

Trade Adjustment Assistance (TAA)
Annual Funding Agreement (AFA)
Fiscal Year (FY) 2017 TERMS AND CONDITIONS
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1. Parties

Consistent with the State/Commonwealth-Secretary of Labor Agreement (the Governor-Secretary Agreement) identified in Clause -13 below, this Annual Funding Agreement (Agreement) is entered into between the United States Department of Labor (DOL) Employment and Training Administration (ETA) (Grantor) and the Recipient (State, Cooperating State Agency) for the purposes of carrying out program activities authorized under Subchapters A, B, and C of Chapter 2 of Title II of the Trade Act of 1974 (Trade Act), as amended, also known as the TAA Program.

The TAA Program includes training, employment and case management services, job search allowances, relocation allowances, Trade Readjustment Allowances (TRA), Reemployment Trade Adjustment Assistance (RTAA) and Alternative Trade Adjustment Assistance (ATAA), and the Health Coverage Tax Credit (HCTC) (a benefit available to eligible TAA recipients which is administered by the Internal Revenue Service (IRS)).

TAA funds provided under this Agreement may be used for training, employment and case management services, job search allowances, relocation allowances, and related state administration. Funds for TAA Program TRA, RTAA and ATAA are governed by the terms and conditions of the FY 2017 Unemployment Insurance (UI) Annual Funding Agreement; and funds to administer HCTC are provided through Infrastructure Dislocated Worker Grants (HCTC Infrastructure DWGs).

2. Grant Funds

This grant agreement applies to FY 2017 appropriated funds.

3. Applicable Authority

Funds provided under this Agreement must be expended in accordance with all applicable Federal statutes, regulations (including the Office of Management (OMB) and Budget Uniform Guidance), program directives, and the applicable provisions in the appropriations acts for these funds, and the terms and conditions of the award.

The grant(s) awarded under this Agreement will be subject to the following administrative standards and provisions:

1. Non-Profit Organizations, Educational Institutions, and State, Local and Indian Tribal Governments – 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards); 2 CFR Part 2900 (Department of Labor's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

2. Profit Making Commercial Firms – Federal Acquisition Regulation (FAR) – 48 CFR part 31 (Cost Principles), and 2 CFR Part 200 (Administrative Requirements); 2 CFR Part 2900 (Department of Labor’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

4. State Plans

As a condition for receipt of funds under this Agreement, the Recipient agrees to carry out the Workforce Innovation Opportunity Act (WIOA) Unified and Combined State Plan requirements by complying with the terms and conditions of this Agreement and the provisions in the Governor-Secretary Agreement, as explained in Clause 13 below.

5. Grant Expenditure Period

This grant expenditure period is October 1, 2016 through September 30, 2019, but will commence no sooner than execution of this Agreement by both parties, unless otherwise indicated in “Modification 0” supplement that simultaneously accompanies and is part of this Agreement. Also, this Agreement may be terminated sooner and be subject to closeout procedures if all allocated FY 2017 funds are fully expended at a date before the end date of September 30, 2019.

The grant expenditure for funds provided for TRA and A/RTAA benefits is the period beginning October 1, 2016, expiring on September 30, 2017.

Expenditures must comply with the statutory/regulatory life of each fund source (subject to the availability of Federal Funds).

6. Electronic Funds Transfer

Cash payments shall be made to the Grantee under the Department of Health and Human Services (HHS) Payment Management System (PMS).

7. Resources and Information

Additional resources and information to assist you is located on the ETA website at <https://www.doleta.gov/grants/resources.cfm>. This site contains information about the Uniform Guidance, general terms and conditions, indirect cost assistance, recipient training resources and other relevant information. Additional TAA Program guidance including program regulations, statutes and directives regarding the states' responsibilities for carrying out the TAA Program and the use of funds under this Agreement are provided in Clause 13 below and on the ETA website at: <https://www.doleta.gov/tradeact> under the "Law" tab.

