

time of enrollment into such other program or title may be transferred into, or enrolled concurrently, in the section 402 program. A section 402 participant who met the eligibility criteria for another program or title under JTPA at the time of enrollment into the section 402 program may also be transferred into or enrolled concurrently in such other program or title.

(e) The grantee shall establish the necessary procedures for identifying and selecting participants and for eligibility determination and verification.

(f) The provisions of section 181(k) of the Act are applicable to section 402 programs.

**Subpart B—Grant Planning and Application Procedures**

**§ 633.201 Grant planning and application procedures in general.**

Precondition for grant application: The Department will not consider an application for funding from any applicant in cases where it is established that:

- (a) The agency’s efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful; or
- (b) Fraud or criminal activity has been proven to exist within the organization.

**§ 633.202 Announcement of State planning estimates and invitation to submit a grant application.**

(a) *Announcements.* The Department, through a notice in the FEDERAL REGISTER, will announce State Planning estimates of section 402 funds and will publish an SGA for all areas open to competition. The SGA will contain all information needed by an applicant to apply for funding; i.e., general program description, rating criteria, and dates for submission of applications.

(b) *Intention to apply.* Any eligible applicant intending to apply for funds shall submit a Preapplication for Federal Assistance to DOL by a specified date as announced in the FEDERAL REGISTER.

(c) Applications for statewide programs are encouraged; however, the Department reserves the right to

award grant funds to less than state-wide areas.

(d) Executive Order 12372, “Intergovernmental Review of Federal Programs,” and the implementing regulations at 30 CFR part 46 generally apply to this program. Pursuant to these requirements, in States which have established a consultation process expressly covering this program, applications shall be provided to the State for comment. Since States may also participate as competitors for this program, applications shall be submitted to the State upon the deadline for submission to the Department, instead of the usual 30-day period for review.

**§ 633.203 Review of funding request.**

The SGA will identify all review standards including:

- (a) An understanding of the problems of migrant and seasonal farmworkers;
- (b) A familiarity with the area to be served;
- (c) A previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers.
- (d) General administrative and financial management capability.
- (e) Prior performance with respect to financial management, audit and program outcomes.

**§ 633.204 Responsibility review.**

(a) Prior to final selection as a potential grantee the Department will conduct a review of the available records to determine whether or not the organization has failed any responsibility test. This review is intended to establish overall responsibility to administer Federal funds. With the exceptions of paragraphs (a)(1) and (a)(3) of this section, the failure to meet any one of the tests would not establish that the organization is irresponsible unless the failure is substantial or persistent. The responsibility tests are as follows:

- (1) The agency’s efforts to recover debts (for which three demand letters have been sent) established by final agency action have been unsuccessful, or failure to comply with an approved repayment plan.