

§ 641.440

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which they reside, or in nearby communities, that will contribute to the general welfare of the community;

(c) An ability to administer a program that moves eligible participants into unsubsidized employment;

(d) An ability to move participants with multiple barriers to employment into unsubsidized employment;

(e) An ability to coordinate with other organizations at the State and local levels, including the One-Stop Delivery System;

(f) An ability to properly manage the program, including its plan for fiscal management of the SCSEP program;

(g) An ability to minimize program disruption for current participants if there is a change in project sponsor and/or location, and its plan for minimizing disruptions; and

(h) Any additional criteria that the Secretary of Labor deems appropriate in order to minimize disruptions for current participants.

§ 641.440 What are the responsibility conditions that an applicant must meet?

Each applicant must meet each of the listed responsibility “tests” by not having committed any of the acts of misfeasance or malfeasance described in § 641.440(a)–(n) of this section.

(a) The Department has been unable to recover a debt from the applicant, whether incurred by the applicant or by one of its subgrantees or sub-contractors, or the applicant has failed to comply with a debt repayment plan to which it agreed. In this context, a debt is established by final agency action, followed by three demand letters to the applicant, without payment in full by the applicant.

(b) Established fraud or criminal activity of a significant nature within the applicant’s organization.

(c) Serious administrative deficiencies identified by the Department, such as failure to maintain a financial management system as required by Federal regulations.

(d) Willful obstruction of the auditing or monitoring process.

(e) Failure to provide services to applicants as agreed to in a current or recent grant or to meet applicable performance measures.

(f) Failure to correct deficiencies brought to the grantee’s attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

(g) Failure to return a grant closeout package or outstanding advances within 90 days after the grant expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted.

(h) Failure to submit required reports.

(i) Failure to properly report and dispose of Government property as instructed by the Department.

(j) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(k) Failure to ensure that a subgrantee complies with applicable audit requirements, including OMB Circular A–133 audit requirements specified at 20 CFR 667.200(b) and § 641.821.

(l) Failure to audit a subgrantee within the period required under § 641.821.

(m) Final disallowed costs in excess of five percent of the grant or contract award if, in the judgment of the Grant Officer, the disallowances are egregious findings.

(n) Failure to establish a mechanism to resolve a subgrantee’s audit in a timely fashion.

§ 641.450 Are there responsibility conditions that alone will disqualify an applicant?

(a) Yes, an applicant may be disqualified if either of the first two responsibility tests listed in § 641.440 is not met.

(b) The remainder of the responsibility tests listed in § 641.440 require a substantial or persistent failure (for 2 or more consecutive years).

(c) The second responsibility test addresses “fraud or criminal activity of a significant nature.” The existence of significant fraud or criminal activity will be determined by the Department and typically will include willful or grossly negligent disregard for the use, handling, or other fiduciary duties of Federal funding where the grantee has no effective systems, checks, or safeguards to detect or prevent fraud or criminal activity. Additionally, significant fraud or criminal activity will