



**GRANT OFFICER'S MEMORANDUM NO. 02-22**

FOR: JOBS FOR VETERANS STATE GRANT RECIPIENTS  
ALL VETERANS' EMPLOYMENT AND TRAINING STAFF

FROM: KIA MASON  
Grant Officer

SUBJECT: Jobs for Veterans State Grants Incentive Award Program Update

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The Department of Labor (DOL) Veterans' Employment and Training Service (VETS) has learned of a [compromise agreement](#) that described the intention of Congress when passing [38 United States Code \(U.S.C.\) § 4112](#): Performance incentive awards for quality employment, training, and placement services. This intention conflicts with the way the incentive award program has been carried out to date. Because the statute supersedes VETS policy per the Order of Precedence clause in the terms and conditions of the grant, this Memorandum will clarify the allocable and allowable use of incentive award funds for the current fiscal year (FY) 2022 Jobs for Veterans State Grant (JVSG) awards.

**BACKGROUND**

As amended, [38 U.S.C. § 4102A\(c\)\(2\)\(A\)](#) describes the mandatory components of a JVSG state plan, including (III) "the program of performance incentive awards described in section 4112..." A subsequent item, (c)(7), directs that one percent of the amount of each grant "shall be for the purposes of making cash awards" as described in section 4112. Section 4112(b) set forth that the performance incentive awards administered by states "may be a cash award or other such nonfinancial awards as the Secretary may specify."

VETS previously understood these passages to mean that the one percent incentive award allocation could be distributed either as cash or as a nonfinancial award, or a combination of the two. However, VETS now understands that this conflicts with the 38 U.S.C. § 4102A(c) requirement for the one percent award allocation to be "for the purposes of making *cash* awards" (emphasis added). The legislative history relating to the enactment of the financial incentive program confirms that Congress intended: 1) to require the Secretary of Labor (Secretary) to assign one percent of the annual grant to each state for use as a performance incentive *financial* award, and 2) that states would use salary and expense funds to pay for plaques and other modest forms of recognition as part of the *nonfinancial* performance incentive award program. See Attachment 1 for the full text of the legislative history relating to the financial incentive program.

Further, the specific language of the statute does not allow a state to decline their annual incentive award allocation or to not have a performance incentive award program. States must have a program, and VETS must allocate the incentive award allocation.

## **INCENTIVE AWARD ALLOCATION EXPENDITURE**

Based on this new understanding of the statute, states must immediately discontinue charging any nonfinancial incentive awards to their one percent incentive award allocation. The incentive award allocation for FY22 may only be used for cash awards to individuals or employment service offices. Any nonfinancial awards must be reprogrammed as charges to the base allocation (the part of the annual allocation that does not include the one percent incentive cash award allocation).

## **NONFINANCIAL PERFORMANCE INCENTIVE AWARDS**

In Veterans' Program Letter (VPL) 04-19, VETS provided guidance regarding allowable nonfinancial incentive awards with the misunderstanding that greater flexibility was permitted for the expenditure of the incentive award allocation than for the larger portion of the JVSG base allocations. Since it is now known that nonfinancial awards must not be charged to the incentive award allocation, states must reevaluate their performance incentive programs for compliance with [2 Code of Federal Regulations \(C.F.R.\) 200](#) and other statutes and regulations.

[VPL 01-22, JVSG State Plan Submission and Modification](#), superseded VPL 04-19. In it, [Attachment 5, Incentive Award Program Technical Assistance Guide](#), provides examples of nonfinancial incentive awards that may be charged to the base allocation. VETS expects that states will be mindful that JVSG funds are to be used to support dedicated staff to provide individualized career and training-related services to veterans and eligible persons with significant barriers to employment and to assist employers to fill their workforce needs with job-seeking veterans. Base allocation funds that are used for nonfinancial incentive awards should highlight the delivery of these services while avoiding impact to those funds required to maintain staffing levels.

## **MANDATORY PERFORMANCE INCENTIVE AWARD PROGRAM**

Several states do not currently have a performance incentive award program, and VETS anticipates that several more may no longer be able to support their current programs given the clarifications noted in this Memorandum. For these states, as described below, VETS will use the information provided in the FY22 annual incentive award report to assist the states in developing a performance incentive program consistent with the requirements discussed above. VETS does not intend to pursue corrective actions in FY22, as long as states describe the reasons they do not have a performance incentive award program in the FY22 annual incentive award report.

For FY22, VETS will not distribute incentive award funds to states that did not request it. However, states may opt to change course and submit a separate modification request seeking incentive funding in FY22 in accordance with [VPL 04-18, Submission of JVSG Interim Modification Requests](#). VETS plans to begin distributing incentive award funding to all states in FY23.

## **FY22 ANNUAL INCENTIVE AWARD REPORT**

[VPL 07-19](#) describes the recurring report requirements for JVSG recipients, including the annual incentive award report. All states, regardless of whether incentive award funds were requested or received, must include this report along with their FY22 fourth quarter performance and narrative report, which is due on November 14, 2022. The report must include a citation of any state policy or law that prevented the state from carrying out the mandatory performance incentive award program. VETS will use the information in these reports to create a strategy for helping states develop a performance incentive program consistent with the above requirements for future years.

## **PERFORMANCE INCENTIVE AWARD PLAN MODIFICATIONS**

The incentive award plan is included with the four-year JVSG State Plan. JVSG State Plans must be modified every two years and may be modified at any time. According to [Training Employment and Guidance Letter \(TEGL\) 04-21](#), WIOA State Plan modifications should be submitted by March 15, 2022, and [VPL 01-22](#) aligns JVSG State Plan timelines with WIOA State Plan timelines. This means that every state has an opportunity in the immediate future to revise their performance incentive award plan, if needed.

Budget modifications for the sole purpose of seeking prior approval of adjustments to a state's nonfinancial incentive program should not be needed. The incentive plans constitute only 1 percent of each award and are well below the 10 percent limitation on budget flexibility, which provides states the latitude to transfer funds among direct cost categories or programs, functions, and activities, so long as the cumulative amount of such transfers does not exceed 10 percent of the total budget as last approved by the Grant Officer.

## **INQUIRIES**

Questions regarding this guidance and its attachment should be directed to the Grant Officer's Technical Representative.

## **ATTACHMENTS**

Attachment 1: Compromise Agreement text

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[Congressional Record Volume 148, Number 135](#)

From the Congressional Record Online through the Government Publishing Office

*Section 3 of the Compromise Agreement would establish a system of financial and non-financial incentive awards to be administered by the States, based on criteria established by the Secretary in consultation with the States. Disabled Veterans Outreach Program Specialists (“DVOP”), Local Veterans Employment Representatives (“LVER”), Workforce Investment Act (“WIA”), and Wagner-Peyser staffs would be eligible for each award. Beginning in program years during or after fiscal year 2004, the Secretary would be required to identify and assign one percent of the annual grant to each State for the State to use as a performance incentive financial award (see section 4). Under this section, each State would be required to describe how it would administer this award in its annual grant application to the Secretary (see section 4). States would also administer the non-financial performance incentive award program based on criteria established by the Secretary.*

*The Committees intend that the Secretary’s criteria be broad in order to give States maximum flexibility in the manner chosen to recognize employees for excellence in service delivery to veterans or improvements thereto. The Committees also intend that States use Salary and Expense (S&E) funds to pay for such items as employee recognition plaques and other modest forms of recognition, as part of the non-financial performance incentive awards program.*