8. Federal Project Officer

The DOL/ETA Federal Project Officer (FPO) for this award is:

Name:

Telephone:

E-mail:

The FPO is not authorized to change any of the terms or conditions of the award or approve prior approval requests. Any changes to the terms or conditions or prior approvals must be approved by the Grant Officer through the use of a formally executed award modification.

9. OTCnet Program Check Capture Legal Notices

The DOL/ETA will be using U.S. Treasury Paper Check Conversion. Henceforth, processing of Check Payments received in Person or by Mail will be converted into an electronic funds transfer (EFT).

10. Formula Awards

a. Notice of Award

Funds shall be obligated and allocated after execution of this Agreement via a Notice of Award/Notice of Obligation (NOA/NOO) in the "Modification 0" document which is a supplement to this Agreement. Funding made available under the initial NOA/NOO may be used to cover costs incurred on and after October 1, 2016. Obligations and costs may not exceed the amount obligated by the NOA/NOO in "Modification 0" unless otherwise modified by the Grantor. Funds are obligated for the amount indicated in the "Modification 0" document in accordance with the State's FY 2017 allotment levels or initial increments thereof or pursuant to reserve requests provided under the process for requesting TAA Program reserve funds explained in Training and Employment Guidance Letter (TEGL) No. 03-16 and subsequent directives regarding TAA allocations. The Federal obligation level will be amended by the Grant Officer to increase (or adjust) amounts available to the recipient as funds become available for obligation and additional NOA/NOO grant modifications are issued.

11. Funding Restrictions

a. Mileage Reimbursement Rates

Pursuant to 2 CFR 200.474(a), recipients must have policies and procedures in place related to travel costs; however, for reimbursement on a mileage basis, this federal award cannot be charged more than the maximum allowable Mileage Reimbursement Rates for Federal employees. The -2017 Mileage Reimbursement Rates are:

Modes of Transportation	Effective/Applicability Date	Rate per mile
Privately owned automobile	January 1, 2016	\$0.54
Privately owned motorcycle	January 1, 2016	\$0.51

To ensure compliance, states are encouraged to check mileage rates annually at www.gsa.gov/mileage which is the source of the information provided above.

12. Administrative Requirements

a. Assurances and Certifications

The signed SF-424, Application for Federal Assistance, has been included as an Attachment to this Agreement. The individual who signed the SF-424 on behalf of the applicant is considered the Authorized Representative of the applicant. As stated in block 21 of the SF-424 form, the signature of the Authorized Representative on the SF-424 certifies that the organization is in compliance with the Assurances and Certifications form SF-424B (available at <http://apply07.grants.gov/apply/forms/sample/SF424B-V1.1.pdf>). You do not need to submit the SF-424B form separately.

b. Audits

Organization-wide or program-specific audits shall be performed in accordance with the Single Audit Act Amendments of 1996. Recipients that expend \$750,000 or more in a year in Federal awards shall have an audit conducted for that year in accordance with the requirements contained in 2 CFR 200.501. The provisions of 2 CFR Subpart F, Audit Requirements, will apply to audits of non-Federal entity fiscal years beginning on or after December 26, 2014. The revised audit requirements are not applicable to fiscal years beginning prior to that date.

c. Closeout/Final Year Requirements

At the end of the grant expenditure period, the Recipient will be required to close the grant with ETA. Approximately 15 days prior to the end of the period of performance, ETA/DOL will notify

the Recipient that the initiation of closeout will begin. Information concerning the Recipient's responsibilities at closeout may be found in 2 CFR 200.343.

d. Equipment

The requirement that grant Recipients obtain prior approval from the Federal Grantor agency for all purchases of equipment (as described in 2 CFR 200.439) is waived in accordance with 2 CFR 200.308(c)(4), and approval authority is delegated to the state administrator.

Notwithstanding this waiver, the Grantor reserves the right to reimpose the requirement of prior approval by the Grantor, after providing advance notice to the State (Grantee).

e. Federal Funding Accountability and Transparency Act

1. Reporting of first-tier subawards.

- i. *Applicability.* Unless you are exempt as provided in paragraph [4.] of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph [5.] of this award term).
- ii. *Where and when to report.*
 - a. You must report each obligating action described in paragraph [1.i.] of this award term to <https://www.fsrs.gov/>.
 - b. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- iii. *What to report.* You must report the information about each obligating action that the submission instructions posted at <https://www.fsrs.gov/>.

