

## Employment and Training Administration, Labor

## § 631.32

(ii) The Governor may, under exceptional circumstances, authorize rapid response assistance provided by a State dislocated worker unit when the layoff is less than 50 or more individuals, is not at a single site of employment, or does not take place during a single 30 day period. For purposes of this provision, *exceptional circumstances* include those situations which would have a major impact upon the community(ies) in which they occur (section 314(b)).

(c) *Labor-management committees*. As provided in sections 301(b)(1) and 314(b)(1)(B) of the Act, labor-management committees are a form of rapid response assistance which may be voluntarily established to respond to actual or prospective worker dislocation.

(1) Labor management committees ordinarily include (but are not limited to) the following:

(i) Shared and equal participation by workers and management, with members often selected in an informal fashion;

(ii) Shared financial participation between the company and the State, using funds provided under Title III of the Act, in paying for the operating expenses of the committee; in some instances, labor union funds may help to pay committee expenses;

(iii) A chairperson, to oversee and guide the activities of the committee who—

(A) Shall be jointly selected by the labor and management members of the committee;

(B) Is not employed by or under contract with labor or management at the site; and

(C) Shall provide advice and leadership to the committee and prepare a report on its activities;

(iv) The ability to respond flexibly to the needs of affected workers by devising and implementing a strategy for assessing the employment and training needs of each dislocated worker and for obtaining the services and assistance necessary to meet those needs;

(v) A formal agreement, terminable at will by the workers or the company management, and terminable for cause by the Governor; and

(vi) Local job identification activities by the chairperson and members of

the committee on behalf of the affected workers.

(2) Because they include employee representatives, labor-management committees typically provide a channel whereby the needs of eligible dislocated workers can be assessed, and programs of assistance developed and implemented, in an atmosphere supportive to each affected worker. As such, committees must be perceived to be representative and fair in order to be most effective.

### § 631.31 Monitoring and oversight.

The Governor is responsible for monitoring and oversight of all State and substate grantee activities under this part. In such monitoring and oversight of substate grantees, the Governor shall ensure that expenditures and activities are in accordance with the substate plan or modification thereof, and with the cost limitations described in § 631.14 of this part.

### § 631.32 Allocation of funds by the Governor.

Of the funds allotted to the Governor by the Secretary under §§ 631.11 and 631.12 of this part:

(a) The Governor shall issue allocations to substate grantees, the sum of which shall be no less than 50 percent of the State's allotment (section 302(d)).

(b)(1) The Governor shall prescribe the formula to be used in issuing substate allocations required under paragraph (a) of this section to substate grantees.

(2) The formula prescribed pursuant to paragraph (b)(1) of this section shall utilize the most appropriate information available to the Governor. In prescribing the formula, the Governor shall include (but need not be limited to) the following information:

(i) Insured unemployment data;

(ii) Unemployment concentrations;

(iii) Plant closing and mass layoff data;

(iv) Declining industries data;

(v) Farmer-rancher economic hardship data; and

(vi) Long-term unemployment data.

(3) The Governor may allow for an appropriate weight for each of the formula factors set forth in paragraph

(b)(2) of this section. A weight of zero for any of the factors required in section 302(d) of the Act and identified in paragraph (b)(2) of this section shall only be made when a review of available data indicates that the factor is not relevant to determining the incidence of need for worker dislocation assistance within the State. The formula may be amended no more frequently than once each program year (section 302(d)).

(c) The Governor may reserve an amount equal to not more than 40 percent of the funds allotted to the State under § 631.11 and § 631.12 of this part for State activities and for discretionary allocations to substate grantees (section 302(c)(1)).

(d) The Governor may reserve an additional amount equal to not more than 10 percent of the funds allotted to the State under § 631.11 of this part. The Governor shall allocate such funds, subject to the SJTCC or HRIC review and comment, during the first three quarters of the program year among substate grantees on the basis of need. Such funds shall be allocated to substate grantees and shall not be used for statewide activities. Such funds shall be included in each substate grantee's allocation for purposes of cost limitations, as described in § 631.14 of this part (sections 302(c)(2) and 317(1)(B)).

**§ 631.33 State procedures for identifying funds subject to mandatory Federal reallocation.**

The Governor shall establish procedures to assure the equitable identification of funds required to be reallocated pursuant to section 303(b) of the Act. Funds so identified may be funds reserved by the State pursuant to section 302(c)(1)(A) through (D) of the Act and/or allocated to substate grantees pursuant to section 302(c)(1)(E), (c)(2) and/or (d) of the Act (section 303(d)). Such procedures may not exempt either State or substate funds from reallocation.

**§ 631.34 Designation of substate areas.**

(a) The Governor, after receiving recommendations from the SJTCC or HRIC, shall designate substate areas for the State (section 312(a)).

(b) In designating substate areas, the Governor shall:

(1) Ensure that each service delivery area within the State is included within a substate area and that no SDA is divided among two or more substate areas; and

(2) Consider the availability of services throughout the State, the capability to coordinate the delivery of services with other human services and economic development programs, and the geographic boundaries of labor market areas within the State.

(c) Subject to paragraph (b) of this section, the Governor shall designate as a substate area:

(1) Any single SDA that has a population of 200,000 or more;

(2) Any two or more contiguous SDA's that:

(i) In the aggregate have a population of 200,000 or more; and

(ii) Request such designation; and

(3) Any concentrated employment program grantee for a rural area as described in section 101(a)(4)(A)(iii) of the Act.

(d) In addition to the entities identified in paragraph (c) of this section, the Governor may, without regard to the 200,000 population requirement, designate SDAs with smaller populations as substate areas.

(e) The Governor may deny a request for substate area designation from a consortium of two or more SDAs that meets the requirements of paragraph (c)(2) of this section only upon a determination that the request is not consistent with the effective delivery of services to eligible dislocated workers in the relevant labor market area, or would otherwise not be appropriate to carry out the purposes of title III. The Governor will give good faith consideration to all such requests by a consortium of SDAs to be a substate area. In denying a consortium's request for substate area designation, the Governor shall set forth the basis and rationale for the denial (section 312(a)(5)).

(f) In the case where the service delivery area is the State, the entire State shall be designated as a single substate area.

(g)(1) Entities described in paragraphs (c)(1) and (3) of this section may