

## Employment and Training Administration, Labor

## § 628.410

requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(3) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(4) The appealing party shall explain why it believes the denial is contrary to the provisions of section 101 of the Act.

(5) The Secretary shall accept the appeal and make a decision only with regard to whether or not the denial is inconsistent with section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after receipt of the appeal (section 101(a)(4)(C)).

(6) The Secretary shall notify the Governor and the appellant in writing of the Secretary's decision.

### § 628.410 Private Industry Council.

(a) *Certification of the PIC.* (1) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to section 102 of the Act.

(2) The Governor shall review the certification of the PIC biennially, one year prior to the effective date of the 2-year SDA job training plan to the Governor. The Governor's review shall include:

(i) The PIC composition, which shall be consistent with section 102(a), (b), (c), and (d) of the Act and shall include the names of individuals nominated and their qualifications;

(ii) The nomination process;

(iii) The written agreement(s) among the appropriate chief elected official(s) and the PIC, including procedures for the development of the SDA job training plan and the selection of the grant recipient and administrative entity.

(3) The chief elected official shall select labor representatives for the PIC from individuals recommended by recognized State and local labor federations. For purposes of this section, a labor federation is an alliance of two or more organized labor unions for the purpose of mutual support and action.

An example of a recognized labor federation is the AFL-CIO.

(b) *Responsibilities of the PIC.* Pursuant to section 103 of the Act, the PIC shall:

(1) Provide policy and program guidance for all activities under the job training plan for the SDA;

(2) In accordance with agreements negotiated with the appropriate chief elected official(s), determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA;

(3) *Independent oversight.* As specified in subpart D of part 627 of this chapter, the PIC shall exercise independent oversight over programs and activities under the job training plan, which oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA;

(4) Be a party to the designation of substate grantees under title III, as set forth in §631.35 of this chapter;

(5) Establish guidelines for the level of skills to be provided in occupational skills training programs funded by the administrative entity;

(6) Consult with the Governor on agreements to provide services for older individuals under section 204(d) of the Act;

(7) Establish youth and adult competency levels consistent with performance standards established by the Secretary, based on such factors as entry level skills and other hiring requirements, in consultation with educational agencies and, where appropriate, with representatives of business, organized labor and community-based organizations pursuant to section 106(b)(5) and 107(d); and

(8) Identify occupations for which there is a demand in the area served.

(c) *Substate plan.* The PIC shall be provided the opportunity to review and comment on a substate grantee plan under title III of the Act prior to the submission of such plan to the Governor (section 313(a)).

(d) [Reserved]

(e) The State Employment Service agency shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components

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of the plans required under the Wagner-Peyser Act which are applicable to the SDA. (See part 652 of this chapter).

(f) *Single SDA States.* (1) In any case in which the service delivery area is a State, the SJTCC or a portion of the SJTCC may be reconstituted as a PIC if the PIC meets the requirements of section 102(a) of the Act.

(2) When the service delivery area is a State and the functions of the SJTCC are embodied in the HRIC, the HRIC or a portion of the HRIC may be reconstituted as a PIC if the requirements for private sector business representation at section 102(a)(1) of the Act are met (section 102(h)).

**§ 628.415 Selection of SDA grant recipient and administrative entity.**

(a) *Selection of SDA grant recipient.* (1) The SDA grant recipient and the entity to administer the SDA's job training plan for title II, developed pursuant to section 104 of the Act, shall be selected by agreement of the PIC and chief elected official(s) of the SDA. These may be the same or different entities.

(2) The specific functions and responsibilities of the entities described in paragraph (a)(1) of this section shall be spelled out in the agreement between the PIC and the chief elected official(s), and shall specifically address the provisions of section 141(i) of the Act (section 103(b)(1)).

(b) *Subrecipient requirements.* (1) The Governor may establish requirements pertaining to subrecipient, including SDA grant recipient, responsibility for JTPA funds.

(2) The requirements of paragraph (b)(1) of this section shall not preclude the selection of any entity identified in section 103(b) of the Act as SDA grant recipient.

**§ 628.420 Job training plan.**

(a) The Governor shall issue instructions and schedules to assure that job training plans and plan modifications for SDA's within the State conform to all requirements of the Act.

(b) The Governor's instructions for development of the SDA's job training plan shall require that the plan contain the following information:

(1) A complete and detailed discussion of the elements found in section

104(b) of the Act, including goals for the training and training related placement of women in nontraditional employment and apprenticeships;

(2) A discussion of the SDA's compliance with the Secretary's program goals, as outlined in the planning guidance provided to the Governor; and

(3) An oversight plan for the SDA which includes: (i) A description of the oversight activities of the PIC and the chief elected official(s), and (ii) the SDA administrative entity's monitoring plan which includes the Governor's monitoring requirements for service providers.

(c) The Governor may also require that the SDA job training plan contain a capacity building and technical assistance strategy that includes plans for designating capacity building as a staff function, assessing local capacity building needs, and developing and participating in computerized communication mechanisms.

(d) The SDA job training plan shall be jointly approved and jointly submitted to the Governor by the PIC and the chief elected official(s) (section 103(d)).

(e) *Modifications.* (1) Any major modification to the SDA job training plan shall be jointly approved and jointly submitted by the PIC and chief elected official(s) of the SDA to the Governor for approval.

(2) For the purposes of this section, the circumstances which constitute a "major" modification shall be specified by the Governor.

**§ 628.425 Review and approval.**

(a) *Standards and procedures.* The Governor shall establish standards and procedures for the review and approval or disapproval of the SDA job training plan and plan modifications that shall be provided to the SDA's at the same time as the instructions and schedules for preparation of the plans are provided.

(b) *Plan approval.* Except when the Governor makes a finding under the provisions of section 105(b)(1) of the Act, the Governor shall approve the SDA job training plan or plan modification. The notice of approval shall be provided in writing to the chief