Documentation:

See attachments.

Element 3

Review assurances, job training plans, contracts, and policies and procedures

Reference: 29 CFR 37.54 (d) (1) (i) and (d) (2) (i), (iii) and (iv)

In this element the State should address how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.20 and 37.54 (d) (1) (I) and (d) (2) (I), (iii) and (iv) regarding the review of assurances, job training plans, contracts, and policies and procedures. Additionally, this element should address the procedures the State and its recipients are following and will continue to follow in assessing the ability of grant applicants, if funded, or training providers, if declared eligible, to comply with WIOA section 188 and 29 CFR part 37.

Narrative:

The state of South Dakota complies, and will continue to comply, with the requirements of 29 CFR Part 37 related to the review of assurances, job training plans, contracts, and policies and procedures. The DLR utilizes and incorporates the nondiscrimination assurance statement in all documents providing DLR and WIOA Title 1-financial assistance, i.e., contracts, agreements, grants, cooperative agreements or other arrangements under which DLR or WIOA Title 1 funds are available. In order to maintain compliance, DLR communicates these requirements to all sub-recipients, suppliers, and service providers. The DLR and its sub-recipients are obligated to maintain assurances for the period during which DLR and WIOA Title 1-finanacial assistance is extended as stated in 29 CFR Part 37. (See MOA Element 3 documentation.)

Each request for proposal, proposal, and application for financial assistance under WIOA Title 1 shall contain the following assurance as required by 29 CFR Part 37:

> As a condition to the award of financial assistance from the Department of Labor and Regulation under Title 1 of WIOA, the grant applicant assures it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Innovations and Opportunities Act of 2014 (WIOA), 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, pregnancy, childbirth, and related medical conditions in accordance with the Pregnancy Discrimination Act of 1978 and related case law, 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 DLR 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.

Pregnancy Discrimination Act of 1978 and related case law as it pertains to non-discrimination to pregnancy, childbirth, and related medical conditions.

The grant applicant also assures 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 WIOA Title 1-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title 1-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 eligibility under Title 1 of the WIOA must include in its application for financial assistance the above written assurance of nondiscrimination. Every grant, cooperative agreement, contract or other arrangement whereby federal financial assistance is made available under Title 1 of the WIOA must include the assurance statement. The DLR will inform, in writing, all recipients of federal financial assistance under Title 1 of WIOA of the necessity of including this language in all contracts, grants, cooperative agreements, applications, or other arrangement. The

DLR will also 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 department and the recipient or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.

All agreements and contracts between the DLR and its grantees are reviewed by the EO Officer prior to issuance to ensure the required assurances and certifications have been signed by the applicant/recipient. During scheduled compliance reviews of recipients, the EO Officer monitors job training plans, contracts, and other similar agreements to ensure they are nondiscriminatory and contain the required nondiscrimination assurance statement. (See MOA Element 7 documentation.) The EO Officer also reviews recipient policies and policy issuance to ensure timeliness and compliance with nondiscrimination and equal opportunity provisions of Section 188 of the WIOA. Each recipient ensures that all training providers seeking eligibility comply with program and architectural accessibility.

Additionally, DLR includes and requires all recipients include the covenant required by 29 CFR 37.22 in any instrument effecting or recording a transfer of property acquired or improved under any WIOA Title-financially assisted programs and/or activities for the period during which WIOA Title 1-financial assistance is extended.

Documentation:

See attachments.