

Element 3 — ASSURANCES (29 CFR 37.20 through 37.22) Review Assurances, Job Training Plans, Contracts and Policies and Procedures

PART A

As a condition to award financial assistance from the Department of Labor and Industrial Relations (DLIR), under Title I of the Workforce Investment Act (WIA), grant recipients, grant applicants, and training providers are required to certify with their contract that they are in full compliance with the nondiscrimination laws under WIA (Exhibit A).

Federal regulations under WIA require the following non-discrimination assurance language appear in certain documents, per 29 CFR Part 37.

"As a condition to the award of financial assistance from the Department of Labor under Title 1 of the WIA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Investment Act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;

Section 504 of the Rehabilitation act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title I-financially assisted programs and activities, and to all agreements the grant applicant makes to carry out the WIA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance."

Every grant applicant and training provider seeking eligibility under Title I of the WIA must include in its application for financial assistance the written assurance of nondiscrimination set out in the narrative above.

However, even when the assurance is not incorporated or referred in a document, it is considered incorporated by Operation of Law.

Where necessary, language regarding programmatic and architectural accessibility to accommodate individuals with disabilities is also included. Programmatic and architectural accessibility is addressed in more detail in Element IV, Universal Access.

1. Notice of the Requirement

Local workforce boards, One-Stop Centers, and recipient state and local agencies shall be informed in writing of the necessity of including this assurance in all contracts, grants, cooperative agreements, applications, and other arrangements. The notice will inform all recipients that this nondiscrimination assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title 1 of the WIA is made available, whether or not it is physically incorporated in such document and whether or not there is a written agreement between the U.S. Department of Labor and the recipient, or between the Department and the Governor, DLIR and the recipient, or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements

2. Assurance Reviews

The Local Level EO Officer will monitor all recipients under Title 1 of WIA for compliance in their respective county. The assurance reviews of job training plans, contracts, and policies and procedures shall be administered by the State and Local Level EO Officers, as prescribed under 29 CFR 37.20, 37.54 (d)(1)(i) and (d) (2)(i), (iii) and ((iv), thus ensuring documents are nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity.

In addition, Local Level EO Officers will assess applicant facilities as it pertains to programmatic and architectural accessibility for individuals with disabilities as explained in Element V.

Policies issued at the state or local level, as well as any other issuances from other recipients of federal funds under Title I of WIA, must not discriminate in neither their intent nor their effect (see Exhibit C1-C4 for the DLIR). To this end, all policies and other documents will be reviewed during the site review phase of a compliance review. Recipients of federal assistance under WIA shall provide access to all documents, papers, letters,

or other materials prepared or received by the officers, upon request. The monitors shall have the right to review and copy all such materials for use in monitoring compliance with the nondiscrimination and equal opportunity provisions of WIA.

As necessary and where feasible, county recipient agencies shall provide guidance to sub-recipients and grantees to establish and issue, or reconcile, localized EO policies as needed and in a timely manner

Staff reviewers of each application for financial assistance under Title I of WIA shall be provided with a copy of 29 CFR 37.20, Assurances, at the time a review is to occur. The assurance review must check applicant's policies, procedures, and application elements concerning programs and/or activities to ensure that it complies with the nondiscrimination and equal opportunity provisions.

3. State's Strategic Plan Assurance Statement

As part of the monitoring responsibilities, the State EO Officer will review the State's Plan to continue WIA Title I financially assisted programs or activities to ensure that programs or activities are or will be conducted in accordance with the law as directed in the MOA. (See Exhibit B on example Assurance)

PART B

Supporting Documentation

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| Exhibit A | Example --- "WIA Assurances and Certifications" section provided with all contracts, grants, and cooperative agreements. |
| Exhibit B | Example – State Plan for Title 1-B of the Workforce Investment Act and the Wagner-Peyser Act, 2012 |
| Exhibit C | Department of Labor and Industrial Relations (DLIR) Directives on Nondiscrimination and Equal Opportunity Policies |
| C-1 | DLIR Directive No. 2011-01
Policy Statement on Reasonable Accommodations for Persons with Disabilities |
| C-2 | DLIR Directive No. 2011-02
Americans with Disabilities Act (ADA)
Grievance Procedures |
| C-3 | DLIR Directive No. 2011-03
Policy Statement for Persons with Disabilities |
| C-4 | DLIR Directive No. 2011-04
Policy Statement on Equal Opportunity, Employment, Discrimination, and Unlawful Harassment and Retaliation in Employment and Services |