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DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act of 1998 (WIA); Notice of Incentive Funding Availability for Program Year (PY) 2003 Performance

AGENCY: Employment and Training Administration (ETA), Labor.
ACTION: Notice.

SUMMARY: The Department of Labor, in collaboration with the Department of Education, announces that 19 states are eligible to apply for Workforce Investment Act (WIA) (Pub. L. 105-220, 29 U.S.C. 2801 *et seq.*) incentive awards under the WIA Regulations.

DATES: The 19 eligible states must submit their applications for incentive funding to the Department of Labor by June 13, 2005.

ADDRESSES: Submit applications to the Employment and Training Administration, Office of Performance and Technology, 200 Constitution Avenue NW., Room S-5206, Washington, DC 20210, Attention: Esther R. Johnson, 202-693-3031 (phone), 202-693-3490 (fax), e-mail: johnson.esther@dol.gov. Please be advised that mail delivery in the Washington, DC area has been inconsistent because of concerns about anthrax contamination. States are encouraged to submit applications via e-mail.

FOR FURTHER INFORMATION CONTACT: The Office of Performance and Technology, Karen Staha (phone: 202-693-3031 or e-mail: staha.karen@dol.gov). (This is not a toll-free number.) Information may also be found at the Web site: <http://www.doleta.gov/performance>.

SUPPLEMENTARY INFORMATION: 19 states (see list below) have qualified to receive a share of the \$16.6 million available for incentive grant awards under WIA section 503. These funds, which were contributed by the Department of Education from appropriations for the Adult Education and Family Literacy Act and the Carl D. Perkins Vocational and Technical Education Act, are available to the states through June 30, 2007, to support innovative workforce

development and education activities that are authorized under title I (Workforce Investment Systems) or title II (the Adult Education and Family Literacy Act (AEFLA)) of WIA, or under the Perkins Act (Pub. L. 105-332, 20 U.S.C. 2301 *et seq.*). In order to qualify for a grant award, a state must have exceeded performance levels, agreed to by the Secretaries, Governor, and State Education Officer, for outcomes in WIA title I, adult education (AEFLA), and vocational education (Perkins Act) programs. The goals included placement after training, retention in employment, and improvement in literacy levels, among other measures. After review of the performance data submitted by states to the Department of Labor and to the Department of Education, each Department determined which states would qualify for incentives for its program(s). (See below for a list of the states that qualified under all three Acts.) These lists of eligible states were compared, and states that qualified under all three programs are eligible to receive an incentive grant award. The amount that each state is eligible to receive was determined by the Department of Labor and the Department of Education and is based on WIA section 503(c) (20 U.S.C. 9273(c)), and is proportional to the total funding received by these states for the three Acts.

The states eligible to apply for incentive grant awards, and the amounts they are eligible to receive, are listed below:

State	Amount of award
1. Alabama	\$912,153
2. Colorado	825,020
3. Delaware	776,272
4. Georgia	944,675
5. Iowa	803,173
6. Indiana	879,629
7. Louisiana	966,800
8. Maryland	870,909
9. Michigan	1,024,160
10. Minnesota	852,449
11. Missouri	891,441
12. North Dakota	772,770
13. Nebraska	783,830
14. Nevada	797,987
15. Oregon	874,471
16. Pennsylvania	1,076,445
17. South Carolina	867,055
18. South Dakota	773,309
19. Tennessee	912,500

These eligible states must submit their applications for incentive funding to the Department of Labor by June 13, 2005. As set forth in the provisions of WIA section 503(b)(2) (20 U.S.C. 9273(b)(2)), 20 CFR 666.220(b) and Training and Employment Guidance Letter (TEGL) No. 20-01, Change 3, Application Process for Workforce Investment Act (WIA) Section 503 Incentive Grants, Program Year 2003 Performance, which is available at <http://www.doleta.gov/performance>, the application must include assurances that:

A. The legislature of the state was consulted with respect to the development of the application.

B. The application was approved by the Governor, the eligible agency for adult education (as defined in section 203(4) of WIA (20 U.S.C. 9202(4))), and the state agency responsible for vocational and technical education programs (as defined in section 3(9) of Perkins III (20 U.S.C. 2302(9))).

