

§ 633.316

(1) Inability to meet Federal standards related to such debt collection requirements as:

(i) Failure to respond to demand letters from DOL for repayment of debts within the stated timeframe;

(ii) Failure to comply with approved repayment agreement;

(2) Nonperformance related to such requirements as:

(i) Failure to submit required quarterly financial reports for two successive periods within 30 days after they are due;

(ii) Failure to submit required quarterly performance report for two successive periods within 30 days after they are due;

(iii) Failure to develop a plan of action to correct deficiencies identified in a final audit finding and determination or by an onsite monitoring review;

(3) Nonperformance related to such requirements as:

(i) Failure to comply with formal corrective action after due notice;

(ii) Failure to comply with the requirements of the Act related to a grievance procedure and other requirements;

(e) In addition, the Department, by written notice, may terminate a grant in whole or in part in the event of reduction in the funds available for JTPA title IV, section 402 programs by reason of congressional action, whether by authorization, appropriation, deferral, rescission or otherwise, or by reason of other legislative action, such as changes in service deliverers, program content or services to be provided, which makes it impracticable to continue the agreement under its original terms. In the event of a congressional reduction in funds, the reduction shall be apportioned on an equitable basis among section 402 grantees. In the case of termination pursuant to this provision, the Department shall be liable for payment, in accordance with the payment provisions of this agreement, for services rendered and noncancellable obligations properly incurred prior to the effective date of termination.

(f) Notwithstanding the provisions of part 636 the Department may terminate a grantee under emergency termination procedures in accordance with section 164(f) of the Act.

20 CFR Ch. V (4-1-02 Edition)

(i) Instances under which emergency termination can occur include but are not limited to: Final audit findings and determinations identifying numerous adverse findings in the area of financial management; information gathered through onsite monitoring which substantiates serious management, fiscal and/or performance problems; documented information from the Inspector General or gained through incident reports of poor performance, serious administrative problems and/or inability to protect and account for Federal funds.

(ii) Within 30 days of written termination notification to a grantee, the Department will secure applicable documents onsite, seize bank accounts relating to the program, arrange for the payment of legitimate bills and debts and arrange, to the degree feasible, for the continued provision of services to program enrollees.

§ 633.316 Closeout procedures.

Grant closeout will conform to the requirements at 41 CFR part 29-70. As necessary, the Department shall issue supplementary closeout requirements.

§ 633.317 Reallocation of funds.

(a) In a limited number of circumstances, the Department may reduce a portion of a grant when it can be reasonably projected that the funds will not be used during the grant performance period or that they will not be used for DOL authorized carryover purposes. Such reduction of funds will only be undertaken after 30-days advance notice to the grantee.

(b) Funds recaptured as a result of these grant reductions will be available for technical assistance or special projects funded at the discretion of the Department .

§ 633.318 Nondiscrimination and nonsectarian activities.

Pursuant to section 167(a) of the Act:

(a) Nondiscrimination and equal opportunity requirements and procedures, including complaint processing and compliance reviews, will be governed by the provisions of 29 CFR parts 31 and 32 and will be administered by the Office of Civil Rights.

Employment and Training Administration, Labor

§ 633.322

(b) The employment or training of participants in sectarian activities is prohibited.

§ 633.319 Lobbying, political activities and unionization.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress.

(b) To attempt to influence in any manner State or local legislators to favor or oppose any legislation or appropriation by such legislators.

(c) Which involves political activities (sec. 141(a)).

(d) Which will assist, promote, or deter union organizing (sec. 143(c)(1)).

§ 633.320 Nepotism.

(a) No grantee, subgrantee, or employing agency may hire a person in an administrative capacity, staff position, or on-the-job training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity for that grantee, subgrantee, or employing agency.

(b) No subgrantee or employing agency may hire a person in an administrative capacity, staff position or on-the-job training position funded under the Act, if a member of that person's immediate family is engaged in an administrative capacity for the grantee from which that subgrantee or employing agency obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed.

(c) For purposes of this section the term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild.

§ 633.321 Performance standards for section 402 programs.

(a) The Secretary shall issue performance standards for section 402 programs.

(b) To issue performance standards, the Secretary shall:

(1) Select the measures against which the standards will be set.

(2) Prescribe the pre- and post-program measurement periods.

(3) Determine standards for each of the measures, from which specific grantee standards can be determined in accordance with the parameters established by the Secretary.

(c) No grantee shall be penalized for not meeting performance standards for the program years 1984-1986.

§ 633.322 Sanctions for violation of the Act.

(a) Pursuant to sections 164 (d), (e), (f), (g), and (h) of the Act, the Secretary may impose appropriate sanctions and corrective actions for violations of the Act, regulations, or grant terms and conditions. Additionally, sanctions may include the following:

(1) Offsetting debts, arising from misexpenditure of grant funds, against amounts to which the grantee is or may be entitled under the Act, except as provided in section (e)(1) of the Act. The debt shall be fully satisfied when the Secretary reduces amounts allotted to the grantee by the amount of the misexpenditure; and

(2) Determining the amount of Federal cash maintained by the grantee or its subgrantee or contractor in excess of reasonable grant needs, establishing a debt for the amount of such excessive cash, and charging interest on that debt.

(b) Except for actions under section 164(f) and 167 of the Act, to establish a debt or violation subject to sanction and/or corrective action, the Secretary shall utilize initial and final determination procedures outlined in 20 CFR part 636.

(c) To impose a sanction or corrective action regarding a violation of section 167 of the Act, the Secretary shall utilize the procedures of 29 CFR part 31.

(d) (1) The Secretary shall hold the grantee responsible for all funds under the grant. The grantee shall hold its subgrantees and contractors responsible for JTPA funds received through the grant.