

The background of the page features a large, faint, golden seal of the State of New York Department of Labor. The seal is circular and contains the text "STATE OF NEW YORK" at the top and "DEPARTMENT OF LABOR" at the bottom. In the center, there is an eagle with its wings spread, perched on a globe. Below the eagle is a banner with the word "EXCELSIOR".

New York State's **Methods of Administration**

**Review Assurances, Job Training Plans,  
Contracts, and Policies & Procedures**

**Element 3**

Implementing Section 188 of the  
Workforce Investment Act of 1998

*Equal Opportunity*  
**IS THE LAW** |

**Element 3: Review assurances, job training plans, contracts, and policies and procedures (29 CFR 37.54 (d) (1) (I) and (d) (2) (I), (iii) and (iv)).**

- a. Describe how the State ensures each grant applicant, and each training provider seeking eligibility, includes in its application for financial assistance under Title I of WIA the required EO assurance (See 29 CFR 37.20 (a) (1)).
- b. Describe how the State ensures the required assurance is incorporated into each grant, cooperative agreement, contract, or other arrangement whereby Federal financial assistance under Title I of WIA is made available (See 29 CFR 37.20 (a) (2)).

The State ensures each grant applicant and each training provider seeking eligibility includes the EO assurance using the following mechanisms:

- The required EO assurance is included in the State’s Strategic Plan.<sup>1</sup>
- The required EO assurance is included in each LWIA’s Strategic Plan.<sup>2</sup>
- NYSDOL requires that the equal opportunity and nondiscrimination assurance statement stipulated in 29 CFR 37.20(a)(1) be incorporated in all grants, cooperative agreements and other similar applications. A standardized RFP template was developed<sup>3</sup> which requires the use of Appendix D in all NYSDOL RFPs and contracts. Appendix D contains the required EO assurance.<sup>4 5</sup>
- The Department’s checklist for compiling contracts includes the Federal Certifications form ,Appendix D, which includes the required EO assurance.<sup>6</sup>
- The State’s *Workforce Investment Act Equal Opportunity and Nondiscrimination Policy and Complaint Processing Procedures* requires local recipients to place the assurance in every grant, cooperative agreement or contract for financial assistance for funding under Title 1 of WIA (See Element 8, under Section X of the policy and procedures).<sup>7 8 9</sup>
- Each training provider seeking eligibility includes the required EO assurance in its application.<sup>10</sup>

The State monitors that its recipients have included the assurance into each grant, cooperative agreement and contract as part of its routine One-Stop EO Compliance monitoring process. The reviewer asks to see sample contracts and/or RFPs from the local area to verify that the required EO assurance has been included. Local areas also ensure that the assurance is incorporated into each grant, cooperative agreement and contract through monitoring. Samples of State and local monitoring tools are available under Element 7.

- c. Describe how the State ensures each grant applicant, and each training provider seeking eligibility, is able to provide programmatic and architectural accessibility for individuals with disabilities (See subpart C of 29 CFR part 32).

Each grant applicant and training provider seeking eligibility assures they are able to provide programmatic and architectural accessibility for individuals with disabilities. The State reserves the right to cancel any award or to remove any training provider from the statewide

list that does not provide programmatic and architectural accessibility as assured, as well as the right to conduct pre-award, on-site inspections of grant applicants to determine their accessibility to individuals with disabilities. LWIAs also conduct on-site inspections of their providers and contractors and may implement corrective actions or cancel contracts should problems be identified.<sup>11 12</sup>

**d. Describe how the State ensures job training plans, contracts, assurances, and other similar agreements entered into by recipients are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity (See 29 CFR 37.54 (b) (2) (iv)).**

As described above under section a, the State and local areas have developed boilerplate language for job training plans, contracts and other agreements that contain the required language regarding nondiscrimination and equal opportunity.

As part of its on-site monitoring of LWIAs, DEOD requests samples of job training plans, contract and other agreements and reviews them to see that they are both nondiscriminatory and contain the required language regarding nondiscrimination and equal opportunity.

