

determination and the request for hearing are subject to review.

(d) The procedures set forth in this subpart apply in the case of a complainant who has not had a dispute adjudicated under the alternative dispute resolution process set forth in § 627.805 of this part within 60 days, except that the request for hearing before the OALJ must be filed within 15 days of the conclusion of the 60-day period. In addition to including the final determination upon which review is requested, the complainant shall include a copy of any Stipulation of Facts and a brief summary of proceedings.

**§ 627.802 Rules of procedure.**

(a) The rules of practice and procedure promulgated by the OALJ, at subpart A of 29 CFR part 18, shall govern the conduct of hearings under this section, except that a request for hearing under this section shall not be considered a complaint to which the filing of an answer by DOL or a DOL agency or official is required. Technical rules of evidence shall not apply to hearings conducted pursuant to this part; however, rules or principles designed to assure production of the most credible evidence available and to subject testimony to cross-examination shall apply.

(b) *Prehearing procedures.* In all cases, the ALJ should encourage the use of prehearing procedures to simplify and to clarify facts and issues.

(c) *Subpoenas.* Subpoenas necessary to secure the attendance of witnesses and the production of documents or things at hearings shall be obtained from the ALJ and shall be issued pursuant to the authority contained in section 163(b) of the Act, incorporating 15 U.S.C. 49.

(d) *Timely submission of evidence.* The ALJ shall not permit the introduction at the hearing of any documentation if such documentation has not been made available for review by the other parties to the proceeding either at the time ordered for any prehearing conference, or, in the absence of such an order, at least 3 weeks prior to the hearing date.

(e) *Burden of production.* The Grant Officer shall have the burden of production to support her or his decision. To this end, the Grant Officer shall pre-

pare and file an administrative file in support of the decision which shall be made part of the record. Thereafter, the party or parties seeking to overturn the Grant Officer's decision shall have the burden of persuasion.

**§ 627.803 Relief.**

In ordering relief, the ALJ shall have the full authority of the Secretary under section 164 of the Act.

**§ 627.804 Timing of decisions.**

The ALJ should render a written decision not later than 90 days after the closing of the record.

**§ 627.805 Alternative dispute resolution.**

(a) Parties to a complaint under § 627.801 of this part. Procedures for filing a request for hearing, may choose to waive their rights to an administrative hearing before the OALJ by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ may be revoked if a settlement has not been reached or a decision has not been issued within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to section 166(b) of the Act.

**§ 627.806 Other authority.**

Nothing contained in this subpart shall be deemed to prejudice the separate exercise of other legal rights in pursuit of remedies and sanctions available outside the Act.

**Subpart I—Transition Provisions**

**§ 627.900 Scope and purpose.**

(a) Regulations set forth at parts 626, 627, 628, 629, 630, 631, and 637 of 20 CFR

## § 627.901

chapter V (1993) were amended, effective December 29, 1992, and were published as an interim final rule to provide planning guidance for States and SDA's on the changes made to the JTPA program as a result of the 1992 JTPA amendments (See 57 FR 62004 (December 29, 1992)). The transition provisions of the regulations were amended on June 3, 1992 (see 58 FR 31472, June 3, 1993). Those regulations and the statutory amendments were effective for the program year beginning July 1, 1993 (PY 1993), and succeeding program years. For PY 1992, JTPA programs and activities shall continue under the regulations set forth at 20 CFR parts 626, 627, 628, 629, 630, 631, and 637 (1992).

(b) In order to provide for the orderly transition to and implementation of the provisions of JTPA, as amended by the 1992 amendments, this subpart I applies to the use of JTPA title II and title III funds allotted by formula to the States. Additional guidance on transition matters may be provided in administrative issuances. The provisions in this subpart are operational during the transition period for implementing the 1992 JTPA amendments.

### § 627.901 Transition period.

The transition period ended June 30, 1993 unless otherwise stated. The intent of the transition period is to complete, to the extent possible, activity begun on or before June 30, 1993 under current policy and regulations and to ensure that all requirements mandated by the 1992 JTPA amendments have been implemented.

### § 627.902 Governor's actions.

The following are actions required to be taken prior to July 1, 1993:

- (a) Review current policies, practices, procedures, and delivery systems to ensure that they conform to the requirements of the amendments;
- (b) Modify the Governor's coordination and special services plan in accordance with instructions issued by the Secretary;
- (c) Ensure that SDAs modify job training plans as necessary;
- (d) Execute a new Governor/Secretary agreement and a new grant agreement;

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(e) Issue procurement standards that comply with the Act and these regulations, as described in § 627.420 of this part, Procurement;

(f) Issue instructions necessary to implement program year 1993 cost categories pursuant to § 627.440 of this part, Classification of costs;

(g) Issue instructions necessary for SDAs to report program expenditures by year of appropriation pursuant to § 627.455 of this part, Reports required;

(h) Certify private industry councils pursuant to § 628.410 of this chapter, Private Industry Council.

### § 627.903 Actions which are at the discretion of the Governor.

(a) Establish a State Human Resource Investment Council (HRIC);

(b) Issue instructions to "grandparent" participants in JTPA programs as of June 30, 1993 for purposes of completing training;

(c) Issue instructions for use of PY 1992 and prior year 6 percent performance standards incentive funds to further develop and implement data collection and management information systems to track the program experience of participants. PY 1993 and subsequent performance standards incentive funds may not be used for this purpose;

(d) Of the Title II and Title III unobligated balance of funds available as of June 30, 1993, any amount may be reprogrammed into PY 1993 activity. The Department believes these amounts will be minimal and not represent a significant proportion of the funds available. Such reprogrammed funds will be subject to requirements contained in JTPA regulations effective July 1, 1993.

### § 627.904 Transition and implementation.

(a) *Review.* The Governor shall conduct a comprehensive review of the current policies, procedures, and delivery systems relating to programs authorized under the Job Training Partnership Act for the purpose of ensuring the effective implementation of the amendments. Such a review shall include consideration of the appropriateness of current SDA designations, the representation on current State and