2. Reporting Total Compensation of Recipient Executives.

- i. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
 - a. the total Federal funding authorized to date under this award is \$25,000 or more;
 - b. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
- ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the

compensation information, see the U.S. Security and Exchange Commission total compensation filings at <https://www.sec.gov/answers/execomp.htm>.

- iii. *Where and when to report.* You must report executive total compensation described in paragraph [2.i.] of this award term:
 - a. As part of your registration profile at <http://www.sam.gov>.
 - b. By the end of the month following the month in which this award is made, and annually thereafter.
3. *Reporting of Total Compensation of Subrecipient Executives.*
 - i. *Applicability and what to report.* Unless you are exempt as provided in paragraph [4.] of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
 - a. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <https://www.sec.gov/answers/execomp.htm>.)
 - iii. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph [3.i] of this award term:
 - a. To the recipient.
 - b. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
4. *Exemptions*

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

 - i. Subawards, and
 - ii. The total compensation of the five most highly compensated executives of any subrecipient.
5. *Definitions.* For purposes of this award term:
 - i. *Entity* means all of the following, as defined in 2 CFR part 25:
 - a. A Governmental organization, which is a State, local government, or Indian tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization;

- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- ii. *Executive* means officers, managing partners, or any other employees in management positions.
- iii. *Subaward*:
 - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see [2 CFR 200.330]).
 - c. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- iv. *Subrecipient* means an entity that:
 - a. Receives a subaward from you (the recipient) under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.
- v. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - a. *Salary and bonus*.
 - b. *Awards of stock, stock options, and stock appreciation rights*. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - c. *Earnings for services under non-equity incentive plans*. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - d. *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.
 - e. *Above-market earnings on deferred compensation which is not tax-qualified*.
 - f. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

f. Intellectual Property Rights

The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: i) the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and ii) any rights of copyright to which the recipient, subrecipient or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. Federal funds may not be used to pay any royalty or license fee for use of a copyrighted work, or the cost of acquiring by purchase a copyright in a work, where the Department has a license or rights of free use in such work, although they may be used to pay

costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income. Program income must be used in accordance with the provisions of this grant award and 2 CFR 200.307.

If applicable, the following needs to be on all products developed in whole or in part with grant funds:

“This workforce product was funded by a grant awarded by the U.S. Department of Labor’s Employment and Training Administration. The product was created by the recipient and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This product is copyrighted by the institution that created it.”

g. Managing Subawards

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

The provisions of the Terms and Conditions of this award will be applied to any subrecipient under this award. The recipient is responsible for the monitoring of the subrecipient, ensuring that the Terms and Conditions are in all subaward packages and that the subrecipient is in compliance with all applicable regulations and the terms and conditions of this award (2 CFR 200.101(b)(1)).

h. Personally Identifiable Information

Recipients must recognize and safeguard personally identifiable information (PII) except where disclosure is allowed by prior written approval of the Grant Officer or by court order. Recipients must meet the requirements in Training and Employment Guidance letter (TEGL No. 39-11, Guidance on the Handling and Protection of Personally Identifiable Information (PII)), (located at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872).

i. Pre-Award

All costs incurred by the Recipient prior to the start date specified in the award issued by DOL are *incurred at the Recipient’s own expense*.

j. Procurement

The Uniform Administrative Requirements (2 CFR 200.317) require states to follow the same policies and procedures it uses for non-federal funds. The state will comply with §200.322 Procurement of recovered *materials* and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. Recipients must also follow the requirements regarding the competitive award of One-Stop Operators and youth service providers in the Workforce Innovation and Opportunity Act at WIOA Sec. 121(d) and sec. 123.

k. Program Income

The Grant Officer chooses the Addition method as described in 2 CFR 200.307 must be used in allocating any program income generated for this grant award. The Recipient is allowed to deduct costs incidental to generating Program Income to arrive at a Program Income. Reporting on Program Income expenditures must be reported on the ETA-9130.

