

**First Source Revised Employment Plan  
and  
Information Packet for  
Non-Construction Projects over \$5 Million**

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## I. INTRODUCTION TO FIRST SOURCE

The District's First Source law ensures that District residents are given priority for new jobs created by municipal financing and development programs. Effective February 24, 2012, the "Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011" significantly changes the District's First Source law. The law continues to require that 51% of all new hires on any government-assisted project or contract between \$300,000 and \$5,000,000 be District residents.

The First Source amendments over the years have expanded definitions to cover more projects, established minimum thresholds, and added specific job categories. The law was also amended to allow the Mayor to give exemptions to job categories if specific people in the DC labor force are not available (i.e., could create entry-level positions in lieu of more skilled ones to meet the requirements). The 1983 Mayor's Order 83-265 created the program, giving DC residents preference on contacts for entry-level jobs.

In 1984, D.C. Law 5-93 created current statutory framework for the program. It expanded the definition of beneficiary to include all job categories and defined government-assisted project.

In early 2000s, the law was amended to create the 51% hiring requirement and to expand enforcement to the current 5% direct and indirect costs (monetary fine) level.

In 2005, the law exempted non-profit organizations.

The Way to Work Amendment Act of 2006 expanded coverage of First Source beyond the construction field by expanding the definition of contracts to include any recipient that receives government assistance from the District government, and it defined direct beneficiaries to include retail and commercial tenants. (This law also created the living wage for government contracts).

In 2011, Mayor's Order 2011-47 elevated First Source compliance to the Deputy Mayor for Planning & Economic Development (DMPED), and the new law took effect February 24, 2012.

Finally, the Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011 made substantial changes to the First Source law, including the following:

- Eliminates contracts under \$300K from First Source obligations; establishes a \$300,000 baseline for new First Source Employment Agreements
- Requires that each government-assisted construction project receiving government assistance totaling \$5 million or more must have the following percentage of DC residents on those projects:
  - 20% of journey worker hours
  - 51% of skilled laborer hours
  - 60% of apprentice hours
  - 70% of common laborer hours
- Mandates that retail and commercial tenants are subject to hiring requirements for five (5) years following the commencement of the tenant's initial lease date
- Establishes contract end dates when Certificate of Occupancy is issued
- Gives contractors choice to report either by contractor or sub-contractors for construction projects only
- Allows beneficiaries to "double-count" hours worked by hard-to-employ District residents, up to 15%

## I. INTRODUCTION TO FIRST SOURCE *(continued)*

- Adds additional monthly reporting requirements for contractors between \$300,000 and \$5M.  
Employers must report:
  - # of employees who worked on the project
  - # of current employees transferred
  - # of new job openings created
  - # of job openings created by employee attrition
  - # of job openings listed with DOES
  - total monthly direct and indirect labor costs associated with the project or contract
  - total # of all District residents hired for the reporting period/cumulative total number of District residents hired
  - total # of all employees hired for the reporting period/ cumulative total number of all employees hired
  - each employee's name, Social Security Number, job title, hire date, residence, and referral source for all new hires
- Requires contractors to submit certified payrolls as well as monthly and cumulative certified payrolls from all subcontractors at any tier working on the project or contract
- Requires specific documentation evidencing a good faith effort to comply with First Source requirements prior to obtaining a waiver from a First Source Employment Agreement

*(Law 5-93, 9-210, 14-24, 15-295, 16-118, 17-219, and 18-194)*

## II. REVISED FIRST SOURCE EMPLOYMENT PLAN

### GOVERNMENT-ASSISTED PROJECT/CONTRACT INFORMATION

CONTRACT/SOLICITATION NUMBER: \_\_\_\_\_  
DISTRICT CONTRACTING AGENCY: \_\_\_\_\_  
CONTRACTING OFFICER: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_  
TOTAL CONTRACT AMOUNT: \_\_\_\_\_  
EMPLOYER CONTRACT AMOUNT: \_\_\_\_\_  
PROJECT NAME: \_\_\_\_\_  
PROJECT ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
PROJECT START DATE: \_\_\_\_\_ PROJECT END DATE: \_\_\_\_\_  
EMPLOYER START DATE: \_\_\_\_\_ EMPLOYER END DATE: \_\_\_\_\_

