

SAN DIEGO WORKFORCE PARTNERSHIP, INC.
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San Diego, CA 92105
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OPERATIONS ISSUANCE

OPERATIONS ISSUANCE NO. 2010 - 04

DATE: November 20, 2009

TO: One-Stop Career Center Operators
All San Diego Workforce Partnership Service Providers

FROM: Nathaniel K. Buggs
Vice-President and Chief Operating Officer

**SUBJECT: SUSPENSION OF EMPLOYMENT AND TRAINING FUNDS TO ACORN
AND ANY AFFILIATES, SUBSIDIARIES OR ALLIED ORGANIZATIONS**

PURPOSE

The purpose of this issuance is to provide guidance to all One-Stop Operators and all San Diego Workforce Partnership (Workforce Partnership) Service Providers, as well as any other organization or entity receiving Department of Labor (DOL), Employment and Training (ETA) funds from the Workforce Partnership on the immediate suspension of employment and training funds to the Association Of Community Organizations For Reform Now (ACORN) and any of its affiliates, subsidiaries or allied organizations.

Section 163 of the Continuing Appropriations Resolution, 2010, Division B of Public Law No. 111-68 indicates that none of the funds made available by this joint resolution (WIA or ARRA funds) or any prior Act may be provided to ACORN and any of its affiliates, subsidiaries or allied organizations.

BACKGROUND

On October 19, 2009, the Department of Labor (DOL) issued a Training and Employment Guidance Letters (TEGL) 8-09 -- Guidance on Section 163 of the Continuing Resolution Regarding the Association of Community Organizations for Reform Now (ACORN) that is provided as Attachment A. This TEGL informs all recipients and subrecipients of federal funds made available by the ETA through grant awards, contracts, cooperative agreements, memoranda of understanding, or any other method of procurement, hereinafter also referred to as "direct or indirect recipients of federal funds from ETA," must immediately commence all necessary and appropriate steps to comply with Section 163 of the Continuing Appropriations Resolution, 2010, Division B of Public Law No. 111-68.

IMPLEMENTATION

Action Requested by ETA - All One-Stop Operators, Adult and Youth Program service providers, Rapid Response and Funding Collaborative contractors and any other organization or entity receiving DOL/ETA funds from the Workforce Partnership through grant awards, contracts, cooperative agreements, agreements, memoranda of understanding, or any other method of procurement must immediately commence all necessary and appropriate steps to comply with Section 163 of the Continuing Appropriations Resolution, 2010, Division B of Public Law No. 111-68, as follows:

- a. **No Future Obligation of Funds.** No direct or indirect recipient of Workforce Partnership funds from ETA may obligate federal funds to ACORN or any of its affiliates, subsidiaries, or allied organizations (collectively “affiliates”) during the period of the Continuing Resolution (CR).

As section 163 makes clear, its prohibition applies not only to the funding that is made available by the CR, but also to the funding that was made available by previously enacted statutes. In addition, the text of Section 163 is sufficiently broad to cover funding that was made available for fiscal year (FY) 2009 and prior fiscal years, as well as funding that will be made available for FY 2010. As such, no direct or indirect recipient of Federal funds from ETA may enter into any agreement to provide Federal funds to ACORN or any of its affiliates during the period that this TEGL Notice is effective.

- b. **Suspension of Grant and Contractual Payments.** Direct or indirect recipients of Workforce Partnership funds from ETA who have existing federally-funded grant agreements, sub-grant agreements, contracts, sub-contracts, cooperative agreements, agreements, memoranda of understanding, or any other kind of procurement or funding instrument with ACORN or its affiliates must:

- 1) Where permissible, immediately suspend performance of any obligations under such agreement, including suspension of the payment of Federal funds; and
- 2) Consult promptly with legal counsel and ETA concerning the legal considerations that bear on the performance of such obligations under the procurement or funding instrument; and
- 3) Must immediately provide their assigned program specialist with a written report describing the following:
 - i. The nature and purpose of the procurement or funding instrument;
 - ii. The date upon which the contract or other funding was executed, and the originally planned duration;
 - iii. The dollar value of the procurement or funding instrument and the amount which had been disbursed;
 - iv. A description of the statement of work and/or deliverable(s);
 - v. The date upon which the procurement or funding instrument was suspended or terminated pursuant to this guidance; and
 - vi. A description of any other steps taken to comply with the Public Law No. 111-68 Section 163 prohibition, as described in the attached TEGL.

- c. Direct or indirect recipients of Workforce Partnership funds from ETA shall require all of their contractors and any of their subcontractors to comply with the requirements described in this guidance, and shall immediately provide guidance to their contractors and any of their subcontractors regarding compliance with these requirements, and shall immediately modify subcontractors agreements to incorporate the requirements described in this guidance.

Therefore, a written response is due from all Workforce Partnership One-Stop Career Centers, all service providers, as well as any other organization or entity receiving DOL/ETA funds (WIA and ARRA) from the Workforce Partnership through grant awards, contracts, cooperative agreements, any other agreements, memoranda of understanding, or any other method of procurement by Friday, December 4, 2009 that:

1. Indicates their organization or agency has no federal funds obligated to ACORN or any of its affiliates, subsidiaries, or allied organizations (collectively “affiliates”) that are paid for with Workforce Partnership funds, as listed in the Attachment 2 of the attached TEGL; or
2. Immediately provide their assigned program specialist with a written report providing the information listed in section b(3) above, (i to vi), under Suspension of Grant and Contractual Payments.

This issuance is effective immediately. Please review the attached TEGL and its attachments and make sure you are in compliance with all the provisions in it. If you have any questions about the actions to be taken, please contact your assigned Program Specialist at (619) 228-2900.

Attachment:

TEGL 8-09 Guidance on Section 163 of the Continuing Resolution Regarding the Association of Community Organizations for Reform Now (ACORN)

cc: Workforce Partnership Internal Distribution List
Mayer Hoffman McCann P.C.