C. The state and the eligible agency, as appropriate, exceeded the state adjusted levels of performance for WIA title I, the state adjusted levels of performance for the AEFLA, and the performance levels established for Perkins Act programs.

In addition, states are requested to provide a description of the planned use of incentive grants as part of the application process, to ensure that the state's planned activities are innovative and are otherwise authorized under the WIA title I, the AEFLA, and/or the Perkins Act as amended, as required by WIA section 503(a). TEGL No. 20-01, Change 3 provides the specific application process that states must follow to apply for these funds.

The applications may take the form of a letter from the Governor, or designee, to the Assistant Secretary of Labor, Emily Stover DeRocco, Attention: Esther R. Johnson, 200 Constitution Avenue NW., Room S-5206, Washington, DC 20210. In order to expedite the application process, states are encouraged to submit their applications electronically to Karen Staha at staha.karen@dol.gov.

The states will receive their incentive awards by June 30, 2005.

Signed at Washington, DC, this 21st day of April, 2005.

Emily Stover DeRocco,
Assistant Secretary for Employment and Training.

PY2003 PERFORMANCE QUALIFIES STATE FOR INCENTIVES

State	WIA	AEFLA	Perkins Act	Eligible for incentive
1. Alaska			X	
2. Alabama	X	X	X	X
3. Arkansas		X	X	
4. Arizona		X	X	
5. California		X	X	
6. Colorado	X	X	X	X
7. Connecticut		X	X	
8. District of Columbia		X	X	
9. Delaware	X	X	X	X
10. Florida		X	X	
11. Georgia	X	X	X	X
12. Hawaii		X		
13. Iowa	X	X	X	X
14. Idaho			X	
15. Illinois		X	X	
16. Indiana	X	X	X	X
17. Kansas		X	X	
18. Kentucky	X	X		
19. Louisiana	X	X	X	X
20. Massachusetts		X	X	
21. Maryland	X	X	X	X
22. Maine		X	X	
23. Michigan	X	X	X	X
24. Minnesota	X	X	X	X
25. Missouri	X	X	X	X
26. Mississippi	X		X	
27. Montana			X	
28. North Carolina		X	X	
29. North Dakota	X	X	X	X
30. Nebraska	X	X	X	X
31. New Hampshire		X	X	
32. New Jersey			X	
33. New Mexico	X		X	
34. Nevada	X	X	X	X
35. New York	X		X	
36. Ohio		X	X	
37. Oklahoma		X	X	
38. Oregon	X	X	X	X
39. Pennsylvania	X	X	X	X
40. Puerto Rico		X		
41. Rhode Island		X	X	
42. South Carolina	X	X	X	X
43. South Dakota	X	X	X	X
44. Tennessee	X	X	X	X
45. Texas		X		
46. Utah			X	
47. Virginia		X	X	
48. Vermont		X	X	
49. Washington	X		X	
50. Wisconsin		X	X	
51. West Virginia		X		
52. Wyoming		X	X	

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DEPARTMENT OF ENERGY

Office of the Environment, Safety and Health

Notice; Addendum to the Memorandum of Understanding: To Formalize the Working Relationship Between the Department of Energy and the Department of Labor (August 28, 1992)

AGENCIES: The Department of Labor, Occupational Safety and Health Administration (OSHA); Department of Energy, Office of the Environment, Safety and Health.

ACTION: Addendum to Memorandum of Understanding between the Department of Labor and the Department of Energy: The construction and operation by the University of Chicago of a Regional Biocontainment Laboratory located at Argonne National Laboratory; transfer of worker safety and health authority from the Department of Energy (DOE) to the Occupational Safety and Health Administration (OSHA) for a portion of land that has been leased to the private sector for construction and operation of a Regional Biocontainment Laboratory at Argonne National Laboratory, a DOE Government-Owned and Contractor-Operated (GOCO) facility.