**e. Describe how the State ensures State and local-level policy issuances, or issuances from other recipients, are not discriminatory either in intent or effect (See 29 CFR 37.54 (d) (2) (iii)).**

NYSDOL policy issuances go through internal clearance processes where they are carefully reviewed by trained staff to insure they are not discriminatory either in intent or effect. The State EO Officer is also provided with the opportunity to review these issuances during the review process. If the EO Officer discovers any problematic language or policy, it is amended to address his concerns.

As part of its on-site monitoring, DEOD verifies that local EO Officers (or other designated LWIA or WIB staff) have a process in place to review local-level policy issuances to ensure they are not discriminatory either in intent or effect. DEOD staff will also examine a sample of the local-level's policy issuances to confirm they are nondiscriminatory. DEOD is available to provide technical assistance and training to local EO Officers to assist them to develop an effective local-level policy review process.

Local workforce areas have established protocols for reviewing plans, contracts and agreements. For example, in the St. Lawrence area, all policy issuances and contracts are reviewed by the EO Officer and WIB Executive Director to ensure that they are not discriminatory in intent or effect. The WIB in the Clinton-Essex-Franklin-Hamilton local area audits RFPs and other agreements for EEO purposes. In Oswego County, all policy issuances are reviewed by their Senior Team, which includes the EO Officer, prior to issuance.

**f. Describe how the State ensures policies on WIA Title I nondiscrimination and/or equal opportunity issues are developed and implemented in a timely manner.**

The State EO Officer has a leadership role in ensuring policies on WIA Title I nondiscrimination and/or equal opportunity issues are developed and implemented in a timely manner. He works in conjunction with other Divisions within the agency such as Counsel's Office and the Division of Workforce Development and Training to ensure the policies are carefully crafted and properly reviewed by affected individuals and staff responsible for implementing the policy.<sup>13 14 15</sup> Policies affecting WIA Title I recipients are broadcast on the Workforce Development System home page at <http://workforcenewyork.org>.

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<sup>1</sup> <http://workforcenewyork.org/ta/ta07-4att.doc> - see page 99.

<sup>2</sup> <http://workforcenewyork.org/ta/ta05-3att.doc> - see page IV-10.

<sup>3</sup> NYSDOL's RFP Boilerplate Template.

<sup>4</sup> NYSDOL's Appendix D for All RFPs and Contracts (Federal Assurances).

<sup>5</sup> NYSDOL RFP: *Regional Economic Transformation Strategies Through Sector or Cluster Based Approach*, <http://workforcenewyork.org/rfp13n.htm>. See other examples of RFPs on Workforce New York website under "Funding Opportunities."

<sup>6</sup> NYSDOL's Contract Preparation Checklist.

<sup>7</sup> Monroe County. Service Provider Agreement, p.3.

<sup>8</sup> Oyster Bay. Nondiscrimination Assurance for Contractors.

<sup>9</sup> Orange County. *Agreement to Provide Workforce Investment Act Employment and Training Services, Contract )Y 2007, Title I WIA Youth*, p.8.

<sup>10</sup> Screen shots of NYSDOL's ETP website.

<sup>11</sup> WDS Technical Advisory 06-7, *Determination of Eligibility of Training Offerings and the Establishment of the Eligible Training Provider List*, <http://workforcenewyork.org/ta/ta06-7.doc> ; WDS Technical Advisory 04-19.htm, *Technical Assistance and Clarifying Guidance Regarding Oversight and Monitoring Responsibilities for Chief Elected Officials and Local Workforce Investment Boards*, <http://workforcenewyork.org/ta/ta04-19.htm>

<sup>12</sup> Suffolk County Department of Labor Training Provider Evaluation.

<sup>13</sup> NYSDOL Limited English Proficiency Plan.

<sup>14</sup> NYSDOL Departmental Policy Regarding Discrimination Against People with Disabilities.

<sup>15</sup> Departmental Policy Regarding Sexual Harassment.