Program Income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance (2 CFR 200.80). Costs incidental to the generation of Program Income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award (2 CFR 200.307(b)). The Recipient is required to utilize the addition method if any Program Income is generated throughout the duration of this award. Specifically, with prior approval of the Federal awarding agency, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The Program Income must be used for the purposes and under the conditions of the Federal award (2 CFR 200.307(e)(2)). Additional information about program income is located in 2 CFR 200.307.

l. Publicity

No funds provided under this grant shall be used for publicity or propaganda purposes, for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress or any state or local legislature or legislative body, except in presentation to the Congress or any state or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any state or local government, except in presentation to the executive branch of any state or local government itself. Nor shall grant funds be used to pay the salary or expenses of any recipient or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive Order proposed or pending before the Congress, or any state government, state legislature, or local legislature body other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a state, local, or tribal government in policymaking and administrative processes within the executive branch of that government.

m. Recipient Integrity and Performance Matters

- A. **General reporting requirement.** If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal agencies exceeds \$10,000,000 for any period of time during the project period of this award, then you as the recipient during that period of time must maintain the currency of information in the Federal Awardee Performance and Integrity Information System (FAPIS) about civil, criminal, or administrative proceedings described in paragraph B. of this award term by updating the information in SAM) This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 417b). As required by section 3010 of Public Law 111-212, all information posted in FAPIS on or after April 15, 2011, except past performance reviews, will be publicly available.
- B. **Proceedings about which you must report.** Submit the information required about each proceeding that:
1. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from either the Federal Government or a State;
 2. Reached its final disposition during the most recent 5-year period; and
 3. Is one of the following:
 1. A criminal proceeding that resulted in a conviction, as defined in paragraph E. of this award term
 2. A civil proceeding that resulted in a finding of fault and liability and your paying a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 3. An administrative proceeding, as defined in paragraph e. of this award term, that resulted in a finding of fault and liability and your payment of either monetary fine or penalty of \$5,000 or more or a reimbursement, restitution, or damages in excess of \$100,000; or
 4. Any other criminal, civil, or administrative proceeding if:
 - i. It could have led to an outcome described in paragraph B.3.a, b, or c of this award term;
 - ii. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - iii. The requirement in this award term to disclose information about the proceeding does not conflict with applicable laws and regulations.
- C. **Reporting procedures.** Enter in SAM Entity Management area (formerly CCR), or any successor system, the FAPIS information that SAM requires about each proceeding described in paragraph B. of this award term. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM (formerly CCR) because you were required to do so under Federal procurement contracts that you were awarded.
- D. **Reporting frequency.** During any period of time when you are subject to the requirement in paragraph A. of this award term, you must report FAPIS information through SAM no less frequently than semiannually following your initial report of any proceedings for the most recent 5-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report.

E. Definitions. For purposes of this award term:

1. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- a. Conviction, for purposes of this award term, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- b. Total value of currently active grants, cooperative agreements, and procurement contracts includes —
 - i. Only the Federal share of the funding under any award with a recipient cost share or match; and
 - ii. The value of all options, even if not yet exercised.

n. Reports

All ETA Recipients are required to submit quarterly financial and narrative progress reports for each grant award.

- A. **Quarterly Financial Reports.** The recipient is required to report quarterly financial data on the ETA-9130 (M) – Trade Adjustment Assistance Program located here: http://www.doleta.gov/grants/financial_reporting/pdf/ETA_9130_M_i.pdf. These reports are due no later than 45 calendar days after the end of each specified reporting quarter. Reporting quarter end dates are June 30, September 30, December 31, and March 31. A link to the instructions for completing this form is located here: http://www.doleta.gov/grants/financial_reporting/pdf/ETA_9130_M_Instructions_i.pdf. A final financial closeout report is required to be submitted no later than 90 calendar days after the grant period of performance ends. For guidance on ETA's financial reporting, reference TEGL No. 2-16.

