

(2) All shared costs shall be allocated among the contributing funding sources on the basis of benefits received.

### Subpart D—Local Service Delivery System

#### § 628.400 Scope and purpose.

This subpart sets forth requirements for the selection of service delivery areas, the establishment and responsibilities of the private industry council, and the selection of the SDA grant recipient and administrative entity. This subpart also contains the requirements for the local job training plan as well as the procedures for its review and approval by the State.

#### § 628.405 Service delivery areas.

(a)(1) The Governor, after receiving recommendations from the SJTCC, shall designate SDA's within the State in accordance with the provisions of section 101 of the Act.

(2) SDA's may not be designated by the Governor more frequently than once every two years, and such designations shall be made to coincide with the two-year plan cycle for the GCSSP and local job training plans (*i.e.*, the designation cannot be made for an off-year in this cycle).

(3) Each request for designation as an SDA shall be submitted in a form and by a date established by the Governor. The procedures established by the Governor shall provide for the treatment of existing SDA's for the purposes of submitting SDA designation requests.

(b)(1) The Governor shall approve SDA designation requests from entities with a population of 200,000 or more that satisfy the criteria specified in section 101(a)(4)(A) of the Act.

(2) When there are competing applications under paragraph (b)(1) of this section for the same geographic area, the Governor shall designate the entity with the population closest to 200,000, if the remaining reduced area also continues to satisfy the criteria specified in section 101(a)(4)(A) of the Act. The Governor shall offer to designate the remaining reduced area as an SDA as well.

(3) When there are competing applications under paragraph (b)(1) of this

section for the same geographic area and the designation of the entity with the population closest to 200,000 would have the effect of reducing the population of the competing entity to below a population of 200,000, the Governor has the discretion to determine which request to honor.

(d) The Governor may, in accordance with section 101(a)(4)(B) of the Act, approve a request to be a SDA from any unit, or contiguous units, of general local government, without regard to population, which serves a substantial portion of a labor market area. In making such designations, the Governor shall evaluate the degree to which a proposed service delivery area meets criteria established by the Governor which, at a minimum, shall include:

(1) The capability to effectively deliver job training services;

(2) The capacity to administer the job training program in accordance with the Act, applicable rules and regulations and State standards; and

(3) The portion of a labor market to be served.

(e) For the purposes of SDA designations under section 101(a)(4)(A) and (B) of the Act, the term "substantial part" and "substantial portion" of a labor market area shall be defined by the Governor, but shall not be less than 10% of the population of a labor market area.

(f) All areas within the State shall be covered by designated SDA's. After honoring all requests for designation from eligible entities under section 101(a)(4)(A) of the Act, and making any qualified discretionary designations under section 101(a)(4)(B) of the Act, the Governor shall include uncovered areas in the State within other designated SDA's willing to accept them or within a State administered SDA.

(g) *Appeals.* (1) Only an entity which meets the requirements of section 101(a)(4)(A) of the Act for designation as a service delivery area, but which has had its request to be an SDA denied, may appeal the Governor's denial of service delivery area designation to the Secretary of Labor.

(2) Appeals made pursuant to paragraph (g)(1) of this section shall be submitted by certified mail, return receipt