

**WAGNER-PEYSER ACT (W-PA)**  
**ANNUAL FUNDING AGREEMENT**  
(Including Mod 0, initial Notice of Obligation)  
**PY 2012/FY 2013**

**Grant Number:**  
(To be completed by DOL)

**CFDA #17.207 Employment Service/Wagner-Peyser**  
**CFDA #17.271 Work Opportunity Tax Credit Program**  
**CFDA #17.273 Foreign Labor Certification Program**

**1. Parties.** Consistent with the Governor/Secretary Agreement provided for at 20 CFR 652.4(b) and 20 CFR 667.110; this grant agreement is entered into between the U.S. Department of Labor (Grantor) and the **STATE/COMMONWEALTH OF** (Grantee).

**2. Grant Funds.** This grant agreement applies to funds appropriated for **Program Year (PY) 2012 and Fiscal Year (FY) 2013** for the purposes of carrying out activities authorized under Sections 7(a) through 7(e) of the Wagner-Peyser Act (W-PA), as amended.

**3. Applicable Authority.** Funds under this grant agreement must be expended in accordance with all applicable federal statutes, regulations and policies, including those of the Wagner-Peyser Act, as amended; the applicable and approved State plan(s) and any amendments; any negotiated performance levels; specifically approved statutory and regulatory waivers applicable to these funds; and the applicable provisions in the appropriation acts for these funds. The applicable State plans referenced above include the WIA/W-PA five-year Strategic State Plan and any modifications thereto (*and for CO, MA, and MI only: including any demonstration of alternative service delivery methods approved as part of the applicable State Plan*) and any other annual plans required for the receipt of funds under this agreement (e.g. cost reimbursable grants).

**4. Grant Expenditure Period.** This Annual Funding Agreement is effective July 1, 2012 and expires September 30, 2015 to allow for funds allocated under this agreement to be fully expended in accordance with the statutory/regulatory life of the different fund sources (subject to availability of Federal funds) including, but

not limited to: **Wagner-Peyser Employment Service, Workforce Information Grants, Foreign Labor Certification Program, and the Work Opportunity Tax Credit Program.** However, any non-formula or discretionary awards are subject to the terms and conditions of the specific awards and plan approvals which may include reduced expenditure periods. Commencement of expenditures is subject to the issuance of federal obligation authority for each grant account funded under this agreement, unless preaward costs are approved via a continuing resolution or otherwise.

**5. Notice of Obligation.** Funds shall be obligated to the Grantee via a Notice of Obligation (NOO). Obligations and costs may not exceed the amount obligated by the NOO unless otherwise modified by the Grantor. This agreement includes the initial PY 2012 NOO for the program which is provided as a "Modification 0" NOO Attachment to this agreement. Funds are obligated for the amount indicated in the NOO in accordance with the Grantee's approved funding allocations. Subsequent PY 2012 and FY 2013 allocations will be provided via grant modification/NOOs.

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

**7. Standard Certifications and Assurances.** The following certifications and assurances are incorporated by reference and made a part of this agreement, include the following:

**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)

**STANDARD FORM 424b - STANDARD ASSURANCES (NON-CONSTRUCTION PROGRAMS)**

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

**8. Other Administrative Requirements.** In performing its responsibilities under this agreement, the grantee further certifies and assures that it will fully comply with:

**29 CFR Part 97 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments)** and the 29 CFR Part 97 clarifications and exceptions specified below:

29 CFR 97.25 - Program Income. Grantees **shall** use the Addition method for computing Program Income. The grantee may deduct those costs incident to generation of program income from gross income to determine net program income provided that such costs were not charged to grant funds under this agreement.

29 CFR 97.31 - Property. Real property includes both real property acquired under this agreement and real property transferred to this agreement from prior agreements.

29 CFR 97.32 - Equipment and 29 CFR 97.33 - Supplies. Equipment and Supplies includes both equipment and supplies acquired under this agreement and equipment and supplies transferred to this agreement from prior agreements.

#### *Financial Reporting*

29 CFR 97.41 (a) and (b) - These are the general parameters for financial reporting.

29 CFR 97.41 (b) - The Employment and Training Administration (ETA) has implemented a new Office of Management and Budget (OMB)-approved quarterly financial reporting form to be used for financial reporting starting with the quarter which ended September 30, 2007. The reporting instructions for the newly approved form are posted on the [www.doleta.gov/grants](http://www.doleta.gov/grants) website. State grantees are required to use the ETA Web-based reporting system for the filing of quarterly financial status reports. A separate report must be completed each quarter for each funding source (See Fund Type) provided under this agreement until such time as such funds for a given year have been expended or expired (i.e., expired due to statutory provision or expired due to terms of a specific grant/plan, as applicable). The software provided to grantees by the grantor agency will contain a menu listing all funding source reporting options to assist the grantees in full reporting coverage.

