remove Disincentives to Eligible Training Providers:* Many states have cited difficulty fully implementing the eligible training provider provisions under WIA. While most provisions relating to the eligibility of providers are excluded from waiver authority, we interpret WIA waiver authority to permit the waiver of administrative requirements associated with the eligible training provider determination. For example, we believe authority exists to extend the time limitation on the period of initial eligibility through a waiver of 20 CFR 663.530.
3. *Remove Barriers to Employer-Sponsored Customized Training:* Some states have inquired about the flexibility to relax the 50 percent match requirement for customized training. This flexibility can be achieved through a waiver of part of the statutory definition of "customized training" [WIA section 101(8)(c)]. While employers can undertake some contributions of their own resources for such training before trainees become productive workers, a 50 percent matching minimum may impose a burden upon many small businesses that desire to join together in creating programs designed to provide training tailored to the specific needs of their industries. WIA would authorize approval of a waiver that would require that employers pay a portion of the costs of the customized training, but eliminate the specific percentage requirement of WIA section 101(8)(c) and 20 CFR 663.715(c).

#### Work-Flex Authority:

WIA section 192 authorizes all Governors to receive Work-Flex authority upon approval of a Work-Flex plan. Under Work-Flex, Governors are granted the authority to approve requests for waivers of certain statutory and regulatory provisions (applicable to local areas) of WIA title I submitted by their local areas. States may also request from the Secretary waivers of certain requirements of the Wagner-Peyser Act and certain provisions of the Older Americans Act applicable to state agencies that administer the Senior Community Service Employment Program (SCSEP). This authority builds upon the six-state demonstration program that was implemented under the Department of Labor's appropriations legislation for funds available in Program Years 1997 and 1998. The demonstration program is continued under WIA, as authorized by the Secretary. The six states that received Work-Flex authority under that demonstration, through a competitive process, were Florida, Iowa, Ohio, Oregon, South Dakota and Texas. Since WIA expands authority for Work-Flex to all states, further competitions are not necessary.

States requesting designation as a Work-Flex state are required to submit a Work-Flex plan. WIA regulations at 20 CFR 661.430 - 661.440 and Training and Employment Guidance Letter (TEGL) 6-99, issued in February 2000, contain specific information on the process for developing and submitting a Work-Flex plan.

I encourage you to take advantage of these key mechanisms as you determine how to adapt your state's workforce system to meet the needs of the rapidly changing economy. Detailed information on the waiver and Work-Flex application process, as well as information on waiver requests approved to date, will be posted on the ETA website ([www.doleta.gov](http://www.doleta.gov)) in February 2002. If you have any questions, please contact me or your ETA Regional Administrator.

Sincerely,



Emily Stover DeRocco

Enclosure

**Attachment**

**WIA Waiver Summary Report  
As of January 17, 2002**

<b>State</b>	<b>Waiver Request</b>	<b>Action</b>	<b>Date of Action</b>
Alabama	Waive 10 percent limitation on local administrative costs.	Request withdrawn by state. DOL acknowledgement letter.	July 24, 2000
	Waive 80 percent obligation requirement for adult and youth funds for PY 2000.	DOL determined waiver was not needed. Notification letter sent to state.	June 8, 2001
Indiana	Continue the Social Security Disability Income exclusion from the definition of "family income."	DOL determined waiver was not needed under WIA. Notification letter sent to state.	May 25, 2000
	Exclude work-based learning wages from the definition of "family income."	DOL determined waiver was not needed under WIA. Notification letter sent to state.	May 25, 2000
	Permit the use of rapid response funds for intensive and training services to dislocated workers.	DOL determined waiver was not needed under WIA. Notification letter sent to state.	May 25, 2000
	Permit state to change definition of "school dropout" for the purposes of determining eligibility for services.	Not approved. Provision not subject to a waiver since it is a participant eligibility issue. Notification letter sent to state.	May 25, 2000
	Waive the prohibition on the use of individual training accounts for youth.	Conditionally approved. Notification letter sent to state.	May 25, 2000
	Waive the 17 core indicators of performance for WIA title I and replace them with state-developed system measures.	Not approved. Inconsistent with WIA key reform principles. Notification letter sent to state.	May 25, 2000

Utah	Cost limitations/cost categories.	Partially approved to permit Governor to waive 10 percent local administration limit under certain conditions. Notification letter sent to state.	October 26, 2000
	Continue JTPA waiver of the reallocation provisions.	DOL determined waiver was not needed under WIA. Notification letter sent to state.	October 26, 2000
	Continue JTPA waiver permitting limited internships with for-profit employers, for non-economically disadvantaged individuals.	DOL determined waiver was not needed under WIA. Notification letter sent to state.	October 26, 2000
	Continue JTPA procurement waiver permitting state to use state procurement procedures.	DOL determined waiver was not needed under WIA. Notification letter sent to state.	October 26, 2000
	Continue JTPA waiver for simplified definition of youth employability enhancements for reporting requirements.	DOL determined waiver was not needed under WIA. Notification letter sent to state.	October 26, 2000
	Continue JTPA waiver to permit work experience with for-profit employers, for dislocated workers.	DOL determined waiver was not needed under WIA. Notification letter sent to state.	October 26, 2000
	Vermont	Waiver of the 18-month requirement for eligible training provider subsequent eligibility through June 30, 2003.	Approved. Notification letter sent to state.
Waiver of WIA section 123 requirement to competitively select providers of three youth program elements (supportive services, work experience and follow-up services).		Approved. Notification letter sent to state.	January 23, 2002