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### EMPLOYER INFORMATION

EMPLOYER NAME\*: \_\_\_\_\_  
COMPANY NAME: \_\_\_\_\_  
EMPLOYER ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
TELEPHONE NUMBER: \_\_\_\_\_ FEDERAL IDENTIFICATION NO.: \_\_\_\_\_  
CONTACT PERSON: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
E-MAIL: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

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ARE YOU A SUBCONTRACTOR  YES  NO

IF YES, NAME OF PRIME CONTRACTOR: \_\_\_\_\_

*\*The employer name should be the designee who is a senior official from the general contractor who will be responsible for implementing the hiring and reporting requirements. If general contractor decides subcontractor will be responsible, include both contractor and subcontractor designee.*

This page to be completed by EMPLOYER

\_\_\_\_\_  
Employer Initials

## II. REVISED FIRST SOURCE EMPLOYMENT PLAN *(continued)*

First Source law requires EMPLOYERS (winning bidders) to submit a revised workforce plan.

### A. EMPLOYMENT PROJECTIONS

**ALL EMPLOYERS:**

Please indicate ALL new position(s) you will create as a result of the project. If you WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

JOB TITLE	# OF JOBS	PART-TIME OR FULL-TIME	SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
A					
B					
C					
D					
E					
F					
G					
H					
I					
J					
K					

This page to be completed by EMPLOYER \_\_\_\_\_  
Employer Initials



**A. EMPLOYMENT PROJECTIONS (continued)**

**JUSTIFICATION SHEET:** Please provide a detailed explanation of why the Employer will not have any new hires on the project.

This page to be completed by EMPLOYER

\_\_\_\_\_  
Employer Initials

## **A. EMPLOYMENT PROJECTIONS (continued)**

(I) Provide a projection of the total number of full-time and part-time salaried employees on an annual basis that will be utilized on the project or contract and the total number of full-time and part-time salaried employees that will be District residents.

(II) Provide a projection of the total number of hours to be worked on the project or contract by full-time and part-time hourly wage employees on an annual basis and a projection of the total number of hours to be worked on the project or contract by full-time and part-time hourly wage employees who are District residents.

(III) A timetable outlining the total number of hours to be worked on the project or contract by full-time and part-time hourly wage employees by job category and the total number of full-time and part-time salaried employees by job category over the duration of the life of the hiring requirements set forth by the Department of Employment Services and an associated hiring schedule which predicts when specific job openings will be available.

(IV) Descriptions of the skill requirements, including industry-recognized certifications required for the different positions.



(V) A strategy to fulfill the District-resident hiring requirements, including whether the bidder plans to pursue potential community outreach partnerships with the University of the District of Columbia, the University of the District of Columbia Community College, the Department of Employment Services, or other government-approved, community-based job training providers.

(VI) A remediation strategy to ameliorate any problems associated with meeting these hiring requirements.

(VII) The designation of a senior official from the beneficiary who will be responsible for implementing the hiring and reporting requirements.

(VIII) Descriptions of the health and retirement benefits that will be provided to District residents working on the project or contract.

(IX) A strategy to hire graduates of District of Columbia Public Schools, District of Columbia Public Charter Schools, and community-based job training providers, and hard-to-employ residents.

(X) A strategy to ensure that DC residents who work on the project or contract receive ongoing employment and training opportunities after they complete work on the job for which they were initially hired and a review of past practices in continuing to employ DC residents from one project or contract to the next.

