

Attachment 2

December 13, 2012 – Conditional approval letter



DEC 13 2012

The Honorable Neil Abercrombie
Governor of Hawaii
Executive Chambers
State Capitol
Honolulu, Hawaii 96813

Dear Governor Abercrombie:

This letter provides conditional approval of Hawaii's State Plan (excluding waiver requests) for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including W-P Agricultural Outreach Plan, and plans for coordination with Trade Adjustment Assistance (TAA). The Employment and Training Administration (ETA) received the State Plan on September 17, 2012. This letter also separately addresses Hawaii's WIA waiver requests.

Training and Employment Guidance Letter (TEGL) No. 21-11, issued on March 27, 2012, and TEGL No. 21-11, Change 1, issued on August 8, 2012, provide guidance for states to submit their State Workforce Plans and waivers for Program Year (PY) 2012 and beyond. We appreciate the State's responsiveness to this guidance.

Plan Review and Approval

ETA has reviewed the Hawaii State Plan in accordance with Title I of WIA, the W-P, the Trade Act (as amended), the corresponding regulations, the State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), and TEGL No. 21-11. 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 WIA Title I, W-P and TAA portions of Hawaii's State Plan for the period July 1, 2012 through June 30, 2017, PY 2012-PY 2016, with the exceptions noted below. ETA is approving the State Plan on the condition that the State provides the following items to meet the State Integrated Workforce Plan requirements:

- The State Plan must include Labor Market Information (LMI) and analysis tied to the Governor's vision, including occupational information resulting from the State Workforce Skills Panel. The LMI data must incorporate that information into the description of the projected trends in the State's economy, industries and occupations, and assessment of the workforce skills necessary for economic

- growth. (Please refer to "Economic and Workforce Information Analysis" in Section I of the State Integrated Workforce Plan Requirements.)
- The State Plan must describe how the State will use program funds to leverage other Federal, state, local and private resources, in order to effectively and efficiently provide services. (Please refer to "State Strategies: Leveraging Resources" in Section I of the State Integrated Workforce Plan Requirements.)
 - The section in the State Plan entitled Priority of Services to Low Income Individuals, as written, does not conform to the regulations at 20 CFR 663.600. This section of the Plan must be revised for compliance with this regulation.
 - The State Plan must describe how WIA youth activities are coordinated with the services provided by the Job Corps program. The description must include outreach and admissions, center operations, and career placement and transition services. (Please refer to "Services to State Target Populations" in Section II of the State Integrated Workforce Plan Requirements.)
 - The State Plan must describe in detail how funds will be used to expand the participation of business in the statewide workforce investment system. (Please refer to "Services to Employers" in Section II of the State Integrated Workforce Plan Requirements.)
 - Assurance 4: The State Plan (Wagner Peyser – Agricultural Outreach Plan) must provide the organizations from which the State solicited information and suggestions, the comments received, and the State's responses.
 - Assurances 10, 11, 12, 16: The State must provide accessible links to all documents embedded in the State Plan submission and the current policies that cover each of the assurances.

The State must modify its State Plan to include the above required items, and submit a modification to ETA at your earliest convenience but no later than March 15, 2013. The annual W-P Agricultural Outreach Plan is approved for the period July 1, 2012 through June 30, 2013.

The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2012 through June 30, 2017, under the condition that the information identified above is provided.

Performance Levels

Each year, the Regional Administrator negotiates the Program Year's WIA and W-P performance goals with each state. Hawaii's goals have been negotiated and the Regional Administrator's letter dated October 26, 2012, advised the State of the PY 2012 WIA and W-P final performance goals. This letter also indicated that Hawaii's final performance goals for PY 2012 will be incorporated into the Regional and National Office copies of the State Integrated Workforce Plan. Please include these final PY 2012 goals in the State's official copy of the State Plan.

Waivers

As part of Hawaii's State Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's request for 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 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 W-P.

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 requested 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 this waiver through June 30, 2017. 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.

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

The State requested a waiver of the WIA Section 123 requirement for competitive procurement of service providers for four of the ten youth program elements: supportive services; follow-up services; work experience; and comprehensive guidance and counseling. ETA believes that competitive procurement of these elements is the most efficient and cost-effective way to ensure the development of high-quality service providers, but we agree with the state that for some elements competitive procurement impacts continuity of services to youth and connections to work experience/internship host agencies and employers. Therefore, we are approving this waiver through June 30, 2017.

We approve the waiver to permit the State to allow its American Job Centers or partner agencies to directly provide the youth program elements of guidance and counseling, supportive services, follow-up services, and work experience. However, we approve the waiver for the element of guidance and counseling on the condition that the State may make this waiver available to local areas on a case-by-case basis to those areas that demonstrate a cost savings and ensure that its implementation provides equitable services to all customers regardless of background. The State must provide guidance outlining the criteria for obtaining such flexibility and must ensure that it reviews the following factors in assessing such requests:

- Description of the alternative service delivery arrangement
- Name of the AJC Operator or partner program that will provide the service
- Justification in support of the determination to not select the provider through a competitive procurement

- How customer service will be improved, including how the local area will leverage and coordinate services with community based organizations that serve diverse populations
- How the benefits will be measured

The State must monitor the implementation of this waiver on an ongoing basis and include its oversight in local area compliance monitoring.

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

The State requested 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 this waiver through June 30, 2017. 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 51-250 employees. For employers with more than 250 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 and local area may provide customized training to individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area 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 the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State requested 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 this waiver through June 30, 2017. 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.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State requested 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, 2017. 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-

individuals 18 years of age or older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area 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 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 requested 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, 2017. The State must continue to report outcomes in the Workforce Investment Act Standardized Record Database (WIASRD) for participants enrolled in on-the-job-training.

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 requested a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted this waiver through June 30, 2017. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State requested a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted this waiver through June 30, 2013.

Waiver of WIA Section 129(b)(2)(C) and 20 CFR 665.200(h) to exempt the state from the requirement to provide additional assistance to local areas that have a high concentration of eligible youth.

The State requested a waiver of the requirement to provide additional assistance to local areas that have a high concentration of eligible youth. The State is granted this waiver through June 30, 2013.

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, 2017.

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 layoff 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.

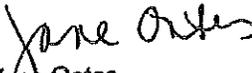
Waiver of 20 CFR 665.320(d)(2) to use a percentage of statewide rapid response funds to support required statewide activities.

The State requested a waiver of 20 CFR 665.320 to use State rapid response money to fund statewide activities identified at WIA Section 134(a)(2)(B). ETA denies the State's request. ETA believes that rapid response funds should be used for the activities necessary to plan and deliver services to enable dislocated workers to transition to employment as soon as possible after a dislocation event and not to supplement state funds used for required statewide activities.

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 described in TEGL No. 29-11, 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 Integrated Workforce Plan for PY 2012 and beyond. We encourage your efforts in exploring the adoption of the American Job Center brand. We are available to provide technical assistance. If you have any questions related to the issues discussed above, please contact Janice Shordike, the Federal Project Officer for Hawaii, at 415-625-7943 or Shordike.Janice@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

Enclosure

cc: Virginia Hamilton, Regional Administrator, ETA San Francisco Regional Office
Janice Shordike, Federal Project Officer for Hawaii