

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION
	CORRESPONDENCE SYMBOL OPDR
	DATE October 19, 2009

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 8-09

TO: ALL STATE WORKFORCE AGENCIES
 ALL STATE WORKFORCE LIAISONS
 STATE WORKFORCE ADMINISTRATORS
 STATE AND LOCAL WORKFORCE INVESTMENT BOARDS
 ONE-STOP CAREER CENTER SYSTEM LEADS
 ALL DIRECT ETA GRANT AND CONTRACT RECIPIENTS

FROM: JANE OATES /s/
 Assistant Secretary

SUBJECT: Guidance on Section 163 of the Continuing Resolution Regarding the Association of Community Organizations for Reform Now (ACORN)

1. Purpose. To provide guidance on compliance with the requirements of Section 163 of the Continuing Appropriations Resolution, 2010, Division B of Public Law No. 111-68 regarding the Association of Community Organizations for Reform Now (ACORN).

2. References.

- Section 163 of the Continuing Appropriations Resolution, 2010, Division B of Public Law No. 111-68
- Memorandum for the Heads of Executive Departments and Agencies (M-10-02): Guidance on section 163 of the Continuing Resolution regarding the Association of Community Organizations for Reform Now (ACORN)

3. Guidance. Section 163 of the Continuing Appropriations Resolution, 2010, Division B of Public Law No. 111-68 states:

SEC. 163. None of the funds made available by this joint resolution or any prior Act may be provided to the Association of Community Organizations for Reform Now (ACORN), or any of its affiliates, subsidiaries, or allied organizations.

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

4. Action Requested. All recipients and sub-recipients of Federal funds made available by the Employment and Training Administration (ETA) through grant awards, contracts, cooperative agreements, agreements, memoranda of understanding, or any other method of procurement, hereinafter also referred to as “direct or indirect recipient(s) of Federal funds from ETA,” must immediately commence all necessary and appropriate steps to comply with Section 163 of the Continuing Appropriations Resolution, 2010, Division B of Public Law No. 111-68. This includes the following:

- a. No Future Obligation of Funds. No direct or indirect recipient of Federal funds from ETA may obligate Federal funds to ACORN or any of its affiliates, subsidiaries, or allied organizations (collectively “affiliates”) during the period of the Continuing Resolution (CR). To the extent a direct or indirect recipient of Federal funds from ETA has determined that Federal funds should be obligated to provide funds to ACORN or its affiliates but has not yet entered into any agreement to provide such funds to ACORN or any of its affiliates, the direct or indirect recipient of Federal funds from ETA may not enter into any such agreement to do so.

As section 163 makes clear, its prohibition applies not only to the funding that is made available by the CR, but also to the funding that was made available by previously enacted statutes. In addition, the text of Section 163 is sufficiently broad to cover funding that was made available for fiscal year (FY) 2009 and prior fiscal years, as well as funding that will be made available for FY 2010. As such, no direct or indirect recipient of Federal funds from ETA may enter into any agreement to provide Federal funds to ACORN or any of its affiliates during the period that this Training and Employment Guidance Notice is effective.

- b. Suspension of grant and contractual payments. Direct or indirect recipients of Federal funds from ETA who have existing Federally-funded grant agreements, sub-grant agreements, contracts, sub-contracts, cooperative agreements, agreements, memoranda of understanding, or any other kind of procurement or funding instrument with ACORN or its affiliates must 1) where permissible, immediately suspend performance of any obligations under such agreement, including suspension of the payment of Federal funds; and 2) consult promptly with legal counsel and ETA concerning the legal considerations that bear on the performance of such obligations under the procurement or funding instrument. Direct or indirect recipients of Federal funds from ETA who have existing Federally-funded grant agreements, sub-grant agreements, contracts, sub-contracts, cooperative agreements, agreements, memoranda of understanding, or any other kind of procurement or funding instruments with ACORN or its affiliates must also immediately provide their Federal Project Officer with a written report describing: 1) the nature and purpose of the procurement or funding instrument; 2) the date upon which it was executed and the originally planned duration; 3) the dollar value of the procurement or funding instrument and the amount which had been disbursed; 4) a description of the statement of work and/or deliverable; 5) the date upon which the procurement or funding instrument

was suspended or terminated pursuant to this guidance; and 6) a description of any other steps taken to comply with the Public Law No. 111-68 Section 163 prohibition.

- c. Direct or indirect recipients of Federal funds from ETA shall require all of their sub-recipients and sub-grantees to comply with the requirements described in this guidance, shall immediately provide guidance to their sub-recipients and sub-grantees on compliance with these requirements, and shall immediately modify sub-recipient and sub-grantee agreements to incorporate the requirements described in this guidance.

5. Inquiries. Direct questions to the Federal Project Officer designated in the grant or contract agreement.

6. Attachments.

- Attachment 1: Memorandum for the Heads of Executive Departments and Agencies (M-10-02): Guidance on section 163 of the Continuing Resolution regarding the Association of Community Organizations for Reform Now (ACORN)
- Attachment 2: Listing of Organizational Names for Association of Community Organization for Reform Now (ACORN) and Affiliates, Subsidiaries, and Allied Organizations