

**WORKFORCE INVESTMENT ACT
NONDISCRIMINATION AND EQUAL
OPPORTUNITY ASSURANCES**



MEMORANDUM

To: All Local Workforce Investment Area Chief Elected Officials, Local Workforce Investment Board Chairs, and Arkansas Workforce Center Operators and Partners

From: Artee Williams, Director

Date: November 30, 2010

RE: Workforce Investment Act Nondiscrimination and Equal Opportunity Assurance

1. Purpose: To provide information regarding Workforce Investment Act Nondiscrimination and Equal Opportunity Assurances.
2. General Information: The 29 CFR.20 requires each application for financial assistance under Title I of WIA; the grant application assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following assurances.

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

Section 188 of the Workforce Investment Act or 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 Amendment of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

Title VII – Sexual Harassment, as defined in the Federal Guidelines (29 CFR CH XIV, Subsection 1604.11,) Section 703 of Title VII of the Civil Rights Act of 1964, amended, and Arkansas Act 563 or 1985, which amends Subsection (8) of Section 1801 of Act 280 of 1975 in the Arkansas Criminal Code, is intolerable and unconscionable.

Title VII – Religious Discrimination of 1964, Section 1605.2 Reasonable Accommodation with undue hardship as required by Section 701 of Title VII of the Civil Rights Act of 1964.

The grant applicant also assures that it will comply with part 37 and all other regulations implementing the law and listed above. This assurance applies to the grant applicant's operation of the WIA Title I – financially assisted program or activity, and to all agreements the grant applicator 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.

The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract, or other arrangement whereby Federal financial assistance under Title I of the WIA is made available, whether or not it is physically incorporated in such document and whether or not there is written agreement between the Department and the recipient, between the Department and the Governor, between 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.

Continuing State programs. Each Strategic Five-Year State Plan submitted by a State to carry out a continuing WIA Title I – financially assisted program or activity must provide a statement that the WIA Title I – financially assisted program or activity is (or, in the case of a new WIA Title I – financially assisted program or activity, will be) conducted in compliance with the nondiscrimination and equal opportunity provisions of WIA and this part, as a condition to the approval of the Five-Year Plan and the extension of any WIA Title I financial assistance under the Plan. The State also must certify that it had developed and maintains a Methods of Administration under the Section 37.54

XI. Assurances

1. The State assures that it will establish, in accordance with section 184 of the Workforce Investment Act, fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotments made under sections 127 and 132. (§112(b)(11).)
2. The State assures that it will comply with section 184(a)(6); which requires the Governor to, every two years, certify to the Secretary, that -
 - a. the State has implemented the uniform administrative requirements referred to in section 184(a)(3);
 - b. the State has annually monitored local areas to ensure compliance with the uniform administrative requirements as required under section 184(a)(4); and
 - c. the State has taken appropriate action to secure compliance pursuant to section 184(a)(5). (§184(a)(6).)
3. The State assures that the adult and youth funds received under the Workforce Investment Act will be distributed equitably throughout the State, and that no local areas will suffer significant shifts in funding from year to year during the period covered by this Plan. (§112(b)(12)(B).)
4. The State assures that veterans will be afforded employment and training activities authorized in section 134 of the Workforce Investment Act, and the activities authorized in chapters 41 and 42 of Title 38 US code. The State assures that it will comply with the veteran's priority established in the Jobs for Veterans Act. (38 USC 4215).)
5. The State assures that the Governor shall, once every two years, certify one local board for each local area in the State. (§117(c)(2).)
6. The State assures that it will comply with the confidentiality requirements of section 136(f)(3).
7. The State assures that no funds received under the Workforce Investment Act will be used to assist, promote, or deter union organizing. (§181(b)(7).)
8. The State assures that it will comply with the nondiscrimination provisions of section 188, including an assurance that a Methods of Administration has been developed and implemented (§188.)
9. The State assures that it will collect and maintain data necessary to show compliance with the nondiscrimination provisions of section 188. (§185.)
10. The State assures that it will comply with the grant procedures prescribed by the Secretary (pursuant to the authority at section 189(c) of the Act) which are necessary to enter into grant agreements for the allocation and

payment of funds under the Act. The procedures and agreements will be provided to the State by the ETA Office of Grants and Contract Management and will specify the required terms and conditions and assurances and certifications, including, but not limited to, the following:

•General Administrative Requirements:

- 29 CFR part 97 — Uniform Administrative Requirements for State and Local Governments (as amended by the Act)
- 29 CFR part 96 (as amended by OMB Circular A-133) — Single Audit Act
- OMB Circular A-87 — Cost Principles (as amended by the Act)

•Assurances and Certifications:

SF 424 B — Assurances for Non-construction Programs

- 29 CFR part 37 — Nondiscrimination and Equal Opportunity Assurance (and regulation) 29 CFR § 37.20
- CFR part 93 — Certification Regarding Lobbying (and regulation)
- 29 CFR part 98 — Drug Free Workplace and Debarment and Suspension Certifications (and regulation)

•Special Clauses/Provisions:

Other special assurances or provisions as may be required under Federal law or policy, including specific appropriations legislation, the Workforce Investment Act, or subsequent Executive or Congressional mandates.

11. The State certifies that the Wagner-Peyser Act Plan, which is part of this document, has been certified by the State Department Workforce Services Director.
12. The State certifies that veterans' services provided with Wagner-Peyser Act funds will be in compliance with 38 U.S.C. Chapter 41 and 20 CFR part 1001.
13. The State certifies that Wagner-Peyser Act-funded labor exchange activities will be provided by merit-based public employees in accordance with DOL regulations.
14. The State assures that it will comply with the MSFW significant office requirements in accordance with 20 CFR Part 653.
15. The State certifies it has developed this Plan in consultation with local elected officials, local workforce boards, the business community, labor organizations and other partners.
16. As a condition to the award of financial assistance from the Department of Labor under Title I of 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 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 it will comply with 29 CFR Part 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 program or activity, 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.

17. The State assures that funds will be spent in accordance with the Workforce Investment Act and the Wagner-Peyser Act and their regulations, written Department of Labor Guidance implementing these laws, and all other applicable Federal and State laws.