

**State of New York  
Workforce Investment Act  
Waiver Request**

**Removal of Procurement Barriers to Allow for Rapid Implementation of Summer Employment Programs Under the Recovery Act**

The New York State Department of Labor (NYSDOL), as the administrative entity of the Workforce Investment Act (WIA) in the State of New York, submits this request for a general waiver from the requirements included under WIA Section 123 which states that the local board shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers, in the local area.

The Recovery Act emphasizes the timely spending of funds and implementation of services. In order to expedite the implementation of the summer youth employment component under Recovery Act funding, New York is requesting a waiver to allow local workforce boards to expand their existing contracts by up to one-hundred percent (100%). By utilizing existing contracts, Recovery Act funds can be spent quickly under contractual terms that have already been adopted with service providers that have already been competitively procured.

Alternatively, because procurement barriers vary across our State's thirty-three (33) local workforce areas, New York is also requesting a waiver to allow local workforce boards to conduct an expedited, limited competition to select service providers. Limited competitions among providers with existing records of success in providing youth services will allow quicker turnaround times for the traditional RFP process. This will allow for additional and expanded youth service activities which may not have been provided in previous program years.

If this waiver is granted, local areas will be informed of the waiver via a technical advisory. The advisory will require them to notify our fiscal oversight unit if they intend to either expand their existing youth service provider contracts or alternatively, to conduct an expedited, limited competition to select summer youth employment providers. The advisory will also stipulate that local areas using the waiver will need to publicly announce their summer employment providers by publishing them on their local website or in their local newspaper to meet the transparency requirements stipulated in the Recovery Act.

Reasonable accountability safeguards against unfair procurement practices will be implemented through periodic procurement monitoring conducted by NYSDOL fiscal oversight staff. This monitoring will also ensure compliance with state procurement laws and policies. Local grant recipients are also subject to their own county procurement guidelines which are monitored at the local level.

## **Statutory or Regulatory Requirements to be Waived**

*WIA Section 123* which stipulates that “the local board shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis based on the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities...”. ***This waiver will only apply to the summer employment program element funded through the Recovery Act and only for the summer of 2009.***

### **B. Goals and Expected Programmatic Outcomes if Waiver is Granted**

The main goal that will be achieved through the granting of this waiver is to expedite Recovery Act fund expenditures and implementation of enhanced 2009 summer youth employment program services. By permitting the expansion of existing contracts with competitively procured youth service providers, or alternatively, allowing expedited, limited competitions among providers with proven records of success, robust, high-quality summer employment services will be assured and funds will be expended more quickly.

### **C. State or Local Statutory or Regulatory Barriers**

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

### **D. Description of Individuals Impacted by the Waiver**

The waiver will impact youth aged 14-24 who are participating in summer work experience programs.

### **E (i). Description of the process(es) used to monitor the progress in implementing the waiver**

New York State monitors its thirty-three local areas through the Financial Oversight and Technical Assistance (FOTA) Unit and Program Specialists (program monitoring). Financial oversight reviews are conducted in accordance with the FOTA Review Guide and consist of reviews in areas, such as financial management, cost allocation, procurement, property, One-Stop system cost allocation, and program year closeouts. For this waiver, the procurement review will be used to monitor the progress in implementing the changes. In addition, Program Specialists will use a review guide monitoring summer youth employment implementation. Each local area’s progress in implementing its summer youth employment program will be carefully monitored.

### **E (ii). Description of the process(es) used to provide notice to any Local Board affected by the waiver;**

Should the waiver be granted, the Department will issue a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the NYS Department of Labor home page, under “Workforce Services”, then “Technical Advisories” at:  
<http://www.labor.state.ny.us/workforcenypartners/tas.shtm>

**E (iii). Description of the process(es) used to provide any Local Board affected by the waiver an opportunity to comment on the request;**

Local Workforce Investment Board (WIB) Chairs, WIB Executive Directors and One-Stop Operators received a copy of the draft waiver request via email. Notice of the waiver request was also published on the Workforce New York Partners home page under the “What’s New” section at:  
[http://www.labor.state.ny.us/workforcenypartners/wfnyp\\_index.shtm](http://www.labor.state.ny.us/workforcenypartners/wfnyp_index.shtm). A 10-day comment period was allowed. All comments were taken into account when developing the final draft of this request.

**E (iv). Description of the process(es) used to ensure meaningful public comment, including comment by business and organized labor, on the waiver.**

Notice of the waiver request was posted on the Workforce New York Partners home page on the Department’s web-site under the “What’s New” section at:  
[http://www.labor.state.ny.us/workforcenypartners/wfnyp\\_index.shtm](http://www.labor.state.ny.us/workforcenypartners/wfnyp_index.shtm). A 10-day comment period was allowed. All comments were taken into account when developing the final draft of this request.