

Workforce Innovation Opportunity Act Assurances and Certifications Date March 23, 2020

A. Compliance with Applicable Laws, Regulations and Directives

1. The Contractor must assure compliance, as appropriate, with the provision of Section 89 of the Internal Revenue Code;
2. The Contractor shall comply with the WIOA and attendant regulations. The Contractor further certifies that it has no commitments or obligations that are inconsistent with compliance with these and any other pertinent federal regulations and policies, and that any other agency, organization, or party which participates in the implementation of the programs funded pursuant to this Contract shall have no such commitments or obligations;
3. The Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), all requirements imposed by the applicable USDOL regulations (29 CFR Part 32) and all guidelines and interpretations issued pursuant thereto;
4. The Contractor shall comply with Titles VI, VII, and IX of the Civil Rights Act of 1964 (P.L. 88-352) and the regulations issued pursuant thereto. The Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin unless it is a bona fide occupational qualification reasonably necessary to the normal operation of this Contract. The Contractor agrees to put in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause. The Contractor agrees to include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions shall be binding upon each Contractor or vendor faith;
5. The Contractor shall comply with prohibitions on discrimination under Sec.188 of the WIOA;
6. The Contractor shall comply with the Virginia Public Procurement Act, §§ 2.2-4300 *et seq.* of the *Code of Virginia*;
7. The Contractor shall conform to the Virginia Freedom of Information Act, §§ 2.2-3700 *et seq.* of the *Code of Virginia*, except as otherwise required by federal or state law, consistent with federal confidentiality requirements and with the Government Data Collection and Dissemination Practices Act, §§ 2.2-3800 *et seq.* of the *Code of Virginia*;
8. The Contractor shall conform to the standards of the Occupational Safety and Health Standards for General Industry (29 CFR Part 1910) inclusive of the "Virginia Preface to OSHA Standards Book for General Industry";
9. The Contractor shall conform to and comply with all relevant procedures, guidelines, and directives created by the Virginia Board of Workforce Development as provided in §§ 2.2-2472 *et seq.* of the *Code of Virginia*;
10. The Contractor shall conform to the Virginia Child Labor Laws, §§ 40.1-78 *et seq.* of the *Code of Virginia*;

11. The Contractor shall conform to the Virginia Workers' Compensation Act, §§ 65.2 *et seq.* of the *Code of Virginia*;

12. The provisions of the following Acts, applicable regulations made pursuant to said Acts, and other listed directives are hereby incorporated by reference. All changes to said Acts, regulations, and directives are automatically incorporated into this Agreement.

- a. Title I of the WIOA (P.L. 113-128);
- b. WIOA 20 CFR Parts 601, 651, 652 et al. Workforce Innovation and Opportunity Act; Notice of Proposed Rulemaking; Proposed Rules including subsequent revisions or amendments;
- c. Duly authorized waivers approved by the USDOL; Page 13
- d. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-332);
- e. OMB 2 CFR Chapter I, Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule dated December 26, 2013;
- f. OMB 2 CFR Part 2900 USDOL Exceptions to Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards dated December 19, 2014;
- g. USDOL administrative regulations, at 41 CFR Part 29-70 (property management-private), 29 CFR Part 93-94 (lobbying restrictions and drug-free workplace), and 29 C.F.R. Part 96-98 (audits, uniform administrative requirements and debarment and suspension);
- h. Nothing in the WIOA (including the amendments made by this Act) shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g);
- i. Executive Order 13333- Human Trafficking (22 U.S.C. §7104 (g)) requires termination without penalty, if a subgrantee, contractor, or subcontractor engages in human trafficking;
- j. Executive Order 13513- Prohibition Against Text Messaging While Driving by Government Contractors, Subcontractors and Recipients Subrecipients;
- k. Buy American Notice Requirements

None of the funds made available under Title I of the WIOA may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with (41 U.S.C. 8301-8303);

l. Federal Funding Accountability and Transparency Act of 2006 or Transparency Act—Public Law 109–282, as amended by section 6202(a) of Public Law 110–252 (31 U.S.C. 6101);

m. Equal Employment Opportunity Directives;

n. Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) that provide for fair and equitable treatment of persons displaced or whose property is acquired for project purposes of Federal or federally Page 14 assisted programs, regardless of Federal participation in purchases;

o. Title IX of the Education Amendments of 1972 (P.L. 92-318), as amended, which prohibits discrimination on the basis of sex;

p. The Age Discrimination Act of 1975, as amended;

q. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; and

r. The Americans with Disabilities Act of 1990 (P.L. 101-336).

The LWDAGR also understands and agrees to immediately desist from and correct any violations noted.

C. Certifications

The following certifications are incorporated by reference and are a part of this Agreement:

1. Certification Regarding Lobbying (29 CFR § 93);
2. Drug-free Workplace Requirements Certification (29 CFR § 98); and;
3. Nondiscrimination and Equal Opportunity Assurance (29 CFR § 37);
4. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (29 CFR § 98).

D. Contract Provisions for non-Federal Entity Contracts under Federal Awards

1. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. As outlined in Section V. O. Terminations.
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the

tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.