

(2) Serious administrative deficiencies identified in final findings and determinations—such as failure to maintain a financial management system as required by Federal regulations.

(3) Established fraud or criminal activity within the organization.

(4) Wilful obstruction of the audit process.

(5) Substantial failure to provide services to applicants as agreed to in a current or recent grant or to meet performance standard requirements as provided at § 633.321 of this subpart.

(6) Failure to correct deficiencies brought to the grantees' attention in writing as a result of monitoring activities, reviews, assessments, etc.

(7) Failure to return a grant closeout package or outstanding advances within 90 days of expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted; final billings reflecting serious cost category or total budget cost overrun.

(8) Failure to submit required reports.

(9) Failure to properly report and dispose of government property as instructed by DOL.

(10) Failure to have maintained cost controls resulting in excess cash on hand.

(11) Failure to procure or arrange for audit coverage for any two year period when required by DOL.

(12) Failure to audit a subrecipient within the required period when applicable.

(13) Final disallowed costs in excess of five percent of the grant or contract award.

(14) Failure to establish a mechanism to resolve subrecipient's audit within established time frames.

(b) This responsibility review is independent of the competitive process. Applicants failing to meet the requirements of this section will not be selected as potential grantees irrespective of their standing in the competition.

§ 633.205 Notification of selection.

(a) Respondents to the SGA which are selected as potential grantees shall be so notified by the Department. The notification shall invite each potential

grantee to negotiate the final terms and conditions of the grant, shall establish a reasonable time and place for the negotiation, and shall indicate the State or area to be covered by the grant. Funds may be awarded for two program years.

(b) In the event that no grant applications are received for a specific State or area or that those received are deemed to be unacceptable, or where a grant agreement is not successfully negotiated, the Department may give the Governor first right to submit an acceptable application pursuant to § 633.201. Should the Governor not accept the offer within fifteen days, the Department may then (1) designate another organization or organizations, (2) reopen the area for competitive bidding, or (3) use the funds for national-account activities.

(c) An applicant whose grant application is not selected by the Department to receive section 402 funds shall be notified in writing.

(d) Applicants who submit grant applications which have been rejected may not resubmit a new grant application for the State(s) or area(s) in which they are interested in providing services until the area(s) is announced by the Department as reopened for competition.

(e) Any applicant whose grant application is denied in whole or in part by the Department may request an administrative review as provided in part 636, with respect to whether there is a basis in the record to support the Department's decision. This appeal will not in any way interfere with the Department's designation and funding of another organization to service the area in question during the appeal period. The available remedy under such an appeal will be the right to be designated in the future rather than a retroactive or immediately effective selection status. Therefore, in the event the ALJ rules that the organization should have been selected and the organization continues to meet the requirements of this part, the Department will select and fund the organization within 90 days of the ALJ's decision unless the end of the 90-day period is within 6 months of the end of the funding period. Any organization selected and/or

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funded prior to the ALJ's decision will be affected in a manner prescribed by the Department. All parties will agree to the provisions of this paragraph as a condition for funding.

Subpart C—Program Design and Administrative Procedures

§ 633.301 General responsibilities.

(a) This subpart sets forth the program operation requirements for grantees under section 402, including program and fiscal management, coordination and consultation, allowable activities, participant benefits, and duration of participation. Unless otherwise indicated, grantees shall follow procedures as prescribed in DOL administrative regulations a 41 CFR part 29-70 and OMB Circular A-122.

(b) *Basic program design responsibilities of grantees.* A grantee shall be responsible for:

(1) Designing training which, to the maximum extent feasible, is consistent with every participant's fullest capabilities and will lead to employment opportunities enabling every participant to become economically self-sufficient.

(2) Designing program activities which will, to the maximum extent feasible, contribute to the occupational development and upward mobility of every participant;

(3) Providing training only to participants who are legally able to accept gainful employment in the occupation for which training is being provided; and

(4) Making maximum efforts to achieve the goals and the performance standards set forth in the grant.

§ 633.302 Training activities and services.

(a) A grantee may provide assistance to eligible individuals to obtain or retain employment, to participate in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment, and to participate in activities leading to stabilization in agricultural employment through training and supportive services which may include, but are not limited to:

(1) Job search assistance, including job clubs;

(2) Job development;

(3) Training, such as classroom, on-the-job, work experience, and tryout employment, in jobs skills for which demand exceeds supply;

(4) Training related and non-training related supportive services, including commuting assistance and financial and personal counseling;

(5) Relocation assistance; and

(6) Programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of the disruption of employment opportunities.

(b) Public service employment is not an allowable activity under section 402 programs.

(c) Tryout employment shall conform to section 205(d)(3)(B) and section 141(k) of the Act.

(d) A participant's enrollment in work experience shall not exceed 1,000 hours in a one-year period.

§ 633.303 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of the recipient.

(b) Unless otherwise indicated below, direct and indirect costs shall be charged in accordance with 41 CFR part 29-70 and OMB Circular A-122.

(c) Funds may be used for construction activities only to:

(1) Provide compensation to participants employed by public or private nonprofit agencies;

(2) Reimburse OJT costs to private-for-profit employers;

(3) Purchase equipment, materials, and supplies for use in the training of such participants; and

(4) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and needs-based payments and compensation to participants.