



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

Workforce Innovation and Opportunity Act Nondiscrimination Plan

Element One — Assurances

(29 C.F.R. §§ 38.25 to 38.27, 29 C.F.R. § 38.54(c)(2)(ii), and 29 C.F.R. § 38.54(c)(2)(iii))

The Workforce Innovation and Opportunity Act (WIOA) Section 188 prohibits the exclusion of an individual from participation in, denial of the benefits of, discrimination in, or denial of employment in the administration or connection with any programs and activities funded otherwise financially assisted in whole or in part under Title I of the WIOA because of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity) national origin (including Limited English Proficiency (LEP)), age, disability, or political affiliation or belief, or for the beneficiaries, applicants, and participants only, on the basis of citizenship status, or participation in a program or activity that receives financial assistance under Title I of WIOA.

As a condition to the award of financial assistance from the State of Hawaii Department of Labor and Industrial Relations (DLIR) under Title I of the WIOA, a grant applicant assures that it can 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. See *Exhibit A* for a sample assurance.

29 C.F.R. § 38.25, requires 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 (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 (including LEP), age, disability, or political affiliation or belief, and against beneficiaries on the basis of either citizenship status 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 bases 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, as a recipient of WIOA Title I financial assistance, it will comply with 29 C.F.R. § 38.38 (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 program or activity, and to all agreements the grant applicant makes to carry out the WIOA 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 financial assistance under Title I of the WIOA must include in its application the written assurance of nondiscrimination as 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 pursuant 29 C.F.R. § 38.25(a)(2).

Where the WIOA Title I-financial assistance is intended to provide or is in the form of, either personal property, real property, structures on real property, or interest in any such property or structures, the assurance will obligate the recipient or transferee for the longer of the period during which the property is used or the period during which the recipient retains ownership or possession or the transferee retains ownership or possession without compensating the DLIR for fair market value of that ownership or possession. In all other cases, the assurance will obligate the recipient for the period during which the WIOA Title-I financial assistance is extended. Covenants assuring nondiscrimination and equal opportunity must be contained in instruments transferring real property, structures, or improvements of real property, structures, or interests in real property or structures.

When 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 Five, Affirmative Outreach.

1. Notice of the Requirement

All recipients, including Local Workforce Development Boards (LWDBs), American Job Centers (AJCs), grant recipients, 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 (DOL) and the recipient, the Governor 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 I of the 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. §§ 38.28 to 38.33, thus ensuring documents are nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity. In addition, State- and Local-Level EO Officers will assess the applicant facilities as it pertains to programmatic and architectural accessibility for individuals with disabilities as explained in Element Five.

Policies issued at the State- or Local-Level, as well as any other issuances from other recipients of federal funds under Title I of the WIOA, must not discriminate in either their intent nor their effect. State- and Local-Level EO Officers shall review recipient policy issuances to ensure they are non-discriminatory.

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

EXHIBIT

Exhibit A

Sample — WIOA Contractors' Assurances and Certifications Relating to
Nondiscrimination and Equal Opportunity