

MASSACHUSETTS WORKFORCE DEVELOPMENT SYSTEM

Mass Workforce Issuance

100 DCS 01.100

☒ **Policy** ☐ **Information**

To: Chief Elected Officials
Workforce Board Chairs
Workforce Board Directors
Title I Administrators
Career Center Directors
Title I Fiscal Officers
DCS Operations Managers

cc: WIOA State Partners

From: Alice Sweeney, Director
Department of Career Services

Date: February 29, 2016

Subject: **Salary and Bonus Limitations Related to ETA Appropriated Funds**

Purpose: To notify Chief Elected Officials, Workforce Boards, One-Stop Career Center Operators and other local workforce partners of policy guidance regarding legislated limitations on the amount of salary and bonus payments that can be made with funds appropriated to the U.S. Department of Labor (DOL) Employment and Training Administration (ETA).

Background: On June 15, 2006, the President signed into law an emergency supplemental appropriation bill, Public Law 109-234. Section 7013 of the law limits salary and bonus compensation for individuals who are paid by funds appropriated to ETA and provided to recipients and sub-recipients. On August 15, 2006, ETA issued Training and Employment Guidance Letter (TEGL) No. 5-06 to provide pertinent instruction to the states. [TEGL No. 5-06](#) continues to apply to WIOA.

Policy: The limitations described in this policy apply to funds appropriated in FY2015 under Public Law 109-234 and are subject to change annually.

The limitations apply to any salary or bonus payments made by a recipient or sub-recipient to an individual and are applicable to such payments regardless of whether they are paid as a direct or indirect cost.

The Department of Career Services (DCS) as the state level recipient of ETA appropriated WIOA funds will be responsible for assuring that its affected grantee comply with the limitation requirements of Public Law 109-234 section 7013.

Action

Required: All Workforce Boards must assure that affected sub-grantees and contracts are informed of and comply with the limitation requirements of Public Law 109-234 section 7013.

Effective: Immediately

Inquiries: Please email all questions to PolicyQA@detma.org. Also, indicate Issuance number and description.

References: Public Law 109-234 section 7013
Public Law 109-149 section 101
WIOA Sec. 194(15)
Training and Employment Guidance Letter (TEGL) No. 5-06
2 CFR 200.330

SALARY AND BONUS LIMITATIONS RELATED TO ETA APPROPRIATED FUNDS

The salary and bonus limitations apply to all programs and activities undertaken through grants and contracts funded by an appropriation to ETA. The limitations also apply to programs funded by an ETA appropriation but administered by another agency (such as the U.S. Department of Labor's Veterans Employment and Training Service).

Recipients or sub-recipients may receive funds from ETA that are a combination of both ETA appropriated and non-ETA appropriated funds. In such situations, the compensation limitations covered by section 7013 and described herein, apply only to the ETA-appropriated portion of funds.

Covered Individuals:

Public Law 109-234 limits the use of funds by a recipient or sub-recipient to pay for salary and bonuses of an individual. Recipients included entities and their funded partners that receive contracts and grants from ETA. Sub-recipients include sub-contractors or sub-grantees.

Exceptions:

The limitations of section 7013 do not apply to:

- Fringe benefits, insurance premiums or pension plans paid by a recipient or sub-recipient. Only salary and bonus payments are covered.
- WIOA incentive grants financed through the U.S. Department of Education appropriations.
- H-1B funded programs as such funds are received from employer fees and are not appropriated. Such programs include the WIRED initiative and *some* High Growth Job Training Initiative grants.
- Disaster Unemployment Assistance program activities as these funds are appropriated through the Federal Emergency Management Agency (FEMA) and transferred to ETA.
- Individuals paid through Job Corps. Compensation limitations were previously set for such individuals under Public Law 109-149 section 101 and remain in effect.
- Contractors as defined in 2 CFR 200.330 and summarized in TEGL 5-06 as a "dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal Program." Characteristics indicative of such contractors of goods and services include entities that:
 - ✓ Provides the goods and services within normal business operations;
 - ✓ Provides similar goods or services to many different purchasers;
 - ✓ Normally operates in competitive environment;
 - ✓ Provides goods or services that are ancillary to the operation of the Federal program; and
 - ✓ Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Any limitation on payments to individuals contained in grants or contracts with DCS that are *more restrictive* than those impose under Public Law 109-234 remain in effect.

The law sets the limitations on salary and bonus payments at a rate equivalent to no more than Executive Level II (Federal). A salary table may be viewed on the Federal Office of personnel Management website (www.opm.gov) under Policy, "Pay & Leave" then "[Salaries and Wages](#)". The levels are adjusted annually. For FY 2015, the limit is set at \$183,300. The limit of \$183,300 includes all salary and bonus payments made to an individual from covered funds during FY 2015.

For individuals who may also receive compensation payments from funds not subject to the section 7013 limitations (such as other federal programs, state, municipal or private funds), their total sum of salary and bonus payments may be higher than Executive Level II. In instances where funds covered under section 7013 pay only a portion of an individual employee's salary, the section 7013 covered funds may only be charged for the share of the employee's salary attributable to the work conducted on the covered grant or contract.

For example, if 25 percent of an employee's time is spent on work performed in connection with covered grant, no more than \$45,825 can be charged to ETA for FY 2015 ($25\% \times \$183,300$). If the employee spends 40 percent of his/her time on covered grant activities, than no more than \$73,320 may be charged.