ETA requires all grant recipients to submit the 9130 form electronically through an on-line reporting system. Expenditures are required to be reported on an accrual basis, cumulative from the beginning of the life of a grant, through the end of each reporting period.

The instructions for accessing both the on-line financial reporting system and the HHS Payment Management System can be found in the transmittal memo accompanying this Notice of Award. To gain access to the online financial reporting system, a request for a password and pin must be submitted via e-mail to ETApasword.pin@dol.gov. The Financial Report Access Document, copies of the ETA 9130, and detailed reporting instructions are available at http://www.doleta.gov/grants/financial_reporting.cfm.

- B. **TAA Performance Reports.** The recipient is required to submit information on TAA program participant activities and performance results for the Trade Activity Participant Report (TAPR)

(OMB No. 1205-0392) and TAA Data Element Validation (OMB No. 1205-0448) in accordance with deadlines and other requirements specified above and as provided in current guidance and any subsequent guidance on performance reporting: TEN No. 8-16; TEGL No. 02-16; TEGL No. 22-15; TEGL No. 6-09 and its changes; TEGL No. 7-13, TEGL No. 4-14, TEGL No. 5-15 and its Change 1; and Training and Employment Notice (TEN) 6-14. Additional information is available at <http://www.doleta.gov/tradeact>

o. Requirements for Conference and Conference Space

Conferences sponsored in whole or in part by the Recipient of Federal awards are allowable if the conference is necessary and reasonable for the successful performance of the Federal Award. Recipients are urged to use discretion and judgment to ensure that all conference costs charged to the grant are appropriate and allowable. For more information on the requirements and allowability of costs associated with conferences, refer to 2 CFR 200.432. Recipients will be held to the requirements in 2 CFR 200.432. Costs that do not comply with 2 CFR 200.432 will be questioned and may be disallowed.

p. System for Award Management and Universal Identifier Requirements

1. Requirement for System of Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

2. Requirement for unique entity identifier

If you are authorized to make subawards under this award, you:

- i. Must notify potential subrecipients that no entity (*see* definition in paragraph [3] of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
- ii. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

3. Definitions

For purposes of this award term:

- i. *System of Award Management (SAM)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).
- ii. *Unique entity identifier* means the identifier required for SAM registration to uniquely identify business entities.
- iii. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - a. A Governmental organization, which is a State, local government, or Indian Tribe;
 - b. A foreign public entity;
 - c. A domestic or foreign nonprofit organization;
 - d. A domestic or foreign for-profit organization; and

e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

iv. *Subaward*:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

v. *Subrecipient* means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

q. Travel

This award waives the prior approval requirement for domestic travel as contained in 2 CFR 200.407. For domestic travel to be an allowable cost, it must be necessary, reasonable, allocable and conform to the non-Federal entities written policies and procedures. All travel must also comply with Fly America Act (49 USC 40118), which states in part that any air transportation, regardless of price, must be performed by, or under a code-sharing arrangement with, a US Flag air carrier if service provided by such carrier is available.

r. Vendor/Contractor

The term “contractor”, sometimes referred to as a vendor, is a dealer, distributor, merchant or other seller providing goods or services that are required for the conduct of a Federal program. (2 CFR 200.23) These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a contractor (vendor) is provided in 2 CFR 200.330. When procuring contractor provided goods and services, DOL ETA recipients and subrecipients must follow the procurement requirements 2 CFR 200.319, which call for free and open competition.