29 CFR 97.41 (b) (2) - This requires grantees to report program outlays (expenditures) on an accrual basis.

29 CFR 97.41 (c) (1) - The grantee is exempted from the requirement to submit the SF-272, Federal Cash Transactions Report, and the SF-272a, Federal Cash Transactions Report, continuation sheet, provided that the grantee files the SF-272 (e) electronic report in accordance with the HHS Payment Management System requirements.

**OMB Circular A-87 Revised (Cost Principles for State and Local Governments)** and the provisions and exceptions specified below:

- For those selected items of cost requiring prior approval, the authority to grant or deny approval is delegated to the State for programs funded under this Agreement except that the Secretary reserves the right to require transfer of title on nonexpendable Automated Data Processing Equipment in accordance with the provisions at 29 CFR 97.32 (g). **Pursuant to 20 CFR 652.8(d)(2), the Secretary reserves the right to exercise prior approval authority in other areas, after providing advance notice to the State. Accordingly, capital expenditures for real property are allowable as a direct cost only if approved by the Secretary (Grantor).**

- For personnel benefit costs charged to Wagner-Peyser Act funds on behalf of Employment Service (ES) employees who are members of fringe benefit plans which do not meet the requirements of OMB Circular A-87, Attachment B, Item 11, the costs of employer contributions or expenses incurred for ES fringe benefit plans are allowable as an addition to OMB Circular A-87, provided that:

(i) For retirement plans: (A) all covered employees joined the plan before October 1, 1983; (B) the plan is authorized by State law; (C) the plan was previously approved by the Secretary; (D) the plan is insured by a private carrier which is licensed to operate this type of plan in the applicable State; and (E) any dividends or similar credits because of participation in the plan are credited against the next premium falling due under the contract;

(ii) For all ES fringe benefit plans other than retirement plans, if the Secretary granted a time extension after October 1, 1983, to the existing approval of such a plan, costs of the plan are allowable until such time as the plan is comparable in cost and benefits to fringe benefit plans available to other similarly employed ES employees. At such time as the cost and benefits of an approved fringe benefit plan are equivalent to the cost and benefits of plans available to other similarly employed ES employees, the time extension will cease and the cited requirements of OMB Circular A-87 will apply; and

(iii) For retirement plans and all other fringe benefit plans covered in (i) and (ii) of this paragraph, any additional costs resulting from improvements of the plans made after October 1, 1983, are not chargeable to funds under this agreement.

**29 CFR PART 96 and 99 (Audit Requirements).** These requirements apply as supplemented by the Wagner-Peyser Act regulations at 20 CFR 652.8(f).

**Intergovernmental Personnel Act** (42 U.S.C. 4701) and amendments thereto.

**9. 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 certain veterans for the receipt of employment, training, and placement services. 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) 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 certain spouses) who otherwise meet the eligibility requirements for all employment and training programs funded by the U.S. Department of Labor. In addition, the states are required to provide assurances that they will comply with the Veterans' Priority Provisions established by the Jobs for Veterans Act (38 USC 4215).

**10. Salary and Bonus Limitations.** In compliance with Department of Labor Appropriations Act, 2010, Division D of Pub. L. 111-117, 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 solution is copyrighted by the institution that created it. Internal use, by an organization and/or personal use by an individual for non-commercial purposes, is permissible. All other uses require the prior authorization of the copyright owner."

**12. W-PA PY 2012/FY 2013 Agreement Transparency Act:** Federal Funding Accountability and Transparency Act of 2006 Pub. L. 109-282 as amended by section 6202 of Pub. L. 110-252 ("FFATA"). Grantees must ensure that they have the necessary processes and systems in place to comply with the reporting requirements of FFATA. See Training and Employment Guidance Letter (TEGL) No. 11-10 (issued November 15, 2010) <http://wdr.doleta.gov/directives/attach/TEGL/TEGL11-10acc.pdf> (and upcoming Change 1), and Attachment A to this agreement.

**13. ACORN Prohibition:** Section 511 of the Consolidated Appropriations Act, 2010 (P.L. 111-117, Division E) ("CAA"), requires that no direct or indirect funding from the Consolidated Appropriations Act may be provided to the Association of Community Organizations for Reform Now ("ACORN") or any of its subsidiaries through Federal grantees or contractors. DOL is required to take steps so that no Federal funds from the Consolidated Appropriations Act, 2010, are awarded or obligated by DOL grantees or contractors to ACORN or its subsidiaries as subgrantees, subcontractors, or other subrecipients. This prohibition applies not only to a direct recipient of Federal funds, but also to a subrecipient (e.g., a subcontractor, subgrantee, or contractor of a grantee).



## Attachment to Wagner-Peyser Act (W-PA) Annual Funding Agreement

W-PA Agreement Clause No.12 ("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.