(XI) A disclosure of past compliance with the Workforce Intermediary Establishment and Reform of First Source Amendment Act of 2011, where applicable, and the employer's general District hiring practices on projects or contracts completed within the past 2 years.

This section to be completed by EMPLOYER

\_\_\_\_\_  
Employer Initials

## **B. JOB POSTING REQUIREMENTS**

The First Source law requires EMPLOYERS to notify DOES, by way of the First Source Office, of notification of new jobs created for new employees for the project, within at least seven (7) business days (Monday - Friday) upon employer's identification of the specific need. This must be done before using any other referral source. Notice of New Job Creation shall include, at a minimum, the number of employees needed by job title, qualifications, hiring date, rate of pay, hours of work, duration of employment, and a description of the work to be performed.

The First Source law also requires EMPLOYERS to report to DOES any job openings to be filled by internal promotion from the employer's current workforce for placement and referral by DOES, if the job is newly created. Employer shall provide DOES a revised Employment Plan that details such promotions. The First Source law requires EMPLOYERS to post all job vacancies with the Job Bank Services of DOES at <http://does.dc.gov/page/job-bank-services> within seven (7) days of executing the Agreement. Should you need assistance posting job vacancies, please contact Job Bank Services at (202) 698-6001.

DOES will notify the employer, prior to the anticipated hiring dates, of the number of applicants DOES will refer.

Also, the employer shall, in good faith, use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES. All hiring decisions are made by the employer.

- *In the event that DOES is unable to refer qualified personnel meeting the employer's established qualifications, within five (5) business days (Monday-Friday) from the date of the notification from the employer, the employer will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the employer will still be required to hire 51% District residents for all new jobs created by the project; or meet the proscribed hours worked percentages in each noted category.*
- *After the employer has selected its employees, DOES is not responsible for the employees' actions and the employer hereby releases DOES, the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.*

## **C. DOES PROGRAMS AND SERVICES**

The next section describes how DOES can help EMPLOYERS find or support hiring of District residents. As required by law, non-construction First Source Employment Agreements over \$5 Million are required to meet additional requirements. Therefore, EMPLOYERS in this category must meet with DOES within 14 days of winning a bid to be informed of all DOES services and to create a mutually agreeable checklist of services to be provided to EMPLOYER to increase hiring of District residents. Email [firstsource@dc.gov](mailto:firstsource@dc.gov) with subject line, "Meeting Request to Create Hiring Plan for Non-Construction Over \$5M," within five (5) days of winning bid.

### **Job Bank Services**

Job Bank is a component of the city's DC Networks system, a computerized national labor exchange network. The system is designed to match EMPLOYERS with job seekers. Any employer, both local and national, can use the Job Bank to place job orders and search for applicants by skill-set or position. The Job Bank Unit provides guidance, training, and technical assistance to EMPLOYERS who are seeking to post job openings, identify potential employees, research current and local job market data, and effect hiring incentives.

<http://does.dc.gov/page/job-bank-services>

### **Work Opportunity Tax Credit**

The Work Opportunity Tax Credit (WOTC) is a federally-funded program that reduces the federal tax liability of private-for-profit EMPLOYERS hiring new employees from selected target groups. Individuals in these target groups have consistently had difficulty obtaining employment. EMPLOYERS hiring qualified applicants may obtain tax relief through the WOTC program. Credit amounts are based upon a percentage of wages paid to, and hours worked by, properly certified employees.

<http://does.dc.gov/page/work-opportunity-tax-credit>

### **District of Columbia American Job Center**

The American Job Centers, formerly the One-Stop Centers, offers job seekers, students, businesses, and career professionals access to a comprehensive array of employment-related services and tools in one convenient location. Through the District's American Job Center, residents can utilize resources such as career counseling, career planning, resume assistance, direct job placement, classroom and on-the-job-training, information about local and national labor markets, unemployment compensation, and much more. DOES, supported with resources from the District government and the US Department of Labor, operates the American Job Centers, which are strategically located and accessible throughout the District.