13. Program Requirements

The Recipient provides TAA Program benefits and services as agents of the United States. Each State does so through one or more State agencies, one of which is designated as the Cooperating State Agency (CSA) in an the existing or successor agreement between the State’s Governor and the United States Secretary of Labor (Secretary) to carry out the provisions of the Trade Act, in accordance with section 239 of the Act (the “Governor-Secretary Agreement”). The Recipient agrees to use funds obligated under this Agreement to carry out its responsibilities under the Governor-Secretary Agreement, including but not limited to: 1) ensuring integration of the TAA Program into its American Job Center network; 2) providing early intervention (e.g., Rapid Response) to worker groups on whose behalf a TAA petition has been filed, and disseminating benefit information to provide trade-affected workers an accurate understanding of the provision of TAA benefits and services in such a way that they are transparent to the trade-affected dislocated worker applying for them; 3) using the one-stop centers in this system or network as the main point of participant intake and delivery of TAA benefits and

services; and 4) ensuring that the terms of the Memoranda of Understanding (MOU) with the Local Workforce Investment Boards, as established under WIOA sec. 121(c) (29 USC 3151(c)), will apply to the assistance provided by other center partners to TAA participants.

In performing its responsibilities under this Agreement as a condition for receipt of funds, the Recipient also agrees to fully comply with all program regulations and directives, including:

1. 20 CFR 617, 29 CFR 90, and 20 CFR 618 and any succeeding regulations governing the TAA Program.
2. TEGL No. 11-02, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, dated October 10, 2002, and its Changes; and TEGL No. 22-08, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, dated May 18, 2009, and its Changes; TEGL No. 10-11, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011, and its Changes, TEGL No. 7-13, Operating Instructions for Implementing the Sunset Provisions of the Amendments to the Trade Act of 1974 enacted by the Trade Adjustment Assistance Extension Act of 2011 (Reversion 2014), TEGL No. 5-15, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 enacted by the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015), and any subsequent operating instructions.
3. TEGL No. 17-05, Common Measures Policy for the ETA's Performance Accountability System and Related Performance Issues, dated February 17, 2006 and subsequent changes.
4. TEGL No. 2-04, TAA Program Reserve Funding Form, dated July 14, 2004, and any subsequent changes or successor forms.
5. TEGL 4-14, Trade Adjustment Assistance Data Integrity, dated August 18, 2014.

Any future and other program letters/guidance governing or relating to the TAA Program, including, among others, instructions/guidance pertaining to TAA fund allocations, the process for requesting reserve funds, program performance goals, the payment of benefits, and program administration.

a. Use of Funds

Funds obligated under this Agreement may be used for training, employment and case management services, job search allowances, relocation allowances, and related state administration costs incurred in the provision of TAA Program benefits and services to trade-affected workers in accordance with the requirements of the Trade Act in effect at the time of filing of the petition under which the workers are covered. The following limitations apply to FY 2017 appropriated funds obligated to the Recipient under this Agreement:

- Recipient expenditures for related state administration costs must not exceed ten percent (10%); and
- Recipient expenditures for the provision of employment and case management services costs must not be less than, but may exceed, five percent (5%).

b. Deobligation of Funds

The Recipient agrees to accept a deobligation of funds, as set forth in the NOA/NOOs, in the event of underutilization. The Grantor shall consider underutilization to be some or all of the unexpended and/or unobligated balance of the funds provided to the recipient, which the Recipient will be unable to use within a reasonable period of time. Underutilized funds will be recaptured only after consultation with, and subsequent notification to, the Recipient.

c. Recapture and Reallotment of FY Funds:

In addition to the information provided in the deobligation of funds clause above, section 245(c) of the Trade Act of 1974, as restored by the TAARA 2015, under the Trade Preferences Extension Act of 2015, provides that DOL may recapture and reallot funds that were allotted to any State to carry out employment and case management services, training, job search allowances, and relocation allowances, that remain unobligated by the State during the second or third fiscal

year after the fiscal year in which the funds were provided to the State, if authorized under the applicable appropriation. The Grantor shall provide additional guidance and funds will be recaptured only after consultation with, and subsequent notification to, the Recipient.

d. Remedies

All TAA Program funds must be expended in accordance with the provisions of this Agreement and any special terms and conditions of approved funding requests. Any expenditure of funds which does not comply with these provisions will be subject to the enforcement remedies at 2 CFR 200.338 and 20 CFR sections 617.52(c) and 617.59(f) or any succeeding regulations.

