

Element 3 — Assurances—Recipient's Obligation to Provide Written Assurance
(29 C.F.R. § 38.20 through § 38.22)

PART A

As a condition to the award of financial assistance from the Department of Labor and Industrial Relations (DLIR) under Title I of WIOA, the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions required by the WIOA and will remain in compliance for the duration of the award of federal financial assistance (Exhibit A).

Federal regulations, 29 C.F.R. § 38.20, require the following non-discrimination assurance language to appear in certain documents:

"As a condition to the award of financial assistance from the Department of Labor under Title I of the WIOA, the grant applicant assures that it has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance:

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), 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 WIOA 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 C.F.R. §38.34 (Publications, broadcasts, and other communications) and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially

assisted programs and activities, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity

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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 financial assistance under Title I of the WIOA must include in its application 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 4, Affirmative Outreach and Equal 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 WIOA 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 (Exhibit B).

2. Assurance Reviews

The Local Level EO Officer will monitor all recipients under Title I of WIOA 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 C.F.R. § 38.20 and § 38.54, 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 4.

Policies issued at the State or local level, as well as any other issuances from other recipients of federal funds under Title I of WIOA, must discriminate in neither their intent nor their effect (Exhibit C - I). To this end,

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all policies and other documents will be reviewed during the site review phase of a compliance review. Recipients of federal assistance under WIOA 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 WIOA.

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 WIOA shall be provided with a copy of 29 C.F.R. § 38.20, 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 WIOA 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.

Equal Opportunity Employer/Program

Auxiliary aids and services are available upon request to individuals with disabilities.

TDD/TTY: Dial 711 then ask for (808) 586-8866

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PART B

Supporting Documentation

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| Exhibit A | Sample --- WIOA Contractors' Assurances and Certifications Relating to Nondiscrimination and Equal Opportunity |
| Exhibit B | State of Hawaii WIOA Bulletin |
| Exhibit C | DHRD Policy No. 601.002 – Reasonable Accommodations for Employees and Applicants with Disabilities |
| Exhibit D | DHRD Policy No. 601.002 Discrimination/Harassment-Free Workplace Policy |
| Exhibit E | Governor’s Administrative Directive No. 13-1 Equal Employment Opportunity Program |
| Exhibit F | Governor’s Administrative Directive No. 12-6 Accessibility to State Government by Persons with Disabilities |
| Exhibit G | Comptroller’s Memorandum 2010-28 Policy Guidance on Website Accessibility |
| Exhibit H | DLIR Addendum to State of Hawaii Department of Human Resources Development Discrimination/Harassment-Free Workplace Policy |
| Exhibit I | Department of Labor and Industrial Relations Language Access Plan |