<http://does.dc.gov/service/american-job-center>

### **Path2Work Pre-Screening**

DOES also provides customized services for EMPLOYERS. DOES will screen applicants through carefully planned recruitment and training events called Path2Work to provide the employer with a list of qualified applicants according to the notification of new jobs identified/created by the employer as set forth in Section IV (C) of the First Source Employment Agreement. Essentially, this process offers EMPLOYERS with free human resources services to connect qualified District residents, including veterans, seniors, hard-to-employ residents who have received training, students, and more, to the EMPLOYERS' available job openings. The process ensures that the best possible candidates are forwarded to meet with EMPLOYERS based on the requirements that EMPLOYERS provide DOES.

<http://does.dc.gov/node/173412>

## **C. DOES PROGRAMS AND SERVICES (continued)**

### **Project Empowerment**

Project Empowerment is a transitional employment program that provides job readiness training and subsidized employment to District residents with multiple barriers to employment. Participants attend an intensive three-week training course and are then placed in a subsidized employment opportunity for up to six (6) months, all while working toward securing permanent, unsubsidized employment.

<http://does.dc.gov/service/project-empowerment-program>

### **Office of Apprenticeship Information and Training**

Apprenticeships combine on-the-job training with classroom instruction, teaching workers the practical and theoretical aspects of highly skilled occupations. Apprenticeship programs are sponsored by EMPLOYERS, labor groups, and employer associations. DOES' Office of Apprenticeship Information and Training (OAIT), registers apprentices and apprenticeship programs. OAIT safeguards the well-being of apprentices, guarantees the quality of programs, ensures equal access to apprentices, and provides integrated employment and training information to sponsors, EMPLOYERS and trainers. OAIT also staffs the District of Columbia Apprenticeship Council.

<http://does.dc.gov/service/apprenticeships>

### **Senior Community Service Employment Program (SCSEP)**

The District's Senior Community Service Employment Program (SCSEP) offers subsidized skills training and job placement assistance to disadvantaged District residents ages 55 years and older. The program tailors recruitment, training and employment strategies to help place seniors with host agencies for training and employment in growth industries. SCSEP aims to strengthen host agencies' responsibility to provide sufficient skills training and professional development that will lead to employment; and to actively engage and coordinate with EMPLOYERS in the transition of participants into unsubsidized employment, secure permanent unsubsidized employment. The SCSEP also provides job-matching assistance to EMPLOYERS who are interested in hiring qualified, trained mature workers and no-cost community service assistance to government or non-profit agencies that host SCSEP trainees.

<http://does.dc.gov/service/senior-community-service-employment-program>

### **Office of Youth Programs**

The Office of Youth Programs (OYP) develops and administers workforce development programs for District youth ages 14-21. OYP provides occupational skills training, work experience, academic enrichment and life skills training to facilitate the development of work habits and skills that are essential for success in the workplace.

<http://does.dc.gov/service/youth-services>

### **For Your Information**

District of Columbia Workforce Investment Act Annual Report - <http://does.dc.gov/page/dc-wia-annual-report-py-2011>

District of Columbia State Integrated Workforce Plan for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs - <http://does.dc.gov/page/district-columbia-state-plan>

The First Source Coordinator assigned to help inform you of and recommend applicable DOES programs is:

\_\_\_\_\_  
Name

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Phone

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Email

*(To be completed by DOES)*

I agree to meet with DOES within 14 days of winning a bid to learn of DOES services and create a plan. \_\_\_\_\_

Employer Initials

## **D. REPORTING REQUIREMENTS**

EMPLOYER with Projects valued at a minimum of \$5,000,000 shall hire DC residents for at least 51% of all new jobs created by the Project and 35% of all apprenticeship hours worked in connection with the Project shall be worked by DC residents registered in programs approved by the District of Columbia Apprenticeship Council; the EMPLOYER will complete the attached Revised Employment Plan that will include the information outlined in Section I.N., above and meet with DOES personnel for an orientation and introduction to personnel responsible for training resources offered by the agency.

