



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

Official

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Bureau of Workforce Programs
Policy Issuance (PI): 06-32

Date: March 30, 2007

To: All Michigan Works! Agency (MWA) Directors

From: Brenda C. Njiwaji, Director, Bureau of Workforce Programs

Subject: Implementation of Salary and Bonus Payment Limitations for all Employment and Training Administration (ETA) fund recipients and sub-recipients.

Programs Affected: Workforce Investment Act (WIA)
Wagner-Peyser 7(a) funded programs
Trade Adjustment Act
Agricultural Services
Veterans' Employment and Training Service

References: Public Law 109-234
Training and Employment Guidance Letter 5-06
Public Law 109-149
Office of Management and Budget (OMB) Circular A-133

Rescissions: None

Background: On June 15, 2006, Public Law 109-234 was enacted. Section 7013 of this law limits salary and bonus compensation for individuals who are recipients or sub-recipients of ETA funds. Specifically, Section 7013 of this law states that ETA funds shall not be used by a recipient or sub-recipient 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 current Executive Level II salary rate is \$165,200 annually. The sum of all bonuses paid when added to the employee's salary may not at any time exceed the limitation. For example, an employee paid at a \$162,000 may not receive bonuses in any 12-month period that exceeds \$3,200, assuming the limitation of \$165,200.

Policy:

MWAs must abide by the limitation on salaries and bonuses obligated under Public Law 109-234. The limitation on salaries and bonuses applies to ETA attributed funds that are available for expenditure on or after June 15, 2006. This includes funds appropriated in Fiscal Year 2006 under Public Law 109-149 and prior year ETA appropriations that remain available for expenditure. It does not apply to funds expended before June 15, 2006.

The limitations imposed by Public Law 109-234 do not apply to benefits that are not salary and bonuses. Fringe benefits, insurance premiums or pension plans paid by a recipient or sub-recipient are not included in this calculation.

This salary limitation also does not apply to vendors providing goods and services as defined in OMB Circular A-133. Circular A-133 describes vendors as those who:

- Provide goods and services within normal business operations
- Provide similar goods or services to many different purchasers
- Operate in a competitive environment
- Provide goods or services that are ancillary to the operation of the federal program
- Are not subject to compliance requirements of the federal program

In the case of programs that are partially funded by ETA and partially funded through other sources, the limitations imposed by Section 7013 apply to the ETA funding. For example, individuals can receive payments from funds not impacted by Section 7013, such as state, municipal, or private funds, in addition to funds that are impacted by 7013. In those instances, the total sum of any employee's salary and bonuses may be higher than Executive Level II. If ETA attributed funds only pay a portion of an individual's salary, those funds may only be charged for the share of the employee's salary attributable to work on the ETA-funded grant or contract. That portion cannot exceed the Executive Level II rate. For example, if 25 percent of an employee's time is attributable to work on ETA-funded programs, and the annual Executive Level II amount is \$165,200, no more than \$41,300 can be charged to the ETA attributed funds during the year.

This limitation does not apply to programs funded by H-1B grant funds. These funds are received from employer paid fees and are not appropriated. Therefore, the programs they fund are not covered by the salary and bonus limitation. Examples of such programs include activities

funded through the Workforce Innovation in Regional Economic Development Initiative and some High Growth Job Training Initiative grants.

The limitation also does not apply to the Disaster Unemployment Assistance program. Funds for this program come from Federal Emergency Management Agency and are transferred to ETA. They are, therefore, not ETA attributed funds.

WIA incentive grants financed only through Department of Education appropriations are not covered by this limitation.

Public Law 109-234 also specifically states that individuals paid through the Job Corps program are still covered by the limitations described in Public Law 109-149. The provisions in the new law do not apply to them. Any limitation on payments to individuals contained in grants or contracts with ETA, which are more restrictive than Public Law 109-234, are not changed by Public Law 109-234.

Action: MWAs must take whatever measures are needed to comply with the limitations on salaries and bonuses obligated by Public Law 109-234. These requirements must be implemented retroactively to the date of enactment, June 15, 2006. If necessary, salary payments will need to be adjusted back to June 15, 2006.

Inquiries: Questions regarding this PI should be directed to Ms. Dell Alston, Director, Workforce Training & Development Division, at (517) 335-5858.

The information contained in this PI will be made available in alternative format (large type, audio tape, etc.) upon special request to this office. Please call Ms. Mary Travier at (313) 456-3165, for details.

Expiration: None.

BCN:DA:mt