

recommendations of Local Boards and provider, and for providing an opportunity for public comment.

(2) The procedure must be described in the State Plan.

(3)(i) The procedure must require that the provider must submit an application to the Local Board at such time and in such manner as may be required, which contains a description of the program of training services;

(ii) If the provider provides a program of training services on the date of application, the procedure must require that the application include an appropriate portion of the performance information and program cost information described in §663.540, and that the program meet appropriate levels of performance;

(iii) If the provider does not provide a program of training services on that date, the procedure must require that the provider meet appropriate requirements specified in the procedure. (WIA sec. 122(b)(2)(D).)

(d) The Local Board must include providers that meet the requirements of paragraphs (b) and (c) of this section on a local list and submit the list to the designated State agency. The State agency has 30 days to determine that the provider or its programs do not meet the requirements relating to the providers under paragraph (c) of this section. After the agency determines that the provider and its programs meet(s) the criteria for initial eligibility, or 30 days have elapsed, whichever occurs first, the provider and its programs are initially eligible. The programs and providers submitted under paragraph (b) of this section are initially eligible without State agency review. (WIA sec. 122(e).)

**§ 663.530 Is there a time limit on the period of initial eligibility for training providers?**

Yes, under WIA section 122(c)(5), the Governor must require training providers to submit performance information and meet performance levels annually in order to remain eligible providers. States may require that these performance requirements be met one year from the date that initial eligibility was determined, or may require all eligible providers to submit per-

formance information by the same date each year. If the latter approach is adopted, the Governor may exempt eligible providers whose determination of initial eligibility occurs within six months of the date of submissions. The effect of this requirement is that no training provider may have a period of initial eligibility that exceeds eighteen months. In the limited circumstance when insufficient data is available, initial eligibility may be extended for a period of up to six additional months, if the Governor's procedures provide for such an extension.

**§ 663.535 What is the process for determining the subsequent eligibility of a provider?**

(a) The Governor must develop a procedure for the Local Board to use in determining the subsequent eligibility of all eligible training providers determined initially eligible under §663.515 (b) and (c), after:

(1) Soliciting and taking into consideration recommendations from Local Boards and providers of training services within the State;

(2) Providing an opportunity for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure; and

(3) Designating a specific time period for soliciting and considering the recommendations of Local Boards and providers, and for providing an opportunity for public comment.

(b) The procedure must be described in the State Plan.

(c) The procedure must require that:

(1) Providers annually submit performance and cost information as described at WIA section 122(d)(1) and (2), for each program of training services for which the provider has been determined to be eligible, in a time and manner determined by the Local Board;

(2) Providers and programs annually meet minimum performance levels described at WIA section 122(c)(6), as demonstrated utilizing UI quarterly wage records where appropriate.

(d) The program's performance information must meet the minimum acceptable levels established under paragraph (c)(2) of this section to remain eligible;

(e) Local Boards may require higher levels of performance for local programs than the levels specified in the procedures established by the Governor. (WIA sec.122(c)(5) and (c)(6).)

(f) The State procedure must require Local Boards to take into consideration:

(1) The specific economic, geographic and demographic factors in the local areas in which providers seeking eligibility are located, and

(2) The characteristics of the populations served by programs seeking eligibility, including the demonstrated difficulties in serving these populations, where applicable.

(g) The Local Board retains those programs on the local list that meet the required performance levels and other elements of the State procedures and submits the list, accompanied by the performance and cost information, and any additional required information, to the designated State agency. If the designated State agency determines within 30 days from the receipt of the information that the program does not meet the performance levels established under paragraph (c)(2) of this section, the program may be removed from the list. A program retained on the local list and not removed by the designated State agency is considered an eligible program of training services.

**§ 663.540 What kind of performance and cost information is required for determinations of subsequent eligibility?**

(a) Eligible providers of training services must submit, at least annually, under procedures established by the Governor under § 663.535(c):

(1) Verifiable program-specific performance information, including:

(i) The information described in WIA section 122(d)(1)(A)(i) for all individuals participating in the programs of training services, including individuals who are not receiving assistance under WIA section 134 and individuals who are receiving such assistance; and

(ii) The information described in WIA section 122(d)(1)(A)(ii) relating only to individuals receiving assistance under the WIA adult and dislocated worker program who are participating in the applicable program of training services; and

(2) Information on program costs (such as tuition and fees) for WIA participants in the program.

(b) Governors may require any additional verifiable performance information (such as the information described at WIA section 122(d)(2)) that the Governor determines to be appropriate to obtain subsequent eligibility, including information regarding all participating individuals as well as individuals receiving assistance under the WIA adult and dislocated worker program.

(c) Governors must establish procedures by which providers can demonstrate if the additional information required under paragraph (b) of this section imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information. If, through these procedures, providers demonstrate that they experience such extraordinary costs:

(1) The Governor or Local Board must provide access to cost-effective methods for the collection of the information; or

(2) The Governor must provide additional resources to assist providers in the collection of the information from funds for Statewide workforce investment activities reserved under WIA sections 128(a) and 133(a)(1).

(d) The Local Board and the designated State agency may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 from a provider for purposes of enabling the provider to fulfill the applicable requirements of this section, if the information is substantially similar to the information otherwise required under this section.

**§ 663.550 How is eligible provider information developed and maintained?**

(a) The designated State agency must maintain a list of all eligible training programs and providers in the State (the "State list").