EMPLOYER shall have a user name and password for the First Source Employer Portal for electronic submission of all monthly Contract Compliance Forms, weekly certified payrolls and any other documents required by DOES for reporting and monitoring.

EMPLOYER shall provide the following monthly and cumulative statistics on the Contract Compliance Form:

1. Number of new job openings created/available;
2. Number of new job openings listed with DOES, or any other District Agency;
3. Number of DC residents hired for new jobs;
4. Number of employees transferred to the Project;
5. Number of DC residents transferred to the Project;
6. Direct or indirect labor cost associated with the project;
7. Each employee's name, job title, social security number, hire date, residence, and referral source;
8. Number of apprenticeship hours worked;
9. Number of apprenticeship hours worked by DC residents; and
10. Workforce statistics throughout the entire project tenure.

Monthly, EMPLOYER must electronically submit the Contract Compliance Form to DOES. EMPLOYER is also required to make payroll and employment records available to DOES as a part of compliance monitoring, upon request.

EMPLOYER must complete form electronically which will be available through the First Source Employer Portal

### **Before Final Payment to Employer**

With the submission of the final request for payment from the District (contracting agency), the EMPLOYER shall:

1. Document in a report to DOES its compliance with the hiring or hours worked percentage requirements for all new jobs created by the Project and the percentages of DC residents employed in all Trade Classifications, for each area of the Project; or
2. Submit to DOES a request for a waiver of the hiring or hours worked percentage requirements for all new jobs created by the Project that will include the following documentation
  - a. Documentation supporting EMPLOYERS good faith effort to comply;
  - b. Referrals provided by DOES and other referral sources; and
  - c. Advertisement of job openings listed with DOES and other referral sources.

## **E. MONITORING REQUIREMENTS**

DOES is the District agency authorized to monitor and enforce the requirements of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Official Code §§ 2 219.01 – 2.219.05) and relevant provisions of the Apprenticeship Requirements Amendment Act of 2004 (D.C. Official Code § 2-219.03 and § 32-1431). As a part of monitoring and enforcement, DOES may require, and EMPLOYER shall grant, admission to project sites, access to employees, and production of documents.

DOES shall monitor all First Source contracts as authorized by the First Source law. The monitoring methods to determine First Source compliance are as follows:

1. Review all contract controls to determine if Prime Contractors and Subcontractors are subject to DC Law 14-24.
2. Notify stakeholders and company officials and establish meetings to provide technical assistance involving the First Source process.
3. Make regular site visits to determine if the Prime Contractor or Subcontractors' workforce is in concurrence with their submitted First Source Employment Agreement or Monthly Compliance Report.
4. Review certified payroll and additional personnel records to ensure the required workforce utilization is in compliance with the First Source law.
5. Conduct desk reviews of submitted workforce statistical reports (*Monthly Compliance Reports*).
6. Educate EMPLOYERS of additional services offered by DOES, such as On-the-Job Training programs and tax incentives for EMPLOYERS who hire from certain categories.
7. Monitor and complete statistical reports that identify the overall project, contractor, and subcontractors' percentage of hired District residents and District residents transferred to the project.
8. Provide formal notification of non-compliance with the required hiring or hours worked percentages, or any alleged breach of the First Source Law to all contracting agencies, and stakeholders.

***(Please note: EMPLOYERS are granted 30 days to correct any alleged deficiencies stated in the notification.)***



### III. PENALTIES

#### Collective Bargaining

To the extent that the First Source Employment Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved with this project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

#### Willful Breach

Willful breach of the First Source Employment Agreement by the EMPLOYER, failure to submit the Contract Compliance Report, or deliberate submission of falsified data, or failure to reach specific hiring requirements may result in DOES imposing a fine of 5% of the total amount of the direct and indirect labor costs of the contract for the positions created by the EMPLOYER.

