

§ 628.415

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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

elected official(s) and to the private industry council.

§ 628.426 Disapproval or revocation of the plan.

(a) If the Governor disapproves the SDA job training plan or plan modification for any reason, the Governor shall notify the PIC and chief elected official(s) for the SDA in writing as provided in section 105(b)(2) of the Act.

(b) If the Governor disapproves the SDA job training plan or plan modification, the Governor shall provide the PIC and the chief elected official(s) for the SDA 30 days to correct the deficiencies and resubmit the plan or plan modification. Within 15 days after the plan or plan modification is resubmitted, the Governor shall make a final decision and shall notify the PIC and the appropriate chief elected official(s) of the SDA in writing of the final disapproval or approval.

(c) *Governor mediation.* If the PIC and the appropriate chief elected official(s) of an SDA are unable to reach an agreement under the provisions of section 103 (b)(1) or (d) of the Act, any such party may request the Governor to mediate.

(d) *Failure to reach agreement.* If the PIC and the chief elected official(s) fail to reach the required agreements in section 103 (b)(1) or (d) of the Act, funds may not be made available to an SDA under section 104 of the Act and the Governor shall merge the affected area into one or more other existing service delivery areas (section 105(c)(1)).

(e) *Appeals.* (1) In accordance with section 105(b)(2) of the Act, any final disapproval by the Governor of the SDA job training plan or modification may be appealed by the PIC and chief elected official(s) of the SDA to the Secretary.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt by the PIC and chief elected official(s) of the final disapproval of the SDA job training plan or modification from the Governor.

(3) The Secretary shall accept an appeal under paragraph (e)(1) of this section and shall determine only whether the disapproval is clearly erroneous under section 105(b)(1) of the Act. The Secretary may consider any comments

submitted by the Governor. In accordance with section 105(b)(2) of the Act, the Secretary shall make a final decision within 45 days after the appeal is received by the Secretary.

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

(f) *Appeals of plan revocations.* Pursuant to section 164(b)(1) of the Act, a notice of intent to revoke approval of all or part of a plan may be appealed to the Secretary. Such appeals shall be treated as a disapproval under paragraphs (c) and (e) of this section, except that the revocation shall not become effective until the later of:

(1) The time for appeal under paragraph (e) of this section has expired; or

(2) The date on which the Secretary issues a decision affirming the revocation.

(g) In the event that a plan is disapproved and the Governor's decision is upheld upon appeal, the Governor shall merge the affected area into other designated SDA's willing to accept it or include it in another SDA within the State.

§ 628.430 State SDA Submission.

(a) Pursuant to section 105(d) of the Act, when the SDA is the State, the Governor shall submit to the Secretary, not less than 60 days before the beginning of the first of the two program years covered by the job training plan and in accordance with instructions issued by the Secretary, an SDA job training plan covering two program years. When the SDA is the State, modifications to the plan shall be submitted to the Secretary for approval.

(b) When a State submits an SDA job training plan or plan modification pursuant to paragraph (a) of this section, the Secretary shall review the plan or plan modification for overall compliance with the provisions of the Act. The State's plan shall be considered approved unless, within 45 days of receipt of the submission described in paragraph (a) of this section, the Secretary notifies the Governor in writing of inconsistencies between the submission and requirements of specific provisions of the Act. If the plan or plan modification is disapproved, the Governor may appeal the decision by requesting a