

WORKFORCE INVESTMENT ACT (WIA) PROGRAM
ANNUAL FUNDING AGREEMENT
(Including Mod 0, initial Notice of Obligation)
PY 2012

Grant/Agreement No. AA -
(To be completed by DOL)

CFDA #17.258 WIA Adult Program
CFDA #17.259 WIA Youth Activities
CFDA #17.278 WIA Dislocated Workers

1. Parties: Pursuant to the Governor/Secretary Agreement provided for at 20 CFR 667.110 and 20 CFR 667.105, this grant agreement is entered into between the U.S. Department of Labor, Employment and Training Administration (Grantor) and the STATE/COMMONWEALTH of (Grantee).
2. Grant Funds: This grant agreement applies to funds appropriated for Program Year (PY) 2012 for WIA Title I State formula-funded Youth, Adult and Dislocated Worker programs. Thus, it includes the Fiscal Year 2013 Advance funds to be appropriated for PY 2012.
3. Applicable Authority: Funds provided under this grant agreement must be expended in accordance with all applicable federal statutes, regulations and policies, including those of the Workforce Investment Act (as presently in effect and as may become effective during the terms of this Agreement); the applicable approved State WIA plan including approved modifications and amendments to the plan, and any waiver plan approved under 20 CFR 661.420 or Workforce Flexibility (Workflex) plan approved under 20 CFR 661.430; the negotiated performance levels and policies established pursuant to the Secretary's authority under WIA Section 136; and the applicable provisions in the appropriations act(s).
4. Grant Period: This period of availability of funds is effective April 1, 2012 for Youth funds (July 1, 2012 for Adult and Dislocated Worker funds) through June 30, 2015.
5. Notice of Obligation: Funds shall be obligated and allocated via a Notice of Obligation (NOO) grant modification. Obligations and costs may not exceed the amount obligated by the NOO modification unless otherwise modified by the Grantor. Upon execution of this agreement, the "Modification 0" supplement to the agreement will serve as the initial PY 2012, Notice of Obligation. Funds are obligated for the amount indicated in the "Modification 0" document in accordance with the Grantee's PY 2012 allotment

levels. The Federal obligation level will be amended by the Grant Officer to increase (or adjust) amounts available to the Grantee as funds become available for obligation and additional Notice of Obligation (or Deobligation) grant modifications are required and issued.

6. Electronic Fund Transfers: Cash payments shall be made to the Grantee under the Department of Health and Human Services (HHS) Payment Management System (PMS).

7. Certifications and Assurances: The following are incorporated by reference and are a part of this agreement:
 - CERTIFICATION REGARDING LOBBYING
(29 CFR Part 93)

 - DRUG-FREE WORKPLACE REQUIREMENTS CERTIFICATION
(29 CFR Part 98)

 - NONDISCRIMINATION AND EQUAL OPPORTUNITY ASSURANCE
(29 CFR Part 37)

 - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS-- PRIMARY COVERED TRANSACTIONS
(29 CFR Part 98)

 - STANDARD FORM 424B (STANDARD ASSURANCES (NON CONSTRUCTION PROGRAMS))

8. Veterans' Priority Provisions: This program, funded by the U.S. Department of Labor is subject to the provisions of the "Jobs for Veterans Act" (JVA), Public Law 107-288 (38 USC 4215), as implemented by the Final Rule published on December 19, 2008 at 73 Fed. Reg. 78132. The JVA provides priority of service to veterans and spouses of eligible veterans for the receipt of employment, training, and placement services. Agreement by a program operator to implement priority of service is a condition of receipt of DOL funds. The Planning Guidance (either the Stand-Alone Planning Guidance at 73 FR 72853 (December 1, 2008)) or the Unified Planning Guidance at 73 FR 73730 (December 3, 2008) and TEGL 10-09 requires states to describe the policies and strategies in place to ensure, pursuant to the Jobs for Veterans Act and the regulations, that priority of service is provided to veterans (and eligible spouses) who otherwise meet the eligibility requirements for qualified employment and training programs funded in whole or in part by the U.S. Department of Labor. In addition, the states are required to provide assurances that they will comply with the Veterans' Priority of Service Provisions established by the Jobs for Veterans Act (38 USC 4215) and TEGL 10-09.

9. Buy American Notice Requirement: It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under the Workforce Investment Act should be American made. See WIA Section 505 – Buy American Requirements.
10. Salary and Bonus Limitations: In compliance with Pub. L. 111-117 (Division D, sec. 107), none of the funds appropriated in the Act under the heading ‘Employment and Training’ shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A-133. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment & Training Administration programs. See Training and Employment Guidance Letter number 5-06 for further clarification.
11. Intellectual Property Rights: The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: i) the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and ii) any rights of copyright to which the grantee, subgrantee or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or licensing fee associated with such copyrighted material, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income is added to the grant and must be expended for allowable grant activities.

If applicable, the following needs to be on all products developed in whole or in part with grant funds:

This workforce solution was funded by a grant awarded by the U.S. Department of Labor’s Employment and Training Administration. The solution was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This

FOR GRANTOR: U.S. Department of Labor/Employment and Training Administration
200 Constitution Ave NW; Room N-4716; Washington, DC 20210

THOMAS C. MARTIN
Grant Officer

Signature

Date

Attachment to Workforce Investment Act (WIA) Program Annual Funding Agreement

WIA Agreement Clause No.13 (“Transparency Act”) Attachment

This Grant is subject to the following Transparency Act requirements:

2 CFR Part 170**Appendix A to Part 170--Award Term****I. Reporting Subawards and Executive Compensation.****a. Reporting of first-tier subawards.**

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).
2. Where and when to report.
 - i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if--
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received--
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration profile at <http://www.ccr.gov>.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if--
 - i. in the subrecipient's preceding fiscal year, the subrecipient received--
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
 - i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.
3. Subaward:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --- .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. Subrecipient means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax-qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

2 CFR Subtitle A, Chapter I and Part 25

Appendix A to Part 25--Award Term

I. Central Contractor Registration and Universal Identifier Requirements**A. Requirement for Central Contractor Registration (CCR)**

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a State, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and
 - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
 - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ----.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
 - a. Receives a subaward from you under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.