e. Merit Staff

The State agrees that staff employed to carry out State administration of the TAA Program and funded by the TAA Program, including staff of the State agency and the State employment service (ES) agency that perform functions under both the TAA Program and the State unemployment compensation (UC) program and/or ES programs, will be merit-staffed in accordance with 20 C.F.R. § 618.890

14. FY 2017 Appropriations Requirements

a. Funding for Travel to and from Meetings with an Executive Branch Agency

Pursuant to P.L. 114-113, Division E, Title VII, Section 739, grant funds may not be used for the purposes of defraying the costs of a conference held by any Executive branch department, agency, board, commission, or office unless it is directly and programmatically related to the purpose for which the grant or contract was awarded.

No funds made available through DOL appropriations may be used for travel and conference activities that are not in compliance with Office of Management and Budget Memorandum M-12-12 dated May 11, 2012 or any subsequent revisions to that memorandum.

b. Prohibition on Contracting with Corporations with Felony Criminal Convictions

Pursuant to P.L. 114-113, Division E, Title VII, Section 746, the recipient may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

c. Prohibition on Contracting with Corporations with Unpaid Tax Liabilities

Pursuant to P.L. 114-113, Division E, Title VII, Section 745, the recipient may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax

liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

d. Prohibition on Procuring Goods Obtained Through Child Labor

Pursuant to P.L. 114-113, Division H, Title I, Section 103, no funds may be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, in whole or in part, by forced or indentured child labor in industries and host countries identified by DOL prior to December 18, 2015. DOL has identified these goods and services here:<http://www.dol.gov/ilab/reports/child-labor/list-of-products/index-country.htm>.

e. Prohibition on Providing Federal Funds to ACORN

Pursuant to P.L. 114-113, Division H, Title V, Section 522, these funds may not be provided to the Association of Community Organizations for Reform Now (ACORN), or any of its affiliates, subsidiaries, allied organizations or successors.

f. Reporting of Waste, Fraud and Abuse

Pursuant to P.L. 114-113, Division E, Title VII, Section 743, no entity receiving federal funds may require employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

g. Requirement for Blocking Pornography

Pursuant to P.L. 114-113, Division H, Title V, Section 521, no Federal funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

h. Requirement to Provide Certain Information in Public Communications

Pursuant to P.L. 114-113, Division H, Title V, Section 505, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all non-Federal entities receiving Federal funds shall clearly state:

1. The percentage of the total costs of the program or project which will be financed with Federal money;
2. The dollar amount of Federal funds for the project or program; and
3. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

The requirements of this part are separate from those in the 2 CFR 200 and, when appropriate, both must be complied with.

i. Restriction on Health Benefits Coverage for Abortions

Pursuant to P.L. 114-113, Division H, Title V, Sections 506 and 507, Federal funds may not be expended for health benefits coverage that includes coverage of abortions, except when the abortion due to a pregnancy that is the result of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, including life-endangering physical conditions caused by or arising from the pregnancy itself that would, as certified by a physician, place the women in danger of death unless and abortion is performed. This restriction does not prohibit any non-Federal entity from providing health benefits coverage for abortions when all funds for that specific benefit do not come from a Federal source. Additionally, no funds made available through this award may be provided to a State or local government if such government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

j. Restriction on the Promotion of Drug Legalization

Pursuant to P.L. 114-113, Division H, Title V, Section 509, no Federal funds shall be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal recognized executive-congressional communications or where the grant agreement provides for such use because there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance.

k. Restriction on Purchase of Sterile Needles or Syringes

Pursuant to P.L. 114-113, Division H, Title V, Section 520, no Federal funds shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug.

l. Salary and Bonus Limitations

Pursuant to P.L. 114-113, Division H, Title I, Section 105 none of the funds appropriated under the heading "Employment and Training" shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. The Executive Level II salary may change yearly and is located on the OPM.gov website (<http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2016/executive-senior-level>). The salary and bonus limitation does not apply to contractors (vendors) providing goods and services as defined in 2 CFR 200.330. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs. See Training and Employment Guidance Letter No. 5-06 for further clarification, available at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262