Those Contractors who have been found in violation two (2) times or more over a 10-year period may be debarred and/or deemed ineligible for consideration for government-assisted projects for a period of five (5) years. Appeals of violations or fines are to be filed with the Contract Appeals Board.

## IV. DEFINITIONS

### **Good Faith Effort**

*Good faith effort* is considered to have been made when an EMPLOYER has exhausted all reasonable means to comply with any affirmative action, hiring, or contractual goal(s) pursuant to the First Source law, such as the following:

- Advertised in special interest publications and on special interest media;
- Interviewed employable candidates;
- Hosted informational/recruiting or hiring fairs;
- Advertised in conjunction with the contractual agreement;
- Contacted churches, unions, and/or additional workforce development organizations;
- Created or participated in a workforce development program approved by DOES; and/or
- Created or participated in a workforce development program approved by the District of Columbia Workforce Intermediary.

***(Please note that EMPLOYER shall provide the necessary documentation of its Good Faith Efforts)***

### **Hard to Employ**

*Hard to employ* means a District of Columbia resident who is confirmed by DOES as:

1. An ex-offender who has been released from prison within the last 10 years;
2. A participant of the Temporary Assistance for Needy Families program;
3. A participant of the Supplemental Nutrition Assistance Program;
4. Living with a permanent disability verified by the Social Security Administration or District vocational rehabilitation program;
5. Unemployed for 6 months or more in the last 12-month period;
6. Homeless;
7. A participant or graduate of the Transitional Employment Program established by [§ 32-1331](#); or
8. An individual who qualified for inclusion in the Work Opportunity Tax Credit Program as certified by DOES.

### **Direct Labor Costs**

*Direct labor costs* are all costs, including wages and benefits, associated with the hiring and employment of personnel assigned to a process in which payroll expenses are traced to the units of output and are included in the cost of goods sold.

### **Indirect labor costs**

*Indirect labor costs* are all costs, including wages and benefits, that are part of operating expenses and are associated with the hiring and employment of personnel assigned to tasks other than producing products.

## V. WAIVERS

### Waivers

DOES may waive the requirement that 51% of the new employees hired by the EMPLOYER for the project be District residents and/or the required percentages of residents in all Trade Classifications areas on the project if DOES finds that:

1. A good faith effort to comply is demonstrated by the EMPLOYER;
2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area:

**Washington Metropolitan Statistical Area** means the District of Columbia; Virginia Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas, and Manassas Park; the Virginia Counties of Arlington, Clarke, Fairfax, Fauquier, Loudon, Prince William, Spotsylvania, Stafford, and Warren; the Maryland Counties of Calvert, Charles, Frederick, Montgomery, and Prince Georges; and the West Virginia County of Jefferson;

3. The EMPLOYER enters into a special workforce development training or placement arrangement with DOES or with the District of Columbia Workforce Intermediary; or
4. DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the project. No failure by the EMPLOYER to request a waiver under any other provision hereunder shall be considered relevant to a requested waiver under this Section.

## VI. RECEIPT

By signing this, I acknowledge receipt of this Information Packet about the First Source Revised Employment Plan. I also certify that all information provided in this form is true and accurate to the best of my knowledge and belief. I understand that this information is subject to verification. I further understand that providing any false or inaccurate information may subject EMPLOYER to civil and/or criminal prosecution and penalties. I understand and agree that, if I am provided a service or if I participate in a program or training, it is to assist DC residents to attain suitable employment. I agree to comply with the rules and requirements of any service, program, or training program. I also agree to notify DOES, once DC resident secures employment with your company/firm.

It is my intention to complete this Revised First Source Employment Plan and return the plan to DOES by \_\_\_\_\_.

### DOES First Source Official Signatory

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

### Employer Official Signatory

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature