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Folder Title:
CBFL [Coalition for Barrier Free Living] Proposal (2) [1978-1980]

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Handicapped speakers make their point

By GEORGE FLYNN
Post Reporter

The ears were deaf but the eyes were listening when a community development hearing in Houston City Council chambers turned from handicapped neighborhoods to handicapped bodies this week.

The sight of silent shouting to be heard, and wheelchair maneuvering to the speaker's stand, appeared to have a noticeable impact on city councilmen evaluating the projected \$76.7-million federal funding package for reforms.

A Wednesday session began with a man quietly reversing his chair, back to the council table, and waiting for the gavel to bring the meeting to order.

As the first speaker began, his words — but not the noise — were repeated by the seated man with highly exaggerated mouth and facial expressions.

His audience was a small section of the crowd of 200,

intently following the exchanges by reading his lips.

Another interpreter, Carol Taylor of the 700 block of Rutland, assisted with sign language.

The hearing moved on for longer than an hour, with some 30 residents taking councilmen on a verbal route through their depressed communities. Each had similar problems of drainage, poor streets and decay which funding would improve, they said.

Every phase uttered moved through the twisting faces and flickering hands of the interpreters and on to those watching. Speakers' animation would occasionally spark smiles on those with hearing, and seconds later the understanding grins of the deaf would follow.

Then their turn came, with pleas for the City Council to endorse the budgeted plans for a community center for the handicapped.

"These people are starved," said Van Gunn of the 1800 block of McDuffie, who had been assisting with the

lip reading. "They are tired and frustrated — agencies can't give them the decent help they need.

"Think about that handicap that nobody sees."

Gunn was raised by deaf parents and told of increasing frustration in trying to answer the questions and aid those without hearing.

Dr. Ralph Guertin, a member of the State Commission for the Deaf, lost his hearing at age 7. He said it was vital that the handicapped have a place to congregate, and Guertin spoke of the loneliness of even parties with regular conversation.

"Do you realize a deaf person can be alone, even in a room full of people?" he asked.

Carol Taylor said services for the deaf are so scattered it took her a year to get the proper contacts for assistance for friends. "I refused to believe what was happening," she added.

Joining them were wheelchair-bound persons of the Coalition for Barrier Free Living.

with council

Bob Geyer urged councilmen to continue improvements which began with some wheelchair ramps and better accessibility on the transit system. Those blind, deaf or otherwise impaired are estimated to be about 10 percent of the population, he said.

The speakers and other handicapped persons began their efforts for a community center in the initial planning stages for the next three years of funding for community development.

The proposal calls for \$3 million to be spent for a community building to be located in the area of Montrose, Hermann Park or Binz. It would contain educational, office, recreational and meeting space. They would like it to also include model living areas where the handicapped can be trained to live in independent settings.

The City Council is studying the proposed budget and must pass or revise it within a month for submittal to Washington.

COALITION FOR BARRIER FREE LIVING
BACKGROUND INFORMATION

The Coalition for Barrier Free Living is a non-profit tax exempt corporation established under Texas Law in April 1975.

Housed at 2809 Main St., P.O. Box 20803, Houston 77025, CBFL is directed by a seventeen member board which includes six elected officers and eleven additional elected directors. There are twelve standing committees: 1) Architectural Barriers, 2) Transportation, 3) Housing, 4) Employment, 5) Social Action, 6) Fund Raising, 7) Public Relations, 8) Consumer and Medical Affairs, 9) Membership, 10) Education, 11) Hearing Impaired, 12) Visually Impaired.

The membership consists of individuals with various disabilities including orthopedic, visual, hearing, and mental impairments. Joining together with those interested able-bodied individuals, the CBFL works for the civil rights of the handicapped consumer as well as for the elimination of the architectural and attitudinal barriers in the community. Accomplishments of the CBFL include:

1. Collection of architectural barrier data in the Harris County area resulting in the printing of a booklet "A Guide to Houston for the Handicapped".
2. Presentation of proposal for allocation by Community Development of \$86,000.00 for the elimination of architectural barriers in the downtown Houston area. To date 60 curb cuts have been completed. An additional \$500,000 in Community Development funds has been allocated for the elimination of architectural barriers in 1978 - 79.
3. Proposal to the Office of Public Transportation for the establishment of a door to door wheelchair accessible transportation service leading to the purchase of six wheelchair accessible buses.
Establishment of specific target areas and routes in coordination

with the CBFL transportation committee and the initiation of the Pick-Me-Up Service in October 1977.

4. Receipt of commitment from Office of Public Transportation that all future buses purchased, including 326 on order, will be accessible to the mobility impaired.
5. Receipt of \$1500.00 grant from the Texas Rehabilitation Commission for the modification of a cab for use by the mobility impaired.
6. Organization of leadership conference to establish a regional coalition to include Texas, Arkansas, Louisiana, Oklahoma and New Mexico. Out of this conference was established a communications network among the five states. The Coalition of Texans with Disabilities was established to work on state issues.
7. Presentation of a three million dollar proposal in the 1979-80 Community Development Block Grant Program for a Center for Barrier Free Living. Construction of this Center will enable the handicapped community to have a central geographic location for service and information.
8. Production of two films in conjunction with the Rice University Media Center. "Wheeling and Dealing in Houston" was written, filmed and edited by Handicapped individuals. This film was instrumental in the CBFL's attainment of concessions from the Office of Public Transportation for accessible transportation. "You Can Get It If You Really Want It" illustrates the benefits which can be obtained by joining together in a coalition. Both films are in super-8mm color sound.
9. Employment of a full-time professional editor under the Comprehensive Education Training Act for the CBFL's newspaper "Freewheeling".
10. Consumer input in the yearly Houston Job Fair for the Handicapped. Presentation of awareness program for employers.

11. Acquisition of two full-time staff persons from the VISTA volunteer program.
12. Presentation of a \$100,000.00 proposal for a demographic study of the handicapped population in the Harris County Area. A Task Force on the Handicapped was formed to implement this study.
13. Declaration of a yearly Mobility Awareness Week in the Houston Area.

Ongoing projects of the CBFL include:

1. Information and Referral
2. Public Awareness - Education
 - a. General Public
 - b. Handicapped Community
 - c. Advocacy

The Coalition is expanding its membership daily and is bringing together all organizations and their members to effect change for the whole handicapped community.

Coalition For Barrier Free Living

P. O. Box 20803

Houston, Texas 77025

(713)

~~654-1207~~
654-1207

Lex Frieden/LB

FROM: Lex Frieden, Chairperson
Handicapped Planning Committee

DATE: September 12, 1978

SUBJECT: Handicapped Planning Committee

The Handicapped Center Planning Committee held its first meeting Wednesday September 6, 1978. The following people attended:

Bob Kafka - Texas Paralyzed Veterans	
Joe Kramberg - Texas Rehab. Commission	526-8511
Jules Dedeaux - Human Resources Dept., City of Houston	222-3814
Larry Roger - Easter Seals Society	526-1651
Lynn Borker - Community Development, City of Houston	222-5501
Betty A. Webb - Parks & Recreation Dept., City of Houston	641-4111 or 222-5525
Frank A. Borreca - Center for the Retarded, Inc.	528-6371
William A. Spencer - TIRR	790-9121
Mary Ellen Heltzer - CBFL	526-1651
Carol Lustgarten - CBFL	523-6453
Bob Geyer - CBFL	522-3955
Lex Frieden - CBFL	797-1440 X504

Lex Frieden with the Coalition for Barrier Free Living (CBFL) was elected chairperson.

The planning committee decided to break up into three sub-committees. Individuals in attendance picked the sub-committee which he/she wanted to work on. Absent members were assigned to a committee by the chairperson. The following are the sub-committees designated:

Site Selection Criteria/Site Selection:

Chairperson - Bob Geyer
Lynn Borker - Community Development
Shirley Price - NASAU, EEOC
Lex Frieden - CBFL

The purpose of this committee is to outline site selection criteria and to investigate sites which meet such criteria.

Legal Sub-Committee:

Chairperson - Dr. William Spencer - TIRR
Jules Dedeaux - Human Resources Dept., City of Houston
Frank Borreca - Harris County Center for the Retarded
Glen Hall - Blind Representative *didn't show*

The purpose of this sub-committee is to formulate legal questions which relate to the operation and maintenance of the center. These questions will then be sent to the City's Legal Department for clarification. Questions which were previously formulated regarding the center are attached. (Attachment I)

Structural/Program Mix Sub-Committee:

Chairperson - Bob Kafka - CBFL
Terry Smith (Joe Kramberg) - Texas Rehab. Commission
Betty Webb - Parks Department, City of Houston
Dr. Lufborrow - Goodwill Industries

David Naumann - Deaf Representative

Larry Rogers - Easter Seals Society

Mike Loftin - Citizens Assistance Division, City of Houston

The purpose of this sub-committee is to outline a range of services to be provided in the center.

It was decided that no person has to work on only one committee. If you wish to work on another committee you should contact the chairperson of the committee.

Before the next meeting, which will be on October 12, 1978 at 10:00 a.m., at the Easter Seals Society, 3630 W. Dallas, each sub-committee should prepare a progress report.

Also attached please find the Community Development legislation which relates specifically to the center for the handicapped. (Attachment II)

Citizen participation was discussed. It was decided that the Community Development Division's citizen participation structure would be utilized for inner-city input. Meetings with civic clubs would be held in surrounding areas. It was generally felt that it would be too expensive and too time consuming to hold meetings as the MTA board did.

It was decided that the planning committee would be flexible in adding new members. Anyone can suggest a new member and the whole committee will decide if that person should be included.

A study on handicapped persons will also be conducted by the Community Development Division. The results of that survey will be utilized for planning the center.

ATTACHMENT I

In meeting with the Coalition certain issues were raised which could not be answered by the division and for which a legal opinion is sought

- o Who must hold title to the building; i.e., the City of a private non-profit organization who will also operate the building?
- o If the City holds title and leases the property to a private non-profit corporation, who insures the building (both for personal and property damages)?
- o If the City holds title, what restrictions might be placed on the building to insure proper maintenance and repair?
- o If the City holds title, what restrictions would be placed on the actual operation of the building?
- o If the City holds title, is the property tax exempt?
- o If the City holds title, must fair market rent be charged or can it be leased at \$1 a year to a private non-profit sponsor?
- o If the City does not hold title, who may hold title; i.e., a private, non-private, a limited profit organization, etc.?
- o If the City does not hold title, are taxes assessed?
- o If the City does not hold title, must the service providers be committed before the building is built?
- o If so, at what level 100%, 80%?
- o If the building is not used properly or does not provide adequate access for all sectors of the population, can the City break the contract with the private non-profit sponsor?
- o If a contract is negotiated to lease the building, what length of time will the contract entail?

See file

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM:

CLARIFICATION OF ELIGIBLE ACTIVITIES

UNDER FINAL RULES PUBLISHED MARCH 1, 1978

The Housing and Community Development Act of 1977

(P.L. 95-128) authorized and amended the Community Development Block Grant Program of 1974. On March 1, 1978, the Department of Housing and Urban Development published final rules implementing the Act (24 C.F.R. Part 570; 43 F.R. 8434, 8450 and 8476). These final regulations, at Subpart C, set forth the eligible activities for which Community Development Block Grant (CDBG) funds may be used. These final rules reflect several major changes in HUD's approach to the use of CDBG funds by private non-profit groups, such as centers for the handicapped which includes most rehabilitation facilities.

In reviewing these rules it must be remembered that meeting the eligible activity criteria does not automatically render a proposed project eligible for CDBG funds. The total community development plan application submitted by the unit of local government must meet several other requirements of the Act. Eligible activities proposed to be included in the plan must be shown to benefit principally low and moderate income persons, or prevent or eliminate slums and blight. Therefore, in seeking Community Development Block Grant

funds, when an activity is questioned by HUD, ARF members should be prepared to demonstrate how their projects will benefit low and moderate income persons. Activities designed to benefit the handicapped are presumed by HUD to benefit low and moderate income persons unless there is evidence to the contrary. Community-wide facilities designed for low and moderate income persons outlined at Section 570.302(d)(2)(iv) which includes most centers for the handicapped meet these program benefit standards.

The specific eligible activities for which centers for the handicapped are eligible, whether private or nonprofit, are, in order of the regulations:

1. Publicly-owned centers for the handicapped,
Section 570.201(c)).

The term "centers for the handicapped," is defined at Section 570.201(c)(3). Under this section, publicly-owned centers for the handicapped, other than those which are primarily residential, are eligible to receive CDBG funds for any purpose, including acquisition, construction, reconstruction, rehabilitation or improvements. For HUD's purposes, a public facility is a facility the ownership of which is vested in a public body such as a unit of general local government.

2. Public services, (Section 570.201(e)).

Units of general local government may use CDBG funds for the provision of public services. The unit of general

local government may provide these services directly or through private nonprofit agencies, including centers for the handicapped. However, in order for the public services to be eligible to be funded, they must meet several specific criteria outlined in the regulations. Therefore, while centers for the handicapped would be eligible under this section to provide public services, the services must meet five criteria: (1) they must be limited to use in a Neighborhood Strategy Area; (2) they must meet the needs of the neighborhood residents; (3) they must be new services or represent an increase in the level of services provided by state and local funds in the previous year; (4) federal funds must have been applied for and denied; and (5) the services are necessary to support physical development activities.

3. Rehabilitation activities, (Section 570.202(c)).

Under this section, private nonprofit centers for the handicapped are eligible to apply for a loan or grant from the community development authority for two purposes. Centers for the handicapped may use CDBG funds to acquire and rehabilitate buildings for use or resale in the provision of housing only. Secondly, private nonprofit centers for the handicapped may receive rehabilitation financing to provide grants, loans, loan guarantees and interest supplements for the cost of rehabilitation,

refinancing of existing indebtedness, energy conservation, and water and sewer hook up costs. The cost of rehabilitation includes fixing deferred maintenance items, replacing fixtures, and renovation through alterations, additions to, or enhancement of existing structures. The requirement under the previous regulations that the rehabilitation of a property be "incidental to other activities" has been eliminated.

4. Private nonprofit entities - Eligible Activities
(Section 570.204).

This new section constitutes the biggest change in the regulations with respect to the treatment of private nonprofit groups, including centers for the handicapped. Section 570.204(a)(2)(i) defines a private nonprofit entity as:

"any organization, corporation or association duly organized to promote and undertake community development activities on a not-for-profit basis . . ."

The phrase, "duly organized to promote and undertake community development activities," means that a nonprofit group is eligible to participate under this paragraph if it can perform any community development activity outlined as eligible in the regulations. Therefore, any private nonprofit organization meeting the definition of a center for the handicapped set forth in Section 570.201(c)(3) without regard to the nature of ownership is eligible to receive funds under this section.

Section 570.204(b) states that private nonprofit entities may receive funds for the types of activities eligible under section 570.201 (which authorizes acquisition, construction, and rehabilitation authority); Section 570.202 (acquisition and rehabilitation authority) and Section 570.203 (economic development activities). This change means that CDBG funds are available to centers for the handicapped to acquire title to construct and/or rehabilitate facilities.

However, if a privately-owned center for the handicapped uses block grant funds to acquire title to a facility, the center, like a publicly owned center, must be open for use by the general public during all normal hours of operation and may charge only reasonable fees for the use of the facility. Open for use by the general public with regard to centers for the handicapped has been determined by HUD to mean open and available to all individuals seeking the services offered by that facility. For example, a vocational rehabilitation center would accept all referrals for vocational services, but not necessarily social adjustment services. Furthermore, although the facility contained a gymnasium, used as part of the vocational program, it would not be required to be open to other members of the public seeking to use it who are not receiving services for which the facility is primarily designed. Secondly, fees charged for services offered must be reasonable and not result in excluding

low and moderate income persons. The intention in including this qualification is to avoid the creation of selective, essentially private, membership clubs. Reasonable fees charged for services are allowed and may continue to be charged. The majority of fees charged to clients for services delivered are reviewed, reimbursed, and regulated by a third party such as the state vocational rehabilitation program, state workers compensation program, Medicaid, Social Security, Medicare, state mental health programs, or commercial insurers. Those fees charged individuals which fall within the range of fees reimbursed by these third party payors shall be deemed reasonable for CDBG purposes.

AGENDA *Sept 6.*

Introduction

Purpose of Planning Committee

Lynn Borker

Bob Geyer

Introduction of Members

Election of Chairperson *Lix Frieden.*

Guest Speaker: Prof. Tony Santos - Rice University

Discussion of Site Selection Criteria

Bob Geyer
Betty Wiley H. Parks & Recreation
Frank *Rovica Center for Retarded*
Bob Kafka
Carol
Lynn Borker
Larry Rager. *to Rehab Com Gerry Smith*
Joe Kramberg *Human Resources*
Jules Dederauf *TIRR.*
William Spencer
Lix Frieden
Senate 2600.
47 acres.

3 Site Comm. *Bob Geyer*
#

2 Legal Comm. *Dr. Spencer*
#

1 Program & Structure *Bob K*

4 Financing

Meeting I

200 0,0000

Near restaurant drugstore
Near the entrance

Near bus routes

Not on a too busy but still major street

Coat

Grace

Access to freeways

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5046

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2

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2

4/5

call for
research of
buildings

Red Turk
Leo Dawney
Al Article

Start looking for buildings to be restored.

Criteria for old building for renovation

Land around it.

Approach

Level (Stories) ^{2 max}

Door

Modular

Dumbina

More of a Horizontal Building

Accessibility

Research
multi service
center

elderly center
(part minn)

Must
Go
Read
the
before
section



Next Meeting - Lynch Ward.

...rim strategy statement shall

- (i) a brief description of the activity;
- (ii) a brief description of the needs and conditions the activity is designed to address; and
- (iii) a brief description of how the activity will impact upon the needs and conditions which it is designed to address.

(2) *Interim NSA designation.* For those applications submitted during fiscal year 1978, applicants may designate interim NSA's for activities subject to this requirement. An interim NSA is selected by the applicant and designated in the Community Development Program. In determining the size of the NSA, the applicant shall take into account the severity of its problems and the amount of resources to be provided to address those problems. For each area designated as an NSA, the applicant shall include a brief narrative description of its plan for stabilizing and upgrading the area which:

- (i) provides for a combination of physical improvements, necessary public facilities and services, private investment and citizen self-help activities appropriate to the needs of the area; and
- (ii) coordinates public and private investment efforts.

§ 570.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by a public agency, by purchase, lease, donation or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) which is:

- (1) Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth, as determined by the recipient pursuant to State and local laws;

- (2) Appropriate for rehabilitation or conservation activities;

- (3) Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources and scenic areas, the provision of recreational opportunities or the guidance of urban development;

- (4) To be used for the provision of public works, facilities and improvements eligible for assistance under this subpart; or

- (5) To be used for other public purposes, including the conversion of land to other uses where necessary or appropriate to the community development program. Examples include an applicant purchasing land to be used for the development of housing for low- and moderate-income persons, and an applicant which is a central city of a metropolitan area using block

grant funds to purchase houses in a non-impacted suburban jurisdiction in order to provide a wider choice of housing opportunities for central city lower-income residents.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with block grant funds or its retention for public purposes, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.508. Further information regarding disposition is set forth in § 570.813.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of certain publicly owned facilities and improvements. This may include the execution of architectural design features, and similar treatments intended to enhance the esthetic quality of facilities and improvements receiving block grant assistance, such as decorative pavements, railings, sculpture, pools of water and fountains, and other works of art. Public facilities and improvements eligible for assistance under this paragraph include:

- (1) *Senior centers,* but excluding any facility whose primary function is to provide residential accommodations or care on a 24-hour day basis (such as a group home).

- (2) *Parks, playgrounds and other recreational facilities* which are designed for participation, but not spectator facilities such as stadiums.

- (3) *Centers for the handicapped.* The term "center for the handicapped" means any single or multipurpose facility which seeks to assist persons with physical, mental, developmental and/or emotional impairments to become more functional members of the community by providing programs or services which may include, but are not limited to, recreation, education, health care, social development, independent living, physical rehabilitation and vocational rehabilitation; but excluding any facility whose primary function is to provide residential care on a 24-hour a day basis (such as a group home or halfway house). For example, a sheltered workshop would be a single purpose center for the handicapped, and a facility providing several services for the handicapped would be a multipurpose center for the handicapped, both of which are eligible for assistance.

- (4) *Neighborhood facilities.* Such facilities may be of either a single purpose or multipurpose nature and be designed to provide health, social, recreational or similar community services primarily for residents of the neighborhood service area which is either:

- (i) A geographic location within the jurisdiction of a unit of general local

government (but not the entire jurisdiction) designated in comprehensive plans, ordinances or other local documents as a neighborhood or, in a new community as defined in § 570.403(a), a neighborhood, village or similar geographical designation; or

- (ii) An entire unit of general local government or a new community as defined in § 570.403(a) which is under 25,000 population, with the exception of a facility which is designed solely as a communitywide facility in a new community with a currently projected population in excess of 25,000.

(5) *Solid waste disposal facilities,* which are defined as those physical parts of solid waste management systems commencing at and including the site or sites at which publicly or privately owned collection vehicles discharge municipal solid wastes, through the point of ultimate disposal including necessary site improvements and conveying systems, including appropriate fixed and movable equipment including vehicular containers used after the first stage of disposal at transfer stations, but not including the final collections. (i) Such facilities or equipment must be located in or serve areas where other activities included in the Community Development Program are being carried out, such as a NSA. (ii) Equipment and appurtenances used in the initial collection of solid waste are not included among those solid waste disposal facilities eligible for assistance under this Part.

(6) *Fire protection facilities and equipment.* Such facilities and equipment must be located in or serve areas where other activities included in the Community Development Program are being carried out, such as a NSA.

- (i) Fire protection facilities are defined as the land and necessary improvements thereto which are necessary for properly housing and storing fire protection equipment and personnel by a fire protection organization, but not including fire fighting schools and their appurtenances.

- (ii) Fire protection equipment is defined as the appropriate equipment and apparatus which a fire protection organization requires for carrying out a program for protecting property and maintaining the safety and welfare of the public, including emergency medical aid, from the dangers of fire.

(7) *Parking facilities.* Such facilities must be located in or serve areas where other activities included in the Community Development Program are being carried out, such as a NSA.

(8) *Public utilities,* other than water and sewer, which include:

- (i) Facilities necessary for distribution of the utility (but not production or generation, such as electrical generation plants);

- (ii) Buildings and improvements that are an integral part of the utility and

RULES AND REGULATIONS

by appropriate law or ordi-

ly owned historic properties be assisted, including those properties which are otherwise ineligible for assistance under this subpart. However, eligibility is limited only to those costs necessary for rehabilitation, preservation or restoration of the property and not for conversion or expansion of the property for any ineligible use. For example, a city museum serving low- and moderate-income persons, and listed in the National Register may be restored, but the addition of a new wing on the museum could not normally be assisted, unless it were otherwise eligible for assistance pursuant to § 570.203(b).

§ 570.203 Eligible economic development activities.

Grant assistance may be provided for the following development activities which are not otherwise eligible for block grant assistance, which are directed toward the alleviation of physical and economic distress, or the economic development of a new community as described in § 570.403(a) through stimulation of private investment community revitalization, and expansion of economic opportunities for low- and moderate-income persons, and handicapped persons, and which are necessary and appropriate to implement the applicant's strategy for economic development.

The applicant shall provide HUD with a description of the activity, and of the relationship to the applicant's strategy for economic development. In authorizing activities, HUD will take into account the amount of long-term employment to be generated by the activity accessible to low- and moderate-income persons, the necessity of the activity to stimulate private investment, the degree of impact on the economic conditions of the applicant, and the availability of other Federal funds.

(a) *Acquisition.* Acquisition of real property for economic development purposes;

(b) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements not otherwise eligible for assistance, except buildings and facilities for the general conduct of government which are excluded by § 570.207(a)(1).

For example, in an area with an unemployment rate in excess of the national rate, a manpower training center which is designed to prepare for the work force low- and moderate-income persons who are unemployed or underemployed, may be assisted where it is determined by the applicant that such a facility is necessary and appropriate to support its economic development strategy.

(c) *Commercial and industrial facilities.* Acquisition, construction, reconstruction, rehabilitation or installation of:

(1) Commercial or industrial buildings and structures, including:

(i) Purchase of equipment and fixtures which are part of the real estate, but not personal property; and

(ii) Energy conservation improvements designed to encourage the efficient use of energy resources (including renewable energy resources or alternative energy resources);

(2) Commercial or industrial real property improvements (including railroad spurs or similar extensions).

§ 570.204 Eligible activities by private nonprofit entities, neighborhood-based nonprofit organizations, local development corporations, or small business investment companies.

(a) *General.* Grant assistance may be used by applicants to provide block grant funds for activities designed to implement the applicant's strategies for economic development and neighborhood revitalization set forth in this section to be carried out by a private nonprofit entity, a neighborhood-based nonprofit organization, local development corporation, or Small Business Investment Company (SBIC). (1) *Applicant Responsibilities.* Applicants are nonetheless responsible for ensuring that block grant funds are utilized by such entities in a manner consistent with the requirements of this Part and other applicable Federal, State, or local law. Specific requirements governing the administration of the use of block grant funds by such entities are set forth in § 570.612. Applicants will also be responsible for the carrying out of applicable environmental review and clearance responsibilities.

(2) *Eligible Entities.* Entities eligible to receive block grant funds under this section are: (i) A private non-profit entity which is any organization, corporation, or association, duly organized to promote and undertake community development activities on a not-for-profit basis, including new community associations as defined in § 570.403(b);

(ii) A neighborhood-based nonprofit organization which is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood as defined pursuant to § 570.201(c)(4). An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with block grant funds are to be carried out;

(iii) A Small Business Investment Company (SBIC) which is an entity

organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; and

(iv) A local development corporation which is an entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981) an entity eligible for assistance under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696), a State development entity eligible for assistance under section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695), or other similar entity incorporated pursuant to Federal State, or local law.

(b) *Activities eligible under §§ 570.201-570.203, and § 570.205 and § 570.206.* Grant assistance may be provided by an applicant to be utilized by private nonprofit entities, neighborhood-based nonprofit organizations, SBIC's, or local development corporations for activities otherwise eligible for block grant assistance pursuant to §§ 570.201-570.203, § 570.205, and § 570.206. Where such entities use block grant funds to acquire title to facilities, including those described in § 570.201(c) or § 570.203(b), they shall be operated so as to be open for use by the general public during all normal hours of operation. Reasonable fees may be charged for the use of facilities acquired by such entities, but charges, such as excessive membership fees, which will have the effect of precluding low- and moderate-income persons from using the facilities are not permitted.

(c) *Community economic development or neighborhood revitalization activities.* Grant assistance may be provided by an applicant to be used by neighborhood-based nonprofit organizations, SBIC's or local development corporations, but not private nonprofit entities as defined in § 570.204(a)(2)(i), for community economic development or neighborhood revitalization activities which are not otherwise eligible for assistance under this subpart and which are determined by the applicant to be necessary or appropriate to the accomplishment of its Community Development Program. Such activities may include the provision of block grant assistance for use by neighborhood-based nonprofit organizations, SBIC, or local development corporations for:

(1) Assistance through grants, loans, guarantees, interest supplements, or technical assistance to new or existing small businesses, minority businesses and neighborhood nonprofit businesses for

(i) Working capital or operational funds; and

(ii) Capital for land, structures, property improvements, and fixtures;

(2) Capitalization of a SBIC or local development corporation required to

assistance under other Federal programs;
 assistance to minority contractors to obtain performance bonding; or
 Other activities, excluding those described as ineligible for block grant assistance in §§ 570.207(a)(1) and (e), appropriate for community economic development or neighborhood revitalization. Where an applicant proposes to fund such entities to undertake activities pursuant to this paragraph, the applicant shall:

- (i) Provide HUD with a complete description of the proposed activity;
- (ii) Provide HUD with a description of the relationship of the proposed activity to the applicant's strategy for neighborhood revitalization or economic development; and
- (iii) Receive specific authorization from HUD to undertake the activity.

§ 570.205 Eligible planning, and urban environmental design costs.

Grant assistance may be used for the following planning, design, and environmental costs:

(a) *Development of a Comprehensive Community Development Plan.* For the purpose of this section, the term "Comprehensive Community Development Plan" means a statement or statements (in words, maps, illustrations or other methods of communication) which identify the present conditions, needs and major problems of the applicant's jurisdiction relating to the specific objectives of the Community Development Program as set forth in § 570.2(a) and set forth objectives, policies and standards to guide the development and implementation of such Community Development Program. Activities necessary to develop a Comprehensive Community Development Plan may include:

(1) *Data gathering and studies* necessary for the development of the Plan or its components, including the production of base mapping and aerial photography in coordination with the U.S. Geological Survey, and gathering information from citizens, but excluding the gathering of detailed data and preparing of analyses necessary for the engineering and design of facilities or activities ineligible for block grant assistance pursuant to § 570.207;

(2) *Development of statements of objectives, policies and standards* regarding proposed or foreseeable changes in the present conditions or problems affecting the applicant's jurisdiction that are to be addressed by the Community Development Program, including policies which will affirmatively further fair housing;

(3) *Development of a three-year Community Development Plan* which identifies the community development, housing, and economic conditions and needs, demonstrates a comprehensive strategy for meeting those needs and

specifies both short- and long-term objectives to guide the applicant's Community Development Program;

(4) *Related planning and urban environmental design activities* including the preparation of communitywide plans for land use, housing, open space, recreation, utilities, historic preservation, including surveys of historic properties, economic development, neighborhood preservation, removal of architectural barriers to the elderly and handicapped, and environmental assessment;

(5) *Collection of detailed data*, preparation of analyses, engineering and design of facilities eligible for assistance which can be constructed with block grant funds; and

(6) *Development of codes, ordinances and regulations*, necessary for the implementation of the plan, including local fair housing ordinances.

(b) *Development of a policy-planning management capacity* so that the applicant may:

(1) Set long-term and short-term objectives related to the community development and housing needs of its jurisdiction;

(2) Devise programs and activities to meet these goals and objectives;

(3) Establish an urban environmental design administrative capacity to use a systematic, interdisciplinary approach to the integrated use of natural and social sciences and environmental design arts in planning and decision making;

(4) Evaluate the progress of such programs and activities and the extent to which the goals and objectives have been accomplished; and

(5) Carry out the management, coordination and monitoring of the activities and programs that are a part of the applicant's Community Development Program.

(c) *Comprehensive planning activities.* In addition to the planning activities otherwise eligible for assistance under this section, assistance may be also provided for comprehensive planning activities eligible for assistance under the section 701 planning assistance program pursuant to 24 CFR Part 600 provided that such additional planning activities are necessary or appropriate to meeting the needs and objectives of the applicants' Community Development Program. The applicant shall submit a description of the activity to HUD. Among the factors HUD will take into account in authorizing activities will be the impact of the activity on the needs and objectives identified by the applicant, and the availability of other Federal funds.

§ 570.206 Eligible Administrative Costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of com-

munity development activities financed, in whole or in part, with funds provided under this Part and housing activities covered in the applicant's Housing Assistance Plan (HAP). Costs incurred in carrying out the program, whether charged to the program on a direct or an indirect basis, must be in conformance with the requirements of Federal Management Circular (FMC) 74-4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments." All items of cost listed in Attachment B, Section C of that Circular (except Item 6, preagreement cost, which are eligible only to the extent authorized in § 570.301(c)) are allowable without prior approval to the extent they constitute reasonable costs and are otherwise eligible under this subpart.

(a) *Eligible program administration costs.* Reasonable administrative costs and staff expenses include necessary expenditures for the following:

(1) Salaries, wages and related costs of the applicant's staff and the staff of local public agencies engaged in carrying out the program;

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third-party contracts or agreements, including such services as general legal services, accounting services and audit services;

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies and rental or purchase of office equipment;

(5) Costs associated with the administration of individual program activities; and

(6) Reasonable administrative costs relating to the provision of rehabilitation loans under Section 312 of the Housing Act of 1964, as amended, and, where appropriate, administration of an urban homesteading program pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, in accordance with the Community Development Program or housing assistance plan.

(b) *The provision of information and other resources to residents and citizen organizations* participating in the planning, implementation, or assessment of activities being carried out with block grant funds. This may include assistance to neighborhood organizations in areas of concentrated activities or to city-wide organizations conducting training or other activities designed to increase the capability of low- and moderate-income persons to be involved effectively in the development and planning and design of a community development program consistent with the applicable citizen participation requirements set forth in this Part.

MINUTES OF HANDICAPPED CENTER PLANNING COMMITTEE MEETING
October 12, 1978

The second meeting of the Handicapped Center Planning Committee was held October 12 at the Easter Seal Center. The following people attended

NAME	AGENCY
OCarol Lustgarten	CBFL
OTerry Smith	HARA and TRC
✓Betty Webb	Houston Parks and Recreation
✓Bob Kafka	Texas Paralyzed Veterans Assoc.
✓Bob Geyer	CBFL
CLex Frieden ¹²⁷	CBFL
CGene Hartin 5689	Human Resources Dept. - City of Houston
CFrank Borrera	Center for the Retarded -
CUJules Dedeaux	Human Resources - City of Houston
William A. Spencer	T.I.R.R.
Edie Martin	Community Development
Mary Ellen Heitzer	CBFL

The committee chair person, Lex Frieden called the meeting to order. The agenda was scheduled as sub-committee reports, discussion of the sub-committees progress and additions of persons to the Planning Committee.

The Site Selection sub-committee headed by Bob Geyer, set up criteria for the land to be bought. Ideal qualifications are low cost; enough space; near bus routes; access to free ways and near a restaurant or drugstore. The sub-committee is in contact with real estate people and have consulted a map of undeveloped or available land. Lynn Borker found that no money can be spent until August of 1979, but, Gene Hartin suggested to get a commitment on land and then we can pay when we get it.

Dr. Spencer reported for the legal sub-committee.

HANDICAPPED MSC LEG SUB-COMMITTEE INTERIM REPORT FOR 10-12-78

Issues for which legal opinion has been requested:

1. What is the legal extent of the Coalition for Barrier-Free Living (CBFL) involvement in the Handicapped Center/ Can they operate the Center as a state chartered non-profit peer organization (non-professional)?
2. What is the scope of services which can be offered in the Center? Are there any services which are ineligible; e.g. health? Can linkages be established with Medicare,

Medicare, Title XX, VR?

3. What is the effect of CDBG NSA's on (a) location of center, (b) access and usage?
4. Does the city ordinance requiring a public referendum prior to use of public property for private or non-profit use apply here/
 - A. Can HUD money be used to purchase and convey land city ownership as a means of eliminating the land-tax requirement?
5. What are the requirements for liability, malpractice insurance? Who provides (pays) for coverage, City as owner? CBFL as landlord? or provider agencies as tenants?
6. What is the city policy on fringes; unemployment compensation, worker compensation, bonding, etc?
7. Are there any city restrictions on:
 - a. fees charged for services
 - b. required mix of non-fee service providers (fed., state)?
8. What are the City contractual requirements; i.e. sub-contract sole-source vs. bid process?
 - A. Can contract agencies be private for profit?
9. What is the city's required role of an advisory board or trusteeship? How does the trusteeship relate to center administration?

The following are assumed to be fairly certain conditions, provisions and requirements.

A. Terms of Lease/Operational Agreement

1. The City can lease the handicapped Center to CBFL. City would retain ownership.
2. City could have use of center space at no cost for programs. Lease agreement between the City and CBFL should specify the upper limits of space usage.
3. CBFL as operator of center would be responsible for operating costs except for city tax-supported programs.
The City can charge the State for operating space in the center CBFL/City agreement should provide that such income would be turned over to CBFL for operating costs.

4. Operating agency would be responsible for personnel fringes, compensation, liability, bonding, etc.
5. Operator would be responsible for compliance with relevant city codes.
6. A trusteeship or board is required.
7. Center operator can enter into sole-source contracts for component services.
8. Services can include health services for the handicapped.
9. Lease agreement should specify one-time city council approval of operator power to contract for service providers.
10. Conditions of termination of lease agreement to specified.

B. Site location

1. If city owns the land- taxation on land to operator is unlikely.
2. Location of the center in C.D. NSA's is not required. Handicapped center service participants are not required to come from NSA's.

C. Construction

1. A plan is required prior to construction identifying proposed building usage and conditions, letters of intent from proposed provider agencies.
2. Proper use of facilities will be certified annually to HUD.
3. Any changes in the service plan must be approved by HUD.

Gene Hartin said he will help with an outline of management models working with the city. The more precedences sited the easier it will be to be approved.

Bob Kafka reported for program mix sub-committee.
(See Attachment)

Suggestions were made to look into T.E.C. as job bank and microfilm of jobs. Satellite services of agencies was discussed, it would be with the idea of expanding services rather than competition.

There was talk of large corporations adding money to

the project, but if we are going to start soliciting we will have to have a structure for that.

A brief survey of CBFL was suggested for a list of priorities, looking at short and long range goals.

The optimum size and input of the committee was discussed. It was suggested to include more people on sub-committees. Sub-committees should recruit new members but keep the planning committee at 16 people. Suggestions for group to be represented on main committee: Jerry Andrews; United Fund; also a good lawyer. The site selection sub-committee will get architects involved.

A proposal was made to put together a report of the action being taken to spread around the city.

The next Planning Committee meeting will be held at Easter Seals Center, Thursday, November 30, 1978 at 10:00

PROGRAM MIX SUB-COMMITTEE

The program unit sub-committee met Tuesday 9/21/78 at the Easter Seal Society.

Those in attendance - Terry Smith, TRC, Tom Hill, Goodwill, Betty Webb, Parks and Recreation, Bob Kafka, Texas Paralyzed Veterans - CBFL. Absent were David Naumann - HAD, Larry Rieger - Easter Seals.

One concern of the sub-committee was the lack of consumer input in this area.

Suggestion was made to have additional disabled individuals (possibly one from each major disability group) appointed to center planning committee.

Using the CBFL center proposal and literature from the Center for Independent Living, the Committee attempted to group program in two ways

- 1) Programs that would cross-cut disability.
- 2) Programs specifically designed for particular disability group.

Framework of the first meeting was to generate ideas disregarding any limiting factors such as cost, space, etc.

General

- 1) Information and Referral System
 - a) Tape System similar to UT-call up -get specific information from tape exploration of program and who to contact
 - 1) Vocational
 - 2) Medical
 - 3) Legal
 - 4) Financial

This would not obviate the need for the above programs to be housed in the Center.

- 2) Housing Find and Referral
- 3) Independent Skill Training
 - a) Model Kitchen
 - b) Model apartment
 - c) peer interaction (New Options model)
 - d) Transitional Living

- 4) Recreation and Leisure Counseling
 - a) individual
 - b) family
 - c) Social Adjustment Reassessment
- 5) Sports and Recreation
 - a) blind olympics
 - b) wheelchair sports
 - c) special olympics
 - d) arts and crafts
 - e) computer games
- 6) Resource Library
 - a) relative to information and referral
 - b) information on design - adjustment, etc.
 - c) equipment/optacon - talking tapes
- 7) Employment
 - a) TRC
 - b) TCB
 - c) Job Seeking Skill
 - a) resume
 - b) interviewing skills
 - c) centralized employment
- 8) Transportation
 - a) volunteer coordinator program
- 9) Education
 - a) computer training
 - b) workshops
 - c) sign language - oral interpretation
- 10) Day Care - Pre-School - Park-A-Tot concept babysitting
- 11) Public Awareness
 - a) advocacy
 - b) film making - media development
 - c) captioning
- 12) Peer Counseling
 - a) Socio-emotional adjustment
- 13) Legal
 - a) Gulf Coast Legal Foundation

14) Financial -

15) Medical - Equipment (maintenance and repairs)

16) Consumer Supply -

Orthopedically Impaired

- a. wheelchair repair
- b. van modification
- c. attendant program
finding and training

Hearing Impaired

TTY Repair Program

Referral System

Voice phone - TTY link

Visually Impaired

low-vision clinic

tape library

17) Production-Worshop Contract

Transitional Training

Program sub-committee

UCP

Jerry Andrews

Jim Beeson

Deaf Person-consumer-worker

Center Planning Committee
Meeting Minutes
10/30/78

The third meeting of the Planning Committee for the Center for the Handicapped was held October 30th at the Easter Seal Center. Chairman Lex Frieden made opening remarks about the history of the center. Sub-committee reports were given by Mr. Frieden. The Legal Sub-committee has worked on the questions of regulations and rules relating to the operation and maintenance of the center. The Site Selection Sub-committee is looking for sites for construction or renovation. The Service Mix Sub-committee is researching programs for the Center. Bob Geyer, Chairman of the Site Selection Sub-committee, has left Houston and there is a need of a new chairman. The position is open to volunteers. Suggestions made were 1) Dr. Ron Ray of the School of Social Work at the University of Houston. (he has done much work on multi-service centers in the city) 2) Debbie Stewart 3) Don Rossi. Rice School of Architecture is doing sketches for the center. Dr. T. Santos may be at the next meeting to present what they have done so far. At the second meeting it was suggested to put together a report of the history of the center. Plans are to have this for Council after the first of the year.

Lynn Borker apologized for Mr. Becnel's absence. She said money was originally appropriated for 1979 with the idea of the city owning the center. The three strategies now open to us in regard to ownership and operating the center are 1) a non-profit organization owns the center, runs and upkeeps it on their own, 2) the city could own and lease it at a nominal fee (\$1. per year) to the non-profit agency, 3) the city could own it and contract it out to the non-profit agency who would run it with the provision that if it fails the city will take over. The money has to be approved again in Council for the 5th year. Although it is a 3-5 year city plan, the second stage of the plan is to have each year's money approved separately. Approval has to be on the Council agenda no later than April of 1979 to have funds released August 1, 1979.

Discussion followed relating to the issue of Center ownership. If the city builds it, fair market value of the space must be charged to the vendors of services. It is actually more viable for a non-profit organization to own the building (especially considering the cities time schedule).. The 3 million dollars is a guide line used by the city because of estimates of building and land space costs. However, we are not legally bound to 3 million. We can get money from other sources.

Many people assume that C.B.F.L. will be the sponsoring non-profit organization, but this has not been determined. If the money comes as an outright grant, there may not be any further commitments to the city, only the provision that if it goes under, the ownership will go back to the city. In Boston and Berkeley, Centers for Independent Living are run by non-profit organizations. There is skepticism by the city, perhaps mainly because of the on-going costs. Who owns the Center will be a consideration, but not the only one.

An assignment was made to the Legal Sub-committee to develop the basic parameters of a non-profit organization to manage and direct the Center. Another sub-committee for finances and budgeting will be formed. Dr. Lufborrow, Larry Rager and Jack White will serve with a state or regional person from T.R.C. The chairperson will be named later. The next meeting of the Planning Committee will be 10:00 a.m., January 17, 1979, at Easter Seals Society Building, 3630 W. Dallas.

Handicapped Center Planning Committee

Original Committee - Letters sent from Edwin R. Becnel to:

1. Shirley Price - NASAU
2. Frank Borreca - Center for the Retarded
3. Terry Smith - HARA and TRC
4. Larry Roger - Easter Seals
5. Bob Geyer - CBFL
6. Lex Frieden - CBFL
7. Bob Kafka - Texas Paralyzed Veterans
8. David Naumann - (Deaf Consumer)
9. Glen Hall
10. Dr. William Lufburrow - Goodwill
11. Dr. William Spencer - TIRR
12. Jules DeDeaux - City of Houston, Human Resources Department
13. Andrew James - City of Houston, Health Department
14. Betty Webb - City of Houston, Park Department
15. Carol Lustgarten - CBFL
16. Mike Loftin - City of Houston, Citizen's Assistance Division
17. Lynn Borker - City of Houston, Community Development Division
18. Robert Becnel - City of Houston, Community Development Division

People Attending 1st Meeting

1. Bob Kafka - Texas Paralyzed Veterans
2. Joe Kramberg - TRC
3. Jules DeDeaux - City of Houston, Human Resources Department
4. Larry Roger - Easter Seals
5. Lynn Borker - City of Houston, Community Development Division
6. Betty Webb - City of Houston, Parks Department
7. Frank Borreca - Center for the Retarded
8. Dr. William Spencer - TIRR
9. Mary Ellen Heitzer - CBFL
10. Carol Lustgarten - CBFL
11. Bob Geyer - CBFL
12. Lex Frieden - CBFL

People Attending 2nd Meeting

1. Carol Lustgarten - CBFL
2. Terry Smith - HARA & TRC
3. Betty Webb - City of Houston, Parks Department
4. Bob Kafka - Texas Paralyzed Veterans
5. Bob Geyer - CBFL
6. Lex Frieden - CBFL
7. Gene Hartin - City of Houston, Human Resources Department
8. Frank Borreca - Center for the Retarded
9. Jules DeDeaux - City of Houston, Human Resources Department
10. Dr. William Spencer - TIRR
11. Edie Martin - City of Houston, Community Development Division
12. Mary Ellen Heitzer - CBFL

People Attending 3rd Meeting

1. Julius Allen - Gulf Coast Council of the Hearing Impaired
 2. Larry Smith - TRC
 3. Mary Ellen Heitzer - CBFL
 4. Dr. William Lufburrow - Goodwill
 5. Carol Lustgarten - CBFL
 6. Jack White - United Fund Information Services
 7. Darryn Fogee - United Fund Information Services
 8. Betty Webb - City of Houston, Parks Department
 9. Mark Shlan - TIRR
 10. Frank Borreca - Center for the Retarded
 11. Larry Roger - Easter Seals
 12. Lex Frieden - CBFL
 13. Lynn Borker - City of Houston, Community Development Division
- 5279892

Suggested Additional Members for Sub-committees

1. Jim Beeson - Blind Consumer
2. Jerry Andrews - Lawyer for United Fund
3. Debby Stewart - National Council for the Handicapped
4. Dr. Ron Rhea - University of Houston, School of Social Work

AGENDA

- I. Opening Remarks - Lex Frieden, Chairperson
 - A. Review of progress on sub-committees
 - B. Review of interim report
- II. Discussion of Funding Option for the Center for the Handicapped
Lynn Borker
- III. Discussion of Administrative and Organizational Alternatives
for the Center for the Handicapped
- IV. Conclusion - Lex Frieden, Chairperson

PROPOSAL FOR A HOUSTON
CENTER FOR BARRIER FREE LIVING

Prepared by the Coalition
for Barrier Free Living

CENTER FOR BARRIER FREE LIVING

STATEMENT OF NEED:

The U.S. Department of Health, Education, and Welfare estimates that one out of every eleven Americans has a substantial degree of mobility impairment due to physical or mental handicaps. U.S. Census figures for 1970 indicated that over 96,000 persons residing within Harris County and between the ages of 16 and 60 were classified as totally disabled.

This large population suffers from one of the highest unemployment rates of any job-ready group in the United States. Because current forms of mass transit (except the new and extremely limited PICK-ME-UP bus service) are inaccessible to severely handicapped people, a chronic lack of transport has helped create the high rate of joblessness. Social attitudes and physical barriers combine with lack of transport and unemployment to raise formidable obstacles for substantially handicapped people who hope to live in mainstream Houston society.

While there are a number of institutions and groups dealing with various aspects of this situation, there is no facility or agency that integrates social, psychological, legal, financial, and transport services for disabled people. There are no recreational centers in Houston designed for the disabled, no public pools in which they can swim, and no accessible public social center in which they can congregate.

In addition, we believe that the people who understand best the needs of the disabled are disabled people themselves. This proposed center, through a board of directors in which disabled people are in the majority, will be run by and for disabled people--the physically disabled, the deaf, and the blind. On the following pages we will detail proposed building features, services, preferred locations, and management arrangements for a center to serve the needs of the disabled citizens of Houston.

PROPOSED COMMUNITY SERVICES

1. Attendant Referral and Training

At present handicapped persons in Houston have no such resource for obtaining the services of qualified attendants. This will be a referral service that will match experienced and competent attendants with disabled persons who require this service in order to lead independent lives. This service will also include interpreter training and a referral center for the deaf.

2. Social Functions

This facility will be available for meetings, social affairs, or recreation. One important aspect of the center would be its role as a social focus for the Houston handicapped community. Included will be special play facilities for children.

3. Financial Advocacy

Counselors would provide information to disabled people concerning local, state, federal and private financial programs. This will also include counseling concerning public assistance programs for medical care. For example, medicaid.

4. Legal Advocacy

Free legal aid and counseling concerning legislation in the areas of equal employment, the right to an appropriate education and the removal of architectural barriers. The director of such a program could be either a lawyer or a trained organizer who would organize volunteer legal services. Another alternative would be to have an existing legal advocacy program establish an office at the center dealing exclusively in legal counseling for the disabled. Special efforts will be made to secure medical and automobile insurance for disabled persons.

5. Peer Counseling

Counselors with the experience of living with a disability counsel other disabled persons. Discussions and consciousness raising groups allow disabled people, their mates and relatives to share experiences and discuss problems.

6. Health Maintenance

Classes and peer groups emphasize personal health care. Preventive medicine has a high priority for disabled people because of their vulnerability to skin, respiratory infection, bowel and bladder complications. Babysitting classes to teach people how to care for handicapped children. Physician referral dealing with problems unique to different disabilities.

7. Vocational Sign Classes

To assist professionals (lawyers, doctors) in communicating with the deaf community by conducting sign classes dealing specifically with practices and techniques unique to their profession.

8. Continuing Education for M.D.'s

Classes would be conducted by T.I.R.R. or Baylor College of Medicine staff aimed at providing continuing education for area physicians on the most

recent developments in medical care for the disabled.

9. Housing

Free apartment and real estate locator service to assist in pinpointing accessible housing. This would include locator services for the deaf and the blind. For example, a light for the doorbell and a seeing-eye dog.

10. Transportation Services

Although this service could have almost unlimited possibilities (Berkeley Center for Independent Living has a van fleet) initially it will be a service to bring center activity participants to and from their places of work and residence. A van with a wheelchair lift and a simple two-way dispatching system could be the first acquisition.

11. Home Modification

Architectural assistance will be provided for disabled people in order to make their homes more accessible. For example, bathroom specifications.

12. Daycare Facility

A program to provide daycare for handicapped children and the children of handicapped parents. This facility will also be provided for the deaf and the blind.

13. Equipment Repair Classes

An instructor will teach disabled persons how to maintain their equipment and make minor repairs. A repair service could also be run from the center. This could include hearing aid and TTY repairs.

14. Job Bank

This will be an employment center where there are current job openings that will be matched with disabled persons.

15. Public Education Consciousness

This will include a resource library, a media collection and a speakers bureau designed to educate the general public on the rights of the handicapped and the advantages of mainstreaming the disabled into society.

16. Computer Terminal

The participants would operate this computer terminal like a television set. There would be an educational component and a recreational one. By interacting with the computer handicapped individuals could take courses in algebra, accounting, etc. or play computer games such as ping-pong.

PROPOSED BUILDING FEATURES

1. Recreational Facilities

Gymnasium

- A. Swimming pool with lift and ramping
- B. Basketball court (full length for wheelchair basketball, one of the most popular wheelchair team games.)
- C. Self supervised physical therapy area with equipment.
- D. Bowling alley, utilizing donated equipment and lanes.
- E. Locker Rooms for wheelchairs

Outdoor Recreational Area

- A. A play area for disabled children featuring playground equipment designed for handicapped use.
- B. Picnic area featuring tables high enough for wheelchairs to roll under and grills for cooking.
- C. Outdoor track area for wheelchair track events.

Indoor Games Room

A games room to be fitted with computer games modified for use by severely handicapped persons.

2. Office Space

- A. Six medium size offices for center director, CBFL, Freewheeling (with adjoining darkroom), and programs to be run out of the center.

3. Classrooms and meeting rooms.

- A. At least four large classrooms which can be subdivided into smaller work and study areas by the use of sliding partitions.
- B. A large room to be fitted out as a library-study area for center workers and participants.
- C. A snack bar area outfitted with cafeteria tables. This should be adjacent to the kitchen area.

4. Auditorium

A 500 seat auditorium with sloping floor leading down to an accessible stage. A combination of fixed seating, temporary chairs, and open spaces for wheelchair occupancy should be built into the design. This facility will be used for concerts, movies, large meetings, and conventions. It, like many of the other features of this center, have never been available in Houston before.

- 5. Kitchen area- A totally accessible kitchen area with cooking, storage, and refrigeration equipment designed for use by the disabled.

6. Model living areas for use in programs to teach newly disabled persons to live in independent settings. (Optional)
Since the center already contains a totally accessible kitchen, these model living areas would consist of two bedrooms, two bathrooms, and perhaps a joint living room in a suite type arrangement. The living area would feature the most innovative furnishings and designs in barrier free living.

7. Equipment Repair Facilities

A. A self-service equipment room for repair of wheelchairs and other equipment. It would also be a service program area where disabled people could learn to work on their wheelchairs and other equipment. An instructor could make more complicated repairs on a cost-only basis.

B. Van Repair- This service, which would include classes in van and lift maintenance as well as repair, would be housed in a garage facility.

8. Garage

This facility could be built in stages. Initially it should include space for storage of two vans and work areas to accommodate at least two other vans. The design should also allow for substantial future expansion.

9. Covered Parking- This could be built into the facility design in a number of ways. It is a high priority for disabled persons who are exposed to the elements for substantial amounts of time while entering or leaving a vehicle.

PROPOSED BOARD OF DIRECTORS- HOUSTON CENTER FOR
BARRIER FREE LIVING

The Houston Center for Barrier Free Living will be operated by a Board of Directors to consist of 11 individuals.

The Coalition for Barrier Free Living will appoint 6 members to this board who will meet the following criteria.

1. Active membership in the CBFL
2. Two appointees must be orthopedically impaired
3. One appointee must be visually impaired
4. One appointee must be hearing impaired

The other 5 board members will be selected from other community organizations who have provided services to the handicapped. They will be selected from the following groups:

1. Texas Institute for Rehabilitation and Research
2. Goodwill Industries
3. Easter Seals
4. United Cerebral Palsy
5. Lighthouse for the Blind
6. MH-MR
7. HARC
8. Muscular Dystrophy Society
9. Multiple Sclerosis
10. HCCR
11. HARA

The Board of Directors will be the body which determines all policies concerning the creation and operation of the Houston Center for Barrier Free Living. Each board member will serve for a term of one year. At least six members of the board must be physically disabled.

CENTER LOCATION

Preferred Location

The preferred center location is in an area bounded by Montrose- Bagby-West Gray-West Alabama. This location is located in a developing area just southwest of the downtown area. It is a central location highly accessible to the downtown area, the agency complex along West Dallas serving the handicapped, the Medical Center, the T.I.R.R. annex on Drew Street, and other facilities serving the disabled.

Land values in this area are estimated by local realtors in the \$8-\$10 a square foot range.

Alternate Locations

A. West Dallas near Shepherd - This location is near the complex of agencies serving the handicapped, including Easter Seals, Lighthouse for the Blind, Harris County Center for the Retarded, etc. This area would provide a central location similar to the preferred location. One drawback is that it would contribute to a "ghettoization" effect of clustering services for disabled people.

B. MacGregor in a strip from the Hermann Park area to the University of Houston. This location is near the Medical center, near UH, and offers a physically attractive setting along the bayou.

C. The Binz area just south of downtown and north of Hermann Park. This area is near downtown, the medical center, and with easy access to major freeways. Land values are also relatively inexpensive, with estimates running \$4-\$6 per square foot.

COST AND SPACE ESTIMATES

Cost Estimate - A tentative estimate for this facility would be in the \$3.5-\$4 million dollar range.

Land Estimate- 150,000-200,000 square feet.

Building Space - 40,000- 60,000 square feet.

OPERATIONAL FUNDING SOURCES

The following sources will be utilized in securing operating funds, program sponsors, and program management:

- Texas Institute for Rehabilitation and Research
- Easter Seals
- Goodwill Industries
- Texas Rehabilitation Commission
- Foundation grants
- Paralyzed Veterans Association
- U.S. Dept. of Health, Education, and Welfare
- U.S. Dept. of Housing and Urban Development
- LEAA monies
- National Association of the Deaf
- Texas State Commission for the Blind
- Urban Mass Transit Authority
- City of Houston



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

February 29, 1980

C. Benjamin Lattimore
Executive Director
Youthwork, Incorporated
805 15th Street, N.W.
Suite 705
Washington, D.C. 20005

Dear Ben:

Staff of Bureau of Occupational and Adult Education have reviewed the non-competitive project proposal submitted by the Coalition for Barrier Free Living, Houston, Texas in accordance with the DOL/DHEW-BOAE interagency agreement. If the modifications listed below are made in the proposal we will approve the project.

Proposed Modifications

- CDC
TB
DHEW
LW
1. Outreach Activities (page 10) - expanded to include homebound severely disabled persons since these individuals are seldom involved in any type of consistent program other than that provided by education or welfare agencies.
 2. Education Component (page 18) and Vocational Development Component (page 23) - expanded to include delivery of services to homebound severely disabled individuals in order that they can pursue careers within their homes or other alternative environments within the limits of their individual capacities.
 3. Vocational Development Component (page 23) - emphasize, to the greatest degree appropriate for the individual, training for technical and management level careers. Clearly, selection of training opportunities should be made by the individuals themselves based upon their own assessment of their own interests, needs, and abilities. However, it is our view that unless these individuals have both exposure to these careers and the opportunity to pursue such training they will not be able to make determinations about personal suitability.

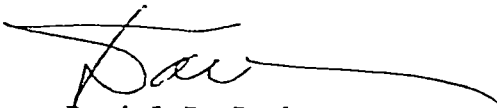
4. Vocational Development Component (page 23) - define more clearly in terms of the types of services available in the community, the types of training programs available, the methods for linking with the available services, the type and extent of training to be afforded to those who will be providing training and/or employing the project participants.—
5. Educational Component (page 18) and Vocational Development Component (page 23) - identify methods for providing services and training to homebound individuals.
6. General - expand dissemination activities so that other independent living centers and community based organizations can replicate that which is learned from this project.

If the above changes (1-6) are not possible we strongly recommend that both the proposed budget and staff be reduced substantially.

We believe the individuals to be served by this project are very much in need of this type of program and have been severely underserved in the past. We further recognize the unique ability of the Center for Independent Living to deliver these services. Further we believe, with the modifications suggested above, this project can provide services which will enable chicano youth with disabilities the opportunity to become more fully participating members of our society.

My Executive Assistant, Dr. Carole M. Johnson (245-8166), and Mr. Ron Tarlaian Program Specialist, BOAE/CETA Coordination Unit, (245-2760), are available to discuss this project with you and to provide any assistance you desire.

Cordially,


Daniel B. Dunham
Deputy Commissioner
for Occupational and Adult Education

cc: Bob Taggart

*subcontract?
newsletter
journals
sp. sup. contract*

*Let's see
BOAE
PRG. KFF*

Mike Markey
826-4662
San Antonio, Texas

CALL HIM
from his cousin

$$\begin{array}{r} 21 \overline{) 1428} \\ \underline{42} \\ 100 \\ \underline{98} \\ 20 \\ \underline{16} \\ 4 \end{array}$$

$$\begin{array}{r} 357 \\ 4 \overline{) 14293} \\ \underline{14} \\ 29 \\ \underline{28} \\ 13 \\ \underline{12} \\ 1 \end{array}$$

$$\begin{array}{r} 18 \\ 15 \\ \underline{11} \\ 26 \end{array} \quad \begin{array}{r} 20 \\ 135 \end{array} \quad \begin{array}{r} 372 \\ 153 \\ \underline{303} \\ 112 \end{array}$$

1. $22,000 @ 3/4$
for 21 mo.
 2308 for 18 mo.
 $@ 3/4$

2 Ser. 15000 $\begin{matrix} 16 \\ 416 \\ 125000 \\ 6400 \end{matrix}$

10,000 annual
for 18 yrs.

1 12 Dr.
16 an. for 18

2 Cyst. 10 for 18

1 outfall @ 18 105
1 per sup. @ 15 105

1/2 roc. @ 9 on 18 an
2 cows @ 12

to prof. add working notes
add job descrip. or exp.
elab. homebound / agenda
subcontract / addendum

add 2500 equip.

110 / mo. for 5 units
for 4 - 5 units.

6,000 for equip on
truck.

add Knowledge Dist.

C. Other

Subcontract

\$ 5,000

Carole Johnson (W.O. Books)

BOAC Run 5600 ROB-2

TR & D SR SW

Wash. DC 20202

202-245-8166

Statement on Bonding
 Contract w/ Amended Proposal
 Prog. Planning Sum.
 Budget def. Sum.
 Statement of liability insur.

(evidence)

Part. grievance
 procedures

25

24

$$\begin{array}{r} 188 \overline{) 5000} \\ \underline{4} \end{array}$$
 2000

16 300
 8 10
 5 10
 5

break Wage category
 personal into hourly



independent living research utilization

Let,

3/6/80

One issue I thought of
that needs to be brought up w/
DOL is the issue of liability
re: EEO standards. By definition,
"peer" counselors imply individuals
w/ disabilities although there might
be a range of disabilities represented.
Will this cause problems?

MAB

	<u>CATEGORY</u>	<u>SUBTOTAL</u>	<u>TOTAL</u>
3. Occupancy Cost		\$ <u>1,200.</u>	
a. Office Rental	\$ <u>1,200.</u>		
b. Utilities	\$ _____		
c. Maintenance	\$ _____		
4. Office Operating Expense		\$ <u>2,000.</u>	
a. Supplies and Materials	\$ <u>700.</u>		
b. Telephone	\$ <u>600.</u>		
c. Postage	\$ <u>300.</u>		
d. Printing and Reproduction	\$ <u>400.</u>		
5. Consultant		\$ <u>600.</u>	
6. Other (may include fiscal and participant record keeping, audit)		\$ <u>7,000.</u>	
TOTAL OTHER THAN PERSONAL			\$ <u>12,400.</u>
Total administration			\$ <u>52,000.</u>
II. <u>Allowances</u> (for participants enrolled in classrooms and other transitional services)			
A. Participant Basic Allowances		\$ _____	
B. Participant Other Allowances		\$ _____	
TOTAL ALLOWANCES			\$ _____
III. <u>Wages</u> (for work experiences and on-the-job training in career employment experiences)			
A. Participant Wages		\$ <u>4,000.</u>	
B. Participant Fringe Benefits		\$ <u>800.</u>	
TOTAL WAGES			\$ <u>4,800.</u>

	<u>CATEGORY</u>	<u>SUBTOTAL</u>	<u>TOTAL</u>
IV. <u>Work Site Supervision Costs</u> (costs here are related to the direct supervision of participants at work sites)			
A. Personnel			
1. Salaries	\$ _____		
2. Fringe Benefits	\$ _____		
TOTAL PERSONNEL		\$ _____	
B. Other Than Personnel			
1. Supplies and Materials	\$ _____		
2. Other	\$ _____		
TOTAL OTHER THAN PERSONNEL		\$ _____	
TOTAL WORK SITE SUPERVISION COSTS			\$ _____
V. <u>Training Costs</u> (Costs here relate to classroom or other training settings including the amounts paid to employers for expenses resulting from on-the-job training)			
A. Personnel			
1. Salaries		\$ <u>60,000.</u>	
a. Professional	\$ <u>54,000</u>		
b. Clerical	\$ <u>6,000.</u>		
2. Fringe Benefits		\$ <u>12,000.</u>	
TOTAL PERSONNEL			\$ <u>72,000.</u>
B. Other Than Personnel			
1. Equipment		\$ <u>3,500.</u>	
a. Rental	\$ <u>1,200.</u>		
b. Purchase	\$ <u>2,300.</u>		

	<u>CATEGORY</u>	<u>SUBTOTAL</u>	<u>TOTAL</u>
2. Occupancy Costs		\$ <u>1,200.</u>	
a. Space Rental	\$ <u>1,200.</u>		
b. Utilities	\$ _____		
c. Maintenance	\$ _____		
3. Operating Expense		\$ <u>2,500.</u>	
a. Supplies	\$ <u>1,500.</u>		
b. Telephone	\$ <u>200.</u>		
c. Printing and Reproduction	\$ <u>800.</u>		
4. Other		\$ _____	
TOTAL OTHER THAN PERSONNEL			\$ <u>7,200.</u>
TOTAL TRAINING COSTS			\$ <u>79,200.</u>
VI. <u>Service Costs</u> (costs here include all services to applicants and employment and training supportive services to participants)			
A. Personnel			
1. Salaries		\$ <u>135,000.</u>	
a. Professional	\$ <u>114,000.</u>		
b. Clerical	\$ <u>21,000.</u>		
2. Fringe Benefits		\$ <u>27,000.</u>	
TOTAL PERSONNEL			\$ <u>162,000.</u>
B. Other Than Personnel			
1. Equipment		\$ <u>2,100.</u>	
a. Rental	\$ <u>900.</u>		
b. Purchase	\$ <u>1,200.</u>		
2. Occupancy Cost		\$ <u>20,000.</u>	
a. Space Rental	\$ <u>20,000.</u>		
b. Utilities	\$ _____		
c. Maintenance	\$ _____		

10. Proposed Budget

EXEMPLARY IN-SCHOOL PROJECT

SUMMARY BUDGET FOR

DETAILED PROPOSAL ONLY

- o Each cost item must be explained in an attached budget narrative.
- o For those cost items that do not apply, write N.A.
- o Administrative costs (I. below) should not exceed 15 percent of the total budget requested:
 - For cases where a prime sponsor is subcontracting to a program operator, prime sponsor costs are not to exceed 5 percent of the total budget request or one-third of the administrative costs.
 - Knowledge development costs for purposes of this demonstration should not be considered part of administrative costs.
- o Knowledge development costs should be identified in Item VII; these knowledge costs may total up to 10 percent of the total budget.

I. Administrative Costs (Not to exceed 15 percent of total budget request)

	<u>CATEGORY</u>	<u>SUBTOTAL</u>	<u>TOTAL</u>
A. Personnel			
1. Salaries		\$ <u>33,000.</u>	
a. Professional	\$ <u>30,000.</u>		
b. Clerical	\$ <u>3,000.</u>		
2. Fringe Benefits		\$ <u>6,600.</u>	
TOTAL PERSONNEL			\$ <u>39,600.</u>
B. Other Than Personnel			
1. Travel		\$ <u>1,200.</u>	
2. Furniture/Equipment		\$ <u>400.</u>	
a. Rental	\$ <u>—</u>		
b. Purchase	\$ <u>400.</u>		

	<u>CATEGORY</u>	<u>SUBTOTAL</u>	<u>TOTAL</u>
3. Operating Expense		\$ <u>8,500.</u>	
a. Supplies and Materials	\$ <u>1,900.</u>		
b. Telephone	\$ <u>3,000.</u>		
c. Printing and Reproduction	\$ <u>3,600.</u>		
4. Travel		\$ <u>7,200.</u>	
a. Staff	\$ <u>6,000.</u>		
b. Participant	\$ <u>1,200.</u>		
TOTAL OTHER THAN PERSONNEL			\$ <u>37,800.</u>
TOTAL SERVICE COSTS			\$ <u>199,800.</u>
VII. <u>Knowledge Development</u>			
A. Personnel (third party evaluators, observers, etc.)		\$ _____	
1. Salaries	\$ _____		
2. Fringe Benefits	\$ _____		
TOTAL PERSONNEL			\$ _____
B. Other Than Personnel			
1. Equipment		\$ _____	
a. Rental	\$ _____		
b. Purchase	\$ _____		
2. Operating Expense		\$ _____	
a. Supplies and Materials	\$ _____		
b. Telephone	\$ _____		
c. Printing and Reproduction	\$ _____		
3. Travel		\$ _____	
4. Consultants		\$ _____	
TOTAL OTHER THAN PERSONNEL			\$ _____
TOTAL KNOWLEDGE DEVELOPMENT			\$ <u>33,600.</u>
VIII. Total Project Costs (Sum of Totals I through VII)			\$ <u>369,400.</u>

Budget

Salaries
Fringe

Accounting
Consulting
Associates

Libby Book
Space

copy - 3 copies, VTR

copying machine
Furniture, 774

Overhead - signs, van

Travel - 1st
Class

Medical Bill - 1st
AV

I Budget 29,800 (40%)
 A. 1a ~~36,600~~ (40%)
 1 ~~5,000~~
~~6,600~~ (40%) 63K
 2 ~~16,000~~ 6,400
~~7,400~~ 3,000 (40%)

B. 1 ~~3,000~~ 2,000 1,500 52K
 2 ? furniture 400
 3 space 1,000
 4 oper. office 1,000
 5 ~~3,000~~ 1,000 600
 6. ~~23,000~~ 19,000

II Allowances ? NO

III 2,000 ? NO

IV NA

V A. 1a 42,000 (2) (12 x 3 x 0 x 6) 21,600
~~54,000~~ + 24,000

1 6,000 (40%) 45K ~~88K~~
 2 ~~10,000~~
~~8,400~~ 80K ~~72K~~
 9,600

33 (45)

13

16 3000

2 Apra (in kind?)
34 1500

~~14~~ 1c ~~24~~ $\frac{24}{92}$ 442

1400

3000

1.35
~~200~~

42
24
68

1.35 3000

2 Apra 2000

supplies?

199, 8	
79, 2	
4, 8	
52, 0	
335, 8	
33, 6	
369, 4	

4. 6000

3/4

16000

33

114

Budget

Air $\rightarrow 30 \times 75\% = 27$

mag., printing,
dev't, dissem.

Outreach 25

recruit, com. rel.
res. dev't, advocacy
local PR

2 sec. 17 + 17

interpreters
Spa⁺ sign
type, file, phone

voc. spec. 25

placement, dev't, TA,
assignments ed.

Couns: super. 27
part. & fin. Couns,
eval., teaching

2 counselors 18 + 18

CIL mgr. 25
ed. prov. oper.

CIL spec. 24
TA, teaching
Resource Center

12 peer ed. 22

bookkeeping	10	
eval.	35	

travel		
	56,000	
local	56,000	6000
away		4000

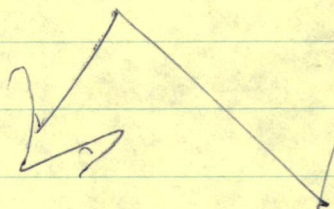
Spice	18	21
604 yr	12	
	<u>3000</u>	
	12	

copy	6
laser	
typewriter	
translater	

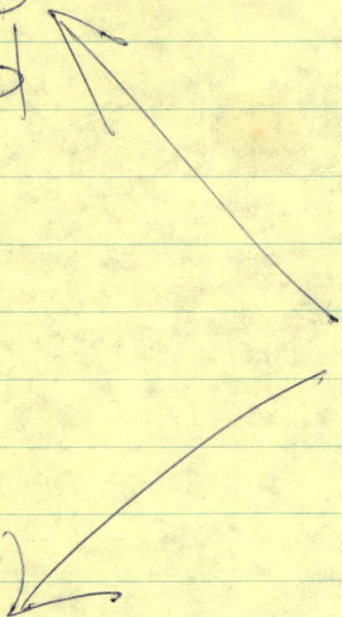
furniture	4
-----------	---

phone	4
supplies	4

Starch



Cornstarch



Oxymel
15
12

Mucilage

11
12
13
14

3

Airline (Proj. mgt.
1 sec. reporting & dissem.)

Reprinter (Lesson w/ T/SS,
MCC, heated chairs)

Voc. spec. (Lesson w/ House
voc. module)

12 Proj. Dir. (Coor. classes
w/ schools
excludes)

72 Proj. Spec. (Adapted
material,
curriculum)

Comm. Dir. (2 peer groups,
+ 4 Comm. 1st R
1 sec. Comm. res.
Coor.)

The Coalition for Barrier Free Living
Community Independent Living Program

The Coalition for Barrier Free Living (CBFL) founded in 1975 is a community based organization of disabled people and their non-disabled supporters who are seeking to insure that handicapped Houstonians have the same opportunities as other people to pursue goals of their choice relating both to lifestyle and vocation. In order to facilitate the adjustment of persons to severe disability, and in order to help them reach their respective goals in community, work and family, the CBFL has conceived the program described here and is seeking funds to operate the program on a demonstration basis for a period of 21 months, with an initial planning period of 3 months.

The proposed project is designed to serve that population of disabled people or consumers generally represented by the CBFL. This group includes mostly severely physically disabled individuals--persons with mobility impairments (wheel-chair or crutch users), persons with visual impairments (blind) and persons with hearing impairments (deaf). Of this population, the project will focus on school age (16-21) Chicano youth. It is expected that the major part of the overall project effort will be directed toward meeting the needs of this population. CBFL will utilize its experience in working with severely disabled individuals and its extensive community network to identify, recruit and deliver appropriate and culturally relevant educational and employment services to the hard-to-reach, presently isolated population of disabled Chicano youth.

The Chicano community in Houston represents a significant percentage of Houston's overall population. Estimates of the State Department of Vocational Rehabilitation indicate that there are at least 2,239 identified handicapped Mexican Americans between the ages of 16 and 21 in the Houston area at the present time. The lower socio-economic status and language barrier tends to restrict and confine the Chicano to a small number of well-defined areas, generally found close to the center of the city. Further, the overwhelming importance of the family unit in the Mexican American culture keeps them unified both geographically and emotionally. CBFL will provide services for approximately 200 disabled and primarily Chicano youth over the term of this project.

The CBFL Independent Living Program is essentially and intentionally a networking and referral project. During its history, CBFL has worked with many severely disabled youth and is in an excellent position to facilitate the further coordination of existing services and agencies. CBFL recognizes the need for comprehensive services to the handicapped and for services adapted specifically to the needs of the Chicano population; however, CBFL stresses the importance of integrating Chicano youth who are handicapped into existing educational and vocational programs as a necessary step toward self-sufficiency and unsubsidized employment. Conducting a referral, integration, and advocacy effort is not only vastly more cost-effective but also less dependency-producing. This emphasis on coordinating existing services has the explicit intent of producing lasting effects

beyond the duration of this particular grant: CBFL will focus on institutionalizing this networking system, advocating among existing agencies to fill service gaps that are identified, and training educational and vocational agency personnel to implement supportive services to handicapped youth within existing programs.

The proposed program consists of several identifiable, yet closely related, components. These are: (1) Outreach--community relations activities and participant recruitment; (2) Peer counseling--personal guidance throughout all aspects of the project, and especially including the provision of information about and referral to independent living support services; (3) Independent Living Skills Training--education and training in the areas of daily living skills and life management functions that can be built into local educational programs; (4) Basic Education--guidance and referral services for completion of high school or equivalency degree and/or for continuation of education as a participant desires, and (5) Vocational Development--guidance and referral services related to vocational training and permanent employment.

Several agencies (educational, rehabilitation and vocational), community-based organizations, and private industry representative have expressed a strong interest in cooperating with CBFL in this effort. CBFL plans to expand and firm up those links during the planning phase and throughout the project.

This project will produce important knowledge on many critical issues for planners, operators and policy-makers concerned about education and employment for youth with disabilities. Among the issues this project will address are: (1) the coordination of services among existing agencies and institutions to meet the needs of Chicano youth who are disabled, (2) ways to successfully recruit, counsel and train disabled youth, (3) the identification of service gaps and means to fill them, and (4) effective strategies of community outreach and of developing community support. The complete plan for knowledge development will be constructed jointly by the project operators, third party evaluators and Youthwork staff.

Three major themes which characterize this program are participant involvement, the integration and coordination of existing resources, and self-advocacy. Through all these ways, this program has the potential of assisting severely disabled people to make dramatic changes in their lives. By taking part in this program, people who never thought about living away from their parent's homes or having rewarding jobs may become more independent, more self-assured, and more productive.

KP

Tuesday
October 2, 1979

Best Labor Jobs

Part IV

Department of Labor

Employment and Training Administration

Comprehensive Employment and Training Act Regulations for Programs

DEPARTMENT OF LABOR**Employment and Training
Administration****20 CFR Parts 675 and 680****Comprehensive Employment and
Training Act; Regulations for
Programs Under Parts A and C of Title
IV of the Act****AGENCY:** Department of Labor.**ACTION:** Final rules.

SUMMARY: This document contains final rules for youth programs under Title IV, Parts A and C of the Comprehensive Employment and Training Act as reauthorized by the CETA Amendments of 1978. The purpose of this document is to implement these programs. The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93 became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act by adding several new programs for youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth.

Title IV, Part A of CETA as reauthorized maintains the authority for the new youth programs authorized by YEDPA; they are: The Youth Incentive Entitlement Pilot Project (YIEPP), designed to test the effect of a guaranteed year round structured work experience to encourage school completion; the Youth Community Conservation and Improvement Projects (YCCIP), designed to provide jobs and employment experience for youth in community betterment projects; and the Youth Employment and Training Programs (YETP), designed to make available to youth a broad range of employment and training services designed locally and adapted to local needs. Part C of Title IV, under the reauthorization, authorizes the Summer Youth Employment Program (SYEP), designed to provide eligible youth with useful work opportunities and supportive services during the summer months and to assist youth in developing their maximum occupational potential. The following Part 680, Subparts A, B and D sets forth the Federal regulations governing three of the Youth Programs, YETP, YCCIP, and YIEPP. Part 680, Subpart C sets forth the Federal regulations governing SYEP. The

regulations in this document do not apply to Native American and Migrant YETP and YCCIP and SYEP programs; regulations for these programs will be published separately. These regulations also do not apply to the Secretary's YETP, YCCIP, and SYEP discretionary funds.

EFFECTIVE DATE: October 1, 1979.**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert Taggart, Administrator, Office of Youth Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213, Telephone (202) 376-2646.

SUPPLEMENTARY INFORMATION:

On March 9, 1979, the Department of Labor published in the *Federal Register* at 44 FR 13188 proposed regulations concerning youth programs under Title IV, Part A of the Comprehensive Employment and Training Act as reauthorized by the CETA Amendments of 1978 (Pub. L. 95-524). The Department also published in the *Federal Register* at 44 FR 12344 final rules to implement the Summer Youth Employment Program (SYEP) of 1979, Title IV, Part C of CETA to allow prime sponsors to begin planning the 1979 summer program.

Although the SYEP regulations were published as final rules, the Department, in keeping with the spirit of 29 CFR 2.7 requested comments on these final rules. A review and comment period was provided for public reaction to both the SYEP rules and the proposed regulations for the other youth programs. Numerous responses were received during the comment period, most of which were directed to the Youth Employment and Training Programs (YETP) and the Youth Community Conservation and Improvement Projects (YCCIP). Few comments were received for the SYEP and YIEPP rules.

Each comment was carefully reviewed with respect to the merits of the suggestions on their own and in relation to other comments received on the same or similar subjects. Several comments were rejected because they were inconsistent with either the provisions or the intent of the Act. The changes made in these regulations reflect continued efforts to improve the quality of the CETA youth programs. A short explanatory statement is provided below to address the most significant issues raised by commenters:

Income Determination

Several comments were received requesting clarification of the formula to be used in annualizing the income of applicants to determine eligibility for YETP programs. The proposed YETP

regulations were silent on this issue and neither made reference to a 3-month or 6-month income basis as provided under other CETA programs. In response to these comments, §§ 675.5-8(a)(1)(iii) and 680.8(a)(3), which concern eligibility for participation in YETP, have been revised to require that for YETP, family income shall be annualized on a 6-month basis in determining eligibility.

Eligibility Determination

A number of comments were received regarding the inconsistency between the requirement in the proposed rulemaking that eligibility be determined at the time of enrollment and the requirement in the final CETA regulations for Titles I, II, VI, and VII at § 675.5-1(d) that eligibility be determined at the time of application.

This inconsistency was resolved by revising the appropriate sections of the regulations for YETP and YCCIP and the income eligibility regulations for SYEP to require that eligibility be determined at the time of application. The age requirements for summer program eligibility, however, will still be determined at the time of enrollment to ensure that only youth between the ages of 14-21, inclusive, are served. Several commenters requested that the YETP eligibility criteria be revised to include youth who are economically disadvantaged, particularly youth facing significant barriers to employment, such as handicapped youth. This revision has been made to insure greater consistency between the eligibility criteria for the CETA Title II B programs and the YETP program and to provide for the more equitable treatment of these youth.

Income Disregard

The proposed YETP and YCCIP regulations at sections 680.11 and 680.115 provide for an absolute disregard of wages and allowances received by any youth under those programs in determining the eligibility of the youth's family for benefits under any Federal or federally assisted program.

A number of comments were received asking for clarification of this language and how this provision applies when a youth is a family of one. In response to these comments, the regulations have been revised to clarify that wages and allowances shall be disregarded in determining the eligibility of either the youth or the youth's family for benefits received under any Federal or federally assisted program.

Many commenters further requested that the SYEP regulations contain an income disregard provision similar to that provided under YETP and YCCIP. Additionally, other commenters requested that the regulations allow

youth, who participate in training activities under SYEP, to receive basic allowances, rather than the more restricted incentive allowance of \$30 per week, when their families receive public assistance.

The Department recognizes the inconsistencies that exist among the provisions governing the youth programs authorized by Title IV and the difficulties prime sponsors have when administering both the income disregard and the method of payment provisions differently for each program. However, it should be recognized that the income disregard requirement is a statutory provision under section 446 of CETA applicable only to YIEPP, YETP, and YCCIP. The regulations merely implement the statutory provisions.

LEA 22 Percent Carry-In Funds

The Act and the regulations require that 22 percent of a prime sponsor's YETP funds be used for in-school programs under Local Educational Agencies agreements. Comments were received inquiring whether the 22 percent should be applied to funds carried into a new fiscal year. The Department agrees with the commenters that the regulation was unclear. The final regulations have been clarified to state that prime sponsors shall apply the 22 percent requirement only to their annual allocation under YETP, and not to the carry-in funds.

Youth Council

The proposed regulations at § 680.4 state that the youth council shall monitor and evaluate YETP and other CETA programs in the prime sponsor's area for the purpose of improving the utilization and coordination of the delivery of services. Comments were received asking that this provision be reevaluated since the general CETA regulations now require prime sponsors to establish an independent monitoring unit which will have the responsibility to conduct indepth monitoring of all programs. The Department has amended the regulations to provide that monitoring units shall make their findings available to the youth councils. Youth councils may then evaluate these findings for the purpose of improving the utilization and coordination of the delivery of services and make recommendations to the planning council consistent with their determinations. The regulations have been revised accordingly.

These regulations meet the criteria for significant regulations in Executive Order 12044 and the Department of Labor's guidelines thereunder (44 FR 5570, January 26, 1979) and have had a

comment period of 30 days in order to allow the final regulations to be published as close as possible to the April 1 statutory deadline. For the same reason, the regulations are being made effective Oct. 1, 1979. Accordingly, Title 20 of the Code of Federal Regulations, Chapter V is amended by:

PART 675—INTRODUCTION OF THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

1. Adding to the Table of Contents, at § 675.3, a new Table of Contents for Part 680, Subparts A, B, C, and D.

§ 675.3 Table of Contents for Regulations under CETA.

* * * * *

PART 680—YOUTH PROGRAMS OPERATED BY PRIME SPONSORS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—Youth Employment and Training Programs

Sec.

- 680.1 Purpose.
- 680.2 Eligibility for funds under YETP.
- 680.3 Allocation of funds.
- 680.4 Program planning, planning and youth councils.
- 680.5 Description of the YETP annual plan subpart.
- 680.6 Activities and services.
- 680.7 Local educational agency agreements.
- 680.8 Eligibility for participation.
- 680.9 Eligibility for participation (extraordinary).
- 680.10 Participant compensation, benefits and working conditions.
- 680.11 Earnings disregard.
- 680.12 Maintenance of effort.
- 680.13 Substitution for Title II programs.
- 680.14 Academic credit.
- 680.15 Reallocation procedures.
- 680.16 Modifications.
- 680.17 Reporting requirements.
- 680.18 Governor's Statewide Youth Services Program.

Subpart B—Youth Community Conservation and Improvement Projects

- 680.100 Purpose.
- 680.101 Eligibility for funds under YCCIP.
- 680.102 Allocation of funds.
- 680.103 Program planning, planning and youth councils.
- 680.104 Description of the YCCIP annual plan subpart.
- 680.105 Project planning process.
- 680.106 Project application content.
- 680.107 Project application submission.
- 680.108 Project review.
- 680.109 Project prioritization.
- 680.110 Project activities.
- 680.111 Agreements with project applicants.
- 680.112 Program agent responsibility.
- 680.113 Limitation on use of funds.
- 680.114 Supervisory personnel.
- 680.115 Eligibility for participation.
- 680.116 Participant compensation, benefits and working conditions.

- 680.117 Earnings disregard.
- 680.118 Maintenance of effort.
- 680.119 Substitution for Title II programs.
- 680.120 Academic credit.
- 680.121 Reallocation procedures.
- 680.122 Modifications.
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Subpart C—Summer Youth Employment Programs

- 680.200 Purpose.
- 680.201 Eligibility for SYEP funds.
- 680.202 Allocation of funds.
- 680.203 Unexpended previous year funds.
- 680.204 Startup of program.
- 680.205 Program planning, planning and youth councils.
- 680.206 Basic program design provisions.
- 680.207 Description of the SYEP annual plan subpart.
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- 680.210 Worksite standards.
- 680.211 Eligibility for participation.
- 680.212 Participants compensation, benefits and working conditions.
- 680.213 Reallocation procedures.
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- 680.215 Reporting requirements.
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Subpart D—Youth Incentive Entitlement Pilot Projects

- 680.300 Scope and purpose of subpart.
- 680.301 Regulations governing entitlement, definitions.
- 680.302 Funding of entitlement projects.
- 680.303 Eligibility for funds.
- 680.304 [Reserved]
- 680.305 [Reserved]
- 680.306 [Reserved]
- 680.307 [Reserved]
- 680.308 [Reserved]
- 680.309 [Reserved]
- 680.310 [Reserved]
- 680.311 [Reserved]
- 680.312 [Reserved]
- 680.313 [Reserved]
- 680.314 Assurances and certifications.
- 680.315 Project responsibilities and requirements.
- 680.316 Eligibility of participants.
- 680.317 Worksites.
- 680.318 Allowable activities.
- 680.319 Participant benefits.
- 680.320 Academic credit.
- 680.321 Disregarding earnings.
- 680.322 Maintenance of effort.
- 680.323 Limitations on use of funds.

§ 675.5-8 [Amended]

2. Revising § 675.5-8 (a)(1)(iii) to read as follows:

* * * * *

(iii) (A) Be a member of family with a total family income, annualized on a 6-month basis, at or below 85 percent of the lower living standard income level; or

(B) Be economically disadvantaged.

3. Amending 675.5-8(b)(2) by inserting after the word "criteria" the words "nor

need they be economically disadvantaged".

4. Amending 675.5-8(b)(3) by inserting after the word "income" the words "or economically disadvantaged".

5. Revising Subpart C and adding Subparts A, B and D of Part 680 to read as follows:

PART 680—YOUTH PROGRAMS OPERATED BY PRIME SPONSORS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—Youth Employment and Training Programs

Sec.

- 680.1 Purpose.
- 680.2 Eligibility for funds under YETP.
- 680.3 Allocation of funds.
- 680.4 Program planning, planning and youth councils.
- 680.5 Description of the YETP annual plan subpart.
- 680.6 Activities and services.
- 680.7 Local educational agency agreements.
- 680.8 Eligibility for participation.
- 680.9 Eligibility for participation (extraordinary).
- 680.10 Participant compensation, benefits and working conditions.
- 680.11 Earnings disregard.
- 680.12 Maintenance of effort.
- 680.13 Substitution for Title II programs.
- 680.14 Academic credit.
- 680.15 Reallocation procedures.
- 680.16 Modifications.
- 680.17 Reporting requirements.
- 680.18 Governor's Statewide Youth Services Program.

Subpart B—Youth Community Conservation and Improvement Projects

- 680.100 Purpose.
- 680.101 Eligibility for funds under YCCIP.
- 680.102 Allocation of funds.
- 680.103 Program planning, planning and youth councils.
- 680.104 Description of the YCCIP annual plan subpart.
- 680.105 Project planning process.
- 680.106 Project application content.
- 680.107 Project application submission.
- 680.108 Project review.
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- 680.110 Project activities.
- 680.111 Agreements with project applicants.
- 680.112 Program agent responsibility.
- 680.113 Limitation on use of funds.
- 680.114 Supervisory personnel.
- 680.115 Eligibility for participation.
- 680.116 Participant compensation, benefits and working conditions.
- 680.117 Earnings disregard.
- 680.118 Maintenance of effort.
- 680.119 Substitution for Title II programs.
- 680.120 Academic credit.
- 680.121 Reallocation procedures.
- 680.122 Modifications.
- 680.123 Reporting requirements.
- 680.124 Review by the RA, redistribution.

Subpart C—Summer Youth Employment Programs

- 680.200 Purpose.

- 680.201 Eligibility for SYEP funds.
- 680.202 Allocation of funds.
- 680.203 Unexpended previous year funds.
- 680.204 Startup of Program.
- 680.205 Program planning, planning and youth councils.
- 680.206 Basic program design provisions.
- 680.207 Description of the SYEP annual plan subpart.
- 680.208 Activities and services.
- 680.209 Program management provisions.
- 680.210 Worksite standards.
- 680.211 Eligibility for participation.
- 680.212 Participants compensation, benefits and working conditions.
- 680.213 Reallocation procedures.
- 680.214 Modifications.
- 680.215 Reporting requirements.
- 680.216 Termination date for the summer program.

Subpart D—Youth Incentive Entitlement Pilot Projects

- 680.300 Scope and purpose of subpart.
- 680.301 Regulations governing entitlement, definitions.
- 680.302 Funding of entitlement projects.
- 680.303 Eligibility for funds.
- 680.304 [Reserved]
- 680.305 [Reserved]
- 680.306 [Reserved]
- 680.307 [Reserved]
- 680.308 [Reserved]
- 680.309 [Reserved]
- 680.310 [Reserved]
- 680.311 [Reserved]
- 680.312 [Reserved]
- 680.313 [Reserved]
- 680.314 Assurances and certifications.
- 680.315 Project responsibilities and requirements.
- 680.316 Eligibility of participants.
- 680.317 Worksites.
- 680.318 Allowable activities.
- 680.319 Participant benefits.
- 680.320 Academic credit.
- 680.321 Disregarding earnings.
- 680.322 Maintenance of effort.
- 680.323 Limitations on use of funds.

Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C 801 et seq.), unless otherwise noted.

Subpart A—Youth Employment and Training Programs

§ 680.1 Purpose.

(a) This subpart contains the regulations for the Youth Employment and Training Programs (YETP) under Title IV, Part A, Subparts 3 and 4 of the Act. The introductory and general provisions at Parts 675 and 676 of Title 20 also apply to YETP programs except that to the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act, the requirements contained in this subpart shall prevail (sec. 447).

(b) It is the purpose of this program to enhance the job prospects and career opportunities of young persons, especially economically disadvantaged youth, to enable them to secure

unsubsidized employment in the public and private sectors of the economy. In addition, this program explores methods of dealing with the structural unemployment problems of youth and the immediate difficulties of youth in need of and unable to find jobs (sec. 431).

§ 680.2 Eligibility for funds under YETP.

Prime sponsors designated under § 676.5 are eligible to receive funds under YETP (sec. 434).

§ 680.3 Allocation of funds.

Allocation of funds under YETP shall be in accordance with section 433 of the Act.

§ 680.4 Program planning, planning and youth councils.

(a) *Planning:* Each prime sponsor shall utilize the planning process and planning council as described in §§ 676.6 and 676.7 of this title, and the youth council described in paragraph (b) of this section (sec. 436(b)). In developing the annual plan subpart of YETP, the prime sponsor shall:

(1) Coordinate the YETP subpart with programs and activities described in the annual plan subpart for Title II, but opportunities for youth under Title II shall not be reduced because of the availability of YETP funds (sec. 436(a));

(2) Coordinate the programs and activities funded under the other titles of CETA, including Job Corps; employment and educational services provided by local educational agencies and post-secondary institutions; activities conducted under the Career Education Incentive Act; services offered by public employment service agencies, public assistance agencies, and courts with jurisdiction over youthful offenders; youth programs funded through other sources such as community-based organizations; and employment and educational activities of business, labor, apprenticeship programs, and nonprofit institutions in the community (sec. 436(a)).

(3) Afford an opportunity to community based organizations of demonstrated effectiveness in providing employment and training activities for youth to participate in the development of the YETP subpart as required by paragraph (c) of this section; and

(4) Afford an opportunity for appropriate labor organizations to comment on the YETP subpart consistent with the provisions of § 676.12 of this title.

(b) *Youth Council.* Each prime sponsor shall establish a youth council (sec. 436(b)).

(1) In consultation with the planning council, the prime sponsor shall make appointments to a youth council which include individuals who are representative of the local educational agency, local vocational advisory council, post-secondary education institutions, business, unions, apprenticeship community, public employment service agencies, local government and nongovernment agencies which are involved in serving youth, the local community, and the prime sponsor. In addition, youth council members shall include not less than two youth who are participants in, or eligible for YETP (sec. 436(b)).

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or the prime sponsor may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council shall report to the planning council (sec. 436(b)).

(3) The youth council shall make recommendations to the planning council for setting basic goals, policies and procedures for the YETP program. The youth council shall review the findings of the prime sponsors monitoring efforts for YETP and other CETA youth programs and make recommendations to the planning council for the purpose of improving the utilization and coordination of the delivery of services under such programs (sec. 436(b)).

(4) The youth council shall review and make recommendations to the planning council with respect to the proposed agreements with local educational agencies under YETP (sec. 436(c)).

(c) *Community-based organizations (CBO's).* Each prime sponsor shall involve CBO's in the planning process as follows:

(1) Forty-five (45) days prior to submission of the proposed YETP subpart to the RA either the complete subpart or a summary of the proposed subpart shall be submitted to such CBO's. Such organizations shall have 30 days for review and comment on the proposed YETP subpart. If a summary is submitted, it shall include at a minimum:

(i) Description of activities to be funded;

(ii) Proposed service deliverers and the services to be provided by each; and

(iii) A copy of the Youth Program Planning Summary and Youth Budget Information Summary.

(2) Any substantive comments received must be considered prior to the submission of the YETP subpart to the RA and written responses will be made

to comments from such CBO's regarding selection of service deliverers and these comments and responses will be included when the YETP subpart is transmitted to the RA.

(d) *Selection of service deliverers.* (1) In addition to the provisions of § 676.23 of this title, the following provisions apply to the selection of service deliverers for YETP. The provisions, however, do not apply when the prime sponsor chooses to deliver YETP activities, itself, and to the programs funded with 22 percent of the YETP funds covered by local educational agency (LEA) agreements required in § 680.7.

(i) Published criteria that will be used to evaluate applications; and

(ii) Written notification to each applicant of acceptance or non-acceptance with an explanation of the reasons for disapproval of funding.

(2) A prime sponsor may directly perform classroom training, on-the-job training or work experience as described in § 676.25 of this title, only if, after consultation with CBO's, the prime sponsor determines that direct operation of the program will promote the purposes of this subpart (sec. 432(b)). The prime sponsor shall maintain documentation on the administrative and programmatic benefits of such direct operation.

§ 680.5 Description of the YETP annual plan subpart.

(a) Each prime sponsor shall submit a YETP subpart by a date established by the RA which when approved, shall become part of the annual plan.

(b) The RA shall review and approve or disapprove the YETP subpart using the plan review procedures in § 676.14 of this title.

(c) *Narrative description.* The YETP subpart narrative shall contain:

(1) *Objectives and needs for assistance.*—(i) *Program purpose.* State the purpose, goals, and objectives of the YETP program in the overall strategy for serving unemployed youth in the prime sponsor's area.

(ii) *Analysis of need.* Identify the target groups within the eligible population that will receive services under the program and indicate the planned level of services to be provided to each group.

(iii) *Group waivers.* Describe, in accordance with § 676.30(g), the evidence upon which any request for a waiver of the limitation on participation in work experience is based for any group(s) of youth being served under YETP.

(2) *Results and benefits.* Describe the benefits that will accrue to YETP participants and include:

(i) The quantifiable performance and placement goals for each program activity.

(ii) The quantifiable performance and placement goals for each target group identified in the analysis of need.

(iii) Any non-quantifiable benefits expected from participation in the YETP program.

(iv) Any academic credit received by YETP participants, the level of credit and the activities for which credit will be received, and the agency awarding such credit.

(3) *Approach.* (i) *Program activities and services.* If not elsewhere in the Comprehensive Employment and Training Plan, describe the criteria to be used to select youth that are most in need, participant recruitment and intake process, and eligibility verification of YETP participants.

(ii) *Program linkages.* If not elsewhere described in the Comprehensive Employment and Training Plan, describe the program linkages established under YETP.

(4) *Management and administration.* (i) Describe any significant differences in the administration, operation, and management (including organizational structure) of the YETP program from the information provided elsewhere in the Comprehensive Employment and Training Plan.

(ii) Attach a copy of the Program Planning Summary (PPS) and Budget Information Summary (BIS) on the YETP program.

(iii) Attach a summary of subgrantees and contractors covering financial arrangements under YETP.

(5) *Assurances and certifications.* The YETP assurances and certifications and detailed instructions for completing the requirements of the YETP subpart narrative are contained in the *Forms Preparation Handbook*.

§ 680.6 Activities and services.

(a) Programs may include any type of employment and training activity specified in § 676.25 of this title, except public service employment.

(1) Work experience activities may include a wide range of community betterment activities such as rehabilitation of public properties; assistance of weatherization of homes occupied by low-income families; demonstrations of energy-conserving measures, including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization,

conservation and improvements, removal of architectural barriers to access, by handicapped individuals, to public facilities, and related activities (sec. 432(a)).

(2) Productive employment and work experience opportunities may be funded in such fields as education, health care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities (sec. 432(a)).

(3) A written job description shall be developed and maintained for all work experience and on-the-job training positions funded under this subpart to provide a basis for determining their comparability to existing jobs of other individuals similarly employed.

(b) *In-School programs.* The in-school programs shall be designed to provide for either or both of the following two classifications of services (Sec. 423(a)):

(1) *Transition services.* (i) These transition services shall be designed to prepare and assist youth to move from school to unsubsidized jobs in the labor market.

(ii) These services may include:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information, apprenticeship information, and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy training and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional skills training;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youth, in order to improve work relationships between employers and youth;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum

extent feasible and referral to employability development programs;

(O) Assistance in overcoming sex-stereotyping in job development, and placement; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of both well supervised employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, counseling, including career counseling, and occupational information. Where work experience or on-the-job training is supported with funds serving in-school youth under agreements with local educational agencies, the ancillary transition services must also include placement services. Each prime sponsor shall assure that in-school youths participating in career employment experience need such participation in order to continue their education (sec. 436).

(c) *Special component.* A prime sponsor may design a special component using up to 10 percent of its YETP funds for programs to serve a mixture of youth from families above and below the income level specified in § 680.8(a)(3), and who are economically disadvantaged and not economically disadvantaged. The program shall test whether or to what extent income eligible youth benefit from participating in programs designed to serve youth from all economic backgrounds (sec. 435). This special component shall:

(1) Have the follow a structured experimental design;

(2) Establish and use comparison groups;

(3) Provide for followup on participants; and

(4) Provide in an Annual Narrative Report a followup on the experimental outcomes.

§ 680.7 Local Educational Agency agreements.

(a) Prime sponsors shall use at least 22 percent of their annual allocation of funds under this subpart (not including any amounts carried-in from the previous fiscal year) to serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 433(d)(1)) pursuant to written agreements between the prime sponsors and local educational agencies (LEA's).

(b) Agreements may be between the prime sponsor and one or more local educational agencies or a combination of LEA's represented by one LEA.

(c) Each agreement may be either a financial or nonfinancial agreement whichever is determined most appropriate by the prime sponsor and the LEA(s), and shall:

(1) Provide a description of the activities and services to be provided to eligible participants;

(2) Detail the responsibility of each party to the agreement for providing the activities and services which have been selected;

(3) Contain provisions to assure that services provided and/or funds received pursuant to the agreement will not supplant existing services and/or State and local funds expended for the same purpose; and

(4) Provide an assurance that the agreement has been reviewed by the youth council.

(d) *Additional provisions.* Additional provisions are required in those agreements which specifically provide for career employment experience opportunities. These include:

(1) Assurances that participating youth will be provided constructive work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment or self-employment;

(2) Assurances that career counseling, including occupational information and placement services will be made available to participating youth and that funds provided under the agreement will be available to, and will be utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(3) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youth.

(4) Assurances that the prime sponsor will advise participating youth of the availability of other employment and training resources in the local community to assist such youth in obtaining employment or self-employment; and

(5) An assurance that career employment experience opportunities provided will be certified by a school-based counselor as being relevant to the career and educational program for the youth being provided those opportunities.

(e) In order to carry out the purposes of the LEA agreement, LEA's and prime sponsors, where appropriate, are encouraged to enter into subagreements, grants or contracts with post-secondary schools, State accredited profit and

nonprofit educational institutions, public employment service agencies, and CBO's which have demonstrated effectiveness, in serving youth, particularly those who are economically disadvantaged.

(f) An LEA agreement may be a new agreement or a certification that the existing agreement remains the same or that it is revised as described in attachments to the certification. The certification and/or revisions shall be included as part of the YETP annual plan subpart. If an agreement is not reached within 60 days after the initial submission of the YETP subpart to the RA, the RA shall initiate the reallocation process as described in § 680.15.

§ 680.8 Eligibility for participation.

(a) Each person shall be at the time of application, except as provided in § 680.9 (b) and (c) (sec. 435):

(1) Unemployed or underemployed, or an in-school youth (excluding persons aged 14 and 15);

(2) 16 through 21 years of age inclusive; and

(3) (i) A member of a family with a total family income, annualized on a 6-month basis, at or below 85 percent of the lower living standard income level; or

(ii) Economically disadvantaged.

(b) Programs funded under YETP shall give preference to economically disadvantaged youth within the eligible population. Appropriate efforts shall be made to give service to those youth who have severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities; those who are veterans of military services, those who are offenders, those who are physically or mentally handicapped, those with dependents, or those who have otherwise demonstrated special needs as determined by the Secretary (sec. 444(a)).

(c) A youth may not be enrolled in full-time employment opportunities if:

(1) The individual has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except: (i) During periods when school is not in session, and (ii) where employment is undertaken in cooperation with school-related programs awarding academic credit for work experience; or (2) The individual has not attained a high school diploma or its equivalent and it is determined by the prime sponsor that the youth

dropped out of high school in order to participate in YETP (sec. 443(f)).

§ 680.9 Eligibility for participation (extraordinary).

(a) Individuals otherwise eligible under § 680.8 who are in-school youth and who are 14 or 15 years old may participate in programs under YETP when the subpart specifies a youth development strategy which includes career counseling for these youths (sec. 435).

(b) Youth need not meet the income criteria nor need they be economically disadvantaged if they participate in a special component, as described in § 680.6(c) (sec. 435).

(c) Youth, who do not meet the income or economically disadvantaged criteria, and who are not in a special component, may be offered services which are limited to:

(1) Counseling, including occupational information;

(2) Occupational, education, and training information including information on apprenticeship training;

(3) Placement services;

(4) Job referral information through coordinated intake systems; and/or

(5) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling, and guidance.

§ 680.10 Participant compensation, benefits and working conditions.

Prime sponsors shall provide participant benefits, wages and allowances as provided in § 676.26, and § 676.27 of this title, except:

(a) *Wages.* Participants receiving wages shall be paid no less than the highest of (sec. 442):

(1) The wage rate set forth in section 8 (a)(1) of the Fair Labor Standard Act.

Fourteen and fifteen-year olds, however, may be paid the rate set forth in section 14(b) of the Fair Labor Standard Act; or

(2) The applicable State or local minimum wage, including exceptions for the wage rates of 14 and 15-year olds; or

(3) The prevailing wage for a job which is substantially the same as existing jobs of the same employer, except that, the employer may pay less than its prevailing wage, but not less than the minimum wage, if:

(i) The employer, the prime sponsor, and the appropriate collective bargaining agent, when a collective bargaining agreement is affected, agrees in writing to a lesser wage;

(ii) There is job restructuring. In order to accomplish job restructuring, the prime sponsor, employer, and the appropriate collective bargaining agent shall enter into an agreement concerning

the restructuring. If, after agreeing to the restructured job, the agent, employer, or prime sponsor disagrees over the wages to be paid for the restructured job, the parties shall resolve such dispute at the local level within 30 days. If, after 30 days, an agreement has not been reached, they shall either agree to negotiate in good faith with the RA to resolve the disagreement or select other jobs. If negotiations with the RA do not result in resolution within the 30 days, the RA shall set the wage rate; or

(iii) The employer creates new jobs. If disputes arise regarding whether the jobs are new to the employer, the prime sponsor, appropriate collective bargaining agent, and employer should attempt to resolve the issue within 30 days after the agent has been informed of those jobs. If no agreement can be reached within that time frame, they shall either agree to negotiate in good faith with the RA to resolve the disagreement, or select other jobs. If negotiations with the RA do not result in a resolution within 30 days, the RA shall make a determination as to whether or not the jobs are new to the employer; or

(4) The prevailing wage determined by the Secretary under the Davis-Bacon Act (See 29 CFR Parts 1, 3, 5, and 7) in the case of jobs in projects to which the provisions of the Davis-Bacon Act, or any Federal law containing labor standards in accordance with the Davis-Bacon Act, apply. However, in the case of such projects financed under YETP under \$5,000, the employer, prime sponsor, and appropriate collective bargaining agent may agree to pay youth participants not less than the applicable minimum wage and not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeship trade, and to prescribe an appropriate ratio of journeymen to such participating youth to work on the project. If they cannot agree in 30 days, they may request a decision from the RA, or develop other jobs (sec. 442).

(b) Because most jobs will be short-term and/or part-time work assignments, and are designed to enhance the employability of individuals who are new entrants who have never worked, or individuals who are new entrants who have not been working in the competitive labor market, most jobs will be at entry level. Prime sponsors, therefore, are expected to pay wherever feasible the minimum rate required by this section, rather than a higher rate.

§ 680.11 Earnings disregard.

Wages and allowances received by any youth under YETP shall be disregarded in determining the eligibility of the youth or the youth's family for,

and the amount of, any benefits received based on need, under any Federal or federally assisted programs (sec. 446).

§ 680.12 Maintenance of effort.

(a) The maintenance of effort provisions of § 676.73(a) of this title apply to all institutions funded under YETP (sec. 443).

(b) The maintenance of effort provisions for public service employment programs described in § 676.73 (b) and (c) of this title, shall apply to work experience activities under YETP.

§ 680.13 Substitution for Title II programs.

Programs funded under YETP shall be supplementary to but not replace programs and activities for youth available under Title II of the Act (sec. 431).

§ 680.14 Academic credit.

Prime sponsors shall make appropriate efforts to encourage educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from the program (sec. 445).

§ 680.15 Reallocation procedures.

(a) Reallocation procedures under § 676.47 of this title shall apply except as in paragraph (b) of this section (sec. 444(b)).

(b) If all proposed LEA agreements or certifications to existing agreements are not signed by the prime sponsor and the LEA(s) within 60 days after the initial submission of the YETP subpart to the RA for review and approval, the RA shall initiate reallocation procedures for those funds which were required to be covered under LEA agreements *except*; the RA may extend the 60 day period for a reasonable period of time when the RA determines that an agreement could not be reached because of circumstances beyond the control of the prime sponsor and LEA, for example, work stoppages. If the RA has initiated reallocation procedures, the RA shall mediate the dispute during the 30 day comment period.

§ 680.16 Modifications.

(a) The procedures specified in § 676.16 of this title shall apply to modifying the YETP subpart.

(b)(1) When a collective bargaining agreement would be affected, the appropriate bargaining agent and the RA shall be notified in writing of all wage rate and job classification changes under the YETP program at least 15 calendar days prior to implementing such changes.

(2) If the bargaining agent disagrees with the proposed changes in wage rates or job classifications, the dispute shall be resolved and the resolution recorded in writing prior to implementing such changes.

§ 680.17 Reporting requirements.

The reporting requirements under § 676.44 of this title shall apply to YETP. In addition, each prime sponsor shall, at the end of each fiscal year and on a date established by the Secretary, submit an Annual Narrative Report. The report will include an assessment of the sponsor's performance and the accomplishments of the program.

§ 680.18 Governor's Statewide Youth Services Program.

(a) *Activities and services.* The Governor shall use the funds allocated under section 433 of the Act to provide statewide youth services such as the following:

(1) Expanded and experimental programs in apprenticeship arrangements, in conjunction with businesses, labor unions, State or Federal apprenticeship agencies;

(2) Special model employment and training programs and related services with particular emphasis on experimental job training in the private sector;

(3) Providing labor market and occupational information for prime sponsors and local educational agencies without reimbursement;

(4) Fostering cooperative efforts between State and local institutions, including (i) occupational and career guidance and counseling, as well as placement services for in-school and out-of-school youth; and (ii) coordination of statewide activities carried out under the Career Education Incentive Act to improve the quality of education and enhance career opportunities for students by relating education to their employment aspirations (sec. 433(c)).

(5) Funding employment and training programs as defined in § 680.6 for eligible youth who are under the supervision of the State.

(b) Eligibility for participation.

Individuals participating in the Governor's statewide youth services program shall meet the eligibility criteria provided in § 680.8 or 680.9 (sec. 435).

(c) *Limitation of funds.* (1) The overall 20 percent limitation of funds used for administration as set out in § 676.40-2 of this title shall not apply to the Governor's youth services plan. (2) The requirement in § 676.42 for pooling of administrative costs shall not apply to the Governor's youth services plan. Such

costs however, may be pooled in accordance with the procedures set forth in § 676.42.

(d) *Governor's statewide youth services plan.* The Governor's youth services plan shall include the following information:

(1) *The Master Plan.* The Governor may utilize the Master Plan developed for the Balance of State program or the Master Plan developed for the Governor's Special Grant as described in § 677.33 of this title, in lieu of developing a separate Master Plan for the Governor's statewide youth services program;

(2) A Request for Approval Letter;

(3) Application for Federal Assistance (standard form 424);

(4) The narrative description which shall include the following:

(i) *Objectives and need for assistance.*

(A) A description of the purpose, goals, and objectives of the statewide youth services plan, including how the Governor's youth services plan, will enhance or expand the quality of youth employment and training services presently provided throughout the State.

(B) A description of the target groups that will be served by the Governor's youth services plan, including an explanation of why the specific groups were selected, and the groups of youth that will be served who are under the supervision of the State.

(ii) *Results and benefits.* As described in the YETP narrative requirements, provide a description of expected results and benefits that will accrue to the participants.

(iii) *Approach.*—(A) *Program activities and services.* Describe the activities and services to be provided under this plan and include:

(1) The service deliverers and the activities they will provide;

(2) The number of participants to be served by each activity;

(3) The duration of each activity; and

(4) If training is one of the activities, the skill(s) to be learned.

(B) *Program linkages.* Describe the program linkages, if not elsewhere described in the Comprehensive Employment and Training Plan for Special Grants to Governors.

(iv) *Management and administration.* (A) Provide the organizational chart and staffing pattern for the plan, if not included in the master plan.

(B) Describe the monitoring and evaluation process if different than that found elsewhere in the Comprehensive Employment and Training Plan for Special Grants to Governors.

(C) Attach a Program Planning Summary (PPS) and a Budget Information Summary (BIS).

(v) The assurances and certifications for the Governor's youth services plan and detailed instructions for completing the requirements of the plan are contained in the *Forms Preparation Handbook*.

(e) *Procedures for comment, modification and approval of Governor's youth services plan.* (1) In developing the Governor's youth services plan, the Governor shall establish a youth council as described in § 680.4(b) which shall report to the State Employment and Training Council. The responsibilities of this council shall be those described in § 680.4, except the references to local agencies shall mean representatives of State agencies who represent statewide concerns.

(2) In submitting the Governor's youth service plan, the procedures specified in § 676.12(a); (b) and (d) and § 677.33(a)(3) of this title shall be followed.

(3) The approval procedures to be followed for the Governor's youth services plan are those specified in § 676.14 of this title.

(4) The modification procedures specified in § 676.16 of this title shall be used to modify the Governor's youth services plan under YETP.

Subpart B—Youth Community Conservation and Improvement Projects

§ 680.100 Purpose.

(a) This subpart contains the regulations for the Youth Community Conservation and Improvement Projects (YCCIP) under Title IV, Part A, Subparts 2 and 4 of the Act. The introductory and general provisions at *Parts 675 and 676* of Title 20 and the YETP regulations at Subpart A of this Part also apply to YCCIP programs, except that to the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act, the requirements contained in this subpart shall prevail (sec. 447).

(b) This program seeks to provide youth, experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community.

§ 680.101 Eligibility for funds under YCCIP.

Prime sponsors designated under § 676.5 are eligible to apply for YCCIP funds for projects in their area.

§ 680.102 Allocation of funds.

(a) *Allocations.* Allocation of funds under YCCIP shall be in accordance with section 423 of the Act.

(b) *Program funding estimates.* The Secretary will provide prime sponsors

with program funding estimates based on their relative share of the State's unemployed population.

§ 680.103 Program planning, planning and youth councils.

(a) *Planning.* The prime sponsor shall utilize the planning process and planning council as described in §§ 676.6 and 676.7 of this title and the youth council established for YETP in developing its annual plan subpart for YCCIP (sec. 426(c)).

(b) *Additional information.* The RA may require that the additional information specified below be submitted at the same time as the Preapplication for Federal Assistance. Where such information is required, a decision concerning the adequacy of that information must be provided to the prime sponsor by five (5) working days after the submission date of the preapplication. The prime sponsor will not be required to submit such information in its annual plan subpart. Such information includes a description of methods to:

(1) Solicit applications, particularly, from neighborhood and community-based organizations, and solicit comments on the project applications from the planning and youth councils;

(2) Objectively select and rank project applications; and

(3) Involve appropriate labor organizations in the planning process.

§ 680.104 Description of the YCCIP annual plan subpart.

(a) Each prime sponsor shall submit a YCCIP subpart, by date established by the RA which, when approved, shall become part of the annual plan.

(b) The RA shall review and approve or disapprove the YCCIP subpart using the procedures in § 676.14 of this title.

(c) *Narrative description.* The narrative shall contain:

(1) *Objectives and needs for assistance.* Using the requirements for the YETP narrative, provide a description of the purpose, goals and objectives of the YCCIP program and the target groups that will be served.

(2) *Results and benefits.* As described in the YETP narrative requirements, provide a description of the benefits that will accrue to the participants and to the community through the YCCIP program (Sec. 426(b)).

(3) *Approach.* (i) *Participant recruitment and eligibility.* As described, in the YETP narrative requirements, provide the methods that will be used to recruit, select and verify eligibility of YCCIP youth.

(ii) *Worksite supervision.* (A) Describe the training for worksite

supervisors and other worksite personnel involved with project participants (sec. 425(b)(3)); and

(B) If the supervisor/worker ratio is less than 1:12, provide justification (sec. 425(b)(3)).

(iii) *Program activities and services.*

(A) Describe the job training and skill development activities that will be available to participants. Indicate the service delivered and the activities they will provide, the duration of each activity and the skills to be learned, and the number of participants to be served by each activity (sec. 426(b)(2)).

(B) Describe plans to coordinate the training and skill development activities with school-related programs (sec. 426(b)(2)).

(iv) *Program linkages.* If not elsewhere described in the Comprehensive Employment and Training Plan, describe the program linkages established under YCCIP.

(v) *Project solicitation and selection.*

(A) If not included elsewhere in the Comprehensive Employment and Training Plan, describe the method used to solicit YCCIP project applications. Describe the efforts made to solicit applications from neighborhood and community-based organizations; and the method used by program agents to solicit applications, if different from the prime sponsor's (sec. 426(a)(1)).

(B) List or attach the criteria used to determine which project proposals are eligible for funding (sec. 426(a)(1)).

(C) Attach all project applications approved by the prime sponsor and the program agent and include a ranked listing of the approved project applications which total 100 percent of the prime sponsors funding estimate (sec. 426(a)(1)). Also include a ranked listing of any additional approved project applications above the funding estimate.

(D) Attach all project applications approved by program agents but not approved by the prime sponsors and describe why these project proposals were not approved by the prime sponsor (sec. 426(a)(1)).

(4) *Management and administration.*

(i) Describe any significant differences in the administration, operation, and management (including organizational structure) of the YCCIP program from the information provided elsewhere in the Comprehensive Employment and Training Plan.

(ii) Attach a copy of the Program Planning Summary (PPS) and Budget Information Summary (BIS) on the YCCIP program.

(5) *Assurances and certifications.* The Assurances and certifications and detailed instructions for completing the

requirements of the YCCIP annual plan subpart are contained in the *Forms Preparation Handbook*.

§ 680.105 Project planning process.

(a) *Program specifications.* In developing the program specifications, prime sponsors may, after obtaining the approval of the planning and youth councils, limit the types of project activities by:

- (1) Establishing limitations on the size and duration of all projects;
- (2) Restricting projects to specified community needs; and
- (3) Identifying specific neighborhoods or geographic areas in which projects may be conducted.

(b) *Procedures.* Each prime sponsor shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants, particularly neighborhood and community-based organizations, are notified of the project application process and the cut-off date for acceptance of project applications. The method of notification may be public hearings, public notice in the newspapers, bulletins, or other appropriate media.

§ 680.106 Project application content.

All project applications must contain the following information:

(a) *Agency.* Name of agency or organization applying for project funds, type of agency (community-based organization, local educational agency) and, if applicable, the program agent to which it was submitted;

(b) *Description of project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need;

(2) The types of jobs youth are to perform;

(3) The full-time supervisor to youth ratio, or its equivalent and the reason for selecting the ratio;

(4) The qualifications of the supervisors in terms of necessary skills and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and

(5) The beginning and ending dates of the project;

(c) *Participants.* (1) Identify the number of participants to be enrolled and their expected duration of employment, not exceeding 12 months;

(2) List the target groups to be served; and

(3) Describe the expected benefits to accrue to participants, e.g., skills to be obtained, academic credits to be earned;

(d) *Job titles, description and wages.*

(1) The principal job titles, job descriptions, and hourly wages to be paid. If job restructuring is to occur, a description of the methods of the analysis to be used, the expected results, the methods for obtaining concurrence of appropriate collective bargaining agents, when a collective bargaining agreement is affected, and the relevant expertise of personnel who performed the restructuring; and

(2) The participation of appropriate collective bargaining agents, if a collective bargaining agreement will be affected, with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and

(f) *Budget.* The budget shall include totals for the following line items:

(1) Direct program costs;

(2) Costs of participant wages and fringe benefits;

(3) Costs of wages and fringe benefits of worksite supervisors;

(4) Costs of job-related training;

(5) Costs of materials, supplies and equipment used by participants on the job; and

(6) Costs of supportive services for participants.

§ 680.107 Project application submission.

The project applicant shall submit applications to the program agent or to the prime sponsor, if there is no program agent, for its area.

§ 680.108 Project review.

(a) *Criteria.* The prime sponsor shall establish criteria to be used consistently by itself and any program agent for evaluating and approving project applications. These criteria are subject to review and comment by the youth and planning councils.

(b) *Information.* Each project, in order to be approved must:

(1) Provide tangible output and measurable benefits which will accrue to the community;

(2) Provide benefits to participants in terms of work habits, skills, apprenticeable skills, and attainment of academic credit, where applicable;

(3) Be labor intensive;

(4) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created;

(5) Describe or assure adequate qualifications for supervisors in terms of necessary skills and experience;

(6) Assure that projects shall permit in-school youths employed in the projects to coordinate their jobs with classroom instruction and, to the extent feasible, permit such youths to receive academic credit for their participation in the program (sec. 427(b)); and

(7) Assure that any person hired to supervise youth shall not impede the promotional rights of existing employees.

(c) *Process.* Project applications from neighborhood and community-based organizations of demonstrated effectiveness in providing employment and training services to youth shall be considered before applications from other project applicants are considered. Where it can be documented that a neighborhood or community-based organization does not have the administrative capability to run a project, or its project application does not meet the project review criteria established by the prime sponsor, then project applications from other than neighborhood and community-based organizations may be considered: *Provided*, the same criteria are used.

(d) *Review.* Program agents shall review the project applications submitted to them, approve or disapprove them, and submit all project applications to the prime sponsor, indicating their approval or disapproval.

(e) The prime sponsor shall review those project applications received, including those submitted by any program agent(s). When reviewing those submitted by a program agent, the prime sponsor shall give due consideration to project applications approved by the program agent.

(f) After review, the prime sponsor shall submit all project applications to the youth and planning councils for comment and recommendations (sec. 426(c)).

(g) After review of any comments and/or recommendations of the planning and youth councils, the prime sponsor shall approve or disapprove the project applications. The prime sponsor, however, shall not disapprove a project application recommended for approval by the councils unless it has first considered any comments and recommendations made by the planning and youth councils and unless it has provided the councils with a written statement of its reasons for disapproval (sec. 426(c)(2)).

(h) In case of disapproval, the prime sponsor shall inform the project applicant in writing of its disapproval. It shall also indicate the reasons for the disapproval.

§ 680.109 Project prioritization.

Each prime sponsor shall rank, in terms of their relative priority, approved project applications. Each prime sponsor shall submit:

(a) A primary listing or prioritized proposed projects not to exceed 100 percent of the program funding estimate; and

(b) If additional projects have been approved, a second listing to be considered for future funding, in instances where:

(1) Projects submitted within the 100 percent are not acceptable to the RA;

(2) A project is subsequently found to be nonproductive or is withdrawn; or

(3) Additional funds become available.

§ 680.110 Project activities.

(a) Each project shall provide participants with constructive work in terms of individual and community benefits in such areas as: the rehabilitation or improvement of public facilities (including removing of architectural barriers which limit the access to these facilities by handicapped individuals), neighborhood improvements, weatherization and basic repairs to low-income housing, energy conservation including solar energy projects, especially those utilizing materials and supplies available without cost, and conservation, maintenance, or restoration of natural resources on non-Federal publicly held lands (sec. 422).

(b) Training provided in YCCIP shall be directly related to the development of specific skills needed for the job.

§ 680.111 Agreements with project applicants.

(a) Prime sponsors or program agents shall enter into financial agreements with project applicants except as provided in paragraph (b) of this section.

(b) The prime sponsor or program agent may enter into a nonfinancial agreement with a project applicant if there is a written agreement that clearly identifies the administrative and programmatic benefits of such a nonfinancial agreement.

§ 680.112 Program agent responsibility.

A program agent under title II may elect to be a program agent under this subpart. Program agents shall approve or disapprove projects, administer the program in their areas, and be subject to the limitation of funds provided in § 680.113. The administrative

responsibilities described in § 677.54(b) of this title shall apply to YCCIP program agents.

§ 680.113 Limitation on use of funds.

(a) *Administrative costs.* No more than 5 percent of the total funds may be used by the prime sponsor and program agent(s) for administrative costs. The remaining funds shall be made available for projects.

(b) *Project funds.* Of the project funds:

(1) At least 65 percent of the funds available shall be used for participant wages and fringe benefits, unless adequate justification is provided in the prime sponsor's YCCIP annual plan subpart.

(2) No more than 10 percent may be used by project applicants for administrative costs.

(3) Any remaining funds may be used for project related training of participants, project supervisors, service to participants, and for the acquisition, lease, or rental of materials, equipment, and supplies.

§ 680.114 Supervisory personnel.

Each project shall have an adequate number of skilled supervisors. There shall be at least the ratio of 1 full-time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided in the prime sponsor's YCCIP annual plan subpart. Supervisors shall have the skills needed to carry out the project and shall be able to instruct participants in those skills (sec. 425(b)).

§ 680.115 Eligibility for participation.

(a) Each person shall, at the time of application:

(1) Be 16 through 19 years of age, inclusive; and

(2) Be unemployed (sec. 422).

(b) *Selection.* In selecting eligible youth, prime sponsors shall give preference to the economically disadvantaged youth within the eligible population.

(1) Appropriate efforts shall be made to serve those eligible youths who have severe handicaps in obtaining employment (sec. 444(a)).

(2) A youth may not be enrolled in full-time employment opportunities if:

(i) The individual has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except: (A) During periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for work experience; or

(ii) The individual has not attained a high school diploma or its equivalent and it is determined by the prime sponsor that the youth dropped out of high school in order to participate in YCCIP (sec. 443(f)).

(c) *Limitation.* Each participant shall be limited to a maximum enrollment of 12 months with no more than two reenrollments, provided age eligibility is met at the time of each reenrollment and the 12 month limitation is not exceeded. Consistent with the termination procedures specified in § 676.30(b), every effort shall be made to transition participants into unsubsidized jobs or other CETA opportunities upon completion of the 12 months enrollment (sec. 428).

§ 680.116 Participant compensation, benefits and working conditions.

(a) Participants shall receive wages as described in § 680.10(a).

(b) Each participant shall be provided the benefits and working conditions as provided in § 676.27 of this title.

§ 680.117 Earnings disregard.

Wages received by any youth under YCCIP shall be disregarded in determining the eligibility of the youth or the youth's family for, and the amount of, any benefits received based on need, under any Federal or federally assisted programs (sec. 446).

§ 680.118 Maintenance of effort.

The provisions of § 680.12 regarding the maintenance of effort shall apply to YCCIP programs.

§ 680.119 Substitution for Title II programs.

Programs funded under YCCIP shall be supplementary to but not replace programs and activities for youth available under title II of the Act (sec. 421).

§ 680.120 Academic credit.

Prime sponsors shall make appropriate efforts to encourage educational agencies and post-secondary institutions to award academic credit for competencies participants gain from their participation in the program (sec. 445(a)). If academic credit is not given for work experience in YCCIP projects, high school dropouts and potential dropouts shall be encouraged to return to or remain in school.

§ 680.121 Reallocation procedures.

The reallocation procedures under § 680.15(a) shall apply to YCCIP programs.

§ 680.122 Modifications.

The modification procedures under § 680.16 shall apply to YCCIP programs.

§ 680.123 Reporting requirements.

The reporting requirements under § 680.17 shall apply to YCCIP programs.

§ 680.124 Review by the RA, redistribution.

(a) The RA may approve projects up to 100 percent of the prime sponsors program funding estimate.

(b) The RA shall disapprove any project application which does not meet the requirements of the Act, and the regulations. RA's shall review individual applications for unresolved disagreements between appropriate labor organizations, employers, and prime sponsors with respect to jobs that have been restructured. RA's shall provide in writing to the prime sponsor an explanation for any prioritized project applications that are rejected.

(c) *Redistribution.* If there are insufficient approved prioritized project applications to equal the prime sponsor's program funding estimate, the RA shall allow the prime sponsor 30 days in which to modify the prioritized project list. If the prime sponsor fails to submit revised project applications or submits revised project applications which are not approvable, the RA shall award the unused funds to other prime sponsors within the State for project applications approved by the RA. In States with only one prime sponsor or in States where no other prime sponsor will be able to spend these funds within a reasonable period of time, the RA shall initiate the reallocation procedures set forth in § 676.47 of this title.

Subpart C—Summer Youth Employment Programs**§ 680.200 Purpose.**

(a) This subpart contains the regulations for that part of the Summer Youth Employment Program (SYEP) under Title IV, Part C of the Act which is operated by prime sponsors designated under § 676.5 of this title. The introductory and general provisions at Parts 675 and 676 and the YETP regulations at Subpart A of this Part also apply to the SYEP program. To the extent, however, that the regulations in this subpart conflict with other regulations promulgated under the Act, the requirements contained in this subpart shall prevail (sec. 484).

(b) The Summer Youth Employment Program shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to

develop their maximum occupational potential and to obtain employment not subsidized under this Act. The programs shall be designed to meet the diverse individual needs of each participant. Among these are:

- (1) Structured and well supervised work;
- (2) Opportunities to explore vocational interest;
- (3) Job rotations to expose youth to different work settings;
- (4) Vocational counseling and occupational information;
- (5) Providing income to participants who without assistance would be unable to attend school;
- (6) Meeting special employability needs;
- (7) Services to induce and aid dropouts to return to school; and
- (8) Placement into short-term subsidized employment leading to full-time unsubsidized employment for youth where return-to-school is not expected.

§ 680.201 Eligibility for SYEP funds.

Prime sponsors designated under § 676.5 are eligible to receive funds under SYEP (sec. 482).

§ 680.202 Allocation of funds.

Allocation of funds under SYEP shall be in accordance with section 483 of the Act.

§ 680.203 Unexpended previous year funds.

Unexpended summer program funds as of September 30 of each year shall be used in planning and designing the next year's summer program as described in § 680.204.

§ 680.204 Startup of program.

(a) During the planning and design phase of the program and prior to the close of the school year, only those activities outlined in paragraph (b) below are permissible. Youth may not be compensated for participation in the program prior to the close of school.

(b) Upon approval by the RA, the following planning and design activities shall be allowable beginning October 1 of each year:

- (1) Development of the SYEP annual plan subpart;
- (2) Hiring of staff (planners, worksite developers, intake specialists, etc.);
- (3) Publication and clearance;
- (4) Worksite development;
- (5) Recruitment, intake and selection of participants;
- (6) Arrangements for supportive services;
- (7) Dissemination of program information, including orientation;
- (8) Development of coordination between schools and other services;

(9) Staff training; and

(10) Other activities, with the approval of the RA, that may be characterized as planning and design but not program operation.

§ 680.205 Program planning; planning and youth councils.

(a) Each prime sponsor shall utilize the planning process and planning council, as described in § 676.6 and 676.7 of this title, and the youth council established under subpart A of this Part.

(b) In developing the SYEP annual plan subpart, the prime sponsor shall coordinate SYEP activities with programs for youth under Part 677 and subparts A and B of this Part (sec. 483(a)).

§ 680.206 Basic program design provisions.

Each prime sponsor shall:

(a) Provide services to those individuals most in need among its economically disadvantaged youth population, within the prime sponsor's jurisdiction, taking into account any priorities identified by the Secretary. Such services shall be provided on an equitable basis considering the geographic distribution of economically disadvantaged youth within the prime sponsor's jurisdiction.

(b) Design programs which are, to the maximum extent feasible, consistent with every participant's fullest capabilities.

(c) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return-to-school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors.

(d) Provide labor market orientation to all participants either on a group or individual basis.

(e) Make maximum efforts to develop cooperative relationships with other community resources so that SYEP activities, including worksite supervision, are provided in the summer program at no cost, or at minimum cost, to the summer program.

(f) Make appropriate efforts to encourage local educational agencies and post-secondary institutions to award academic credit for the competencies participants gain from their participation in the summer program.

§ 680.207 Description of the SYEP annual plan subpart.

(a) Each prime sponsor shall submit a SYEP subpart by a date established by the RA which, when approved, shall become part of the annual plan. The RA may request an advance copy of the plan for preliminary review or authorize the prime sponsor to simultaneously submit the subpart to the regional office during the comment and publication process. The RA may conditionally approve the plan subject to final resolution of any comments received during the comment and publication period or any comments made by the regional office.

(b) The RA shall review, and approve or disapprove the SYEP subpart using the procedures in § 676.14 of this title.

(c) The SYEP subpart shall consist of the following items:

- (1) Approval Request Letter;
- (2) Application for Federal Assistance (Standard Form 424); and
- (3) Narrative description.

(d) *Narrative description.* The narrative description shall contain:

(1) *Objectives and needs for assistance.* (i) Using the requirements for the YETP narrative, provide a description of the purpose, goals, and objectives of the SYEP program and the target groups that will be served by the program.

(ii) *Special group waivers.* Describe the conditions for which a waiver to the limitation on participation in work experience is being requested for any special group(s) of youth being served under SYEP.

(2) *Results and benefits.* Using the requirements for the YETP narrative, describe the participant benefits that will result from the program.

(3) *Approach (i) Program activities and services.* (A) Provide a description of the program activities and services and indicate the service deliverers and the activities they will provide, the duration for each activity and the skills to be learned, and the number of participants to be served by each activity.

(B) Describe the labor market orientation component.

(ii) *Program linkages.* If not elsewhere described in the Comprehensive Employment and Training Plan, described the program linkages established under SYEP.

(iii) *Worksites.* (A) Attach a copy of a worksite agreement which is representative of the worksite agreements used for SYEP.

(B) Describe the training for worksite supervisors, and other worksite personnel with respect to their responsibilities under the SYEP.

(iv) *Participant recruitment and selection.* Using the requirements for the YETP narrative, describe the methods that will be used to recruit, select, and verify eligibility of YETP youth.

(v) *Special components.* (A) If a vocational exploration program (VEP) is to be funded under the SYEP, describe the program and indicate the number of participants and planned expenditures for the program, the organizations with which agreements have been written, the arrangements covered by these agreements, the occupations to which participants will be exposed, provide evidence of the approval by the affected collective bargaining agent(s), and if a nationally funded VEP is operating in the prime sponsor's area, identify the functions or activities the prime sponsor will perform for the nationally funded program.

(B) If an Entitlement project under subpart D of this Part is being funded and operated with SYEP funds, describe the project, including the primary program activities.

(4) *Management and administration.*

(i) Describe any significant differences in the administration, operations, and management (including organizational structure) of the SYEP program from the information provided elsewhere in the Comprehensive Employment and Training Plan.

(ii) Describe the results of or attach copies of any evaluation/assessment reports conducted on the last year's SYEP program which were used to set priorities and/or determine the programmatic goals for purpose of SYEP.

(iii) Attach copies, if any, of comments and recommendations received on the SYEP plan from the appropriate labor organizations, the youth council, the planning council, CBO's and LEA's.

(iv) If not elsewhere included in the Comprehensive Employment and Training Plan, describe the monitoring and evaluation process that will be used for the program.

(v) Attach a copy of the Youth Program Planning Summary and Youth Budget Information Summary on the SYEP program.

(5) *Assurances and certifications.* The SYEP assurances and certifications and detailed instructions for completing the requirements of the SYEP annual plan subpart are contained in the *Forms Preparation Handbook*.

§ 680.208 Activities and services.

(a) Programs may include any employment and training activity or service specified in § 676.25 of this title, except public service employment.

(b) Prime sponsors operating Youth Incentive Entitlement Pilot Projects (YIEPP) may use SYEP funds for their YIEPP program. The provisions of Subpart D of this Part shall apply to SYEP funds used for this purpose.

§ 680.209 Program management provisions.

Each prime sponsor shall:

(a) Provide adequate skilled supervisors to participants at each worksite.

(b) Closely monitor the performance of service deliverers in compliance with the provisions of the regulations governing the summer program, particularly the provisions of paragraph (h) of this section. Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor's established goals.

(c) Ensure that enrollee applications are widely available and that jobs are awarded among the most severely disadvantaged in an equitable fashion. Each prime sponsor shall inform each participant of the purposes of the program, the conditions and standards (including such items as hours of work, pay provisions and complaint procedures) for work activities in the program and require a signature of the applicant or (in the case of minors) the parent, responsible adult, or guardian attesting to the accuracy of the information, especially income data, provided on the application.

(d) When using contractors or subrecipients, enter into contracts or subgrants in accordance with § 676.37. Prime sponsors may enter into contracts or subgrants for those allowable activities or operations of the summer program only with organizations that have demonstrated sufficient program capability and shall have reasonable assurances that such organizations:

(1) Have sufficient capability to operate the program;

(2) Have financial management capability as required by § 676.34;

(3) Assure in their applications that all proposed worksites meet the requirements of this subpart, and that such worksites will meet the standards of § 680.210;

(4) Assure in their applications that they will have available for review and monitoring the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and managing personnel of any affiliate, subsidiary, etc., who have operational or fiscal responsibilities for the summer program;

(5) Assure in their applications that they will have available a list of all Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs under which they have received financial assistance during the last three years and provide in their applications a statement that to the best of their knowledge, they have substantially complied with the requirements, procedures and objectives of such programs;

(6) Assure in their applications that there is no information available to them showing substantial non-compliance with the Act and regulations in operation during the terms of the previous year's summer program, or if there is, they shall include in their applications a copy of an acceptable plan to correct such deficiencies; and

(7) Assure in their applications that all of their personnel will have basic training in the program and regulations before the summer program begins.

(e) Consider in selecting contractors or subrecipients the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that is appropriate in terms of participants' needs and local market demands);

(2) Provide the specific services contracted for;

(3) Restrict expenditures to allowable cost items, only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested.

(f) Require their contractors or subrecipients to:

(1) Have supervisory and operational personnel for monitoring each site to which participants are assigned;

(2) Assure that all sites, where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment; and

(3) Train their own personnel and worksite personnel with regard to the duties and responsibilities, including monitoring.

(g) Compile and continually update a list of worksites divided by contractor and subrecipient to aid in its monitoring efforts and to be made available to the public on request.

(h) Visit worksites of each contractor or subrecipient on a sample basis during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is sufficient meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records are being maintained and accurately record time worked by each enrollee; and

(4) The requirements of the Act and this subpart are being met.

(i) Promptly review the reports written by its own and Federal monitors.

(j) Revisit worksites where monitors report problems.

(k) Close worksites where it finds serious or continual violations of the Act, the regulations or conditions of the contract or subgrant, and which are not likely to be remedied by quick remedial action.

§ 680.210 Worksite standards.

(a) No participants under 18 years of age shall be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Subpart E of Part 570 of Title 29).

(b) participants who are 14 and 15 years of age shall participate only in accordance with the limitations imposed by the Fair Labor Standards Act. (See subpart C of Part 570 §§ 570.31 and 570.35 of Title 29.)

(c) (1) Each prime sponsor shall develop a written financial or non-financial agreement with each worksite employer which assures:

(i) Adequate supervision of each participant,

(ii) Adequate accountability for participant time and attendance, and

(iii) Adherence to the rules and regulations governing SYEP.

(2) Such written agreements may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions to which the worksite is expected to adhere.

(d) Each prime sponsor shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(e) No participant shall be required to work, nor be compensated for work, with CETA funds, for more than 40 hours per week. While the Department uses a 9-week, 26-hour week job as the basis for estimating the number of youth to be served, it is not intended to take away the flexibility of the prime sponsor to establish job slots in keeping with the

needs of the area and the youth to be served.

§ 680.211 Eligibility for participation.

Each person shall be:

(a) At the time of application, economically disadvantaged; and

(b) At the time of enrollment, 14 through 21 years of age inclusive (sec. 402(a)).

§ 680.212 Participant compensation, benefits and working conditions.

(a) Prime sponsors shall provide participant benefits, wages, and allowances as provided in §§ 676.26 and 676.27.

(b) Participants enrolled in vocational exploration activities shall be compensated as described in § 676.26 *except*: Participants receiving public assistance, or whose needs or income are taken into account in determining such public assistance payments to others, may receive a stipend in addition to their incentive allowance for participation in vocational exploration program activities; *Provided*, That the participant's total allowances (the incentive allowance plus any stipend) do not exceed the basic allowances paid to other participants.

This stipend is available to provide for the exceptional expenses incurred by these participants which might otherwise prevent the individuals from participating in a VEP activity. The first \$30 of such total allowance payment shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing the total allowance payment for each participant, the prime sponsor shall insure that no individual shall receive an amount in allowances which would result in a net loss to the youth or the youth's family in public assistance benefits.

§ 680.213 Reallocation procedures.

The reallocation procedures under § 676.47 shall apply to SYEP programs.

§ 680.214 Modifications.

(a) The procedures specified in § 676.16 shall apply to the modifying of the SYEP subpart, except that the provisions concerning A-95 clearance shall not apply.

(b) The RA shall notify the prime sponsor of approval or disapproval within 10 days of receipt of the proposed modification.

§ 680.215 Reporting requirements.

Each prime sponsor shall submit the following reports to the RA:

(a) A Youth Program Status Summary, as of June 30 and September 30

(separate reporting of the vocational exploration program component will be included in this report);

(b) A Youth Financial Status Report, as of June 30 and September 30 (separate reporting of the Vocational exploration program component will be included in this report);

(c) Separate Quarterly Summary of Participant Characteristics reports as of September 30, based on the participant records for this program and any Part 677 summer youth programs;

(d) Selected information required on the above reports shall be submitted for informational purposes for participants and expenditures in summer components funded with monies in the Part 677 annual plan subparts as applicable;

(e) Selected information required on the above reports shall also be submitted for reporting purposes, for participants and expenditures in entitlement projects funded with monies provided under this subpart, as well as in the required entitlement reports; and

(f) The reports in this section shall be submitted to the RA no later than 30 days after the end of the report period.

§ 680.216 Termination date for the summer program.

(a) Participants shall not be enrolled in program activities beyond September 30. However, in no event may a participant work full time after the beginning of his or her school year.

(b) In addition to the activities described in § 680.204, allowable activities after September 30 include: report and record preparation and submittal, completion of evaluations and assessments of the summer program, and audits.

Subpart D—Youth Incentive Entitlement Pilot Projects

§ 680.300 Scope and purpose of subpart.

(a) This subpart contains the regulations governing the Youth Incentive Entitlement Pilot Projects (Entitlement Projects) under Title IV, Part A, Subpart 1 of the Act. The Youth Incentive Entitlement Pilot Projects were established by Title II of the Youth Employment and Demonstration Projects Act (YEDPA) of 1977.

(b) The basic purpose of the Entitlement Projects is to test the experimental idea of guaranteeing jobs, or in some cases a combination of jobs and training, to economically disadvantaged youth. The program is operating only in certain prime sponsor areas, or portions of prime sponsor areas, chosen by the Department of Labor. Within those areas during the

school year, otherwise unavailable part-time employment, or a combination of part-time employment and training, will be guaranteed to those economically disadvantaged youth between the ages of 16 to 19 inclusive, who are in secondary school or who are in a program leading to a certificate of high school equivalency. In addition, in those same areas during the summer; otherwise unavailable full-time employment, or a combination of part-time employment and training, will be guaranteed to economically disadvantaged youth, between the ages of 16 to 19 inclusive, who are in a secondary school or who are in a program leading to a certificate of high school equivalency (sec. 418(a)).

(c) Congress mandated that the entitlement approach be rigorously tested under varying geographic, economic, and other circumstances. Because of the high cost of guaranteeing year-round jobs to all in-school disadvantaged youths, only a limited number of demonstrations could be undertaken with available funds. In order to test whether jurisdictions can feasibly implement substantial programs, only a limited number of Tier I projects were implemented. These are covering entire jurisdictions or neighborhoods. In order to test a number of innovative approaches authorized by the Act and to get a wider geographic spread, a somewhat larger number of Tier II projects were funded, demonstrating specific innovative entitlement approaches. These projects might cover only the area served by a particular school or small school district.

(d) To make sure that Entitlement Projects would be selected and operated as a national experiment, with the necessary flexibility to develop and test new and improved ideas, Congress did not authorize the Secretary to allocate funds to CETA prime sponsors by formula. Instead, the Secretary of Labor was required to determine how many Entitlement Projects are to be established and where they should be located.

§ 680.301 Regulations governing entitlement projects; definitions.

(a) All the provisions of Part 676 of this title shall apply to the Entitlement program except to the extent they conflict with the regulations in this subpart.

(b) To the extent that the research, demonstration, and informational requirements of this subpart conflict with the regulations contained in Part 676, the regulations in this subpart shall prevail. In order to determine whether a conflict exists, grantees shall consider

both the regulations in this subpart and the terms of the Entitlement grants which implement the regulations in this subpart. For example, the regulations throughout this subpart contain requirements that the grantee submit detailed information not required by the regulations in Part 676. Because of the research and demonstration nature of the Entitlement program such information is essential. As a result, the Entitlement grants, which implement the regulations contained in this subpart, contain reporting and other requirements which are both different from, and more detailed than, those in Part 676. In such cases, the grantees shall follow the Entitlement grant requirements. Other specific examples of such conflicts are as follows:

(1) Since under the regulations in this subpart, the Entitlement program is administered by the national office the terms regional office and Regional Administrator in Part 676 mean for purposes of this subpart national office and Grant Officer respectively; and

(2) To the extent that Entitlement grants require the use of categories for allocating costs for reporting purposes which are different from or more detailed than the allocable cost categories in § 676.41, the grantee shall allocate costs pursuant to the categories in the Entitlement grant.

(c) Questions regarding the applicability of specific provisions of Part 676 which may appear to conflict with the regulations or grant shall be addressed to the Grant Officer.

(d) Definitions for terms used in this subpart may be found at § 675.4 of this title, except as stated within this subpart.

§ 680.302 Funding of entitlement projects.

(a) Of the funds available under this subpart, the Secretary shall reserve a portion of the funds for research, technical assistance, consultants, and other appropriate purposes.

(b) The Secretary shall use the remaining funds under this subpart to fund selected Entitlement Projects.

§ 680.303 Eligibility for funds.

All prime sponsors under Title II of the Act were eligible to apply for Entitlement Project funds.

§ 680.304 [Reserved]

§ 680.305 [Reserved]

§ 680.306 [Reserved]

§ 680.307 [Reserved]

§ 680.308 [Reserved]

§ 680.309 [Reserved]

§ 680.310 [Reserved]

§ 680.311 [Reserved]

§ 680.312 [Reserved]

§ 680.313 [Reserved]

§ 680.314 Assurances and certifications.

The prime sponsor shall assure that, in operating its Entitlement Project, the prime sponsor will comply with the Master Plan including Assurances and Certifications in the Master Plan and with the following additional assurances:

(a) Compliance with Title IV, Part A, Subpart 1 of the Act, with other applicable provisions of the Act, and with the regulations in this subpart; and

(b) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 *et seq.* with respect to the employment of youths under 18 years of age.

§ 680.315 Project responsibilities and requirements.

(a) *Project organization and administration.* (1) Because of the size and complexity of the Entitlement Projects, a single governmental, private nonprofit, or educational agency should be designated to assume overall management responsibility for program operations, including coordinating participant recruitment, work site development, operational relationships among schools, training activities and support services, program monitoring, report preparation, and maintenance of management information. The prime sponsor may delegate this responsibility.

(2) For the Entitlement Project, the entire youth participant payroll shall be centrally administered by the prime sponsor or its delegated management agency. Finally, since this is a demonstration project, extensive research, monitoring, and evaluation must be carried out by the prime sponsor under the supervision of the Department of Labor.

(b) *Commitment of local institutions and organizations.* (1) Prime sponsors shall consult with the appropriate labor organizations in developing restructured and/or newly classified jobs.

(2) Section 418(a)(4)(D) of the Act also requires that prime sponsors consult and work with a number of other local institutions and organizations in planning and implementing Entitlement Projects, including law enforcement and judicial agencies, youth groups, State and local public assistance agencies, community-based organizations, the private sector, and the State Employment Service. Arrangements should be made with all appropriate groups to obtain their assistance in operating the program.

(c) *Agreements.* Prime sponsors shall comply with the following agreements in carrying out their Entitlement Projects:

(1) All wage agreements entered into pursuant to § 680.319(a);

(2) An agreement with the State Employment Service agency;

(3) Agreements obtained from each participating school and high school equivalency (GED) program in the Entitlement Project area which is attended by eligible youths, and, to the extent feasible and appropriate, with every such school outside the Entitlement Project area which eligible youths from the Entitlement Project attend, indicating their willingness to provide a monthly status report for each participant certifying the participant's compliance or noncompliance with the school's or GED program's minimum academic and attendance requirements, including, from each participating secondary school and GED program a description of the standards and policies for determining its minimum academic and attendance requirements;

(4) All on-the-job training, employment guarantee and other agreements entered into with private nonprofit and for-profit employers;

(5) Any agreements with unions with respect to apprenticeship training; and

(6) Any other agreements entered into in order to run the Entitlement program.

(d) *Program operation-related documentation.* Prime sponsors shall document the following:

(1) The procedures for verification and reverification of eligibility criteria as required in § 680.313(f), and the method by which these will be implemented, and how the eligibility criteria and verification procedures will be explained to participants at the time of enrollment;

(2) Policies for defining good cause for the participant's rejection of a job or other nonparticipation; proposed procedures and timetable for making another job offer in such cases; and proposed procedures for the resolution of grievances.

(3) In detail, standards for determining satisfactory performance including

policies on attendance and lateness on the job or at training, suspension and termination policies and procedures, and the procedures and staff responsibilities for monitoring program performance.

(4) (i) Descriptions of which of the following groups of youth, if any will be considered by the prime sponsor to "reside" in the Entitlement Area and therefore be eligible (if otherwise eligible) for program participation:

(A) Youths confined in prisons or other correctional institutions in the area;

(B) Youths in area hospitals, drug rehabilitation centers, half-way houses, etc.; and

(ii) How the enrollment eligibility criteria and procedures will be applied to any of these or other groups of youth in institutional "residences" selected to be included in the program.

§ 680.316 Eligibility of participants.

(a) Every youth who resides in the geographic area of the Entitlement Project shall be entitled to participate in the program provided that, at the time of application and selection, the youth provides documented evidence which shows that:

(1) The youth is aged 16-19 inclusive, unless the Department has authorized the prime sponsor to administer an entitlement Project for youths between 19 and 25 years of age;

(2) The youth has not received a high school diploma or certificate of high school equivalency;

(3) The youth has resided in the Entitlement Project area for 30 days. Newly discharged veterans however, are exempt from the 30 day residency requirement;

(4) The youth is economically disadvantaged. For purposes of this subpart, economically disadvantaged shall mean that the youth:

(i) Either constitutes a family of one, or is a member of a family,

(ii) And receives cash welfare payments under a Federal, State or local program, or whose income is at or below the poverty level as determined by the Office of Management and Budget (OMB). For the purposes of this paragraph, a "family" is as defined in § 675.4 of this title, and the term "family income" is as defined in § 675.4 of this title. Family income shall be computed pursuant to § 675.4 of this title except that earnings received by a youth under Title IV OJT shall be disregarded in computing family income. In the case of newly discharged veterans, income received while in military service shall be disregarded in computing family income; and

(5) The youth is:

(i) Enrolled in and attending a State-certified secondary school program leading to a high school diploma, or enrolled in such a program scheduled to begin within 30 days of the Youth's Entitlement program enrollment; or

(ii) Enrolled in and attending a certified or approved program leading to a certificate of high school equivalency (CED), or enrolled in such a program scheduled to begin within 30 days of the Youth's Entitlement program enrollment.

(b) If the youth is under the juvenile or criminal justice system, the appropriate authorities must approve the youth's participation or continued participation in writing.

(c) The citizenship provisions of § 675.5(b) of this title shall apply to the Entitlement program.

(d)(1) No otherwise eligible youth shall be excluded from participation because of any mental or physical handicap.

(2) The prime sponsor must take every step necessary to insure that such youths can participate. The prime sponsor may not segregate such youths from regular program activities, but must redesign these activities to ensure participation.

(e) No youth may take a job under this subpart if a member of his or her immediate family as defined in § 676.66(c)(1) of this title, has responsibility for hiring persons into that job. Therefore, prime sponsors shall assure that eligible youths are not placed in jobs by members of their immediate families. The provisions of § 676.66 (a) and (b) shall not apply to this subpart. (Section 418(a)(4)(I).)

(f) A participant must continue to be economically disadvantaged as defined in § 680.316(a)(4) and to reside within the Entitlement Area or be terminated from the program. The prime sponsor shall re-verify participant economically disadvantaged status and residency between the seventh and twelfth month following enrollment and annually thereafter. In re-verifying economically disadvantaged status, however, wages and allowances received under the Entitlement program shall not be included when computing family income.

(g) A participant must meet minimum academic and attendance requirements of the secondary school or high school equivalency program in which the participant is enrolled or be terminated from the Entitlement program. The secondary school or GED program must provide monthly assurances that the participant is meeting minimum academic and attendance requirements.

(h) A participant who has been found by the prime sponsor, after notice and an opportunity for a hearing, to have refused a job or to be otherwise refusing to participate in the program without good cause, shall be terminated from the program. The participant shall be given a termination notice which states that the participant may appeal the termination to the appropriate ETA regional office. Upon receipt of such an appeal the regional office shall process it as a complaint pursuant to Subpart (f) of Part 676.

(i) Except as provided below, any participant who has been terminated from the Entitlement program may re-enroll at any time provided the participant meets the eligibility criteria in this section. Participants who have been terminated for failure to participate without good cause must wait 60 days before they apply for re-enrollment. Re-enrollment of such participant after the 60 day period shall be subject to a determination by the prime sponsor as to whether such individual would properly participate in the program.

(j) For youths who remain eligible as stated in (f) through (i) of this section, the minimum guaranteed period of employment for Entitlement-eligible youth is either 8 weeks of full-time summer employment or 6 months of part-time school-year employment (sec. 417). Therefore:

(1) A participant reaching 20 years of age while in the program may remain in the program until the participant completes either 8 weeks of full-time summer employment or 6 months of part-time school-year employment. If upon reaching the 20th birthday the participant has already completed either 8 weeks of full-time summer or 6 months of part-time school-year employment, the participant shall be immediately terminated from the program. For projects that are serving youth 19-25, this requirement applies to youth reaching 25 years of age.

(2) A participant who receives a high school diploma or a certificate of high school equivalency while in the program may remain in the program until the completion of either 8 weeks of full-time summer employment or 6 months of part-time school-year employment.

(k) Since jobs during the school year must last at least 6 months, and jobs in the summer must last at least 8 weeks, no youth may be enrolled in the program if the grant will end before the youth can complete the required period of employment unless there are sufficient funds to maintain that youth for the minimum guaranteed period of employment.

§ 680.317 Work sites.

(a) Work sites shall:

(1) Not detract from or interfere with the educational curriculum of the participants and, whenever possible, shall complement that curriculum;

(2) Be primarily in the Entitlement Area or easily accessible, and in reasonable proximity to the residences of eligible youth;

(3) Maintain a cooperative relationship with local business, union and community group interests;

(4) Provide attendance and productivity standards, which are adequate for monitoring purposes and capable on-site supervision; and

(5) Be developed and committed in such numbers and in such a way as to minimize the time between enrollment and assignment to a work site of any participant.

(b) Emphasis in work site development shall be placed on jobs having careful supervision and which provide youth with structured, productive work settings. Jobs shall be designed to introduce youth to the habits of successful work life and entry level or preparatory skills.

(c) Prime sponsors should make every effort to create new and different job classifications, occupations, and restructured jobs (sec 418(a)(3)).

(d) Participants shall spend a majority of paid program time on the work site engaged in direct job performance. Training may be provided during the remaining time, provided the training is directly related to the specific work assignment.

§ 680.318 Allowable activities.

(a) The Entitlement project may include any type of employment and training activity specified in § 676.25 of this title, except public service employment.

§ 680.319 Participant benefits.

(a) The wage provisions of § 680.10 shall apply to the Entitlement program. In addition:

(1) In Entitlement projects in which employment with private-for-profit employers is authorized, up to 100 percent of the wages may be paid. (i) However, in such cases, prime sponsors must submit acceptable plans for reducing the level of wage subsidy over the period of participation of the participant.

(ii) No additional payments shall be provided by the Entitlement program to any such for-profit organization.

(2) In the case of participants working at jobs and/or engaged in training provided by private-for-profit organizations wages (and/or

allowances) shall be paid, as in all cases, by the centrally administered payroll facility required by § 680.315 (1)(b).

(3) Each participant shall spend the majority of his/her paid time in the Entitlement program in either work or training which is directly related to the assignment. Consequently, participants should be paid wages for both work time and training time, except when more than 50 percent of scheduled program time is spent in training. In such cases, allowances shall be paid in accordance with § 676.26 for the period spent in training.

(b) Each participant, while in on-the-job training, or work experience, shall be assured of the general benefits and working conditions for program participants required by § 676.27 of this title.

(c) No funds under the Entitlement program may be used for retirement benefits or costs.

§ 680.320 Academic credit.

Prime sponsors shall make appropriate efforts to encourage educational agencies to award academic credit for the competencies participants gain in the Entitlement program.

§ 680.321 Disregarding earnings.

The provisions of § 680.11 of this Part shall apply to the Entitlement program (sec. 446).

§ 680.322 Maintenance of effort.

The provisions of § 680.12 and 680.13 shall apply to the Entitlement program.

§ 680.323 Limitations on use of funds.

(a) No funds under the Entitlement program may be used to pay for time spent in the Entitlement program in excess of 20 hours a week during the school year or 40 hours per week during the summer. The minimum paid program time guaranteed for each employed youth shall be 10 hours per week during the school year and 30 hours per week during the summer. Prime sponsors may also allow youths to work 40 hours a week during school year vacations of 5 consecutive school days or more, but there shall be no minimum paid program guarantee applicable to these school year vacations.

(b) *Training and support services.* (1) The basic intent of the Entitlement Projects is to provide employment. Training and support services may be provided, however, it should be assumed that a participant will spend most of paid program time engaged in direct job performance at the worksite.

(2) Any training that is conducted during paid program time should be

directly related to the participant's specific work assignment.

(3) Participants are to be paid for time spent in training in accordance with § 676.26 and § 680.319(a)(3)).

(4) Participants shall not be paid for time spent in supporting services (as defined in § 676.25(e)(3)).

(5) Prime sponsors are discouraged from paying for staff and overhead costs for training and support services out of Entitlement funds. Prime sponsors should use funds from other sources to cover these costs.

(c) *Innovative Approaches.* Prime sponsors may test a variety of innovative employment and training approaches within the larger context of the Entitlement program. These approaches should not cover an entire Tier I project, of which the basic purpose is to test the Entitlement notion itself, but may be used as a component of Tier I projects. Tier II projects should include one or more of the following innovative approaches:

(1) The use of subsidies to private for-profit employers to encourage such employers to provide employment and training opportunities;

(2) Arrangements with unions to enable eligible youth to enter into apprenticeship training as part of the employment entitlement;

(3) Inclusion of economically disadvantaged youth between the age of 19 and 25 who have not received their high school diploma or equivalent;

(4) Inclusion of occupational and career counseling, outreach, career exploration, and on-the-job training as part of the employment entitlement;

(5) Inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

(b) Prime sponsors may use program funds under both Title II and Title IV, Part C of the Act for the Entitlement Project. Funds under Title IV, Part A, Subparts 2 and 3 of the Act may also be used provided modifications are obtained for those grants. Funds received under Title IV, Part C shall be integrated with funds received under this subpart. Therefore, the regulations under this subpart shall apply to such funds. Title II funds and other Title IV funds, however, may not be integrated, but must be separately accounted for. The regulations appropriate to each program shall apply to such funds when conflicts occur between those regulations and the Entitlement regulations. Thus, for example, Entitlement Project wages and allowances paid for with Title II funds, shall be paid at the wage rates and

allowance rates set forth in the Title II regulations.

Signed at Washington, D.C., the 27th day of September 1979.

Ray Marshall,
Secretary of Labor.

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TUESDAY
APRIL 3, 1979

Part IX

Department of Labor

Employment and Training Administration

**Comprehensive Employment and Training
Act Regulations; Final Rule**

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 675, 676, 677, 678, 679

Comprehensive Employment and Training Act Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The document contains final regulations for programs under Title I, II, VI, and VII of the Comprehensive Employment and Training Act. The purpose of this document is to implement changes made by the Comprehensive Employment and Training Act Amendments of 1978.

The Comprehensive Employment and Training Act, first enacted in 1973, authorizes a combination of programs which are designed to provide specific employment and training services needed to prepare and place eligible individuals in unsubsidized employment. The administrative provisions in Title I of the Act generally apply to all CETA activities. The regulations for Title I are set forth at Part 676, except as noted. Title II of the Act includes activities and programs for the structurally unemployed. The regulations for Title II are set forth at Part 677. Title VI of the Act, the regulations for which are set forth at 678, is designed to provide short term public service jobs to low income persons who are temporarily out of work because of economic conditions causing a contraction of the job market. Title VII of the Act, the regulations for which are set forth at Part 679, authorizes new initiatives in developing private sector opportunities for the economically disadvantaged by the involvement of the business community and other efforts to increase employment opportunities in the private sector.

The programs under Titles II, VI, and VII of the Act are administered by units of State and local governments. The regulations for these programs are being promulgated together in this document.

EFFECTIVE DATE: April 1, 1979.

FOR FURTHER INFORMATION: Mr. Robert Anderson, Administrator, Office of Comprehensive Employment Development, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213, Telephone (202) 376-6254.

SUPPLEMENTARY INFORMATION:

Background

A principal goal of the Department of Labor has been the publication of regulations which are as easy to use and understand as possible, considering the requirements of the statute and the management needs of the system. As a result, the regulations contain a comprehensive administrative Part 676, reducing, and in many cases eliminating, the need for repetition of generally applicable provisions. To the extent possible, jargon has been eliminated, and the requirements are written in plain English. Cross references within the regulations and to other laws have been kept to a minimum. Sections dealing with participant eligibility, nondiscrimination, and prevention of fraud and abuse have been consolidated.

Many sections of the final regulations have been reduced in size to eliminate unnecessary detail found in the proposed regulations. In addition, in an effort to make the regulations more easily understandable, some of the longer sections of the regulations have been divided into several clearly separated subsections.

The regulations included in this publication will amend Chapter 5 of Title 20 of the Code of Federal Regulations by adding Parts 675 through 679. These regulations supersede the regulations at 29 CFR Parts 93, 95, 96, and 99, and the regulations at 29 CFR Parts 94 and 98 to the extent that the regulations at 29 CFR Parts 94 and 98 governed programs under Titles II, VI and VII of the Comprehensive Employment and Training Act.

The recordkeeping and reporting requirements contained in these regulations and in the associated Forms Preparation Handbook have been submitted to the Office of Management and Budget for clearance as required by the Federal Reports Act (44 U.S.C. 3501 et seq.).

The Office of Management and Budget has provided interim clearance for the requirements in the regulations under OMB number 44-R1655, thereby approving the prime sponsor planning procedures in the regulations for FY 1980. It has taken this action based on its review of earlier versions of the regulations in order to facilitate the orderly and timely implementation of the CETA amendments of 1978 in accordance with the statutory time schedule. In providing this clearance, OMB intends to continue its review of these recordkeeping and reporting requirements and to seek public comments in this process. The

Department of Labor will notify the public by **Federal Register** publication of any modifications in these requirements which may result from the review, as may affect planning for FY 1981 programs.

In additions, the nondiscrimination section of these regulations at Part 676, subpart D has been sent to the Equal Employment Opportunity Commission for coordination pursuant to Executive Order 12067. Any modifications deemed necessary will be published shortly in the **Federal Register**.

Departmental grant regulations are being published in the **Federal Register** in the very near future. These contain requirement for all Departmental grants including those under CETA. The Departmental regulations will take into consideration the comments, received on the proposed CETA regulations as well as comments received last summer, when the Grant regulations were proposed for comment in the **Federal Register**. (43 FR 26042, June 16, 1978)

Major Objectives

In developing these regulations, the Department has had a series of major objectives which are intended to enhance the effectiveness of CETA programs. These include targeting services to persons most in need; ensuring comprehensive planning and delivery through coordination of the various employment and training activities; focusing on the transition of participants into unsubsidized employment; providing for improved management control to ensure the integrity and efficiency of the program and to prevent program fraud and abuse. Regulatory provisions dealing with these objectives are discussed in the following paragraphs.

Targeting Services to Persons Most In Need

The eligibility criteria for prime sponsor programs under Titles II, IV, and VII are consolidated in § 675.5 of the regulations. For each program, a person must meet eligibility criteria based on both income and employment status. Furthermore, service is to be provided equitably to the significant segments of the eligible population (age, race, sex and national origin groups). Special consideration must be given to Vietnam-era and disabled veterans and to public assistance recipients as described in § 676.30(a).

Within the eligible population for each program, efforts must be made to serve those most in need. This will be accomplished not only through intake and assessment procedures, but also through designing jobs in public service

employment programs to accommodate lower income and lower skilled persons.

Coordination of Planning and Delivery of Services

New requirements for planning provide for a much more extensive involvement of groups and organizations within the community concerned with employment and training activities. This includes private employers, the educational system, organized labor, community based organizations (CBO's), State employment security agencies (SESA's) and other such groups. All such groups are to be involved in planning as described in § 676.7.

Transition Into Unsubsidized Employment

A number of new provisions mandate a strengthened effort to transition CETA participants into unsubsidized employment. Increased involvement of the private sector is required through the establishment of Private Industry Councils, which will be involved not only in planning but also in the administration of programs.

New efforts are to be undertaken to transition public service employment participants into unsubsidized jobs through training, counseling and other services. Individualized employability plans are required to be developed for participants in Title II programs, to assist in guiding participants through CETA activities and into unsubsidized employment in a more effective manner.

Prevention of Fraud and Abuse through Improved Program Management

Central to improving the effectiveness of CETA programs is the development of a strengthened management capacity. Prime sponsors are required to implement monitoring and eligibility determination systems to eliminate fraud and abuse and the hiring of ineligible participants in the program. Assessment systems to continually assess program effectiveness are required for correcting problems and enhancing program planning. An improved complaint system will serve to make the program more responsive to problems. Part 676, Subpart E consolidates requirements aimed at preventing program fraud and abuse. Included are new requirements for prime sponsors to establish independent monitoring units, as well as new provisions regarding program abuses such as political activities, conflicts of interest, kickbacks, lobbying, and child labor.

Discussion of Major Comments and Changes

The development of the regulations has included significant and regular input from different segments of the CETA system. Meetings were held in Washington, D.C. in August, November, December, February, and March with representatives of public interest groups, organized labor, prime sponsors, private industry groups, federal agencies, community based organizations and other groups. Meetings were also held in each region with regional and prime sponsor staff and interested organizations. These meetings were held to involve these groups in the regulation development process, and to review the proposed regulations published on January 19, 1979.

By including these groups in the process from the beginning, the Department sought to ensure a final product which would be responsive to the needs of the CETA system, and which could be implemented quickly and effectively.

The proposed regulations were published for a 30 day review and comment period. The Department received approximately 450 written comments on the proposed regulations. This allowed the Department an opportunity to receive and reconcile comments from a nationwide audience prior to publishing these final regulations. This publication schedule also served to orient the CETA system and the general public to the amendments to the law, and provided guidance for planning and modifying existing plans in order to comply with the new amendments.

The most significant issues raised by the commenters were as follows:

Definition of Economically Disadvantaged

The proposed regulations in § 675.4 defined as economically disadvantaged a handicapped individual with a family income of 100 percent or less of the lower living standard income level. Many comments were received from a number of different groups contending that handicapped individuals should be considered economically disadvantaged without regard to their financial status.

The Department agrees with the commenters. As with clients of sheltered workshops and persons confined to institutions or receiving community care, handicapped individuals will not be required to meet an income level to be considered economically disadvantaged, provided their handicaps present substantial barriers to employment.

Vietnam-era Veteran Definition

The proposed regulations defined Vietnam-era Veteran in Section 675.4 as a veteran under 35 years of age who served on active duty between August 5, 1964, and May 4, 1975 and was discharged or released within four years preceding application. A number of comments were received questioning the four year limitation contained in the definition. The Department agrees with the commenters. This restriction was inadvertently included in the proposed regulation and has been deleted from the regulations to conform to the statutory definition.

Eligibility Determination

The proposed regulations included several provisions regarding new eligibility criteria and procedures for determining eligibility. Numerous comments were received on whether eligibility was to be determined at the time of application or enrollment. Other comments requested clarification on the procedures for eligibility determination.

These final regulations clarify that participant eligibility may be determined at the time of application, so long as there is an intervening period of no longer than 45 days prior to enrollment and the applicant does not receive a full time permanent unsubsidized job during that intervening period.

These regulations also more clearly delineate the three step eligibility determination procedure of first, obtaining a full and complete application, the contents of which are stipulated in these regulations; second, reviewing of all applications for accuracy and consistency within 30 days of enrollment; and third, conducting a sample verification on a quarterly basis to ascertain that the information on the application is true. § 676.75-3 clarifies the sample size for eligibility verification and indicates that full instructions on eligibility determination requirements are to be included in the Forms Preparation Handbook.

Eligibility for Upgrading

The proposed regulations required in § 675.5-3 that upgrading programs are to be directed at persons operating at less than full skill potential in entry level unskilled or semi-skilled positions. A number of comments were received asking for clarification of these terms and the inclusion of appropriate minimum documentation requirements for determining eligibility for upgrading programs.

The Department believes that more detailed regulations at this time regarding eligibility for upgrading would unnecessarily limit the flexibility of prime sponsors in carrying out upgrading programs and would not be in keeping with the demonstration nature of the program. The proposed regulations, therefore, have been retained in the final regulations.

Residency

The proposed regulations stated in § 675.5 that a program agent may not hire persons outside of its jurisdiction nor may the prime sponsor hire persons from within the program agent's jurisdiction.

The Department received several comments that this requirement unduly restricts the flexibility of the prime sponsor to establish local priorities for service.

The Department is retaining the approach contained in the proposed regulations since this requirement assures an equitable distribution of resources within prime sponsor areas, as provided by the allocation formulas in the Act.

Grant Procedures

A number of comments were received from prime sponsors protesting the increase in information required in the Comprehensive Employment and Training Plan. In addition, many commenters expressed concern that information required in the Annual Plan Subparts was duplicative in nature.

The Department involved prime sponsor and regional office staff in the development of the grant requirements. The new Comprehensive Employment and Training Plan has been developed to minimize the paperwork burden on prime sponsors while at the same time assuring that the additional information required by the new amendments to the Act is included. The regulations have been revised to eliminate duplication in the grant information requirements. The Department will make every effort to analyze the impact of the grant procedures on the FY 1980 grant development process so as to consider further simplification in subsequent years.

OJT Streamlining

The comments received on the streamlining of the on-the-job training requirements were generally favorable to the provisions of the proposed regulations. There was some confusion as to what requirements in the proposed regulations applied to public sector OJT, and a general belief by the commenters

that private and public OJT should be treated identically. The final regulations in § 676.25-2 now specify that private and public sector OJT are subject to the same requirements, with the exception of public sector OJT agreements entered into prior to April 1, 1979.

Outstationing

The proposed regulations included a restriction on the practice of allowing prime sponsors to outstation PSE and work experience participants with other prime sponsors and program agents.

A few commenters stated that the regulations did not go far enough in prohibiting outstationing. These commenters stated that prime sponsors presently use outstationing as a way to deny benefits to CETA participants, or to camouflage maintenance of effort violations, and that outstationing results in less transition of participants into unsubsidized jobs. A large number of comments were received generally opposing restrictions on outstationing. These commenters stated that the proposed regulations would impose unnecessary restrictions on the administrative flexibility of prime sponsors, and would impose additional costs on prime sponsors which have centralized payroll systems.

Based on a consideration of the comments, the Department has modified the proposed restriction on outstationing to allow outstationing of work experience participants, since such participants are generally not required to receive comparable wages and benefits, and therefore would likely not be outstationed to avoid such comparability requirements. The regulations do provide general constraints on PSE outstationing, but indicate that outstationing is permissible where the worksite lacks the capability to be an employer, where it would impede the implementation of the program by requiring an excessive number of subgrants with smaller worksites or where wages, benefits, or working conditions of PSE enrollees are the same or substantially similar to those of regular workers at the worksite. Prime sponsors shall specify in their plan for the grant officer's approval how planned outstationing meets such requirements.

The final regulations also provide that consortium administrative arms which are not units of general local government may outstation when the wages and benefits of the participant's are the same as comparably employed regular workers, when the local bargaining agent concurs, and where the

site is a jurisdiction of 50,000 population or less.

Retirement Benefits

Several comments were received on § 676.28 of the proposed regulations, which set forth the conditions under which CETA funds could be used to pay retirement benefits. Most of the commenters did not disagree with the basic policy of the proposed regulation, that is, that CETA funds could be used for contributions to retirement systems or plans only when such contributions bear a reasonable relationship to the cost of providing benefits to participants. Most of the commenters were also supportive of the concept that CETA participants should be considered as benefiting only if they are vested in the retirement system or plan, (i.e., will not forfeit the contributions made on their behalf) or if they obtain unsubsidized employment with an employer whose retirement system or plan credits the time spent in CETA participation towards benefit entitlements.

On the other hand, most of the commenters stated that the regulation should be re-written to clarify the methods by which CETA funds could legally be expended (costed). The Department, therefore, has re-written the regulation to clearly set forth the methodology whereby CETA funds may legally be expended using the vesting, actuarial, reserve account/buy back, and alternative methods.

Some commenters requested that the regulations allow CETA funds to be used for the full costs of a package of benefits when the package of benefits includes retirement. The commenters stated that it might be less expensive to leave the CETA participants in the retirement system than to exclude them (as allowed by the proposed regulations) and thereafter buy health, death and disability policies only for the CETA participants.

The Department does not agree with these comments. The Department believes that the statutory language precludes the use of CETA funds for retirement contributions except for CETA participants who can be expected to benefit from the retirement system or plan. The Department, moreover, believes that it would be contrary to the reasonable cost principles of the Federal Procurement Regulations (see § 676.40) for a prime sponsor to exclude CETA participants from the health, death and disability coverage of a benefits package, only to then purchase separate, more expensive coverage for these items for only CETA participants. The

Department, therefore, believes that prime sponsors which choose to exclude CETA participants from the retirement portion of benefit packages should modify their benefit packages so that CETA participants are still covered by the benefit package for all items except retirement.

Average Wage Provisions

Numerous comments were received expressing concern regarding the impact of the average wage provisions on PSE programs. Questions were raised regarding the manner in which the wage index is developed and applied to areas, and the procedures by which prime sponsors are to compute their specific compliance with the average wage.

The Department has very carefully considered the comments and possible options for facilitating the implementation of the average wage provisions. These regulations do not contain the specific procedures for the development of the index or the manner in which it applies to local areas. Any changes to such procedures will be published separately from these regulations.

New procedures are included at § 676.26-1(c)(3) which provide that computations are to be based on payments received per month, treated as though participants were in full time positions. Payments for training can be included, so long as PSE represents at least 50% of an individual's participation.

Extensions of PSE Enrollment

The proposed regulations, in § 676.30(j) stated that prime sponsors may request an extension of PSE enrollments where unusually severe hardships hinder transiting PSE participants into unsubsidized employment. A number of commenters construed this provision to mean that individual waivers would be required for each PSE participant in need of an extension. The commenters generally felt that an individual waiver system would be administratively cumbersome.

The Department agrees with the commenters. The final regulations have been clarified to state that where unusually severe hardships hinder transiting PSE participants into unsubsidized jobs, waivers may be submitted and extensions granted for groups of PSE participants within the prime sponsor's area who are similarly situated. Additionally, time periods have been extended to allow for timely prime sponsor requests and responses by regional offices. Prime sponsors are also encouraged to meet with regional staff

to plan transition efforts and to discuss anticipated problems which may result in requests for waivers. Plans are also required of prime sponsors describing efforts to transist participants into unsubsidized employment both before and after extensions.

Audit Provisions

A number of comments were received which suggested that the regulations set forth the circumstances under which prime sponsors would be required to participate in unified audits. Meetings with local, State, and federal officials were held to discuss the most reasonable approach for instituting unified audits. The procedures for unified audits have not been entirely determined. Consequently, the final regulations do not specifically require implementation of unified audit provisions. The Department will provide further guidance to prime sponsors at a later date.

Equitable Service to Significant Segments

The proposed regulations provided that prime sponsors must plan levels of service to the significant segments of their eligible populations (age, race, sex, and national origin groups), taking into consideration the employment and training needs of persons from those groups. The proposed regulations also provided that prime sponsors must justify in their Annual Plan any planned levels of service to any of these groups which varied by more than 15 percent from the group's incidence in the eligible population.

The Department of Justice and other commenters stated that prime sponsors should be required to justify any variance between the planned levels of service for a significant segment and the significant segment's population of the eligible population. On the other hand, many commenters stated that prime sponsors should be able to serve severely disadvantaged groups, such as inner city minority youth, even if such planned service exceeds by more than 15 percent the proportion of the target group in the eligible population.

The Department does not believe that the above concerns are contradictory. The statute requires that significant segments be *equitably* served. This does not mean, as some commenters assumed, that they be served *equally*, that is, in exact proportion to their incidence in the eligible population. Section 121(b)(1)(A) of the Act states:

"Employment and training opportunities for participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of the Act among

significant segments of the eligible population giving consideration to the relative number of eligible persons in each such segment" (Emphasis added).

The purposes of the Act are many. They include engaging in affirmative action for the handicapped, giving special consideration to disabled and Vietnam-era veterans and public assistance recipients, giving special emphasis to target groups listed in the Act, and, overall, serving those most in need.

The Department, therefore, has rewritten the equitable service section of the regulations, § 676.54, to describe the process to be followed by prime sponsors to assure that "equitable service to significant segments" is the end result.

Prime sponsors must plan services, first taking into consideration the incidence of each significant segment in the eligible population. Thereafter, if planned services to veterans, welfare recipients, youth, or other target groups result in a variance of any degree (large or small) with respect to any significant segment, the prime sponsor must justify this in the Annual Plan. Once a plan is approved, corrective action will be taken by Regional Administrators if actual service to a significant segment varies by more than 15 percent from the levels approved in the Annual Plan.

Political Activities

The proposed regulations expanded the prior CETA regulations by stating in § 676.69 that CETA participants shall not be employed in, or outstationed to, a legislative committee or staff, or the office of an elected executive official or chief executive officer or officers of a State or a unit of general local government.

Many comments were received from persons and groups who believed that the proposed regulations were too restrictive and that many non-political positions exist in these offices that should be acceptable positions for CETA participants.

The proposed regulations have been revised to continue the prior policy of allowing participants to work at non-political activities within the offices of elected or appointed executives with the proviso that no participant may work in the immediate office of chief elected executive officials. The placement of CETA participants in positions in the offices of other elected executive officials will be controlled by specifically requiring prime sponsors to describe how such positions will be effectively separated from any political functions. The Department, however,

believes that it is extremely important that political activities, including the appearance of political activities, be removed from the CETA program. Consequently CETA participants may no longer be placed on legislative committees or in the immediate offices of chief elected executive officials, since these local officials are the most prominent and visible local elected officials, and are, therefore, most susceptible to charges of using CETA participants for political purposes or as political patronage. The regulations do provide, however, that an exception may be made with prior national office approval for positions in offices of chief elected officials in rural prime sponsor areas, or where a position is technically in such office, but clearly in a programmatic and non-political activity. Since these regulations are being made effective almost upon publication, the Department, in order to avoid disruptive layoffs in certain areas, will allow prime sponsors until June 1, 1979 to remove participants from such positions.

Prior CETA regulations prohibited the placing of participants in any position involving political activities, in the offices of Members of Congress and of local legislators, and in legislative capacities on the staff of legislative committees. The final regulations continue these prohibitions, and the June 1, 1979 effective date, cited above, does not apply to such participants.

Complaints

The Department received many comments on the complaints process as proposed in Section 676, Subpart F. Generally, the commenters contended that the complaints sections were overly legalistic and very hard for other than the lawyers to understand. Many commenters stated that the implementation of the detailed procedures proposed for prime sponsors would be time consuming and would raise administrative costs for prime sponsors. Other commenters stated that, contrary to the Department's interpretation in the proposed regulations, sec. 106(1) of the Act allows the filing of suits alleging violations of CETA, including alleged violations by the Secretary, in Federal District Court without exhaustion of CETA administrative remedies.

The regulations have been edited to make them easier to understand. In addition, the complaint procedure at the prime sponsor level has been revised to clearly set forth the separate grievance procedure required by section 106(a)(2) of the Act. The Department believes that a certain amount of detail is needed to

assure basic due process to complainants, and to assure that prime sponsor procedures produce an adequate record that is sufficient for review when the complaint gets to the Federal level. Under the former regulations which were basically the same in substance but were sparing in detail, some prime sponsors had inadequate complaint systems which resulted in a failure to ensure basic due process and adequate records.

The Department believes the proposed regulations properly interpreted sec. 106(l) of the Act as allowing the use of other remedies, such as those under Title VII of the Civil Rights Act, whenever an action which is complained of constitutes both a violation of CETA and of another law. This principle is the same as that contained in sec. 132(d) of the Act which, it should be noted, has been in the Act since 1973). The Department does not believe that Congress set up an elaborate complaint system, including a local procedure limited to 60 days, only to make such a system unnecessary by adding Sec. 106(l). To interpret sec. 106(l) as allowing direct suits in local, State and Federal Courts would also contradict sec. 107, which explicitly provides for Court of Appeals review after exhaustion of administrative remedies. Finally, the interpretation of the Act, the regulations, and the grant agreements by a multiplicity of local, State and Federal courts would result in a variety of interpretations throughout the country, thus hindering the uniform and effective administration of the program. Nothing in this section, however, shall abridge the rights of participants under other statutes.

Special Governors Grant Administrative Funds

The proposed regulations in § 677.39(g) stated that Governors may retain the minimum amount of vocational education assistance funds necessary to carry out the Governors' responsibilities. There were numerous comments which stated that, in order to assure that adequate funds are passed through to insure that vocational education boards can fulfill their responsibilities, further constraints should be placed on the amount of funds which may be retained by Governors.

Based on the comments, the regulations have been clarified to state that Governors may retain only the nominal amount of funds necessary to provide for administrative costs, such as proper fiscal and reporting controls and monitoring, in passing the funds through to vocational education boards. There

were also questions whether Governors could retain administrative funds to undertake the coordination and linkage activities described at § 677.39(f). The final regulations do not allow Governors to retain funds for this purpose.

Employment Generating Services

The proposed regulations in § 679.5 (now renumbered as 679.6) regarding employment generating services in the Private Sector Initiative Program under Title VII of the Act generated two areas of comment, both of which have been addressed in the final regulations. First, some commenters requested clarification as to whether or not these provisions applied to activities under other Titles of the Act which are similar to activities authorized under Title VII. The final regulations clarify that this is not the case; employment generating services pertain only to programs funded under Title VII. Secondly, commenters suggested that the proposal that 50% of Title VII funds could be used for employment generating services was too generous.

In order to ensure that most Title VII funds are expended to provide direct employment and training activities and services to participants, the final regulations state that no more than 30% of Title VII funds, excluding funds used for administration, may be used for employment generating services.

Role of the Private Industry Council

There was extensive comment on the role of the private Industry Council (PIC). Many of the commenters contended that the proposed regulations granted undue authority to the PIC, thereby impinging on the authority of the prime sponsor. Some commenters were also concerned about potential problems if the PIC actually operates programs. Comments from the business sector, however, suggested that the regulations should explicitly define a stronger role for the PIC.

The Department believes that prime sponsors and the business community should work together to jointly achieve the goals of Title VII. The regulations have been clarified to emphasize that the PIC and the prime sponsor should mutually determine program content, and to more clearly delineate the authority of the PIC within the context of the prime sponsor's overall program responsibility.

Moreover, since most of the provisions in the regulations regarding the role of the PIC are generally suggestive rather than prescriptive, there is substantial flexibility for each prime sponsor and PIC to develop a role

that is appropriate to local circumstances. Prime sponsors and PICs must both agree to a PIC's assumption of any program operation functions, and any problems that arise with respect to the role of the PIC should be resolved locally, by the prime sponsor and the PIC.

Accordingly, Title 20 of the Code of Federal Regulations is amended by:

1. Amending Part 675 to read as follows:

PART 675—INTRODUCTION OF THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

- 675.1 Scope and Purpose of the Act.
- 675.2 Format of these Regulations.
- 675.3 Table of Contents for the Regulations under CETA.
- 675.4 Definitions.
- 675.5 Eligibility Requirements to Participate in Programs Under CETA.
- 675.5-1 Eligibility Requirements Pertaining to all Prime Sponsor Programs.
- 675.5-2 Eligibility Requirements Under Title II B.
- 675.5-3 Eligibility Requirements under Title II C Upgrading and Retraining.
- 675.5-4 Eligibility Requirements for Special Grants for Governors.
- 675.5-5 Eligibility Requirements for Title II D Programs.
- 675.5-6 Eligibility Requirements for Title VI Programs.
- 675.5-7 Eligibility Requirements for Private Sector Initiative Programs.
- 675.5-8 Eligibility Requirements for Youth Employment and Training.
- 675.5-9 Eligibility Requirements for Youth Community Conservation Improvement Projects.
- 675.5-10 Eligibility Requirements for Summer Youth Employment Programs.
- 675.6 Intake and Assessment.

Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., Pub. L. 95.524 92 Stat. 1907), unless otherwise noted.

§ 675.1 Scope and purpose of the Act.

(a) It is the purpose of this Act to:

- (1) Provide training and employment opportunities to increase the earned income of economically disadvantaged, unemployed, or underemployed persons;
- (2) Establish a flexible, coordinated and decentralized system of Federal, State, and local programs so that services will lead to maximum employment opportunities and enhance self-sufficiency; and
- (3) Provide for the coordination of programs under CETA with other social service, employment and training related programs, economic development, community development, and related activities, such as vocational education, vocational

rehabilitation, public assistance, self-employment training, and social service programs.

(b) The Act is comprised of eight titles.

(1) Title I sets forth the administrative provisions governing programs under the other titles.

(2) Title II establishes programs administered by State and local prime sponsors to provide comprehensive employment and training services for economically disadvantaged persons.

(3) Title III establishes national programs administered by the Secretary:

(i) To provide employment and training services for groups of persons with disadvantages in specific and general labor markets or occupations.

(ii) To provide comprehensive employment and training programs for Indians and Native Americans, and for migrant and seasonal farmworkers.

(iii) To provide research, and technical assistance programs and to evaluate activities under CETA.

(4) Title IV establishes a broad range of coordinated employment and training programs for youth.

(5) Title V establishes a National Commission for Employment Policy to examine issues of development, coordination and administration of employment and training programs, and to advise the President and the Congress on these issues.

(6) Title VI authorizes temporary employment in public service jobs during periods of high unemployment.

(7) Title VII authorizes activities to increase the involvement of the private sector in employment and training.

(8) Title VIII establishes a Young Adult Conservation Corps to provide conservation work on public lands and waters and other benefits to youth.

§ 675.2 Format for these regulations.

(a) Regulations promulgated by the Department of Labor to implement the new provisions of the Act are set forth in Parts 675 through 695 of Title 20 of the Code of Federal Regulations.

(b) Statutory authority for the regulations is found at section 126(a)(1) of the Act. Specific statutory authorities other than section 126(a)(1) are noted throughout the regulations.

§ 675.3 Table of Contents for Regulations Under CETA.

PART 675—INTRODUCTION OF THE REGULATIONS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

- 675.1. Scope and purpose of the Act.
- 675.2 Format of these regulations.

675.3 Table of contents for regulations under CETA.

675.4 Definitions.

675.5 Eligibility requirements to participate in programs under CETA.

675.5-1 Eligibility requirements to all prime sponsor programs.

675.5-2 Eligibility requirements under Title II-B.

675.5-3 Eligibility requirements under Title II-C upgrading and retraining.

675.5-4 Eligibility requirements for the special grants to governors.

675.5-5 Eligibility requirements for Title II-D programs.

675.5-6 Eligibility requirements for Title VI programs.

675.5-7 Eligibility requirements for private sector initiative programs (PSIP).

675.5-8 Eligibility requirements for youth employment and training programs (YETP).

675.5-9 Eligibility requirements for youth community conservation improvement projects (YCCIP).

675.5-10 Eligibility requirements for the summer youth employment programs (SYEP).

675.6 Intake and Assessment.

PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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- 676.2 Prime sponsor applicants.
- 676.3 Preapplication for Federal assistance.
- 676.4 Consortium agreements.
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- 676.6 Planning process.
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- 676.10-4 Narrative description.
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- 676.25-5 Services.
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- 676.28-2 Allowable costs.
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- 676.39 Property management standards.
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**PART 680—YOUTH PROGRAMS
OPERATED BY PRIME SPONSORS UNDER
THE COMPREHENSIVE EMPLOYMENT AND
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§ 675.4 Definitions.

Academic Credit—means credit for education, training or work experience applicable toward a secondary school diploma, a post secondary degree, or an accredited certificate of completion, consistent with applicable State law, regulations, and policy, and the requirements of an accredited educational agency or institution.

Act—means the Comprehensive Employment and Training Act (29 USC § 801 *et seq.*)

Alternative Working Arrangements—means the patterns or schedules of work which deviate from the regular work week. They may include staggered hours, flexible hours or flexi-time, compressed work weeks, part-time employment, job sharing, and work sharing.

Annual Plan—means that part of the Comprehensive Employment and Training Plan which consists of the yearly description of program activities and services to be provided by prime sponsors.

Appropriate Labor Organizations—means a local labor organization that represents employees in the prime sponsor's area in the same or substantially equivalent jobs as those for which recipients provide, or propose to provide, employment and training under the Act.

Architectural Barriers—means physical conditions of a building, facility, or other physical structure

which reduce the accessibility to or usefulness of such building, facility or structure to handicapped individuals.

Area of Substantial Unemployment (ASU)—means an area within a prime sponsor's jurisdiction:

(a) Which has a population of at least 10,000;

(b)(1) Which has an average unemployment rate of at least 6.5 percent for the most recent twelve month period, as determined by the Bureau of Labor Statistics (BLS); or

(2) Which for fiscal year 1979, and for Parts A, B, and C of Title II of the Act for all fiscal years, has an average unemployment rate of at least 6.5 percent for any three consecutive months during the most recent 12 month period as determined by the Bureau of Labor Statistics.

Artificial Barriers to Employment—means limitations (such as: age, sex, race, national origin, parental status, credential requirements, criminal record, lack of child care, physical or mental status and absence of part-time or alternative working patterns/schedules) in hiring, firing, promotion, licensing, and conditions of employment which are not directly related to an individual's fitness or ability to perform the tasks by the job.

Balance of State (BOS)—means the area which consists of all areas within a State which are not within the jurisdictions of local prime sponsors and, therefore, are served by the State acting as the prime sponsor.

Capital Improvement—means any modification, addition, restoration or other improvement:

(a) Which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment;

(b) Which is classified for accounting purposes as a "fixed asset"; and

(c) The cost of which increases the recorded value of the existing building, structure, or major item of equipment and is subject to depreciation.

CETA—means the Comprehensive Employment and Training Act.

Community Based Organization (CBO)—means a private nonprofit organization which is representative of the community or a significant segment of a community, and which provides employment and training services or activities. (Examples include: Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, agencies serving women, neighborhood groups and organizations, community action agencies, community

development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in Sec. 7(10) of the Rehabilitation Act of 1973, 29 USC § 706), agencies serving youth, union-related organizations, and employer-related nonprofit organizations).

Comprehensive Employment and Training Plan (CETP)—means the plan of a prime sponsor for operating programs under the Act, consisting of the Master Plan and Annual Plan.

Construction—means the erection, installation, assembly or painting of a new structure or a major addition, expansion, or extension of an existing structure, and the related site preparation, excavation, filling and landscaping or other land improvements.

Consumer Price Index—means the "All Urban Consumer Index" as determined by the Bureau of Labor Statistics (BLS).

Contract—means a procurement instrument by which the Department, a recipient, or a subrecipient pays for property, services, supplies, materials or equipment.

Contractor—means any person, corporation, partnership, public agency, or other entity which enters into a contract with the DOL, a recipient or a subrecipient under the Act.

Department—means the United States Department of Labor (DOL) including its agencies and organizational units.

Dependent—means any person for whom, both currently and during the previous 12 months, the participant has assumed 50% of their support, and is

(a) A member of the immediate household; or

(b) Not a member of the household, but a parent or child of the participant, or a relative of the participant who is unemployed because of a mental or physical disability.

Displaced Homemaker—means an individual who:

(a) Has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members; and

(b)(1) Has been dependent on public assistance or on the income of another family member but is no longer supported by that income; or

(2) Is receiving public assistance on account of dependent children in the home, especially where such assistance will soon be terminated; and

(c) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

¹ Part 680 added at 44 FR 12394, March 6, 1979.

DOL—means the U.S. Department of Labor.

Economically Disadvantaged—means a person who is either:

- (a) A member of a family which receives public assistance;
- (b) a member of a family whose income during the previous 6 months on an annualized basis was such that
 - (1) The family would have qualified for public assistance, if it had applied for such assistance; or
 - (2) It does not exceed the poverty level; or
 - (3) It does not exceed 70 percent of the lower living standard income level;
- (c) A foster child on whose behalf State or local government payments are made;
- (d) Where such status presents significant barriers to employment,
 - (1) A client of a sheltered workshop;
 - (2) A handicapped individual;
 - (3) A person residing in an institution or facility providing 24 hour support such as a prison, a hospital or community care facility; or
 - (4) A regular outpatient of a mental hospital, rehabilitation facility or similar institution.

Employing Agency—means any public or private nonprofit employer which employs PSE or work experience participants and which establishes and maintains the personnel standards applicable to those participants covering such areas as wage rates, fringe benefits, job titles, and employment status.

Entry Level—means the lowest position in any promotional line, as defined locally by collective bargaining agreements, past practice, or applicable personnel rules.

Family—(a) Means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step-child or a step-parent shall be considered to be related by marriage.

(b)(1) For purposes of paragraph (a) of this section, one or more persons not living in the single residence but who were claimed as a dependent on another person's Federal Income Tax return for the previous year shall be presumed, unless otherwise demonstrated, part of the other person's family.

(2) An older worker, as defined in this section, whether living in the residence or not, or a handicapped individual who is 16 years of age or older may be considered a family of one when applying for programs under the Act.

(3) An individual 18 or older, except as provided in (2) above, who receives less than 50 percent of support from the family, and who is not the principal

earner nor the spouse of the principal earner shall not be considered a member of the family. Such an individual shall be considered a family of one.

Family Income—means all income actually received from all sources by all members of the family, during the income determination period. Family size shall be the maximum number of family members during the income determination period.

(a) Family income shall include:

- (1) Gross wages and salary (before deductions);
- (2) Net self-employment income (gross receipts minus operating expenses);
- (3) Other money income received from sources such as net rents, OASI (Old Age and Survivors Insurance) social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities, and other sources of income.

(b) Family income shall exclude:

- (1) Non-cash income such as food stamps, or compensation received in the form of food or housing;
- (2) Imputed value of owner-occupied property, i.e., rental value;
- (3) Public assistance payments;
- (4) Cash payments received pursuant to a State plan approved under Titles I, IV, X, or XVI of the Social Security Act, or disability insurance payments received under Title II of the Social Security Act;
- (5) Federal, State or local unemployment benefits;
- (6) Payments made to participants in employment and training programs (including payments received under CETA Title IV or Title VIII or Title V of the Older Americans Act), except wages paid for PSE and OJT.
- (7) Capital gains and losses;
- (8) One time unearned income, such as, but not limited to:
 - (i) Payments received for a limited fixed term under income maintenance programs and supplemental (private) unemployment benefits plans;
 - (ii) One-time or fixed-term scholarship and fellowship grants;
 - (iii) Accident, health, and casualty insurance proceeds;
 - (iv) Disability and death payments, including fixed term (but not lifetime) life insurance annuities and death benefits;
 - (v) One-time awards and gifts;
 - (vi) Inheritance, including fixed term annuities;
 - (vii) Fixed term workers' compensation awards;
 - (viii) Terminal leave pay;
 - (ix) Soil bank payments;

(x) Agriculture crop stabilization payments;

(9) Pay or allowances which were previously received by any veteran while serving on active duty in the Armed Forces; and

(10) Educational assistance and compensation payments to veterans and other eligible persons under Chapters 11, 13, 31, 34, 35, and 36 of Title 38, United States Code.

(11) Payments received under the Trade Readjustment Act.

Federal Reservation—means lands, as identified by the Bureau of Indian Affairs, which have been set aside for Indian tribes and for which the United States is trustee, or non-trust land under the tribal jurisdiction.

Financial Assistance—means any grant, loan, or any other arrangement by which the Department or recipient provides or otherwise makes available assistance in the form of:

- (a) Funds;
- (b) Services of Federal or recipient's personnel; or
- (c) Real and personal property or any interest in or use of such property, including:

- (1) Transfers or leases of such property for less than fair market value or for reduced consideration; and
- (2) Proceed from a subsequent transfer or lease of such property if the Federal or recipient share of its fair market value is not returned to the Federal Government or recipient.

Governor—means the chief executive, or his or her designee, of any State.

Handicapped Individual—means any person who has a physical or mental disability which constitutes a substantial barrier to employment and can benefit from CETA services provided, as determined by the prime sponsor.

In-school—means the status of being enrolled full-time and attending an elementary, secondary, trade, technical or vocational school, a college, including a junior community college or a university. An individual shall maintain the status of "in-school" between semesters or quarters or during the summer months provided that individual is scheduled to attend full-time the next regularly scheduled quarter of any of these schools.

In-School Youth—means a person age 14 to 21, who:

- (a) Is currently enrolled full-time in, and attending, a secondary, trade, technical, vocational school or junior or community college or is scheduled to attend full-time the next regularly scheduled quarter or semester of any of these schools; or

(b) Has not completed high school and is scheduled to attend or is attending, on a full-time basis, a program leading to a secondary school diploma or its equivalent. Full-time may be defined by the requirements of the agency administering the program.

Institutions of higher education—means an educational institution in any State which:

(a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(b) Is legally authorized within such State to provide a program of education beyond secondary education;

(c) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree;

(d) Is a public or other nonprofit institution;

(e) Is accredited by a nationally recognized accrediting agency or association; and

(f) Admits as regular students, persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the education offered by the institution.

Job restructuring—means:

(a) The procedure which includes:

(1) Identifying the separate tasks that comprise a job or group of jobs;

(2) Developing new positions descriptions which retain some of the tasks of the original job; and

(3) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(b) A restructured job shall be clearly different from the original one in terms of skills, knowledge, abilities, and experience needed to perform the work (sec. 432(a)(3)(L)).

Local Educational Agency—means:

(a) Except for purposes of Youth Employment and Training Programs (YETP) under Part 680, a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program;

(b) For purposes of YETP under Part 680, a public board of education or other public authority legally constituted within a State for either administrative

control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools.

Lower Living Standard Income Level—means that income level (adjusted for selected Standard Metropolitan Statistical Areas and regional metropolitan and non-metropolitan differences and family size) determined annually by the Secretary, based upon the most recent lower living family budget issued by the Bureau of Labor Statistics.

Low Income Housing—means:

(a) For weatherization or winterization projects, those dwellings occupied by persons whose family income does not exceed 125 percent of the poverty level and which are

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization; or

(4) Cooperatively owned; or

(5) For projects funded and approved by the Federal Energy Administration, privately owned rental housing.

(b) For rehabilitation as part of community revitalization or stabilization, those dwellings occupied by persons whose family income does not exceed 80 percent of the median income for the area, in accordance with Section 8(f)(1) of the United States Housing Act of 1937, (42 U.S.C. 1437f) and which are:

(1) Owned by the occupant;

(2) Publicly owned;

(3) Owned by a private nonprofit organization; or

(4) Cooperatively owned.

Low Income Level—means \$7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

Master Plan—means that part of the Comprehensive Employment and Training Plan (CETP) which serves as the long-term agreement between the Department and a prime sponsor.

Offender—means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

Older Worker—means a person who is 55 years of age or older.

Outstationing—means the positioning of PSE or work-experience participants by an employing agency at a location or facility operated by an organization other than the employing agency so that the other organization supervises and assigns work to the participants.

Participant—means an individual who is:

(a) Declared eligible upon intake; and

(b) Receiving employment, training or services (except post-termination services) funded under the Act following intake, except for an individual who receives only outreach or intake services.

Placement—means the act of securing unsubsidized employment for or by a participant.

Poverty Level—means that annual income level at, or below, which families are considered to live in poverty, as annually determined by the Office of Management and Budget.

Prime Sponsor—A recipient of financial assistance designated pursuant to § 676.5.

Program Agent—means:

(a) A unit of general local government with a population of at least 50,000 within the jurisdiction of a single prime sponsor.

(b) A combination of units of general local government (preferably contiguous) with a total population of at least 50,000 within the jurisdiction of a single prime sponsor which possesses:

(1) The legal authority to receive funds and to transact business throughout its jurisdiction in accordance with the Act and regulations; and

(2) The administrative capability to plan, administer and operate an employment and training program.

Program of Demonstrated Effectiveness—means a program which has demonstrated the capacity to achieve planned goals at reasonable costs within acceptable timeframes, and is either: (1) a program which has demonstrated to the prime sponsor that it has performed effectively within the prime sponsor's jurisdiction, or (2) a program which can demonstrate to the prime sponsor that it has carried out a similar program under similar circumstances in other jurisdictions and can carry out such program effectively within the prime sponsor's jurisdiction.

Project—means:

(a) For the purpose of public service employment in Parts 677 and 678, a definable task or group of related tasks which will be completed within eighteen months, has a public service objective, will result in a specific product or

accomplishment, and would otherwise not be done with existing funds;

(b) For the purposes of Youth Community Conservation and Improvement Projects in Part 680, an activity which provides constructive work, conducted by youth, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits the participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months (sec. 421).

Project Applicants—means States and agencies thereof, units of general local government and agencies thereof, combinations or associations of such governmental units when the primary purposes of such combinations or associations is to assist such governmental units to provide public service, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community based organizations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in a public service.

Public Assistance—means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

Public Service Employment—means the type of work normally provided by governments and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community improvement.

RA—means Regional Administrator of the Employment and Training Administration of the U.S. Department of Labor.

Recipient—means State or local government, a Federally recognized Indian tribal government, a public or private institution of higher education, a public or private hospital, an Indian or Native American entity other than a Federally recognized Indian tribal

government, or other quasi-public or private for profit or nonprofit organization which receives CETA financial assistance directly from DOL, through a grant to perform substantive work under the Act (employment, training, supportive services, etc.).

Residence—means an individual's permanent dwelling or home. Maintenance of an address is not necessarily the same as residence.

Secretary—means the Secretary of Labor.

Significant Segments—means the groups of the population identified in terms of the following demographic characteristics: Age, sex, race, and national origin. (Sec. 103(b)(2)).

Similarly Employed—means the status of a person who is working for the same employer as the CETA participant, is doing the same type of work, and is similarly classified with respect to employment status (e.g., full time, permanent, or temporary).

Special Disabled Veteran—means a person who served in the Armed Forces and was discharged or released, with other than a dishonorable discharge, and who had been given a disability rating of 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

State—means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Marianas Islands, American Samoa, and the Trust Territory of the Pacific Islands.

State Employment Security Agency (SESA)—means the State agency which exercises control over the Unemployment Insurance Service and the Employment Service.

Subrecipient—means any person, organization or other entity which receives financial assistance under CETA through a recipient to carry out substantive work (e.g., employment, training, supportive services).

Underemployed Person—means:

(a) Persons who are working part time but seeking full time work; or

(b) Persons who are working full time but whose current annualized wage rate is not in excess of (for a family of one), the higher of either:

(1) The poverty level; or

(2) 70 percent of the lower living standard income level.

Unemployed Person—means for purposes of determining eligibility:

(a) A person who is without a job for at least seven consecutive days prior to application for participation. A person shall be considered as being without a

job if, for seven consecutive days, such person:

(1) Worked no more than 10 hours; and

(2) Earned no more than \$30; and

(3) Was seeking and available for work; or

(b) A person who is:

(1) A client of a sheltered workshop;

(2) Institutionalized in a hospital, prison, or similar institution; or

(c) A person who is 18 years of age or older and whose family receives public assistance or whose family would be eligible to receive public assistance but for the fact that both parents are in the home; or

(d) A person who is a veteran who has not obtained permanent unsubsidized employment since being released from active duty. Such person shall be considered to meet "unemployed" eligibility requirements regardless of the specific term of unemployment required.

Unit of general local government—means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

Veteran—means a person who:

(a) Served on active duty for more than 180 days, and was released with other than a dishonorable discharge; or

(b) Was discharged or released from active duty for a service connected disability.

Veterans Outreach—means:

(a) The recruitment, counseling and registration of eligible veterans for participation in appropriate employment or training programs provided under the Act;

(b) Coordination with the outreach services program carried out under Subchapter IV of Chapter 3 of Title 38, United States Code (pertaining to the dissemination of information about Veterans Administration benefits and services and the provision of such services to eligible veterans), with full utilization of veterans receiving educational assistance or vocational rehabilitation under Chapter 31 or 34 of Title 38, United States Code.

Vietnam-era Veteran—means a veteran under 35 years of age who served on active duty between August 5, 1964, and May 7, 1975 and who was discharged or released with other than a dishonorable discharge.

§ 675.5 Eligibility requirements to participate in programs under CETA.

§ 675.5-1 Eligibility requirements pertaining to all prime sponsor programs.

(a) All recipients shall establish effective systems to determine participant eligibility in accordance with § 676.75-3. To assist in eligibility determination, a consolidated list of all eligibility requirements for programs administered by prime sponsors under CETA is presented in this section.

(b) Participants shall be limited to citizens of the United States, United States nationals, permanent resident aliens, or other aliens who have been permitted to accept permanent employment in the United States by the Immigration and Naturalization Service (sec. 132(e) and 121(p)).

(c) Participants may be transferred from one title or program under the Act into another title or program under the Act within the prime sponsor jurisdiction, if they met the eligibility requirements for such other title or program at the time that they were originally determined eligible for their first CETA title or program, except that if the subsequent title or program has an age limitation, participants shall meet the age limitation at the time of transfer into that title or program.

(d) Eligibility determinations for each program shall be made at the time of application. Applicants determined eligible may be enrolled as participants within 45 days of the date of the application without an update of the information on the application, and provided they did not obtain full-time permanent unsubsidized employment in the interim. This provision does not apply to the Summer Youth Employment Program (SYEP) or as otherwise specified in this section.

(e) Specific eligibility requirements for programs not found at § 675.5-2 through § 675.5-10 are found in the specific regulations for those programs.

§ 675.5-2 Eligibility requirements under title II-B.

For Programs described in Subpart B of Part 677, a person shall be:

- (a) Economically disadvantaged; and
- (b) Unemployed, underemployed, or in-school (sec. 213).

§ 675.5-3 Eligibility requirements under title II-C upgrading and retraining.

For Upgrading and Retraining Programs described in Subpart C of Part 677:

- (a) For Upgrading, a person must be:
 - (1)(i) Operating at less than full skill potential, and

- (ii) Working for at least the prior six months with the same employer in either an entry level, unskilled or semi-skilled position or a position with little or no advancement opportunity in a normal promotional line;

- (2) Priority consideration shall be given to those workers who have been in entry level positions for the longest period of time, and who have potential for upward mobility.

- (b) For retraining a person must:

- (1) Have received a bona fide notice of impending layoff within the last 6 months; and

- (2) Have been determined by the prime sponsor, with the assistance of the local Employment Service, as having little opportunity to be reemployed in the same or an equivalent occupation or skill level within the labor market area.

§ 675.5-4 Eligibility requirements for special grants to governors.

For programs under the Special Grants for Governors described in Subpart D of Part 677, a person unless otherwise approved in the grant, must be economically disadvantaged, and unemployed, underemployed or in-school. For PSE the eligibility requirements are the same as those for Titles II-D or VI which are described in § 675.5-5 or § 675.5-6.

§ 675.5-5 Eligibility requirements for title II-D programs.

For Title II-D funded programs described in Subpart E of Part 677, a person must:

- (a)(1) Be economically disadvantaged, be unemployed at the time of application and have been unemployed during 15 of the 20 weeks immediately prior to application or

- (2) Be a member of a family which is receiving public assistance (sec. 236(a)); and

- (b) Reside within the prime sponsor's jurisdiction, except that:

- (1) Where a prime sponsor subgrants to units of general local government with a population of 50,000 or more, such units may not hire persons outside of their jurisdiction nor may prime sponsors hire persons from such jurisdictions. However, participants may be exchanged between such units when there are equivalent funds expended to support such persons by each unit. This does not require the layoff of present participants eligible under the residency requirements that were applicable at the time of their eligibility determination; and

- (2) In cases where a prime sponsor is operating a program for a unit of general local government over 50,000, a formal

subgrant is not necessary to enroll residents of that jurisdiction. The prime sponsor shall assure that funds allocated for use within that jurisdiction's area are spent only for residents of that area.

- (c) Not have, within the immediately prior six months, voluntarily terminated, without good cause, as described in the *Forms Preparation Handbook*, his/her last previous full-time employment at a wage rate not less than the highest of the minimum wage under Section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206) or under the applicable State or local minimum wage law (sec. 122(n)).

§ 675.5-6 Eligibility requirements for title VI programs.

(a) For Title VI funded programs described in Part 678, a person must reside within the prime sponsor's jurisdiction as provided in § 675.5-5(b); and

- (1)(i) Be unemployed at the time of application; and

- (ii) Have been unemployed for at least 10 out of the 12 weeks immediately prior to application; and

- (iii) Have a family income which does not exceed 100 percent of the lower living standard income level based on the annualization of the three-month period prior to the individual's application for participation; or

- (2) Be a member of a family which has been receiving public assistance for 10 of the last 12 weeks immediately prior to application (sec. 607).

- (b) The provisions of § 675.5-5(c) regarding individuals who voluntarily terminated their last employment shall apply (sec. 122(n)).

§ 675.5-7 Eligibility requirements for private sector initiative program (PSIP).

For PSIP programs described in Part 679, the eligibility requirements are the same as set forth for Title II-B of the Act in § 675.5-2 of this section.

§ 675.5-8 Eligibility requirements for youth employment and training programs (YETP).

- (a)(1) For YETP programs described in Subpart A of Part 680, except as provided in § 675.5-8(b) of this section, at the time of application a youth must (sec. 435):

- (i) Be unemployed or underemployed or in-school; and

- (ii) Be 16 through 21 years of age inclusive, and

- (iii) Be a member of a family with a total family income at or below 85 percent of the lower living standard income level; and

- (2) Preference shall be given to economically disadvantaged youth

within the eligible population.

Appropriate efforts shall be made to give service to those youth who have severe handicaps in obtaining employment, such as those who lack credentials (such as a high school diploma), require substantial basic and remedial skill development or are women, minorities, veterans, offenders, handicapped individuals, or individuals who have dependents (sec. 444(a)).

(3) A youth may not be enrolled in full-time employment opportunities if:

(i) The youth has not attained the age with respect to which the State compulsory education law ceases to apply, except:

(A) During periods when school is not in session; and

(B) If employment is undertaken in cooperation with school-related programs awarding academic credit for work experience or

(ii) The youth has not attained a high school degree or its equivalent and it has been determined by the prime sponsor that the youth dropped out of high school in order to participate in YETP (sec. 443(f)).

(b) For YETP programs (extraordinary):

(1) Individuals otherwise eligible under paragraph (a) of this section who are in school, and who are 14 or 15 years old, may participate when the YETP Subpart specifies a youth development strategy which provides broad career exposure for these youths (sec. 435).

(2) Youth need not meet the income criteria described in paragraph (a)(1)(iii) of this section if they participate in a special component, as described in § 680.11(d), which provides for the participation of youth of various income levels (sec. 435).

(3) Youths who do not meet the income criteria and who are not in a special component may be offered services which are limited to:

(i) Counseling, including occupational information;

(ii) Occupational, education, and training information including information on apprenticeship training;

(iii) Placement services;

(iv) Job referral information through coordinated intake systems; or

(v) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling, and guidance.

§ 675.5-9 Eligibility requirements for youth community conservation improvement projects (YCCIP).

(a) For YCCIP program described under Subpart B of Part 680; at the time of application a youth must be:

(1) 16 through 19 years of age, inclusive; and

(2) Unemployed.

(b) Preference shall be given to economically disadvantaged youth within the eligible population.

(c) Appropriate efforts shall be made to serve youths who have severe handicaps in obtaining employment, as described in § 675.5-8(a)(2) (sec. 444(a)).

(d) A youth may not be enrolled in full-time employment opportunities if:

(1) Any compulsory education law requirements still apply to the youth except:

(i) During periods when school is not in session; or

(ii) If employment is undertaken in cooperation with school-related programs awarding academic credit for work experience; or

(2) The youth has not attained a high school degree or its equivalent and it has been determined that the youth has dropped out of school to participate in YCCIP (sec. 443).

(e) Each participant shall be limited to a maximum enrollment of 12 months with no more than two terminations and reenrollments, provided age eligibility is met at the time of each reenrollment.

§ 675.5-10 Eligibility requirements for the summer youth employment programs (SYEP).

For SYEP programs described in Subpart C of Part 680, a youth must be:

(a) At the time of application, economically disadvantaged; and

(b) At the time of enrollment, 14 through 21 years of age inclusive (sec. 402).

§ 675.6 Intake and assessment.

(a) Each recipient shall, at the time of intake, assess every individual to determine the person's eligibility and to decide whether CETA can offer the applicant those services or activities which will enable the applicant to obtain unsubsidized employment and increase earned income.

(b) In determining who shall be enrolled, recipients shall establish appropriate mechanisms to ensure that employment and training activities available under the grant are provided to those most in need (sec. 103(a)(5)(A)).

(c) Once enrolled, each prime sponsor shall make a more detailed assessment for each participant, and an employability development plan shall be prepared for each Title II participant in accordance with § 677.2. In doing the detailed assessment, recipients shall consider the utilization of all available CETA and community resources, such as those from SESA, the prime sponsor's

Private Industry Council, area apprenticeship opportunities, CBO's, the educational system, and all other resources. Such assessment does not mandate a central intake system, but does require that recipients provide an opportunity for referral to the full range of available services.

(d) In designing programs, all recipients shall develop goals and provide maximum efforts for transitioning participants into unsubsidized employment. They shall periodically assess participant's progress towards these goals, as provided for each title in § 676.25-4(b), § 677.2(e), § 677.53(b) and § 678.3(f).

(e) In designing and operating programs, recipients and subrecipients shall give special consideration to providing for alternative working arrangements such as flexible hours of work, work-sharing and part-time jobs, particularly for older workers and those with household obligations and including parents of young children (sec. 121(d)(3)).

2. Adding new Parts 676 through 679 to read as follows:

PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—Grant procedures

Sec.

676.1 General.

676.2 Prime sponsor applicants.

676.3 Preapplication for Federal assistance.

676.4 Consortium agreements.

676.5 Prime sponsor designation.

676.6 Planning process.

676.7 Prime sponsor planning Councils.

676.8 Area planning bodies.

676.9 Comprehensive employment and training plan (CETP).

676.10 Master plan.

676.10-1 General.

676.10-2 Signature page.

676.10-3 Assurances and certifications.

676.10-4 Narrative description.

676.11 Annual plan.

676.12 Comments and publication procedures relating to submission of CETP.

676.13 Submission of CETP.

676.14 Review, approval and disapproval of the CETP.

676.15 Use of alternative prime sponsors; services by the Secretary. Modifications.

676.16 Modifications.

Subpart B—Program design and management

676.21 General responsibilities of CETA recipients.

676.22 Program management systems.

676.23 Program linkages and selection of deliverers.

- 676.24 Labor organization consultation and/or concurrence.
- 676.25 Employment and training activities.
 - 676.25-1 Classroom training.
 - 676.25-2 On-the-job training.
 - 676.25-3 Public service employment.
 - 676.25-4 Work experience.
 - 676.25-5 Services.
 - 676.25-6 Other activities.
 - 676.25-7 Combined activities.
- 676.26 Payment to participants.
 - 676.26-1 Payment of wages.
 - 676.26-2 Payment of allowances.
 - 676.26-3 Combined activities.
- 676.27 Benefits and working conditions for participants.
- 676.28 Retirement benefits for program participants.
 - 676.28-1 General rules.
 - 676.28-2 Allowable costs.
 - 676.28-3 Package benefits.
 - 676.28-4 FICA.
- 676.29 Non-Federal status of participants.
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Subpart C—Administrative standards and procedures

- 676.31 General.
- 676.32 Methods of payment to recipients of CETA funds.
- 676.33 Depositories for CETA funds.
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- 676.35 Retention of records.
- 676.36 Program income.
- 676.37 Recipient contracts subgrants.
- 676.38 Requirements for contracts with non-governmental organizations.
- 676.39 Property management standards.
- 676.40 Allowable costs.
 - 676.40-1 Allowable CETA costs.
 - 676.40-2 Administration and travel costs.
- 676.41 CETA cost allocation.
 - 676.41-1 Classification of costs by category.
 - 676.41-2 Allocations of fixed unit charges.
 - 676.41-3 Cost categories assignable to program activities.
- 676.42 Administrative annual plan subpart.
- 676.43 Administrative staff and personnel standards.
- 676.44 Reporting requirements for prime sponsors.
- 676.45 Annual plan subpart settlement procedures; termination of master plan.
- 676.46 Secretary's responsibilities.
- 676.47 Reallocation of funds based on nonutilization.

Subpart D—Nondiscrimination and equitable service

- 676.51 General.
- 676.52 Nondiscrimination.
- 676.53 Affirmative action.
- 676.54 Equitable provision of services to significant segments of the eligible population.

Subpart E—Prevention of fraud and program abuse

- 676.61 General.
- 676.62 Conflict of interest.
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- 676.67 Child labor.
- 676.68 Political patronage.
- 676.69 Political activities.
- 676.70 Lobbying activities.
- 676.71 Sectarian activities.
- 676.72 Unionization and anti-unionization activities/work stoppages.
- 676.73 Maintenance of effort.
- 676.74 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.
- 676.75 Responsibilities of recipients and subrecipients for preventing fraud and program abuse and for general program management.
 - 676.75-1 General requirements.
 - 676.75-2 Prime sponsor monitoring procedures.
 - 676.75-3 Eligibility determination and verification.
- 676.76 Action required of the Secretary.

Subpart F—Complaints, investigations and sanctions

- 676.81 Scope and purpose.
- 676.82 Protection of informants.
- 676.83 Complaints and hearing procedures at the recipient level.
- 676.84 Grievance or complaint procedures at employer level.
- 676.85 Exhaustion of recipient level procedure.
- 676.86 Complaints and investigation at the Federal level.
- 676.87 Subpoenas.
- 676.88 Initial and final determination; request for hearing at the Federal level.
- 676.89 Rules of procedure.
- 676.90 Hearing.
- 676.91 Post-hearing procedure.
- 676.92 Final Action; judicial review.
- 676.93 Other authority.

Authority.—Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 *et seq.*), unless otherwise noted.

PART 676—GENERAL PROVISIONS GOVERNING PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart A—Grant Procedures

§ 676.1 General.

This Subpart specifies the procedures by which prime sponsors may obtain funds to operate programs under the Act.

§ 676.2 Prime sponsor applicants.

The following entities may apply to be prime sponsors (sec. 101):

- (a) A State;
- (b) A unit of general local government which has a population of 100,000 or more;
- (c) (1) Any consortium of units of general local government which includes a unit of general local government qualifying under paragraph (b) of this section;

(2) Any consortium consisting of a State and a unit or units of general local government, at least one of which qualifies under paragraph (b) of this section;

(d) Existing Concentrated Employment Program (CEP) prime sponsors;

(e) Any unit of general local government previously designated as a prime sponsor, with a population below 100,000 persons, which the Secretary certifies has demonstrated its effectiveness in, and continues to have the capability for, adequately carrying out programs under the Act;

(f) Any unit of general local government or any consortium of such units with a population below 100,000 which demonstrates:

(1) (i) It has the capacity to serve a substantial portion of a functioning labor market area, or

(ii) It is a rural area having a high level of unemployment; and

(2) (i) It has the capability for adequately carrying out programs under the Act,

(ii) That there is a special need for services within the area to be served, and

(iii) That it will carry out programs and services in the area as effectively as any larger unit of general local government in its jurisdiction or as the State.

§ 676.3 Preapplication for Federal assistance.

(a) The Secretary, through a notice in the **Federal Register**, shall annually invite all potential prime sponsor applicants to apply for financial assistance by a specified date. The notice may include a list of those potential applicants which the Secretary believes may wish to apply. This, however, shall not preclude other applicants from applying. An applicant interested in being designated as a prime sponsor shall submit a preapplication to the RA, the Governor, and the appropriate State and areawide clearinghouses pursuant to Office of Management and Budget (OMB) Circular A-95, not later than 30 days prior to the submission of its completed Comprehensive Employment and Training Plan to the clearinghouse for formal review. The preapplication shall consist of Standard Form 424 described in 41 CFR Parts 29-70.

(b) All applicants with populations below 100,000 shall include documentation showing that they meet the requirements for such applicants.

(c) A consortium covering more than one State shall obtain the approval of the Governors of the States involved.

§ 676.4 Consortium agreements.

(a) Except as provided in paragraph (b) of this section, each consortium applicant, at a date established by the RA, shall submit to the RA a consortium agreement signed by the chief elected official or chief executive officer of each consortium member. The agreement shall include the following:

(1) A statement that the agreement has been formed under CETA or that another agreement has been amended to conduct programs under CETA and a statement of the duration of the agreement, which shall be for at least one fiscal year.

(2) A listing of the units of general local government which are members of the consortium.

(3) A listing of any unit of general local government which is within the area served by the consortium but has not joined the consortium.

(4) An identification of the geographical area(s) which will be served.

(5) A letter of certification from each member's chief legal officer assuring that:

(i) The member has the legal authority to enter the consortium agreement;

(ii) State and local law permits the provision of services within the entire geographical area covered by the agreement; and

(iii) Pursuant to State or local law, each consortium member jointly and separately accepts responsibility for the operation of the program.

(6) A statement that:

(i) The grant shall be signed by the chief-elected official or chief executive officer of each consortium member; or

(ii) As designated in the consortium agreement, the grant shall be signed by the chief-elected official or chief executive officer of one or more consortium members or by the chief executive of the administrative unit.

(7) A description of the powers and responsibilities reserved by the consortium members specifying the process by which decisions will be made, the process by which each member will review and approve the CETA, and the procedure by which chief-elected officials will participate in the planning and operation of the program. It shall also describe the powers and responsibilities which will be delegated to an administrative entity, which may be a consortium member or a separate entity, to operate the program, and the name and organizational

structure of that entity. The administrative unit may be delegated the power to enter into contracts, subgrants and other necessary agreements; to receive and expend funds; to employ personnel including participants under the Act for the purposes of administering the program; to organize and train staff; to develop procedures for program planning, operation, assessment and fiscal management; to evaluate program performance and determine whether there is a need to reallocate resources; and, to modify the grant agreement with the Department. The administrative arm of the consortium should have responsibility for the entire operation of the program, except that the consortium members shall reserve to the consortium the right of evaluation and the decision to reprogram funds.

(b) The chief-elected official or chief executive officer of each member of a consortium which was a prime sponsor in the prior year shall attest in writing that the agreement remains the same or note the specific changes.

(c) In order to encourage the formation of consortia, that comprise at least 75 percent of labor market areas, the Secretary may use up to 5 percent of the funds available for Parts A, B, and C of Title II to provide additional funding only for such consortia. Prior to making decisions concerning these funds, the RA shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

§ 676.5 Prime sponsor designation.

(a) Upon receipt of a completed preapplication and a consortium agreement, if required, the RA shall designate prime sponsor applicants as prime sponsors and shall notify all applicants in writing of the determination. A grant application package (§ 676.9) shall be sent to each prime sponsor designee.

(b)(1) A State shall not be designated as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor applicant described in § 676.2 (b), (c), (d), (e) and (f) unless such prime sponsor applicant has not submitted an approvable CETA for such area (sec. 101(b)(1)).

(2) A larger unit of general local government shall not be designated as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable Comprehensive Employment and

Training Plan for such area (sec. 101(b)(2)).

(c) The Secretary shall not designate as a prime sponsor any applicant with less than 100,000 population except in exceptional circumstances and unless it has demonstrated that it qualifies pursuant to § 676.2 (e) of (f).

§ 676.6 Planning process.

(a) Each prime sponsor shall have a planning process which shall involve a broad spectrum of groups and individuals, in the development of the Comprehensive Employment and Training Plan. This process shall utilize the prime sponsor planning council and shall include community groups insofar as they are not represented on the planning council, local educational agencies, community-based organizations, appropriate labor organizations, organizations serving women, local apprenticeship programs, local advisory councils established under the Vocational Education Act of 1963, the youth and private industry councils, and post-secondary institutions (sec. 103(a) (6) and (14)).

(b) Prime sponsors are specifically encouraged to join or initiate local public and private approaches to the coordinated planning and operation of economic, community and employment development activities to accomplish such objectives as reducing outmigration from an area and encouraging private sector investment in order to enhance existing employment opportunities (sec. 103(a)(20) and 105(b)(5)).

(c) Where employment opportunities already exist, or where there is a reasonable expectation of expansion in the near future of such employment potential, prime sponsors shall plan to provide, to the extent consistent with the needs and interests of program participants, employment and training opportunities in the development and use of solar, geothermal, hydroelectric and other alternative energy technologies, and conservation (sec. 121(m)).

(d) Prime sponsors shall coordinate with the appropriate apprenticeship agency in establishing arrangements to promote the use of apprenticeship training or other on-the-job training for veterans, under Section 1787 of Title 38, United States Code (sec. 121(b)(2)(C)).

§ 676.7 Prime sponsor planning councils.

(a) Each prime sponsor shall establish a planning council (sec. 109(a)).

(b) Each prime sponsor shall appoint to its planning council members broadly representative of the significant segments, as defined in § 675.4, who are

representative of the eligible population, CBO's, the employment service, veterans organizations (a congressionally chartered veterans organization or an organization incorporated as a veteran's service organization under appropriate laws of the State in which they are located), representatives of handicapped individuals, vocational education agencies, public assistance agencies, other education and training agencies and institutions, business (e.g., representatives of a locally based business firm, the National Alliance of Business, or Chamber of Commerce), organized labor (e.g., representatives of the central labor council, or the principal labor organizations in the areas where employment or training activities are expected or apprenticeship programs), employees who are not represented by organized labor, and, where appropriate, agricultural employers and workers (sec. 109(b)). Each mandated planning council member shall not represent more than one of the above groups or organizations and shall have voting privileges. Staff of State or local government agencies shall not take the place of representatives of the participant communities which their agencies serve.

(c) The prime sponsor shall designate a person who is not an elected official of or an employee of the prime sponsor as chairperson and furnish staff to provide professional, technical, and clerical assistance to the council (sec. 109(c)).

(d) The Planning Council shall:

(1) Meet no less than five times per year. The meetings shall be publicly announced, open and accessible to the general public, and a record of the proceedings shall be maintained by the prime sponsor at a location accessible to the public (sec. 109(d));

(2) Actively participate in the development of, and submit recommendations regarding, the prime sponsor's CETP and the basic goals, policies, and procedures of the prime sponsor's program (sec. 109(e));

(3) Consider any comments and recommendations of the Private Industry and Youth councils (sec. 109(f)); and

(4) Continuously analyze the need for employment, training and related services in the prime sponsor area, including efforts to reduce and eliminate artificial barriers to employment, and shall monitor and evaluate employment and training programs in the prime sponsor area and make recommendations with respect to them (sec. 109(e)); and

(5) Plan for the coordination and involvement of the local CETA program with the Targeted Jobs Tax Credit

Program established by the Revenue Act of 1978.

(e) Special consideration shall be given to the recommendations of the planning council, but any final decisions with respect to such recommendations shall be made by the prime sponsor (sec. 109(e)).

§ 676.8 Area Planning Bodies.

(a) Balance of State (BOS) prime sponsors, in coordination with units of general local government, shall make arrangements for appropriate area planning bodies to assist in the effective planning and delivery of programs in the BOS (sec. 101(d)).

(b) The BOS shall appoint members of area planning bodies, considering nominations made by local elected officials. The membership shall be composed of groups and organizations which represent a broad cross section of the area to be served and should include the groups and organizations on the Prime Sponsor Planning Councils described in § 676.7(b).

(c) The BOS shall convene the planning bodies at least quarterly to review plans and programs.

(d) Area planning bodies shall be given the opportunity to review and comment upon services to be provided in their area under the CETP.

§ 676.9 Comprehensive Employment and Training Plan (CETP).

(a) Designated prime sponsors shall submit a CETP to apply for financial assistance. The CETP shall consist of two distinct parts, the Master Plan and the Annual Plan.

(1) The Master Plan shall serve as the long-term agreement between the Department and the prime sponsor which describes the established administrative and programmatic arrangements that will govern all programs under the Act operated by the prime sponsor (sec. 103(a)).

(2) The Annual Plan shall be the prime sponsor's yearly plan for providing activities and services to the eligible population.

(3) Detailed instructions for completing the CETP are contained in the *Forms Preparation Handbook*.

(b) The Secretary will, not later than March 31, establish a date for submission of the Annual Plan. With respect to funds allocated to prime sponsors under the Act on the basis of a formula, the Secretary will also provide such prime sponsors a preliminary planning estimate. The Secretary will make available to each prime sponsor a complete and final set of all applicable regulations and necessary application

materials no later than May 15, unless the Secretary extends the date. In such cases, the Secretary will allow prime sponsors an additional fiscal quarter to adapt to such regulations and to complete such materials unless such regulations, guidelines, or interpretations do not require a change in the prime sponsor's Annual Plan which is a condition for the Secretary's approval or disapproval of the Annual Plan. The prime sponsor, however, may at its own discretion submit the required change by the date it was originally due (sec. 104(e)).

§ 676.10 Master Plan.

§ 676.10-1 General.

(a) A prime sponsor applying for financial assistance for the first time shall have approved by the RA a signed copy of the Master Plan prior to the execution of an Annual Plan.

(b) A prime sponsor which already has an approved Master Plan shall submit to the RA with its Annual Plan a certification that the Master Plan remains the same or a modification reflecting any changes. In submitting the initial Master Plan and subsequent certification, the prime sponsor shall comply with the comment and publication procedures of § 676.12, and the planning process in § 676.6. The Master Plan shall consist of the Signature Page, Narrative Description and Assurances and Certifications.

§ 676.10-2 Signature page.

By signing the signature page the prime sponsor agrees that all work performed under its CETP will be in accordance with the Act and the regulations.

§ 676.10-3 Assurances and certifications.

Prime sponsors shall assure compliance with the Act, the regulations under the Act, the CETP, the Assurances and Certifications form appearing in the *Forms Preparation Handbook* and, for consortia, the approved consortium agreement (sec. 103(a)(21)).

§ 676.10-4 Narrative description.

The narrative description shall include:

(a) *Statement of purpose.*—(b) *Geographic Area, Population and Labor Market.* (1) A detailed description of the geographic area to be served and demographic characteristics of the population (with data, if available, indicating the number of potential eligible participants from each significant segment and their income and employment status) (sec. 103(a)(1)(A)).

(2) A comprehensive analysis of the local labor market and economic conditions, using existing sources such as the Employment Service, which includes identification of the availability of employment and training in the public and private sectors and the potential for job growth in those sectors (sec. 103(a)(1)(B)).

(3) A statement of long-term program goals related to the improvement of the labor market and economic conditions (sec. 103(a)(2)).

(c) *Approach.* (1)(i) A description of arrangements to ensure that employment and training services are provided to those individuals most in need, including low-income persons, handicapped individuals, older workers facing artificial barriers to employment and persons of limited English-language proficiency (sec. 103(a)(5)(A)).

(ii) The method used to determine priorities for service based on objective locally established criteria using such factors as employment status, household status, level of employability, development, handicap, veteran status, age, race, sex or other criteria established by the prime sponsor (sec. 103(b)(12)).

(2) A description of the recruitment, intake, and selection methods to be used to identify, and place participants in programs (secs. 103(a)(4)(B) and 103(a)(5)(A)).

(3) A description of the system for developing participant employability plans, including the methods for determining the appropriate training and services to provide to each participant (sec. 205).

(4) A description of job development and placement services, and how these services will relate to, and be coordinated with, other area employment and training opportunities not provided under the Act, including any special activities designed to orient participants for their job responsibilities (sec. 103(b)(6)).

(5) A description of arrangements to provide participants with job search assistance, counseling and other services (sec. 103(a)(4)(B)).

(6) A description of methods to insure compliance with personnel procedures and collective bargaining agreements where participants are engaged in employment and training activities (sec. 103(a)(18)).

(d) *Service Deliverers.* (1) A description of procedures and criteria used to select service deliverers in accordance with § 676.23 (sec. 103(a)(3)(B)).

(2) A description of the criteria used to designate programs of demonstrated effectiveness (sec. 103(a)(4)(A)).

(3) A description of procedures for giving special consideration to employment and training programs of demonstrated effectiveness which are operated by community-based organizations (sec. 123(1)).

(e) *Coordination.* (1) A description of the methods for coordination between the prime sponsor and local State Employment Security Agencies, as provided in the agreement under § 676.23(g) (sec. 103(a)(15)).

(2) A summary of the agreement made with State or local educational agencies or post-secondary institutions for the conduct of employment and training programs (sec. 103(b)(16)).

(3) A description of procedures used to ensure the participation of, and consultation with, local educational agencies, vocational education agencies, community-based organizations, Federal and State agencies, organized labor, apprenticeship programs, business and other institutions and organizations, including women's organizations, in the conduct of programs (sec. 103(a)(8)(A) and (9)).

(4) A description of methods to coordinate programs with employment and training programs administered by the Secretary and other federally-funded programs in the area (sec. 103(a)(8)(B)).

(5) A description of arrangements for the use of skill centers established under section 231 of the Manpower Development and Training Act of 1962 and efforts to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available for veterans under Section 1787 of Title 38 United States Code, and coordination with the appropriate apprenticeship agency (sec. 103(a)(8)(A) and (C)).

(6) A description of procedures concerning academic credit developed in conjunction with the appropriate local educational agency or institution of higher education and approved by the appropriate State educational agency (sec. 103(a)(16)).

(7) A description of plans and activities to coordinate, strengthen, and expand employment and training activities with economic development activities in the private sector (sec. 103(a)(20)).

(8) A description of arrangements for implementing responsibilities under the Targeted Jobs Tax Credit program established by the Revenue Act of 1978.

(f) *Prime Sponsor Planning.* (1) A description of the functions and responsibilities of the prime sponsor

Planning Council (secs. 109(e) and 103(a)(10)).

(2) A description of the procedures used to ensure that council meetings are publicly announced, open and accessible to the general public, and that minutes of such meetings are maintained (sec. 109(d)).

(3) A description of staff support provided by the prime sponsor to the council (sec. 109(c)).

(4) A list of the groups within the community represented on the council (sec. 109(b)).

(5) A description of procedures used to select members of the council (sec. 103(a)(4)(C)).

(6) A description of the methods and arrangements for the participation of groups not directly represented on the council as required by § 676.6, Planning Process, (sec. 103(a)(6) and 103(a)(14)).

(7) A description of efforts to involve the private sector in the design and implementation of programs (sec. 103(b)(8)).

(8) A description of coordination and consultation linkages between the Prime Sponsor Planning Council, Youth Council, and Private Industry Council (secs. 109(f) and 103(a)(4)(C)).

(g) *Management and Administration.* (1) Organizational Structure and Staffing.

(i) A description of the prime sponsor's organizational structure (sec. 103(a)(4)(A)).

(ii) A description of procedures to recruit and select administrative staff (sec. 103(a)(4)(A)).

(iii) A description of the Personnel Merit System including any plan for obtaining an acceptable personnel system as required in § 676.43 (Administrative Staff and Personnel Standards).

(2) Administrative Controls. A description of arrangements and procedures for:

(i) Management Information System (including accounting, participant tracking system, client record and reporting systems) (sec. 103(a)(11));

(ii) Evaluation and monitoring system, including the independent unit responsible for monitoring programs and subrecipients (secs. 103(a)(12) and 121(o)(3));

(iii) Fiscal and program auditing, including procedures for auditing subrecipients and bonding (secs. 103(a)(12) and 134);

(iv) Supervising deliverers of services (sec. 103(a)(4)(A));

(v) Determining and verifying eligibility of applicants, including the quarterly sampling procedures as required in § 676.75 (sec. 103(a)(11));

(vi) Allowance payments system, including waiver provisions (sec. 124);

(vii) A description of methods to ensure compliance with the retirement provisions set forth in § 676.28 (sec. 121(j)).

(viii) A description of procedures to ensure that funds received under the Act will be used in compliance with the maintenance of effort provisions set forth in § 676.73 (sec. 121 (e) and (g), 122 (c) and (e)).

(3) **Grievance procedures.** A description of the procedures for resolving any complaints or grievances alleging violation of the Act, regulations, and CETA from CETA participants, contractors, subrecipients and other parties (secs. 106 and 103(a)(4)(A)).

(h) **Nondiscrimination and equal employment opportunity.** (1) A description of the mechanisms which will be used to ensure nondiscrimination and the provision of equal employment opportunities (sec. 103(a)(5)(B)).

(2) A description of plans and procedures concerning affirmative action, as described in § 676.53.

(3) A description of efforts and procedures to eliminate artificial barriers to employment and occupational advancement for CETA participants, including the hiring, licensing and contracting activities of subrecipients and contractors of the prime sponsor (sec. 103(a)(19) and 103(b)(11)).

(4) A description of efforts to remove architectural barriers to employment of the handicapped (sec. 121(a)(5)).

(i) **Public Service Employment.** (1) An explanation of the basis for distributing funds and the basis upon which job allocation to each employing agency will be made (sec. 123(i) and 606(b)).

(2) A description of the process for selecting project applicants including (sec. 605 (a) and (b)).

(i) The methods and criteria to be used for soliciting and approving project applicants;

(ii) The role of the planning council in the approval process (sec. 109(e)(1));

(3) A description of the items required on the project applications including at least the following information (sec. 605(b)):

- (i) Description of project;
- (ii) Goals and objectives;
- (iii) Number of persons to be served; and
- (iv) Length of project.

§ 676.11 Annual plan.

(a) **General.** (1) The Annual Plan including its subparts shall be prepared pursuant to provisions in this section and §§ 676.41, 677.15, 677.33, 677.56,

678.6, 679.4, 680.5, 680.104, 680.207, and 680.304 as appropriate.

(2) In submitting the Annual Plan for RA approval, prime sponsors shall comply with the comment and publication procedures in § 676.12 and the planning process in § 676.6. The Annual Plan shall consist of an Application from Federal Assistance (SF-424), Narrative Description and Program Planning Summaries, Budget Information Summaries and other forms as appropriate.

(b) **Application for Federal Assistance.** The Application for Federal Assistance (SF-424) shall identify the total amount of funds requested for programs under Parts 677, 678, 679, and 680.

(c) **Narrative Description.** The narrative description shall include:

(1) A summary of any evaluation conducted of the program(s) in the previous year and current year to date and a description of the use made of such evaluation (sec. 103(b)(14)).

(2) A detailed summary of the expenditures made during the preceding year, and of results achieved and changes made in the Annual Plan for the program year (sec. 103(b)(5)).

(3) A summary of the extent to which special needs of the handicapped have been met during the previous year, including the number served, type of training provided and the number placed in unsubsidized employment (sec. 103(b)(15)).

(4) A list of the specific training subgrants and agreements from the current year, including the rate of positive termination for program completers (sec. 103(b)(13)).

(5) **Approach.**

(i) A description of specific programs or services, including apprenticeship programs, if any, designed specifically for those segments of the population who are experiencing severe handicaps in obtaining employment, including individuals who lack credentials, require basic and remedial skills development, have limited English-language proficiency, are handicapped, are disabled or Vietnam-era veterans, are offenders, are displaced homemakers, are public assistance recipients, are persons 55 years of age or older, are youth, are single parents, are women or other individuals having particular disadvantages in the labor market (sec. 103(b)(3); sec. 214; sec. 215; and sec. 216).

(ii) A statement of any intention to apply for and utilize funds provided under the Act which are not allocated by formula (sec. 103(b)(9)).

(iii) A description of the efforts to be undertaken to increase the participation

of qualified disabled and Vietnam-era veterans (sec. 121(b)(2)(A)).

(iv) A description of the plans and methods to be used to provide opportunities for minority-owned businesses and small businesses (including those owned by women), to compete for procurement contracts such as the use of set-asides where appropriate (sec. 121(k)).

(v) A description of how program activities will contribute to occupational development, upward mobility, development of new careers and overcoming of sex stereotyping, including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex (secs. 103(a)(5)(C) and 121(f)(1)).

(vi) A description of any outstationing of PSE participants in accordance with § 676.25 concerning employment and training activities and the reasons why such outstationing is necessary.

(vii) A description of provisions to safeguard programs from political activities.

(6) Annual Plan Subparts for each program to be operated under the Act as required by §§ 677.15, 677.33, 677.56, 678.6, 679.4, 680.5, 680.104, 680.207, and 680.304.

§ 676.12 Comment and Publication Procedures Relating to Submission of the CETA.

(a) Prime sponsors shall make public the provisions of the Plan prior to submission to the RA through such means as public hearings, public notice in newspapers, bulletins, or other media, including publications that primarily serve significant segments of the eligible population (sec. 104(a)(3)).

(b)(1) Each prime sponsor shall publish at a minimum in one issue of a newspaper or newspapers of general circulation in the prime sponsor's area (including minority newspapers, where applicable) a statement indicating the following information:

- (i) The source of funds;
- (ii) The amount requested;
- (iii) A brief summary of the purpose of the proposed program and activities; and

(iv) The location and hours when the CETA and a comparison of performance against the prior year's plan through the most recent quarter, can be reviewed and the address and phone number where questions and comments may be directed.

(2) The prime sponsor shall publish the statement at least 45 days prior to the submission of the CETA to the RA in

order to allow at least 30 days of review and comment. In addition, a copy of the newspaper article shall be transmitted to the RA (sec. 104(a)(3)).

(c)(1) Each prime sponsor shall, at least 45 days before submitting its CETP to the RA, allow at least 30 days for review and comment by providing the complete Plan, to the Governor, the State employment and training council, the prime sponsor planning council, appropriate labor organizations, and the private industry council, with notice of the opportunity to review the plan going to appropriate units of general local government in its area, and appropriate native American recipients (sec. 104(a)(1)).

(2)(i) Copies of the comments and recommendations of the Governor, the State employment and training council, and the prime sponsor planning council shall be transmitted to the RA with submission of the Plan, or if the comments are received after the submission of the Plan, they may be sent separately to the RA (sec. 104(b)).

(ii) The prime sponsor shall provide an explanation for the rejection of recommendations made by the planning council, including minority reports, which were not included in the Plan (sec. 103(a)(17)).

(d) At the same time, each prime sponsor shall provide written notification of the availability of the Plan to each House of the State Legislature for appropriate referral, to appropriate community-based organizations of demonstrated effectiveness including appropriate women's organizations, and appropriate educational and apprenticeship agencies and institutions (sec. 104(a)). Prime sponsors shall allow at least 30 days for review and comment.

(e) If a State or areawide clearinghouse notifies a prime sponsor that it wishes to review the complete Plan, the applicant shall also provide a copy of such to the clearinghouse(s) 45 days prior to its submission to the RA.

(f) When the PSE occupational summary has not been finalized at the time the Plan is made available for public comment, the prime sponsor shall make the PSE occupational summary available for a 30-day comment period at the time of submission to the RA as described in paragraph (c)(1) of this section.

(g) A prime sponsor shall acknowledge all written comments and shall inform in writing any party submitting a substantive written comment of whether any Plan revision will be made in response to the comment and the reasons for the prime

sponsor's determination. The prime sponsor shall provide, upon request, copies of all written comments to the planning council and the Governor (sec. 104(b)).

(h) If no comments are received from an A-95 Clearinghouse, or if the Clearinghouse has not requested to review the CETP, the prime sponsor applicant shall so note this on Standard Form 424.

§ 676.13 Submission of the CETP.

(a) Each designated prime sponsor shall simultaneously submit to the RA by a date set by the Secretary:

- (1) An Annual Plan;
- (2) A certification that the Master Plan remains the same or a modification reflecting any changes; and
- (3) An Approval Request Letter.

(b) Newly designated prime sponsors shall submit and have the Master Plan approved by the RA prior to the approval of the Annual Plan. An Approval Request Letter shall accompany the submission.

§ 676.14 Review, Approval and Disapproval of the CETP.

(a) *Plan review.* The RA shall review each CETP to determine if:

- (1) It is complete and meets the requirements of the Act and regulations (sec. 104(c)).

(2) Prime sponsor's performance and placement goals are adequate in light of performance standards which recognize that performance will vary with local conditions and the nature of employment barriers faced by the eligible population to be served (sec. 126(a)(2)).

(3) The Plan is adequately designed to carry out an effective and well-administered program, taking into account such factors as past program performance and the recommendations made by the Governor, the State employment and training council, and the prime sponsor planning council (sec. 104(c)(1)).

(b) If a clearinghouse has recommended against approval of a Plan because it conflicts with or duplicates another Federal or federally-assisted project, the RA shall consult with the agency assisting the reference projects prior to taking action on the Plan.

(c) Plan Approval and Disapproval.

(1) The RA shall notify a prime sponsor applicant, the Governor, and the A-95 clearinghouse within 7 days after approving, disapproving, partially or conditionally approving the CETP on the Standard Form 424. In addition, a letter shall be sent to the prime sponsor and

Governor. If any party commenting to the RA pursuant to the A-95 clearinghouse review process has made recommendations, and if the RA, after review of the recommendations, makes a determination contrary to the recommendations, the RA shall inform the party making the comment of the reasons for the determination on the Standard Form 424.

(2) With respect to approved plans, the Department shall issue a Notice of Funding Availability to provide funding authority. When funds are obligated incrementally, a new Notice of Funding Availability shall not require a revision of the Annual Plan, or publication, comment or A-95 clearance procedures.

(3) If the Plan is disapproved fully or partially or conditionally approved, the RA shall notify the prime sponsor and the Governor in the letter required by paragraph (c)(1) of this section:

- (i) Of the reasons for disapproval;
- (ii) Of corrective steps needed to remedy the defects within a specified time but not less than 30 days; and
- (iii) That failure to comply with the corrective steps within the specified time will result in final disapproval, which shall be subject to the appeal procedures in Subpart F of this Part.

(4) The approval of the Plan shall not preclude DOL from a subsequent determination that the prime sponsor is in violation of the Act or regulations.

§ 676.15 Use of Alternative Prime Sponsors; Services by the Secretary.

If a Plan is not filed or is disapproved, or if a Plan is terminated in whole or in part, which results in services not being provided in the area:

(a) The Secretary may allocate the funds to service the area to another prime sponsor or, if this is inappropriate, to the Governor; or

(b) The Secretary may make financial assistance directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area (sec. 102).

§ 676.16 Modifications.

(a) The RA may require modification of the CETP only once each fiscal quarter, with the exception of changes in the funding allocation level or to ensure compliance with the Act and regulations after consultation with the prime sponsor (sec. 103(c), (106) and (108)).

(b) Modifications of the Master Plan.

(1) The Assurances and Certifications may only be modified by the RA.

(2) Prime sponsors shall obtain prior RA approval of a modification initiated by a prime sponsor which proposes to

make a significant change in the Narrative Description.

(3) Modification requests from prime sponsors shall consist of the following:

- (i) Approval Request Letter;
- (ii) Revised Narrative Description or revised Assurances and Certifications, if appropriate; and

(iii) A copy of the newspaper announcement required in paragraph (d) of this section, for significant changes to the narrative description.

(c) Modifications to the Annual Plan.

(1) Prior RA approval is required to modify:

(i) The duration of the Annual Plan or Subparts of the Annual Plan.

(ii) The Annual Plan allocation;

(iii) An increase or decrease of 15% or more in the cumulative number of individuals to be served, planned enrollment levels for program activities, planned placements, terminations or individuals to be served within significant segments;

(iv) For Annual Plan Subparts of \$100,000 or less, a cumulative transfer of \$15,000 among program activities or cost categories;

(v) For Annual Plan Subparts of over \$100,000, the cumulative transfer among program activities or cost categories of \$50,000 or more or 15 percent of the total plan budget, whichever is greater; or

(vi) Significant changes in program design.

(2) Prime sponsors may not modify their Annual Plan solely to adjust planned performance to meet actual performance.

(3) Modifications to the Annual Plan requested by prime sponsors shall consist of:

- (i) Approval Request Letter;
- (ii) Revised Form SF 424 (if required);
- (iii) Revised Program Planning Summary and Budget Information Summary for current and future quarters only;

(iv) Description of any conforming changes made in the Narrative Descriptions;

(v) Revised Occupational Summary and other forms, if appropriate.

(4)(i) Modification of the Annual Plan pursuant to paragraph (c)(1) of this section must be made within 30 days from the beginning of the quarter in which changes are effective.

(iii) A prime sponsor may make any change, consistent with the regulations, in its Program Planning Summary, Budget Information Summary, or Narrative Description which is not set out in paragraph (c)(1) of this section without prior RA approval, but must notify the RA of any such change within

30 days from the beginning of the quarter in which changes are effective.

(d) Publication and comment procedures specified in § 676.12 shall apply to modifications for which prior RA approval is necessary except that:

(1) Each prime sponsor shall comply with the comment and publication requirements at least 30 days prior to submission of its modification to the RA.

(2) The required newspaper announcement shall include a notice of the prime sponsor's intent to modify, a brief summary of the nature and purpose of the proposed modification, the location where and hours when the complete modification can be reviewed, and the telephone number to which questions may be directed.

(3) (i) The prime sponsor shall clear modifications through the A-95 clearinghouse only if:

(A) There is a cumulative increase or decrease in funds equal to or more than 15 percent of the allocation for any Annual Plan Subpart for the current program year; or

(B) The Annual Plan, or any Subpart, is extended for a period of more than 3 calendar months.

(ii) When A-95 clearance is required, the notice from the prime sponsor to the clearinghouse shall consist of a revised SF 424 and a brief description of the anticipated modification. If within 15 days of the notice, the prime sponsor receives no notice from the A-95 clearinghouses that it wishes to review the modification, the prime sponsor may submit the modification to the RA without A-95 clearance.

(e) The RA shall approve or disapprove proposed modifications fully or partially within 30 days of receipt, and, within 7 days of such action, notify the prime sponsor and the Governor in writing of the decision. The procedures in § 676.14 (b) and (c)(1) concerning review, approval and disapproval shall apply to modifications.

Subpart B—Program Design and Management

§ 676.21 General responsibilities of CETA recipients.

This Subpart sets out program operation requirements for CETA recipients, including: program management, linkages, coordination and consultation, allowable activities, participant benefits, and duration of participation provisions.

§ 676.22 Program management systems.

(a) All recipients shall establish management systems to assess all programs. Recipients shall take necessary corrective action to remedy

deficient performance under their grant and to plan for more effective programs.

(b) Prime sponsors shall institute and maintain effective systems for the overall management of their programs, including but not limited to:

(1) Program monitoring systems as described in § 676.75-2;

(2) Eligibility verification systems as described in § 676.75-3;

(3) Complaint and Hearing Procedures as described in § 676.83;

(4) Mechanisms for taking immediate corrective action where problems have been identified.

(c) All recipients shall establish and maintain financial management and participant tracking systems in accordance with § 676.34. Such systems shall be designed to enable the recipient to effectively manage its program and to provide information necessary to design program activities and delivery mechanisms best suited to resolve employment and training problems (Sec. 104(c)(3)).

(d) Each recipient shall establish and use procedures for the systematic assessment on a quarterly basis of program performance in relation to the goals contained in its grant. Recipients shall:

(1) Establish written quantified goals for each activity and service and for each subrecipient based on the specific program purposes of the service, activity or subgrant;

(2) Establish and use procedures for collecting performance information (including information on the status of individuals subsequent to entering unsubsidized employment) and for assessing such information in terms of the goals contained in its grant;

(3) Establish and use procedures for identifying performance problems and for developing and implementing appropriate remedial actions (sec. 103(a)(4)(A)).

(e) Recipients shall establish and use procedures whereby the information collected and assessments conducted shall be considered in subsequent program planning and in the selection of deliverers. Prime sponsors shall provide program assessments to their Planning Council and, as appropriate, to their Youth and Private Industry Councils.

§ 676.23 Program Linkages and Selection of Deliverers.

(a) Prime sponsors shall follow the procedures in this section regarding the selection of deliverers of service.

(b) Prime sponsors shall compile and maintain a publicly available inventory of potential service deliverers which have expressed in writing an interest in

being on the inventory (sec. 103(a)(3)(B)).

(c) In selecting service deliverers, prime sponsors shall give special consideration to community based organizations with programs of demonstrated effectiveness in the delivery of employment and training services (sec. 123(l)). Such special consideration shall consist of the following: §

(1) Community based organizations shall be actively involved in the prime sponsor's planning process, as described in § 676.6, § 676.7, § 676.10-4, and § 676.12.

(2) Prime sponsors shall establish a mechanism for providing special consideration, including at least the following steps:

(i) Written or other public notification which ensures that appropriate CBO's are notified of the availability of funds with a request that all potential deliverers of employment and training services who wish to be placed on the inventory submit to the prime sponsor the following information:

(A) The name of the organization interested in receiving funds;

(B) The types of service and activities the organization is interested in providing; and

(C) The types of services and activities the organization has provided in the past, the number and types of people served, and documentation regarding the effectiveness of these services.

(ii) Using specific objective criteria, the prime sponsor shall determine which of the potential service deliverers on the inventory described in paragraph (b) have operated programs of demonstrated effectiveness, as defined in § 675.4

(iii) The prime sponsor shall provide individual notice to each CBO, determined to be of demonstrated effectiveness, of the planned activities and services so that it may apply.

(iv) In the selection of service deliverers, the prime sponsor shall give special consideration to CBO's of demonstrated effectiveness in the delivery of employment and training services. For example, in competitive procurement procedures, the prime sponsor may afford special consideration through additional points in a rating system.

(v) If the prime sponsor, after considering a CBO of demonstrated effectiveness as a service deliverer does not select such CBO, it shall, upon request, provide the reasons for non-selection in relation to its criteria for

selection to the affected CBO and the RA.

(d) Consideration shall be given to making use of appropriate services currently available in the community, with or without reimbursement, which the prime sponsor has determined to be effective. Agencies which typically provide such services include, but are not limited to: the State Employment Security Agency, State Vocational Education and Rehabilitation agencies, State public assistance agencies, area skill centers established under Sec. 231 of the Manpower Development and Training Act of 1962, local education institutions, community based organizations, and other public agencies. The purpose of this consideration shall be to avoid duplication and to obtain such services at a cost saving over establishing another such service or activity (Sec. 103(a)(7) and 121(g)).

(e) Nothing in paragraphs (a) through (d) of this section shall be construed as prohibiting the prime sponsor from utilizing the services and facilities of public or private agencies, institutions or organizations, such as private business, labor organizations and private educational and vocational institutions which the prime sponsor reasonably believes can provide substantially equivalent or better services or facilities, on the basis of such factors as quality of service or cost effectiveness (sec. 103(a)(7)).

(f) In order to maximize the level of coordination and minimize duplication, each prime sponsor shall enter into a written cooperative agreement with the State Employment Security Agency which delineates the responsibilities of each and covers, at a minimum:

(1) Coordination of the employment and training services under the prime sponsor's plan with those funded under the Wagner-Peyser Act, 29 U.S.C. 49 *et seq.*

(2) A description of arrangements for coordination of employer contacts and other activities involving employers;

(3) Allowance payment systems;

(4) Arrangements to undertake and coordinate activities, including income determination, referral, and publicity functions under the Targeted Jobs Tax Credit program established by the Revenue Act of 1978, Pub. L. 95-600; and

(5) Arrangements to provide the SESA with information on available public service employment positions in order that such information may be provided to unemployment insurance recipients and other applicants for services from the State Employment Security Agency (sec. 122(1)).

(g) A copy of the agreement described in paragraph (f) of this section shall be made available to the RA upon request.

(h) If a prime sponsor plans to provide a service which is available from the SESA at no cost, the prime sponsor shall justify such non-use in its Annual Plan.

(i) Each prime sponsor shall to the maximum extent feasible:

(1) Coordinate the employment and training services provided under its plan with those available under other programs funded through the Department of Labor and with self-employment training programs (sec. 103(a)(8));

(2) Coordinate services to veterans provided under this Act with those activities authorized by Chapter 41 of Title 38, United States Code (relating to counseling and employment services to veterans provided by SESA's) and with other similar activities carried out by other public agencies and organizations. Coordinate services with the appropriate Veterans Administration facilities in utilizing the apprenticeship and other on-the-job training activities available under Section 1787 of Title 38 U.S. Code (sec. 121(b) and sec. 103(a)(8)).

(3) Consult with the appropriate apprenticeship agency concerning any training activities in apprenticeable occupations.

(j) When a prime sponsor plans to conduct training in an apprenticeable occupation, such training should be designed in conjunction with an appropriate registered apprenticeship program.

(k) Prime sponsors shall coordinate services to AFDC recipients with public assistance agencies and the local sponsor, if any, of the Work Incentive Program (WIN).

(l) In designing employment and training programs, the prime sponsor shall consider activities such as:

(1) Weatherization and winterization projects for the near poor, which are families having incomes which do not exceed 125 percent of the poverty level as determined by the Director of the Office of Management and Budget, and projects approved by the Community Services Administration pursuant to Section 222(a)(5) of the Economic Opportunity Act of 1964, 42 U.S.C. 2809, or Department of Energy pursuant to Title IV of the Energy Conservation and Production Act of 1976, 42 U.S.C. 6851.

(2) Housing rehabilitation as part of community betterment and improvement, including code enforcement, upgrading of senior citizens housing, removal of physical barriers for handicapped residents,

homesteading activities and other provided the dwellings where work is performed on low-income housing.

(3) Energy conservation projects for low-income housing, especially those that reduce nonrenewable resource consumption.

(4) Community and economic development activities such as beautification, recreation, organization, resource planning, park improvement and activities funded through Federal Agencies such as Department of Health, Education and Welfare, the Department of Energy, the Community Service Administration, and the Department of Commerce.

(m) Where activities in § 676.23(1) are involved, the prime sponsor shall ensure that such activities are supervised by an adequate number of supervisory personnel who are adequately trained in the skills needed to carry out such activities and to instruct participants in the skills needed to perform the work involved.

§ 676.24 Labor organization consultation and/or concurrence.

(a) To ensure the most effective development of employment and training opportunities, prime sponsors are to provide for the participation of organized labor in the planning and design of programs and activities, and coordination in the subsequent operation of such programs (sec. 103(a)(9)).

(b) In addition to involving labor organizations in the planning process as specified in (a) above, prime sponsors and subrecipients as appropriate shall:

(1) Consult with appropriate labor organizations in the design and content of the training, work experience, public service employment, Vocational Exploration Program (VEP), OJT, and other appropriate activities with respect to job descriptions, wage rates, training arrangements, and occupations planned;

(2) Obtain written concurrence from the appropriate bargaining agent where a collective bargaining agreement exists with the participating employer covering occupations in which training or subsidized employment is proposed. Such concurrence shall apply to the elements of the proposed activity which affect the bargaining agreement, such as wages and benefits. If no response is received within 30 days, the program may proceed (sec. 103(a)(18)).

(3) Maintain evidence of the results of such consultation or concurrence.

§ 676.25 Employment and training activities.

Recipients and subrecipients may conduct the following activities:

§ 676.25-1 Classroom training.

(a) This program activity is any training of the type normally conducted in an institutional setting, including vocational education, and it is designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses such as remedial education, training in the primary language of persons with limited English language proficiency, or English-as-a-second-language training.

(b) In designing and operating training programs recipients and subrecipients shall:

(1) Refer a person for occupational training only after determining that there is a reasonable expectation of employment in the occupation in which such person would be trained (sec. 121(f)(4)).

(2) Not refer a person to an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities for that person available in that occupation (sec. 121(f)(2)).

(3) Train persons only for jobs which are neither in industries nor occupations with lower wages than similar occupations in comparable industries in the area. Notwithstanding the above, training is permissible for such jobs when there exists a training program of a specified length of time designed to teach specific skills, and when the rate of labor turnover does not exceed substantially the rates of labor turnover for all jobs in the same area. Data for average wages for comparable industries and the average rate of turnover may be found in the BLS Handbook of Labor Statistics (sec. 123(a)).

§ 676.25-2 On-the-job training.

(a) *General.* (1) This section applies to private and public sector on-the-job training (OJT) alike, except that public sector OJT agreements entered into prior to April 1, 1979, may be honored as originally executed.

(2) On-the-job training (OJT) is training in the private or public sector given to a participant, who has been hired first by the employer, and which occurs while the participant is engaged in productive work which provides knowledge or skills essential to the full

and adequate performance of the job. This does not preclude a participant who has been hired by, and received OJT from, one employer from being ultimately placed with another employer.

(3) OJT may be coupled with other CETA employment and training activities as specified in § 676.25-7 and § 676.26-3. OJT participants may receive any of the employment and training services or supportive services specified in § 676.25-5 through the CETA system, through community resources, or through employer resources.

(b) *Participation.* All OJT participants must meet the eligibility requirements described in § 675.5. Recipients shall establish procedures for the referral of participants to OJT. Such procedures should use the information available through the system for Intake and Assessment (see § 675.6). These procedures shall insure that, to the maximum extent feasible, those most in need are served in accordance with the following guidelines:

(1) Primarily, OJT opportunities should be offered to those most in need, who lack the related education, training, or work experience for the job for which training is offered.

(2) Recipients may also refer persons to OJT who have related education, training or work experience when no other suitable opportunities exist for such individuals, either in unsubsidized employment or within the CETA system.

(c) *Selection.* From among those referred for OJT opportunities, the employer may make the final selection of participants based on suitability for the training opportunity.

(d) *Length of Training.* The length of time for which payments from CETA funds may be made shall not exceed that period of time generally required for acquisition of skills needed for the position within a particular occupation (sec. 121(1)). Recipients shall develop standardized methods for determining the length of training for OJT occupations, and shall describe or identify such methods in the Annual Plan. The Dictionary of Occupational Titles' Specific Vocational Preparation (S.V.P.) codes, or other equivalent standardized tools should be used to fulfill this requirement.

(e) *Eligible Jobs.* The training limitations of § 676.25-1(b) (1), (2) and (3) shall apply to OJT. In the selection of jobs for which training will be offered, recipients shall consider those which provide opportunities not otherwise available, lead to economic self-sufficiency, and provide upward mobility.

(f) *Reimbursement.* Costs incurred by employers are to be reimbursed in accordance with §§ 676.41-1 (a), (d) and (e) and 676.41-3(b).

(1) Based upon past experience, DOL has determined that a fixed unit cost method of reimbursement for OJT training costs based on 50 percent of the participant's wages (but not fringe benefits) represents the difference between the costs of recruiting and training and the costs of lower productivity associated with employing CETA participants to perform the job and the costs for others similarly employed.

(2) To maximize limited available resources, recipients may negotiate lower reimbursement levels with employers.

(3)(i) Should an employer or recipient believe that special circumstances, as discussed in paragraph (f)(3)(iii) of this section warrant a reimbursement level for OJT training costs higher than the 50 percent limitation, each circumstance, along with the specified level and its rationale, shall be presented in the recipient's Annual Plan. Recipients may then negotiate OJT agreements under these circumstances at the reimbursement level approved in the plan without any further DOL approval. The circumstances and the reimbursement level in such cases should also be documented in each OJT agreement.

(ii) If a circumstance not covered in the Annual Plan arises which the recipient believes warrants reimbursement for OJT training costs at higher than the 50 percent level, an Annual Plan modification request shall be submitted to the RA in accordance with § 676.16(c)(1) and (c)(3). No publication or comment procedures will be required. Once the modification is approved, the recipient may sign the OJT agreement, documenting the approved circumstances and the reimbursement level in the OJT agreement.

(iii) Special circumstances are envisioned as those where the characteristics of the participant indicate greater obstacles to employment than those of the normal CETA participant or where the training would provide the participant with unusually high skills. Examples include the following, among others: Handicapped or mentally retarded participants; disabled veterans; ex-offenders; and exceptionally costly programs providing an above-average intensity of training.

(4) Recipients may provide OJT reimbursement on a scheduled declining

ratio to wages over the period of training, as long as the planned average reimbursement does not exceed the specified reimbursement level for the planned period of training. Recipients shall monitor the declining reimbursement provisions of OJT agreements closely. Should abuse occur (e.g., significant numbers of participants leaving after the "high end of the scale" reimbursement period), this reimbursement procedure shall be immediately altered or curtailed.

(5)(i) In addition to the reimbursement for OJT training costs allowed by paragraphs (f)(1) through (4) of this section, the actual costs incurred by an employer for classroom training or for employment and training services and supportive services for OJT participants, as defined in § 676.25-5(b) and (c), may be reimbursed. As indicated in § 676.25-7(b), an employer may also be reimbursed for the costs of participant wages paid by the employer for any time spent during working hours by an employee in such activities. All costs incurred as a result of the provisions of this paragraph must be documented by the employer.

(ii) Any reimbursement made pursuant to paragraph (f)(5)(i) of this section may only be for classroom training, employment and training services and supportive services which are different than or above the level of such training or services normally provided by the employer to regular employees.

(g) *OJT Agreements.* Employers will be held responsible with respect to CETA costs only in accordance with the provisions of their OJT agreement. The OJT agreement shall contain at a minimum the elements listed below. Recipients may place additional provisions in the OJT agreement only after a careful assessment is made of the additional burdens imposed on participating employers. Agreements may only be entered into with employers which have not been seriously deficient in their conduct or participation in any DOL program described in § 676.38(b). The minimum elements are (sec. 121(o)):

(1) A brief training outline, including the length of training and the nature of the training;

(2) The method and maximum amount of reimbursement for OJT training; justification if the reimbursement amount exceeds 50 percent of the participant's wages;

(3) The number of participants to be trained;

(4) A job description and specification of participant wage rates;

(5) Reporting requirements;

(6) A requirement that employers are to keep track of participant's attendance, and a description of the payroll records, time and attendance records, and job duties statements that the employer will be required to maintain;

(7) Specification of any costs to be reimbursed above the OJT training costs (i.e., classroom training costs, employment and training services, and supportive services costs), as indicated in paragraph (f)(5) of this section, and the documentation the employer will be required to maintain on such costs;

(8) A termination clause for non-performance; and

(9) An assurance that the employer will comply with the Act and regulations.

§ 676.25-3 Public Service Employment.

(a) Public service employment (PSE) is subsidized employment with public and private nonprofit employers who provide public services.

(b) PSE jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector (Sec. 122(m)).

(c)(1)(i) PSE participants may not be outstationed to worksites, except if the prime sponsor demonstrates in its annual plan that:

(A) The worksite lacks the administrative capability to perform the personnel, recordkeeping, reporting or other required functions for these additional employees; or

(B) That requiring the worksite to be the employing agency would create a significant administrative or programmatic impediment to accomplishing the purposes of the Act such as requiring subagreements with an excessive number of worksites with a small number of participants; or

(C) The participant's wages, benefits and working conditions are the same or substantially equivalent to those of regular employees at the worksite.

(ii) In the case of (A) and (B) above participants shall receive the same wages, benefits and working conditions as those received by similarly employed employees at the employing agency. In the case of (c), participants shall receive the same wages, benefits and working conditions as similarly employed employees at the worksite.

(iii) Nothing in the preceding paragraph shall limit outstationing to a Federal agency.

(iv) The administrative arm of a prime sponsor consortium, except those which are units of general local government,

may not outstation PSE participants, except:

(A) When the wages and benefits of the participants are the same as those of the similarly employed regular employees at the worksite;

(B) When the specific concurrence of the bargaining agent at the worksite is obtained; and

(C) When the worksite is other than a State or a unit of general local government of 50,000 population or greater.

(2) For Fiscal Year 1979, the prior approval of the RA shall be required only where PSE participants are to be outstationed to worksites of a prime sponsor or of any unit of general local government with a population of 50,000 or more.

(3) No PSE participant shall be outstationed for the purpose of denying or reducing the wages or benefits to which the participant would otherwise be entitled. No PSE participant shall be outstationed to a worksite where the employees of that worksite performing the same or substantially similar job duties are paid at a rate less than the highest of that established under Section 6(a)(1) of the Fair Labor Standards Act or the applicable State or local minimum wage.

(4) PSE participants who were outstationed as of March 31, 1979 may continue to be outstationed to the same worksite until transferred to a different worksite or terminated from PSE.

(5) When filling teaching positions in schools under local educational agencies under Title VI, prime sponsors shall not outstation but shall subgrant with the appropriate local educational agencies pursuant to section 678.3(j) of these regulations. (Sec. 603(b).)

(6) Outstationed participants are to be considered employees of the employing agency and shall have the same working conditions and benefits as those received by other similarly employed employees of the employing agency, except as provided in paragraph (c)(1)(ii) above. However, maximum efforts should be made by the employing agency to accommodate the outstationed worksite by coordinating work hours and holidays.

(d) PSE participants shall not be employed in building and highway construction work (except that which is normally performed by the recipient or subrecipient) or in any work which primarily benefits a private-for-profit organization.

(e) Except for Title VI projects under Part 678, PSE jobs shall be entry level (sec. 232(a)(1) and sec. 605(a)).

(f) To the extent feasible, the public services provided by the jobs should be designed to benefit the residents of the area (sec. 122(a)).

(g) Recipients shall take into account household obligations and give special consideration to providing alternative working arrangements such as flexible hours of work, work-sharing and part-time jobs, particularly for older workers, and parents of young children (sec. 121(d)(3)).

§ 676.25-4 Work experience.

(a)(1) Work experience is a short-term or part-time work assignment with an employing agency. It is prohibited in the private-for-profit sector. It shall be designed to enhance employability of individuals through the development of good work habits and basic work skills.

(2) Work experience shall be limited to persons who need assistance in becoming accustomed to basic work requirements including basic work skills, in order to be able to compete successfully in the labor market. It is for persons who have either never worked or who have not been working for an extended period of time, such as students, youth in transition from school to employment, youth with no definite employment goals, chronically unemployed, retired persons, handicapped individuals, residents of institutions, and older workers in such programs as Operation Mainstream, who have no alternative job opportunities (sec. 121(i)).

(3) Persons who do not satisfy the conditions of paragraph (a)(2) of this section may be placed in work experience for no more than 30 days while an appropriate classroom training, OJT, PSE or unsubsidized job is being developed for them (sec. 211(6)).

(4) Work experience shall not be used as a substitute for PSE. Recipients shall distinguish between the work experience and PSE activities in their programs as specified in § 677.15 on the Title II Annual Plan Subpart. The activities shall be distinguished on the basis of the types of individuals employed, the level of supervision required, and the level of proficiency or performance required.

(5) Participation in work experience shall be for a reasonable length of time based on the needs of the participant, and subject to the restrictions on duration set forth in § 676.30.

(6) The provisions of § 676.25-3(g) regarding household obligations and alternative working arrangements apply to work experience.

(b) At least every 60 days, recipients shall review and document the progress

of each work experience participant to determine whether transfer to another activity or placement in unsubsidized employment is more appropriate than remaining in work experience, based on whether the work experience has achieved its purpose. However, this shall not apply to a participant in the Summer Youth Employment Program.

(c)(1) A supported work program is a specialized type of work experience in which the primary goal is to transition participants into the regular work force after a specified term of program employment. The work experience provided by the program shall include the following programmatic techniques: (i) Crew work; (ii) intensive supervision at worksites; (iii) progressive levels of difficulty; (iv) a system of wage increases and bonuses tied to participant performance and (v) a system of regularized performance evaluation.

(2) Supported work programs shall be designed to provide job readiness training and job placement assistance to participants when their program performance indicates readiness for transition to unsubsidized employment. Referrals to this program shall be primarily those individuals who have worked no more than three months in one regular job during the six months prior to program enrolment, and who have a verifiable personal history which tends to limit their employment prospects (e.g., drug or alcohol addiction, incarceration, long-term receipt of welfare payments). Participation limitations for individuals enrolled in this program may be extended based on the waiver provisions for work experience found in § 676.30(g).

§ 676.25-5 Services.

This program activity includes services to applicants, employment and training services, supportive services, and post-termination services. Such services are designed to lead to maximum employment opportunities and retention of employment or to facilitate participation in other employment and training program activities funded under this Act or in another Act, leading to eventual placement in unsubsidized employment.

(a) *Services to applicants.* Such services include:

(1) Outreach; and

(2) Intake: This includes screening for eligibility; the initial determination as to whether the program can benefit the individual; the determination of the employment and training activities and services which would be appropriate for

the applicant; the determination of the availability of an appropriate employment and training activity; a decision on selection; and dissemination of information on the program.

(b) *Employment and training services.* Such services include but are not limited to:

- (1) Orientation to the world of work;
- (2) Counseling. This includes employment related counseling, and testing;
- (3) Employability assessment (other than that involved during intake);
- (4) Job development;
- (5) Job search assistance. This includes transition services, such as job seeking skills instruction, individualized job search plan, labor market information, and other special activities for transition to unsubsidized employment;
- (6) Job referral and placement;
- (7) Targeted Jobs Tax Credit eligibility determination and referrals; and
- (8) Vocational exploration program (VEP). A recipient may conduct a VEP program to expose youth to jobs available in the private sector through observation of such jobs, instruction, and, if appropriate, limited practical experience (sec. 432).

(i) A detailed curriculum shall be developed prior to enrollment in VEP.

(ii) Organizations which participate in VEP through an agreement with a recipient may be reimbursed for the costs incurred in the conduct of the program except that private-for-profit organizations may be reimbursed only for costs of training which is over and above that normally provided by the organization.

(iii) An individual may not be involved in any activity that contributes, or could be expected to contribute, to additional sales or profit, or results in the subsidization of wages, of a private-for-profit organization.

(iv) Where a vocational exploration program funded directly by DOL operates in a recipient's area, the recipient shall enter into an agreement with the local representative of the program which contains arrangements for recruitment, selection, referral and eligibility certification.

(c) *Supportive services.* Such services include but are not limited to:

- (1) Health care and medical services;
- (2) Child care. Child care programs shall comply with applicable State and local standards including State licensing requirements;
- (3) Transportation;
- (4) Temporary shelter;
- (5) Assistance in securing bonds;

(6) Family planning services. These shall be made available to a participant only on a voluntary basis and shall not be a prerequisite for participation in, or receipt of, any services or benefits from the program;

(7) Legal services; and

(8) Financial counseling and assistance.

(d) *Post-termination services.* For 30 days following termination from the program employment and training services and supportive services, as described in §§ 676.25-5 (b) and (c) of this subsection, may be provided to participants who have obtained unsubsidized employment to enable them to retain employment.

§ 676.25-6 Other activities.

Recipients may conduct activities not described in §§ 676.25-1 through 676.25-5. The approved grant application shall describe the basic design of activities undertaken as "other activities" and their objectives. These activities may include but are not limited to:

- (a) Removal of artificial barriers to employment;
- (b) Job restructuring;
- (c) Revision or establishment of merit systems; and
- (d) Development and implementation of affirmative action plans.

§ 676.25-7 Combined activities.

(a) A participant may be simultaneously or sequentially enrolled in two or more activities.

(b) (1) Reimbursement may be up to 100 percent to employers, including private-for-profit employers, for expenditures for the costs of classroom training, employment and training services or supportive services for participants in combined activities including the costs of participant wages paid by the employer for time spent in these activities during working hours.

(2) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payroll, or other records normally kept by the employer.

(3) Nothing in this paragraph shall allow reimbursement to private-for-profit employers for the costs of on-the-job training in excess of the amounts allowable in § 676.25-2.

§ 676.26 Payments to participants

§ 676.26-1 Payment of wages.

General. Except as authorized under § 676.26-3, each participant in on-the-job training, work experience, and public service employment shall be paid wages.

(a) *Wages for on-the-job training.*

Participants in OJT shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographic region, and the participant's skill. In no event shall the wage rate be less than the highest of the following (sec. 124(c)):

(1) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act;

(2) The minimum wage rate prescribed by applicable State or local law (sec. 124(c));

(3) The prevailing wage rate for persons similarly employed;

(4) The minimum entrance wage rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance wage rate for the occupation in other establishments in the area;

(5) The wage rate required by an applicable collective bargaining agreement; or

(6) The prevailing wage rate established by the Secretary in accordance with the Davis-Bacon Act, when required by paragraph 676.26-1(d) of this section.

(b) *Wages for work experience.*

Participants in work experience shall be paid at a wage rate not less than the highest of (sec. 124(d)):

(1) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act;

(2) The minimum wage rate prescribed by applicable State or local law; or

(3) The prevailing wage rate established by the Secretary in accordance with the Davis-Bacon Act, when required by § 676.26-1(d); or

(4) The wage rate required by an applicable collective bargaining agreement.

(c) *Wages for Public Service*

Employment—(1) Minimum wage rates. A participant in PSE shall be paid wages not less than the highest of the rates specified in (a)(1) through (6) (sec. 124(b)).

(2) *Maximum wage rates payable with CETA funds.* (i) The wages (including those received for overtime work and leave taken during the period of employment) paid to any PSE participant from funds under the Act shall be limited to a full-time rate of \$10,000 per year (or the hourly, weekly, or monthly rate which, if full-time and annualized, would equal a rate of \$10,000 per year); unless the Secretary adjusts this maximum upward by the area wage adjustment index. For school employees whose work is done only

during the school year, that school year shall be considered a full year for wage rate annualization purposes.

(ii) Fringe benefits payable from funds under the Act to any PSE participants may not exceed those regularly afforded to similarly employed non-CETA workers, and shall never exceed those afforded to non-CETA workers earning an amount equal to the maximum wage.

(3) *Average wage rates payable with CETA funds.* The average annual wage rate for PSE participants hired on or after April 1, 1979, shall not exceed \$7,200, as adjusted upward or downward by the Secretary on an area basis by the area wage adjustment index. In no case shall this wage be adjusted downward to a level that is less than 10 percent above the annualized Federal minimum wage rate. The total average of federally supported payments per month, including such payment to those engaged full-time in a combination of PSE and training who spend at least 50% of their time in PSE and who are compensated for training at the minimum wage, shall not exceed the prorata monthly share of the annual average wage. Where PSE participants are in a part-time (less than a normal full time schedule for the occupation) PSE position, the average annual wage rate for these participants shall be computed by converting to full time rates and annualizing the PSE wages. For fiscal year 1980 and each subsequent fiscal year, the average annual wage rate shall be further adjusted by a percentage equal to the change in the average wage rate in employment not supported under the Act (sec. 122(i)).

(4) *Area wage adjustment index.* (i) The Secretary shall publish annually a wage adjustment index for each appropriate area. For each area, the index shall equal the ratio of the annual average wage rate in regular public and private employment in such area to the average wage rate for all such areas.

(ii) The area wage adjustment index shall be used as a basis for adjusting the average and maximum wage rates for areas. With respect to maximum wage rates, the \$10,000 shall not be adjusted upward by more than 20 percent, except that this limitation shall not apply to Alaska.

(5) *Supplementation of wages from non-CETA funds.* (i) Except as provided for Title VI PSE participants in § 678.7 and in paragraphs (c)(5) (ii) and (iii) of this section, no PSE participant may be paid wages for any public service employment job from sources other than the Act. For participants hired after September 30, 1978 this applies even if a

participant is entitled to a promotion, a general salary increase or overtime pay. Where the participant is eligible for such an increase which would mean a salary in excess of the area's maximum wage rate, the participant would be entitled to it if other employees similarly employed would receive such benefits. However, because public service employment wages may not be supplemented from sources other than the Act, in such cases participants must be transferred to other positions or be terminated (sec. 122(i)(4)(A)).

(ii) Any PSE participant on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages and may receive any subsequent increase which is either a bona fide cost of living increase or a scheduled raise, so long as the participant remains in the same position or a PSE position with the same or lower wage rate. However, the non-CETA portion shall not be reduced if the maximum wage rate has been adjusted upward above \$10,000 after September 30, 1978, until the incumbent participant leaves this position, or until the next prime sponsor budgetary cycle whichever comes earlier (sec. 122(i)(4)(B)).

(iii) Any PSE participant who was receiving only CETA wages on September 30, 1978, at a wage rate less than \$10,000 per year may have such wages supplemented above \$10,000 from non-CETA sources after September 30, 1978, if such increase is a bona fide cost of living increase or a scheduled raise, and the person remains in the same position.

(d) *Davis-Bacon wages.* (1) Contractors with the Department shall insure that prevailing wages, as determined by the Secretary pursuant to the Davis-Bacon Act, are paid by themselves and their subcontractors to laborers and mechanics including participants employed in construction (including alteration, repair, painting, decorating, etc.) which is federally assisted under the Act.

(2) Recipients and subrecipients shall insure that prevailing wages, as determined by the Secretary pursuant to the Davis-Bacon Act, are paid:

(i) By their contractors and subcontractors to laborers and mechanics, including participants, employed in construction (including alteration, repair, painting, decorating, etc.) which is federally assisted under the Act and related to a facility or building which is used primarily for programs under the Act; and

(ii) To laborers and mechanics, including participants who are

employed in construction (including alteration, repair, painting, decorating, etc.) or any project which is funded wholly or partially under a Federal statute, other than CETA, which requires the payment of prevailing wage rates determined in accordance with the Davis-Bacon Act.

§ 676.26-2 Payment of Allowances.

(a) *General.* (1) Except for persons receiving incentive allowances, a basic hourly allowance shall be paid to participants for time spent in classroom training. In addition, allowances may be paid to a participant enrolled in *Services and Other Activities* when such services or activities are combined with another activity or are provided on a regularly scheduled basis.

(2) No participant may receive allowances for classroom training for more than 104 weeks in a 5 year period (Sec. 121(c)(1)).

(b) *The allowance payment system.* A standard system for payment of allowances shall be maintained by every recipient to ensure prompt and efficient payment to all participants (sec. 124(a)). The standard payment system shall consist of a uniform set of procedures, but may be operated by one or more service deliverers. It shall include:

(1) Determination of entitlement and computation of amount to be paid;

(2) Maintenance of a system for requesting payment of training allowances, including the certification, issuance and distribution of payments;

(3) Maintenance of payment records and preparation of required reports;

(4) Maintenance of a system to detect and collect overpayment; and

(5) Arrangements with other agencies to obtain information to minimize unauthorized payments, including arrangements with:

(i) The State Employment Security Agency for verifying the receipt of unemployment compensation by participants (sec. 124(a));

(ii) Appropriate agencies for verification of public assistance payments (e.g., local welfare agencies); and

(iii) Training facilities for submittal of payment requests and certifications of attendance.

(c) *Selection of service deliverer.* The recipient shall provide a standard allowance payment system either directly or through an organization or organizations it considers appropriate for its particular circumstances. The recipient, in selecting the service deliverer for the payment of allowances, shall give first consideration to the use

of the unemployment insurance component in the SESA before using other agencies that may have experience in operating an allowance payment system (sec. 103(a)(7)).

(d) *Basic allowances.* (1) A basic hourly allowance shall, except as provided in paragraphs (h) and (j) of this section, equal the higher of:

(i) The minimum hourly wage prescribed by State or local law for most employment in the recipient's area, multiplied by the number of hours during which the participant attends or is absent for good cause; or

(ii) The minimum hourly wage specified in Section 6(a)(1) of the Fair Labor Standards Act, multiplied by the number of hours during which the participant attends or is absent for good cause.

(2) For participants who are prisoners, all or part of the allowances, as determined by the recipient and the head of the institution, may be held in reserve by the institution and delivered upon the participant's release from the institution. The institution shall not retain any portion of these funds, or interest earned on these funds, while held in reserve.

(e) *Dependent allowances.* (1) An additional \$5 a week shall be provided for each dependent from two (2) up to a maximum of four (4) additional dependents for participants receiving basic allowances (sec. 124(a)).

(2) Dependent allowances shall be reduced prorata for absence without good cause. The methodology for making the reduction shall be described in the recipient's CETP (sec. 124(a)).

(f) *Incentive allowances for persons receiving public assistance.* (1) Except for youths receiving allowances under the youth programs described at Subparts A, B, and D of Part 680, participants receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others shall receive incentive allowances in the amount of \$30 per week, in lieu of basic allowances (sec. 124(a)(3)).

(2) Incentive allowances shall be reduced prorata for absences without good cause. The methodology (e.g., daily or hourly proration) for making the reduction shall be described in the recipient's CETP.

(3) Incentive allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs (sec. 124(a)(3)).

(g) *Additional allowances.* Additional reasonable allowances, such as

allowances for transportation or subsistence, may be paid to participants to cover extraordinary costs associated with participation in an activity. The circumstances in which additional allowances will be paid shall be described in the recipient's CETP (sec. 124(a)).

(h) *Adjustments in allowance.* (1) The basic allowance shall be reduced on a weekly basis by the amount of any unemployment compensation received. Where eligible, participants should be encouraged to apply for and claim unemployment compensation if they are not already receiving such benefits. The basic allowance shall not be reduced because of any unemployment compensation received prior to enrollment. If unemployment compensation is paid on a biweekly basis, it shall be prorated over the two weeks before the allowance is reduced (sec. 124(a)).

(2) The basic allowance may be adjusted upward if conditions for such increases are described in the CETP.

(3) Periodic increases to the basic allowances may be provided as an incentive to participation when such increases are described in the CETP.

(4)(i) The basic hourly allowance for a participant may be reduced, at the option of the recipient, on a weekly basis, by the total amount of any Basic Education Opportunity Grant (BEOG) during the period in which the participant is enrolled in the classroom training; and

(ii) The recipient may, however, make arrangements with the training institution to apply BEOG payment to tuition, books and related training costs normally funded by the recipient. The recipient should then pay the training institution the difference, if any, between the actual training costs and the BEOG.

(5) The basic allowance may be reduced by the amount of wages received by classroom training participants who are also enrolled full-time during the same payment period in work experience, PSE or OJT. The determination of whether the activity is full-time shall be based on the number of hours that constitute full-time employment for employees similarly employed.

(i) *Rounding of amount of allowance payable.* Allowance payments made under this section shall be rounded to the next higher multiple of a dollar.

(j) *Waivers of allowances.* (1) The payment of all or part of the basic allowance may be waived only in accordance with paragraphs (j)(2) or (3) of this section under the conditions

described in the CETP or grant. When all or part of the basic allowance is waived, the recipient shall maintain documentation that the waiver accomplishes the goals established by the the recipient when requesting the waiver (sec. 123(a)).

(2) Waivers of basic allowances shall be allowable only when the following conditions have been met and documented:

(i) That the waiver will be applied to the total enrollment in a course and will not be imposed on an individual basis, except as provided in paragraph (j)(3) of this section; and

(ii) That the waiver will not have the effect of denying participation to individuals who could not participate without receipt of allowances; and

(iii) That the waiver will increase the number of participants served or the level of services provided; and

(iv) That the waiver will otherwise promote the purposes of the Act; and

(v) That all participants for whom allowances are waived will be so notified in writing; and

(vi) That documentation of the participant's notification of the waiver will be made a part of the participant's record.

(3) In exceptional circumstances, individual waivers, when described in the CETP or grant may be granted under the following conditions:

(i) The waiver is at the written agreement of the participant; and

(ii) All of the funds allocated in the Budget Information Summary for allowances have been obligated and training opportunities are still unfilled and available.

(4) The dependent allowances may not be waived, except in cases where the entire basic allowance is waived.

(5) Allowance payments shall not be waived solely because a participant receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended.

(6) Incentive allowances shall not be waived.

(k) *Repayments.* Recipients shall require participants to repay the amount of any overpayment of allowances under this Part, except if the overpayment was made in the absence of fault on the part of the participant. Where the recipient requires repayment, any overpayment not repaid may be set off against any future allowance or other payments under the Act to which the participant may become entitled, but in no case shall the wage be reduced below the applicable minimum wage.

§ 676.26-3 Combined activities.

(a) *Primary activity.* A primary activity is one in which a participant is enrolled for more than 50 percent of scheduled time. Participants enrolled in a primary activity for which wages are payable and simultaneously in an activity for which allowances are payable may, at the recipient's option, be paid wages for all hours of participation. A participant enrolled in a primary activity for which allowances are payable may, at the recipient's option, be paid allowances for all hours of participation, except when OJT is the non-primary component. However, in the latter case, before placing an individual in such an activity, the recipient shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable. Nothing in this subsection shall authorize compensation at rates less than those required by §§ 676.26-1 (a), (b) and (c).

(b) *Employed Participants.* Wages may be paid to a participant enrolled in OJT by the participant's employer for hours spent in classroom training, whether or not such hours constitute a primary component.

§ 676.27 Benefits and working conditions for participants.

(a) *General.* (1) Each participant in OJT, PSE, or work experience shall be assured of workers' compensation including medical, accident, and income maintenance insurance at the same level and to the same extent as others similarly employed who are covered by a workers' compensation statute or system. Where coverage of similarly employed, non-CETA employees is provided through a self-insurance system, coverage of any CETA participants shall also be provided through that system (sec. 121(d)(5)).

(2) Each participant who is employed or engaged in any CETA program activity where others similarly employed or engaged are not covered by an applicable workers' compensation statute shall be provided with medical and accident insurance coverage. Such coverage shall be adequate and comparable to the medical and accident insurance provided under the applicable State workers' compensation statute. Recipients are not required to provide these participants with income maintenance coverage (sec. 121(d)(5)).

(b)(1) Each participant in an on-the-job training or public service employment program shall also be provided health insurance, collective bargaining agreement coverage, and other benefits and working conditions at

the same level and to the same extent as other employees similarly employed (sec. 122(k)).