15. Public Policy

a. Architectural Barriers

The Architectural Barriers Act of 1968, 42 U.S.C. 4151 et seq., as amended, the Federal Property Management Regulations (see 41 CFR 102-76), and the Uniform Federal Accessibility Standards issued by GSA (see 36 CFR 1191, Appendixes C and D) set forth requirements to make facilities accessible to, and usable by, the physically handicapped and include minimum design standards. All new facilities designed or constructed with grant support must comply with these requirements.

b. Buy American Notice Requirement

None of the funds made available under this act may be expended by an entity unless the entity agrees that in expending the funds it will comply with sections 8301 through 8303 of title 41, United States Code (commonly known as the "Buy American Act").

c. Drug-Free Workplace

The Drug-Free Workplace Act of 1988, 41 U.S.C. 702 et seq., and 2 CFR 182 require that all organizations receiving grants from any Federal agency maintain a drug-free workplace. The recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for suspension or debarment.

d. Executive Orders

12928: Pursuant to Executive Order 12928, the recipient is strongly encouraged to provide subcontracting/subgranting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities; and to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals.

13043: Pursuant to Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, recipients are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

13166: As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, dated August 11, 2000, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, recipients must take reasonable steps to ensure that LEP persons have meaningful access to programs in accordance with DOL's Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with Limited English Proficiency [05/29/2003] Volume 68, Number 103, Page 32289-32305. Meaningful access may

entail providing language assistance services, including oral and written translation, where necessary. Recipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance and information regarding your LEP obligations, go to <http://www.lep.gov>.

13513: Pursuant to Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, dated October 1, 2009, recipients and subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or GOV, or while driving POV when on official Government business or when performing any work for or on behalf of the Government. Recipients and subrecipients are also encouraged to conduct initiatives of the type described in section 3(a) of this order.

e. Flood Insurance

The Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et seq.*, provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within 1 year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DOL support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.

f. Hotel-Motel Fire Safety

Pursuant to 15 U.S.C. 2225a, the recipient must ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (P.L. 101-391, as amended). recipients may search the Hotel Motel National Master List at <https://apps.usfa.fema.gov/hotel/> to see if a property is in compliance, or to find other information about the Act.

g. Prohibition on Trafficking in Persons

I. Trafficking in persons.

a. Provisions applicable to a recipient that is a private entity.

- 1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—**
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;**
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or**
 - iii. Use forced labor in the performance of the award or subawards under the award.**
- 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —**
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or**

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

- A. Associated with performance under this award; or
- B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 29 CFR Part 98.

b. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

- 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
- 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 29 CFR Part 98.

c. *Provisions applicable to any recipient.*

- 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
- 2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
- 3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. *Definitions.* For purposes of this award term:

- 1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- 2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity":

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

h. Veterans' Priority Provisions

The Jobs for Veterans Act (Public Law 107-288) requires recipients to provide priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by DOL. The regulations implementing this priority of service can be found at 20 CFR part 1010. In circumstances where a grant recipient must choose between two qualified candidates for a service, one of whom is a veteran or eligible spouse, the veterans priority of service provisions require that the grant recipient give the veteran or eligible spouse priority of service by first providing him or her that service. To obtain priority of service, a veteran or spouse must meet the program's eligibility requirements. Recipients must comply with DOL guidance on veterans' priority. ETA's Training and Employment Guidance Letter (TEGL) No. 10-09 (issued November 10, 2009) provides guidance on implementing priority of service for veterans and eligible spouses in all qualified job training programs funded in whole or in part by DOL. TEGL No. 10-09 is available at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2816.

i. Violation of the Privacy Act

These funds cannot be used in contravention of the 5 USC 552a or regulations implementing that section.

j. Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., prohibits discrimination on the basis of age in any program or activity receiving Federal Financial assistance.

16. Attachments

Attachment A: SF-424 and SF 424B at:

(www.grants.gov/web/grants/forms/sf-424-family.html)