SUMMARY: This notice is an addendum to the 1992 interagency Memorandum of Understanding (MOU) between the U.S. Department of Labor and the U.S. Department of Energy. That MOU states that DOE has exclusive authority over the occupational safety and health of contractor employees at DOE GOCOs. In addition, the MOU between the departments dated July 25, 2000 on safety and health enforcement at privatized facilities and operations provides that OSHA has regulatory authority over occupational safety and health at certain privatized facilities and operations on DOE land leased to private enterprises. This action is taken in accordance with the July 25, 2000 MOU, which establishes specific interagency procedures for the transfer of occupational safety and health coverage for such privatized facilities and operations from DOE to OSHA. The MOUs may be found on the internet via the OSHA Web page www.osha.gov

under the "D" for Department of Energy Transition Activities.

EFFECTIVE DATE: May 27, 2005.

FOR FURTHER INFORMATION CONTACT:

Trèse Louie, Office of Technical Programs and Coordination Activities, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3653, 200 Constitution Avenue, NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: On August 10, 1992, the U.S. Department of Energy (DOE) and the Occupational Safety and Health Administration of the Department of Labor (OSHA) entered into a Memorandum of Understanding, delineating regulatory authority over the occupational safety and health of contract employees at DOE Government-Owned or Leased Contractor-Operated (GOCO) facilities. In general, the memorandum of understanding recognizes that DOE exercises statutory authority under section 161(f) of the Atomic Energy Act of 1954, as amended, [42 U.S.C. 2201(f)], relating to the occupational safety and health of private-sector employees at these facilities.

Section 4(b)(1) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 653(b)(1), exempts from OSHA authority working conditions with respect to which other federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. The 1992 Memorandum of Understanding acknowledges DOE's extensive regulation of contractor health and safety through safety orders, which require contractor compliance with all OSHA standards as well as additional requirements prescribed by DOE, and concludes with an agreement by the agencies that the provisions of the Occupational Safety and Health Act will not apply to GOCO sites for which DOE has exercised its authority to regulate occupational safety and health under the Atomic Energy Act.

In light of DOE's policy emphasis on privatization activities, OSHA and DOE entered into a second Memorandum of Understanding on July 25, 2000; that establishes interagency procedures to address regulatory authority for occupational safety and health at specified privatized facilities and operations on DOE sites. The 2000 Memorandum of Understanding specifically covers facilities and operations on lands that have been leased to private enterprises, which are not conducting activities for or on behalf of DOE and where there is no likelihood that any employee exposure to radiation from DOE sources would be

25 millirems per year (mrem/yr) or more.

On September 30, 2003, the National Institute of Allergy and Infectious Diseases (NIAID), one of the National Institutes of Health (NIH), in the U.S. Department of Health and Human Services, announced that it will fund nine regional biocontainment laboratories (RBL) for the study of organisms important to national biodefense efforts as well as organisms causing emerging infectious diseases. The Ricketts Regional Biocontainment Laboratory was proposed in early February 2003 by the University of Chicago in support of a Midwestern Regional Center of Excellence (RCE), a consortium of prominent medical research organizations in the upper Midwest. In September 2003, the U.S. Department of Health and Human Services announced a grant of \$35 million over five years to support the center.

The Ricketts Regional Biocontainment Lab will be a biosafety level 3 (BSL-3) laboratory designed to safely conduct research on microbes that can cause potentially lethal diseases. It will be located at a site leased from DOE at Argonne National Laboratory—East, 25 miles southwest of Chicago, Illinois. Argonne is operated by the University of Chicago, a private university, for the United States Department of Energy.

In accordance with the July 25, 2000 MOU, on November 24, 2003, DOE notified OSHA of its intent to lease land to the University of Chicago for the purpose of constructing and operating a Regional Biocontainment Laboratory at the Argonne National Laboratory-East for the National Institutes of Health. The letter stated that the laboratory would be operated by the University of Chicago, a private institution, to conduct research for NIH (as opposed to DOE). It also stated that the radiological dose to workers at the RBL would be much less than 25 mrems/year from all DOE sources. In addition, the University of Chicago will own and operate the RBL and DOE will not have a contractual relationship with the University relating to that facility. DOE will not have statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health at the RBL. Thus, as the letter stated, the section 4(b)(1) exemption to the OSH Act would not apply to the RBL. Therefore, the letter requested, in accordance with the 2000 MOU, that OSHA confirm that it will regulate occupational safety and health at the RBL. On February 10, 2004, OSHA responded to this letter, stating that it would review this request.