(2) All classifications with respect to employment status (e.g., full time, permanent, or temporary) in which CETA participants are placed shall be reasonable and shall include non-federally financed employees (sec. 122(k)). Where only federally subsidized employees work for an employer, classifications may be limited to them.

(3) Classifications shall not be established exclusively for CETA participants nor shall participants be placed in existing or new classifications in order to reduce or deny benefits to which they are entitled.

(4) CETA participants who prior to April 1, 1979, are in classifications which include only federally financed employees may remain in such classifications for the duration of their participation. After April 1, 1979, no CETA participant shall be so classified.

(5) Within a single classification, a distinction may be made between CETA participants and other employees with respect to retirement systems or plans which provide benefits based on age or service or both pursuant to § 676.28 (sec. 122(k)).

(c)(1) PSE and OJT participants who are paid wages and who perform services that are the same or similar to other employees of the employer who have unemployment compensation coverage shall be provided unemployment compensation coverage by election if such coverage is not otherwise required by the applicable State unemployment compensation law.

(2) Unemployment compensation coverage is not provided to work experience participants unless otherwise required under State unemployment compensation law. Most States do not provide unemployment compensation coverage for work experience participants.

(3) In order to ensure unemployment compensation coverage of appropriate CETA participants, prime sponsors must ensure that employers submit quarterly contribution and wage reports or their equivalent required by the SESAs for PSE and OJT participants, and for work experience participants where they are covered by State unemployment compensation provisions.

(4) Conditions of employment and training shall be appropriate and reasonable, in light of such factors as the type of work, geographical region, and proficiency of the participant, (sec. 121(d)(1)).

(e) Every participant, prior to entering upon employment or training, shall be

informed of is or her rights and benefits in connection with such employment or training including the information that family planning services are voluntary. Participants shall be informed of the name of their employer and the complaint and hearing procedure applicable to them pursuant to Subpart F (sec. 121(a)(3)).

(f) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participant's health or safety. Participants employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices (sec. 121(d)(2)).

§ 676.28 Retirement benefits for program participants.**§ 676.28-1 General Rules.**

(a) *Exclusion.* CETA participants may be excluded from retirement systems or plans which provide benefits based on age or service or both which cover similarly employed, non-CETA employees (sec. 122(k)).

(b) *Use of CETA Funds—General.* Where, however, the CETA participants are included in a retirement system or plan, CETA funds may not, except as provided in paragraph (c), be used for a contribution to such system or plan on behalf of a participant unless such contribution bears a reasonable relationship to the cost of providing benefits to that participant (sec. 121(j)).

(c)(1) *Use of CETA Funds—Grandfather.* CETA funds may be used for contributions to retirement systems or plans on behalf of participants (for the duration of their participation):

(i) Who are enrolled in PSE or work experience on June 30, 1979; and

(ii) Who are enrolled in a retirement system or plan on June 30, 1979.

(2) For those recipients and subrecipients which are in compliance with the provisions of paragraph (b) of this section on the effective date of this regulation (April 1, 1979), and for those which come into compliance before July 1, 1979, the date of compliance shall be substituted for June 30, 1979 in paragraph (c)(1).

(d) *Description of Method Adopted.* When a recipient intends to use CETA funds for retirement contributions on behalf of participants, the method for doing so shall be described in the CETA or grant.

(e) *Extensions.* Extensions for compliance with the provisions of § 676.28 may not be granted, except that,

under very limited circumstances, the RA, with the approval of the Regional Solicitor, may allow an extension to recipients until the end of the State's 1979 legislative session under the following circumstances:

(1) The State has a law prohibiting the implementation of procedures required by this section; and

(2) The State legislature did not have a session in calendar year 1978, and the calendar 1979 session will not end prior to July 1, 1979; and

(3) The recipient has made efforts to have the State legislature change the law.

§ 676.28-2 Allowable cost.

(a) *Definitions.* For purposes of this section:

(1) "Employer" shall include any employer whose employees are covered by a retirement system or plan under which periods of CETA participation are creditable towards benefit entitlements.

(2) "Unsubsidized Employment" means employment for which wages are not paid from CETA funds.

(b) *Reasonable Relationship.* A contribution by an employer to a retirement system or plan shall be considered to bear a reasonable relationship to the cost of providing benefits to CETA participants if the requirements of one of the methods authorized in paragraphs (c), (d), (e), or (f), of this section are met. These methods are the following:

(1) Vesting Method;

(2) Actuarial Methods;

(3) Reserve Account/Buy-Back Method;

(4) Alternative Methods.

(c) *Vesting Methods.* This method is available only with respect to retirement systems or plans of other than the "defined benefit" type. An employer may use CETA funds to make a contribution to a retirement system or plan only to the extent that the contribution is allocated to the CETA participant and only to the extent that the contribution is vested at the time it is made. A contribution by an employer to a retirement system or plan shall be deemed to be "vested" to the extent that, at the time when the contribution is made, the portion of the participants account balance in the retirement system or plan derived from employer contributions is not subject to forfeiture.

(d) *Actuarial Method.* This method is available only with respect to retirement systems or plans of the "defined benefit" type (a system or plan under which a specified benefit is promised to employees at retirement). Under this method an employer may use CETA

funds to make a contribution to a retirement system or plan only on the basis of a separate actuarial determination that there is a reasonable likelihood that CETA participants will actually receive benefits as a result of the contribution and then only in an amount sufficient to fund benefits for this group of participants. The amount of employer contributions shall be determined on the basis of reasonable actuarial assumptions which take into account the unique characteristics of CETA participants, including the short-term nature of CETA participation. The calculation shall be revised at least annually to reflect the actual experience of CETA participants. The basic rule under this method is that CETA funds expended for an employer contribution to a retirement system or plan may not exceed the present value, determined as of the date the contribution is made, of the benefits which CETA participants accrue in that year, reduced by any contributions made by CETA participants during that year.

(e) *Reserve Account/Buy Back Method.* (1) This method is available for both defined benefit and other types of retirement systems or plans. This method can only be used for CETA participants who were excluded from coverage in the retirement system or plan while they were CETA participants. Under this method, the employer may make a contribution for the previous service using funds from the then current CETA grant in an amount described in paragraph (3) if:

(i) A former CETA participant obtains unsubsidized employment with the employer (within a time specified in paragraph (e)(2) of this section), and

(ii) The former CETA participant is granted credit under the retirement system or plan for the period of CETA participation, and

(iii) Where employee contributions are required, the employee elects to participate in the retirement system or plan by making contributions under the reserve account or buy-back systems described in paragraph (2).

(2)(i) *Buy Back.* A former CETA participant who, within 90 days after termination of the period of CETA participation, obtains unsubsidized employment with the employer in a position which entitles the individual to earn credit for the period of CETA participation under the system or plan shall be given an opportunity to make a contribution or contributions to the retirement system or plan within 18 months after obtaining unsubsidized employment. The amount of the

contribution shall be no greater than the sum of:

(A) The contributions which such individual would have been required to make during the individual's period of CETA participation, in order to obtain credits for that period under the plan or system, and

(B) Interest on the amounts described in paragraph (e)(2)(i)(A) equal to the return the system or plan would have earned on the contributions.

(ii) *Reserve Account.* Any individual who is a CETA participant, and who might be eligible to receive credit under the employer's retirement system or plan for CETA service in the event that such individual obtains unsubsidized employment with the employer upon leaving CETA shall be permitted to authorize deductions to be made from salary or wages during CETA participation in amounts equal to the contributions to the retirement system or plan which the individual would be required to make if the individual were not excluded from participation in the retirement system or plan during CETA participation. Any such deductions shall be credited to a reserve account and such account shall be credited with interest in amounts equal to the return the system or plan would have earned on the deductions. If the individual obtains unsubsidized employment with the employer in a position which entitles the individual to earn credit under the retirement system or plan immediately after termination of the period of CETA participation, and so elects, the balance in the reserve account shall be transferred to the retirement system or plan; otherwise the balance shall be distributed in full to the individual.

(3) CETA funds may be expended for an employer contribution to the retirement system or plan under this method only to the following extent: (i) In the case of a plan other than one of the "defined benefit" type, the amount of the contribution may be no greater than the amount by which the former CETA participant's account balance in the retirement system or plan would have increased during CETA participation as a result of employer contributions if they had been made during that period.

(ii) In the case of a plan of the "defined benefit" type, the amount of the contribution can be no greater than the present value of the additional accrued benefits which the former CETA participant accrues as a result of the credit granted for CETA participation. Present value shall be determined on the basis of reasonable actuarial assumptions, but such

assumptions need not take into account the unique characteristics of former CETA participants.

(f) *Alternative Methods.* Upon the written approval of the Assistant Secretary, CETA funds may be used in accordance with methods which are combinations of the methods described in paragraphs (c), (d), and (e) of this section, or in accordance with any alternative method which assures that the employer's contribution to a retirement system or plan bears a reasonable relationship to the cost of providing benefits to the CETA participants.

§ 676.28-3 Packages of benefits.

(a) Where non-CETA, similarly employed employees are covered under a benefits package which includes retirement, CETA participants shall receive the non-retirement benefits (e.g., health, death, and disability benefit coverage), at the same level and to the same extent as other employees. CETA funds may be used to pay for those benefits in accordance with § 676.27(b) (sec. 122(k)).

(b) CETA funds may be used to purchase a package of benefits including retirement, provided the retirement portion of the package can be factored out of the package and adjusted according to the methods described in § 676.28.

§ 676.28-4 FICA.

(a) Expenditures may be made from CETA funds for taxes under the Federal Insurance Contribution Act (FICA), 16 USC 3101, *et. seq.*

(b) In States and units of general local government where exclusion of CETA participants from retirement systems or plans would automatically result in exclusion of such participants from coverage under FICA, pursuant to requirements of the Social Security Administration (SSA), FICA coverage is not mandated for such participants. This does not apply to jurisdictions in which CETA participants remain covered by FICA, notwithstanding exclusion from a retirement system or plan. Recipients are encouraged to work out appropriate arrangements with the SSA for FICA coverage on behalf of CETA participants who have been automatically excluded from FICA due to exclusion from a retirement system or plan.

§ 676.29 Non-Federal status of participants.

Except where specifically provided to the contrary, participants in a program under the Act shall not be deemed Federal employees and shall not be

subject to the provisions of law relating to Federal employment, including those related to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 676.30 Termination conditions; participant limitations.

(a) When a job offer or offer of referral to a suitable job is made to and rejected by a participant, the recipient may terminate the participant regardless of how long the individual has been in the program. Suitable job shall mean a job which: (1) Is comparable to the participant's CETA job in terms of working conditions and benefits; and (2) is commensurate with the participant's skill level; and (3) is located within a commuting distance of the participant's home comparable to the distance normally travelled by others in the area; and (4) is not vacant due to a strike or lockout, and (5) does not require that an employee resign from a union.

(b) A recipient or subrecipient which has not successfully placed a participant in unsubsidized employment or training within the established time limits for participation set forth in paragraphs (c) through (f) of this section shall provide the participant with written notice of the impending termination from their particular program activities or from the total CETA program and a contact person for questions and further information at least two (2) weeks prior to the effective date. A dated copy of the notice shall be maintained in the participant's file.

(c) Except as provided under paragraph (g) of this section and for participants in programs that have other statutory limits, e.g., YCCIP and Job Corps, participation in work experience shall be limited to a maximum of: 1000 hours during any one year period; and, 2000 hours during the five year period beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA.

(d) Except as provided in paragraph (h) of this section no participant may receive wages for public service employment for more than 78 weeks during a five year period beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA. In computing this 78 weeks, recipients shall include any PSE participation from April 1, 1978, to October 1, 1978 (sec. 122(h)(2)).

(e) No participant may receive allowances for classroom training for more than 104 weeks in a 5-year period beginning on the date of the

participant's initial enrollment in CETA (sec. 121(c)(1)).

(f) Except as otherwise provided in paragraphs (g) and (h) of this section, recipients shall limit participation in CETA by any person to a maximum of 30 months during a 5-year period beginning October 1, 1978, or the subsequent date of the participant's initial enrollment in CETA.

(g) The limitation on work experience participation in CETA set forth in paragraph (c) of this section:

(1) Shall not apply to time spent by in-school youth enrolled in a work experience program under the Act, nor shall such time be included when determining if an individual has reached such limitation or the limitation on total participation in CETA specified in paragraph (f) of this section. (secs. 121(c)(2), 121(i) and 212(b)); and

(2) May be waived by the RA with respect to other persons enrolled in a work experience program under the Act based on the inclusion in the Annual Plan or grant application, or subsequent modification to that document, of satisfactory evidence that, due to the lack of alternative job opportunities in the area, this limitation is impractical. Depending on the circumstances in the recipient's area the waiver may be granted for all work experience participants or for one or more subgroups, such as older workers. Waivers shall not be granted for individual participants. Those individuals granted such waivers may continue to participate beyond the 30-month limitation as specified in paragraph (f) of this section if they continue in a work experience activity (secs. 121(c)(2) and 212(b)).

(h)(1) A temporary waiver of the 78 week limitation for PSE participants, of not more than 12 months, may be granted by the RA for a limited number of PSE participants hired prior to October 1, 1978, for a prime sponsor that has faced unusually severe hardships in its efforts to transition PSE participants to regular public or private employment not supported under the Act (sec. 122(h)(4)(A)).

(2) The 30 month limitation for total CETA participation may be waived when the RA grants a waiver of the 78 week limitation pursuant to paragraph (h)(1) of this section which would mean that a participant would remain in CETA in excess of 30 months in a 5-year period. This waiver of paragraph (f) shall expire at the same time as the waiver granted pursuant to paragraph (h)(1).

(i) A temporary waiver of the 78 week limitation for PSE participation of not

more than 12 months may be granted by the RA for PSE participants hired on or after October 1, 1978 in the case of a prime sponsor, or a unit of general local government, which has at the time of request for extension:

(1) An unemployment rate of at least 7 percent; and

(2) Has faced unusually severe hardship in its efforts to transition PSE participants into regular public or private employment not supported under the Act (sec. 122(h)(4)(B)).

(j) A prime sponsor desiring an extension of the 78 week limitation specified in paragraph (d) of this section for itself or for any unit of general local government within its jurisdiction believed to qualify for such an extension shall make a written request to the RA. This request shall be submitted not more than 90 days and not less than 60 days prior to the scheduled termination date of any participant for whom the extension is being requested. Prior to the submittal of this request, however, prime sponsors are encouraged to consult with the appropriate Regional Office to assure its understanding of the area's difficulties with transition efforts and the sponsor's understanding of the conditions necessary for waivers. While the prime sponsor is not required to submit a separate waiver request for each individual participant, a group request must include all the information specified. This request shall include:

(1) The name of each participant for whom the extension is being requested;

(2) The date each individual was hired;

(3) The currently required termination date for each participant;

(4) The length of the extension requested and the proposed new date by which the participant will be terminated from public service employment;

(5) The reason the extension is necessary;

(6) The unemployment rate in the prime sponsor area or unit of general local government area, as appropriate;

(7) A description of the efforts which have been made to place the individuals in unsubsidized employment; and

(8) A description of the efforts to be undertaken to transition these individuals prior to the scheduled termination date and of the additional efforts that will be undertaken after the scheduled termination date if the extension is granted.

(k) The RA, within 30 days of receipt of the waiver request under this section, shall notify the prime sponsor in writing of the Department's approval or disapproval and specific reasons for any disapproval.

§ 676.30a Procedures for serving specific target groups.

(a) *General.* Recipients shall take appropriate steps to provide for the increased participation of qualified special disabled and Vietnam-era veterans with special emphasis on qualified veterans who served in the Indo-China theater on or after August 5, 1964, and on or before May 7, 1975, assuring through adequate training and employment opportunities for such veterans in their programs. Such steps shall include:

(1) Cooperative arrangements and programs with other agencies or programs (such as veterans service organizations; veterans' cost of instruction programs; national and local organizations of business and labor; community and mental health centers; the Veterans Administration and community-based veterans organizations) to provide comprehensive education, employment, training, outreach, job development, veterans' benefits counseling, and personal adjustment counseling.

(2) Creation, maintenance, or expansion of private sector veterans employment and training programs, such as special OJT efforts for veterans, and cooperative programs using supplemental funding for eligible persons pursuing on-the-job training under Chapters 31 and 34, of Title 38, United States Code.

(3) Programs to facilitate effective placement of, and entry by, veterans into readjustment or employment programs.

(4) Other programs or initiatives, such as split-work experience programs, necessary to serve the unique readjustment, rehabilitation and employment needs of veterans (sec. 121(b)(2)).

(5) Providing information on job and training opportunities to veterans organizations (sec. 121(b)(2)).

(b) *Public service employment programs.* (1) Within a PSE program, preference in enrollment shall be given to those who are the most severely disadvantaged in terms of length of unemployment and their prospects for finding unsubsidized employment (sec. 122(b)(1)).

(2)(i) Recipients shall give special consideration in filling public service jobs to qualified public assistance recipients (or persons who would be eligible to receive public assistance according to established criteria if they would apply for such assistance), and special disabled and Vietnam-era veterans with special emphasis on those who served in the Indo-China theater on

or after August 5, 1964 and on or before May 7, 1975 (sec. 122(b)).

(ii) Special consideration shall at a minimum consist of the following:

(A) Outreach mechanisms;

(B) Special referral and selection mechanisms, which may include point systems for weighing applications; and

(C) Specific local goals for participation of target groups.

(iii) In providing special consideration, the prime sponsor shall take advantage of community resources to identify and reach specific target groups. The Master Plan shall specify the mechanism for providing special consideration and shall specify the involvement of SESA's and organizations representing the target groups in the design and implementation of these procedures.

(3)(i) Recipients shall provide special emphasis to eligible persons who are offenders, persons of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, and individuals who lack educational credentials (sec. 122(b)).

(ii) Such special emphasis shall include, but not be limited to, taking into consideration the needs of these groups when developing program services and activities, establishing outreach procedures to facilitate the participation of such groups and other steps as the recipient determines to be appropriate.

(iii) Special efforts (e.g., newspaper notices) shall be made to acquaint these groups with the services and activities available under the Act and to coordinate those efforts with other programs serving such persons (sec. 122(b)(3)(B)).

Subpart C—Administrative Standards and Procedures

§ 676.31 General.

(a) This section describes Federal requirements relating to the administration of grants by recipients under CETA. Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) As referenced in this subpart, the requirements set forth in 41 CFR 29-70, "Administrative Requirements Governing All Grants and Agreements by which Department of Labor Agencies award funds to State and local governments, Indian and Native American Entities, Public and Private Institutions of Higher Education and Hospitals, and other Quasi-Public and Private Nonprofit Organizations," shall apply to grants under CETA.

(1) The requirements in 41 CFR 29-70.1 set forth the policies which apply to all basic grants and agreements.

(2) The requirements in 41 CFR 29-70.2 implement OMB Circular Nos. A-102 and A-110, and apply to all CETA grants and agreements.

§ 676.32 Methods of payment to recipients of CETA funds.

Payments will be made to all recipients according to provisions in 41 CFR 29-70.210, "Grant or Agreement Payment Requirements."

§ 676.33 Depositories for CETA funds.

The standards covering the use of banks and other institutions as depositories for CETA funds are found at 41 CFR 29-70.201, "Cash Depositories."

§ 676.34 Management information systems.

(a) All recipients shall establish and maintain a financial management system which meets the standards set forth in 41 CFR 29-70.207, "Standards for Grantee Financial Management Systems." These systems will include audit procedures in conformance with the "Audit Requirements and Responsibilities" in 41 CFR 29-70.207.4 (sec. 103(a)(11), (sec. 133)).

(b)(1) *Audit Provisions.* The Secretary of Labor, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of recipients, subrecipients and contractors which are pertinent to a specific grant program under the Act for the purpose of making surveys, audits, examinations, excerpts, and transcripts (sec. 133).

(2) *Unified Audit.* Recipients may be required to participate in a unified audit. When the Secretary arranges for a unified audit to provide for the audit of both recipients and their respective subrecipients and contractors the following conditions will apply (sec. 106(j)):

(i) DOL staff or one audit agency, organization, or public accounting firm will be responsible for the audit of each recipient, its subrecipients and contractors.

(ii) A common audit cutoff date through the end of a Federal fiscal year will be used for the recipient and all subrecipients and contractors of that recipient.

(iii) Sufficient audits will be made of the subrecipients and contractors as well as the recipient to allow the audit entity to render an opinion on the CETA financial reports of the recipient and on

its compliance with regulations. Audits of subrecipients and contractors shall be conducted on a sample basis.

(iv) If the DOL has notified the recipient that it has arranged for a unified audit three months before the end of the earliest fiscal year to be audited, the recipient shall pay out of CETA administrative funds for that portion of the audit costs allocable to its subrecipients and contractors. The method of allocation used will be decided on an individual basis by mutual agreement between the Office of the Inspector General (OIG) and the recipient.

(c) All recipients shall establish and maintain a client tracking system consisting of records on applicants, participants and terminees which will allow for the audit and monitoring of the recipient's programs, particularly with respect to the eligibility of participants and the propriety of participant selection procedures and practices (sec. 103(a)(11)).

(d) Procedures for establishing additional management controls are specified in § 676.22 (Program Management Systems) and § 676.75 (Fraud and Program Abuse).

§ 676.35 Retention of records.

(a) All records, reports, documents and files required under these regulations shall be the responsibility of the recipient. Retention of and access to those records, reports, documents and files shall be as provided for at 41 CFR 29-70.203, "Retention of and Custodial Requirements for Records." (sec. 133(a)(1)).

(b) Notwithstanding paragraph (a), the recipient shall maintain a record of each participant's participation in a CETA program, including dates of entry and termination in each activity; and shall retain such records for each participant for a period of five years from the date of enrollment into the program.

(c) Financial records relating to public service employment programs and records of the names, addresses, positions and salaries of all persons employed in public service jobs shall be maintained and made available to the public (sec. 122(g)).

§ 676.36 Program income.

(a) Except as provided in paragraph (b) of this section, all income realized in CETA activities shall be subject to 41 CFR 29-70.205, "Program Income and Interest Earned."

(b) A recipient or subrecipient, during the grant or agreement period and for 2 years thereafter, shall apply any income generated under a Youth Community

Conservation and Improvement Project (YCCIP) to costs of the project except that, if, at the end of the grant or agreement period the project is not continued, the recipient or subrecipient shall observe the requirements of paragraph (c) of this section.

(c) The recipient or subrecipient may use program income generated in approved activity under CETA grants or agreements other than YCCIP during the grant or agreement period and for 2 years thereafter to carry out any CETA activity authorized under the former grant or agreement. The grant officer may require the recipient to account for the expenditure of such income for a period not to exceed 2 years from the expiration date of the Annual Plan (or grant, agreement, subgrant, or subagreement, as appropriate). Recipients shall require subrecipients to report the expenditure of such income. Any income still unexpended by any subrecipient one year from the expiration of financial assistance to the subrecipient shall be returned to the recipient to continue any CETA activity. After the 2-year period, the recipient shall return the balance of any unexpended program income to DOL (sec. 123(h)).

§ 676.37 Recipient contracts and subgrants.

(a) *Recipient responsibility.* (1) The recipient is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subrecipients adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable laws.

(2) The recipient shall require contractors and subrecipients to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.

(3) The recipient shall ensure that contractors and subrecipients maintain and make available for review by the recipient and the Department of Labor all records pertaining to the operations of programs under such contracts and subgrants, consistent with the maintenance and retention of record requirements.

(4) Subrecipients are entitled to funding for administrative costs. The amount of such funding will be determined during the development of subgrants.

(5) Recipients shall comply with the procurement systems and procedures found in 41 CFR 29-70.216, "Procurement Standards."

(b) In the event an agreement or subgrant is cancelled, in whole or in part, the recipient shall develop procedures for ensuring continuity of service to participants.

(c) Recipients are authorized to enter into contracts or subgrants which extend past the expiration date of the Annual Plan, but such extension shall not exceed 1 year. In such cases, the recipient shall continue to be responsible for the administration of such contracts and subgrants.

(d) Small and minority-owned businesses, including small businesses owned by women, within the jurisdiction of the prime sponsor and to the extent necessary to those in other parts of the labor market area, shall be provided maximum reasonable opportunity to compete for contracts for supplies and services. One means to provide for this is the use of set-asides (sec. 121(k)).

(e) Prime sponsors shall maintain an inventory of potentially available deliverers of services, including their names, addresses and types of services offered, which have expressed an interest in writing, and use this inventory to select such deliverers of services. This inventory shall be available for public review (sec. 103(a)(3)(B)).

(f) Selection of deliverers shall be in accordance with § 676.23.

§ 676.38 Requirements for contracts with nongovernmental organizations.

(a) No funds will be paid to any nongovernmental organization for the conduct of programs (other than under Title VII or on-the-job training) under the Act unless:

(1) It has submitted an acceptable proposal;

(2) Selection is performed on a merit basis after thorough review by the prime sponsor, or Secretary as appropriate;

(3) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless the Secretary certifies after a clear, convincing and detailed showing that the deficiencies will be eliminated and performance substantially improved;

(4) A comprehensive monitoring system operated in accordance with § 676.75-2 is in effect;

(5) It has the administrative capability to perform effectively (sec. 121(o)).

(b) No funds will be paid to any nongovernmental organization for the conduct of on-the-job training and Title VII programs under the Act unless:

(1) Payment is supported by a written agreement which has been evaluated and found acceptable against standards established by the recipient;

(2) It has not been seriously deficient in its conduct of, or participation in, any Department of Labor program in the past, or is not a successor organization to one that was seriously deficient in the past, unless the Secretary certifies after a clear, convincing and detailed showing that the deficiencies will be eliminated and performance substantially improved.

§ 676.39 Property management standards.

Recipients shall comply with the property management standards set forth in 41 CFR 29-70.215.

§ 676.40 Allowable costs.

(a) *General.* To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program, be allocable thereto under these principles, and, except as specifically provided herein, not be an expense normally incurred to carry out the responsibilities of State or local government in the absence of funds under the Act.

(b) *Direct costs.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

(c) *Indirect costs.* (1) Indirect costs are those:

(i) Incurred for a common or joint purpose benefitting more than one cost objective; and

(ii) Not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the recipient entity, as well as those incurred by other entities in supplying goods, services, and facilities, to the recipient.

(2) Only the indirect cost rate approved by the cognizant Federal agency may be used by the recipient in determining indirect costs properly chargeable to CETA. The cognizant Federal agency is the Federal agency designated to determine the indirect cost rate or rates on behalf of all Federal agencies which award financial assistance to the recipient.

(d) *Restrictions on use of funds.* (1) The amount of funds available for any

specific cost category or activity shall be limited as specified in the regulations for the specific programs.

(2) Funds made available through one grant or Annual Plan subpart may not be used to support costs properly chargeable to another grant or Annual Plan subpart with the exception that funds available for administration shall be pooled under a separate subpart and used to cover all allowable administrative costs incurred under the Annual Plan (sec. 123(f)).

§ 676.40-1 Allowable CETA costs.

(a) Except as modified by these regulations, the cost principles to be used in determining allowable CETA costs are referenced in 41 CFR 29-70.103 "Cost Principles."

(b) CETA funds may be used to satisfy cost sharing or matching requirements where authorized by Federal law, other than CETA, when seeking other Federal funds and shall be subject to the provisions of 41 CFR 29-70.206, "Matching Share."

(c) Funds may be used for construction activities only to:

(1) Pay wages and fringe benefits for participants employed by public or private non-profit agencies;

(2) Purchase equipment, materials, and supplies for use by participants while on the job and for use in the training of such participants;

(3) Cover costs of a training program in a construction occupation, including costs such as instructors' salaries, training tools, books, and allowances and wages (sec. 123(c));

(4) Cover costs of material and supplies, in Titles II D and VI projects, weatherization activities and Youth Community Conservation and Improvement Projects, which become part of the construction.

(d) Costs associated with building repairs, maintenance, and capital improvements of existing facilities used primarily for programs under the Act are allowable.

(e) The costs of home repair, weatherization and rehabilitation are allowable when:

(1)(i) The work is performed on dwellings of individuals whose family income is at or below 125 percent of the poverty level and which are privately owned and owner occupied, privately owned by a nonprofit organization or are units of public housing; or

(ii) The work is performed in weatherization projects funded by the Community Services Administration pursuant to section 222(a)(5) of the Economic Opportunity Act of 1964, 42 U.S.C. section 2809, or the Department of

Energy pursuant to Title IV of the Energy Conservation and Production Act of 1976, 42 U.S.C. section 6850; or

(iii) The work is performed in rehabilitation projects of housing for lower income families as defined in section 8(f)(1) of the United States Housing Act of 1937 as part of community revitalization or stabilization projects (sec. 123(c)(4)); and

(2) Such activities are supervised by an adequate number of supervisory personnel who are adequately trained in the skills needed to carry out such activities and to instruct participants in the skills needed to perform in the work involved (sec. 123(c)).

(f) Recipients shall not use funds under the Act to assist an establishment in relocating from one area to another, or locating new branches, subsidiaries, or affiliates, including participants in such establishment, nor shall they use funds under the Act in training programs in an establishment which has relocated within the past one year, when such relocation or location has resulted in an increase in unemployment in the area of original location or any other area (sec. 121(e)(4)).

(g) Unemployment compensation costs are allowable for administrative staff hired in accordance with the administrative provisions of the regulations, and for participants required by § 676.27(c)(1) to be covered for unemployment compensation purposes; except that such costs shall not be allowable for PSE participants to the extent that unemployment compensation paid to them is reimbursable under Part B of Title II of the Emergency Jobs and Unemployment Assistance Act of 1974 (Pub. L. 93-567, as amended by sec. 6 of Pub. L. 94-444, 26 U.S.C. section 3304 note).

(h) CETA funds may be used to pay the cost of incorporating a private-nonprofit PIC or consortium administrative unit for the purpose of carrying out programs under the Act. These costs shall be charged to administration.

§ 676.40-2 Administration and travel costs.

(a) The administrative cost contribution shall not exceed 20 percent of the total allocation for each Annual Plan Subpart other than Title II D, Title VI, the Youth Community Conservation and Improvement Projects and the Special Governor's Grant unless the Program Narrative Description set forth an explanation of how all administrative costs have been determined and a detailed documentation to support that amount. The restriction on the

contribution of funds to the Administrative Annual Plan Subpart for Title II D and Title VI programs is set forth in § 677.58(a) and § 678.8(b)(1)(iii). The restriction on the contribution of administrative funds in the Youth Community Conservation and Improvement Projects is set forth in Part 680. Administrative cost contribution limitations for Title VII programs are found in Part 679 and for Special Governor's Grant programs in Part 677 Subpart D.

(b) No funds made available for administrative costs under any Title of the Act may be used by a prime sponsor for legal or other associated services from contractors unless the prime sponsor certifies in writing that:

(1) The payments are not unreasonable in relation to the fees charged by other contractors providing similar services; and

(2) The services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees (sec. 123(f)(2)).

(c) The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowed as provided herein:

(1) Travel costs of governmental officials not part of the Office of the Governor of a State or the Chief executive of a political subdivision are allowable if costs specifically relate to programs under the Act. These costs shall be charged to administration.

(2) Travel costs for CETA administrative staff including participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under the Act.

(3) Travel costs for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimbursed its other employees in this manner. Such costs shall be charged to fringe benefits.

(4) Travel costs to enable participants to participate in programs under the Act are allowable. Such travel shall be restricted to the recipient's jurisdiction or within daily commuting distance, except:

(i) To pay for transportation costs at the beginning and end of a training course which is more than daily commuting distance but within the State in which the recipient is located;

(ii) As permitted for good cause by the RA, on a case-by-case basis, within the U.S.

676.41 CETA cost allocation.

Allowable costs shall be charged against the following cost categories: administration; wages; training; fringe benefits; allowances; and services.

(a) Costs are allocable to a particular cost category to the extent that benefits are received by such category.

(b) All recipients are required to plan, control, and report expenditures against the aforementioned cost categories.

(c) All recipients are responsible for ensuring that subrecipients and contractors plan, control, and report expenditures against the aforementioned cost categories.

§ 676.41-1 Classification of costs by category.

(a) Participants' wages shall be charged to wages. All wages paid to participants in public service employment, work experience, classroom training, employment and training services, or supportive services shall be reported as wages. Cost-of-living increases are considered wages.

(b) Participants' fringe benefits shall be charged to fringe benefits. Fringe benefits costs for participants include, but are not limited to, the following: provisions for annual, sick, court and military leave pursuant to an approved leave system; employees' life and health insurance plans, unemployment insurance, workers' compensation insurance and retirement benefits; and, under public service employment programs, uniforms, tools, or other equipment ordinarily provided by the employer to its regular employees, provided these are for the benefit and ownership of the participants.

(c) Allowances shall be charge to allowances.

(d) Training costs consisting of goods and services which directly and immediately affect program participants in either a work environment or classroom setting including classroom training in conjunction with a Vocational Exploration Program shall be charged to training. Training costs include, but are not limited to, the following: salaries; fringe benefits; equipment and supplies of personnel engaged in providing training; books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utility costs; and that part of tuition and entrance fees which represent instructional costs having a direct and immediate impact on participants. The compensation of individuals who both instruct and supervise other instructors must be prorated among the training and administration cost categories on the

basis of time records or other equitable means. Similarly, tuition fees, and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefiting uses.

(e) Supportive, and employment and training service costs, which consist of goods and services which affect program participants, shall be charged to services.

Services costs include, but are not limited to, salaries and fringe benefits; space, utility, equipment and travel costs, when an integral part of the job personnel engaged in providing services to participants; and that part of single unit charges for child care, health care and other services which represent only the costs of services directly beneficial to participants. Transportation of participants, as provided in § 676.40-2(c)(4), is properly chargeable to services.

(f) Administrative costs shall consist of all direct and indirect costs associated with the management of the program. These costs shall include the administrative costs, both direct and indirect, of subrecipients and contractors. Administrative costs shall be limited to those necessary to effectively operate the program:

(1) Indirect administrative costs represent the general management and support functions of an organization as well as secondary management and support functions at the bureau or division level. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(2) Direct administrative costs are comprised of goods and services which neither contribute to the general management and support functions of an organization, nor directly and immediately affect participants (e.g. training costs). Included are salaries and fringe benefits of direct program administrative positions such as supervisors, program analysts, labor market analysts, and project directors. Additionally, all cost of clerical personnel, materials, supplies, equipment, space, utilities, and travel which are identifiable with these program administration positions shall be charged to administration. Some examples of administrative costs are: The salary of a clerical assistant to a supervisor; that part of an instructor's salary representing time spent supervising other instructors; desk top

supplies used by supervisors; and, in general, office administration, rent, depreciation or maintenance of nonclassroom space; staff training; consultant services under contract not involving direct training or services to participants; costs incurred in the establishment and maintenance of a planning or advisory council under CETA, or in publishing a grant application; and costs of monitoring and providing technical assistance to contractors and subrecipients.

(3) Services normally chargeable to administration shall be charged to wages or fringe benefits, as appropriate, when performed by program participants.

§ 676.41-2 Allocation of fixed unit charge.

(a) When contractors or subrecipients bill the recipient with a single unit charge containing costs which are chargeable to more than one cost category, the recipient will charge these costs to the cost categories in § 676.41 (CETA Cost Allocation). For unit charges such as tuition fees for which the necessary detail cannot be provided, a reasonable estimate of the breakdown of the single unit charge among cost categories in § 676.41 will be sufficient, including for audit purposes. When such unit charges are normally billed as a single charge and the cumulative amount of such charges does not exceed \$25,000 within the Annual Plan year, proration will not be required. These costs may be charged to the category receiving the most benefit.

(b) Costs which are bill as a single unit charge do not have to be allocated or prorated among the several cost categories but may be charged entirely to training when the agreement:

- (1) Is for classroom training;
- (2) Is fixed unit price; and

(3) Stipulates that full payment for the full unit price will be made only upon completion of training by a participant and placement of the participant into unsubsidized employment in the occupation trained for and at not less than the wage specified in the agreement.

(c) The provisions of this section shall not apply to vendors selling or leasing equipment and attendant services at a commercially established rate to recipients or subrecipients.

(d) In the case of multiuse equipment there must be a proration of costs or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(e) Any single cost, such as staff salaries or fringe benefits, which is properly chargeable to more than one

cost category shall be prorated among the affected categories.

(f) Any profit or loss may be prorated among all affected cost categories.

§ 676.41-3 Cost categories assignable to program activities.

(a) Classroom training. Cost categories are: training; allowances; services; wages when paid to participants during classroom training; and fringe benefits (medical and accident insurance for participants only).

(b) On-the-job training. Cost categories are: training and services.

(c) Public service employment. Cost categories are: wages; fringe benefits; services; and training.

(d) Work experience. Cost categories are: training; services; wages; and fringe benefits.

(e) Services to participants (not part of another program activity). Cost categories are: allowances; fringe benefits (medical and accident insurance for participants only); and services.

(f) Other activities. Cost categories are: training; allowances; and services.

§ 676.42 Administrative annual plan subpart.

(a) All administrative funds from all Annual Plan subparts shall be contained in a separate Administrative Annual Plan Subpart unless specifically exempted by regulations or grant agreement. The amount each subpart contributes to the Administrative Subpart shall not exceed the limits set in §§ 676.40-2(a), 677.58 (a) and (b), 678.8(b)(1)(iii), and 680 (sec. 123(f)(1)).

(b) The Administrative Annual Plan Subpart shall consist of the following:

(1) Budget Information Summary (BIS). Provide on the BIS the proposed administrative costs for the program year. This shall include the sum of the contributions from all subparts under the Annual Plan.

(2) Budget Information Summary Backup. List separately on this attachment to the BIS each Annual Plan Subpart and the amount it contributed to the administration pool.

(c) When the Administrative Annual Plan Subpart is approved, the funds may be expended for all allowable administrative costs. There is no requirement that administrative costs be allocated back to title or program activity.

(d) The Administrative Annual Plan Subpart may be modified during the program year. The amount of funds in the subpart may be decreased with the funds going back to the program

subparts provided that no program subpart receives back more than it contributed to the Administrative Subpart. The Administrative Subpart may also be increased up to the percent allowed by the regulations for each program. All modifications to the Administrative Subpart must be submitted to the RA for prior approval.

(e) At the end of a program year unexpended administrative funds may be carried over into the subpart for the subsequent program year or they may be returned to the program subparts. In the new program year the amount of new funds which will go into the Administrative Annual Plan Subpart will be determined by using only the new allocation.

§ 676.43 Administrative staff and personnel standards.

(a) *Basic Personnel Standards.* (1) Methods of personnel administration will be established and maintained in public agencies administering a program under the Act in conformity with the Standards for a Merit System of Personnel Administration, which incorporate the Intergovernmental Personnel Act Merit Principles prescribed by the Office of Personnel Management in 5 CFR, Part 900, Subpart F.

(2)(i) Except as provided in paragraph (3) of this section, any prime sponsor whose administrative staff is not covered under a personnel system that meets 5 CFR, Part 900, Subpart F shall develop a plan outlining corrective actions to be taken and reasonable dates for implementing those steps within the grant year. The Office of Personnel Management will advise the RA as to the acceptability of the plan.

(ii) Recipients whose personnel systems have been accepted by the U.S. Civil Service Commission of the U.S. Office of Personnel Management as being in conformity with the Standards for a Merit System of Personnel Administration, 5 CFR Part 900, Subpart F, shall be deemed to be in compliance with this section.

(3) The following are not subject to the requirements of paragraphs (1) and (2) above:

- (i) Any subrecipient or nongovernmental recipient;
 - (ii) A consortium administrative unit which is not a unit of government;
 - (iii) Employees of the recipient not engaged in the administration or operation of programs under the Act.
- (4) Units whose staff are exempt under paragraph (3) shall ensure equal employment opportunity based on objective personnel policies and

practices for recruitment, selection, promotion, classification, compensation, performance evaluation, and employee-management relations. Such units may be asked to demonstrate adherence to the objectives of this paragraph by submittal of a personnel action plan similar to that outlined in paragraph 2(ii) of this section, and these plans may be requested at the discretion of the RA.

(b) *Bonding.* Every officer, director, agent or employee of a recipient or subrecipient of funds who is authorized to act on behalf of a recipient or subrecipient for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks or other instruments of payment for program costs, shall be bonded to provide protection against loss. The provisions of the bonding arrangements shall be included in the description of the administrative systems in the Master Plan or grant application. The amount of coverage shall be the lower of the following:

- (1) \$100,000; or
- (2) The highest advance received through check or drawdown during the preceding grant year, or for new recipients, the highest advance through check or drawdown planned for the present grant year (sec. 134).

§ 676.44 Reporting requirements for prime sponsors.

(a) Each prime sponsor shall submit five periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. Reports 1, 2 and 3 of this section shall be prepared to coincide with the ending dates of Federal fiscal year quarters. These five reports are:

- (1) The Program Status Summary (sec. 127(d)(1));
- (2) The Financial Status Report (sec. 127(d)(3));
- (3) The Quarterly Summary of Participant Characteristics (sec. 127(d)(2));
- (4) Annual CETA Program Activity Summary (sec. 127(d)); and
- (5) Annual Report of Detailed Characteristics (sec. 127(d)).

Prime sponsors may from time to time be required to prepare and submit additional reports requested by DOL and other Federal agencies for the performance of the legal responsibilities of these agencies. Detailed descriptions of the five reports are in the *Forms Preparation Handbook*.

(b) The Periodic reports shall be sent by the prime sponsor to be received by the RA no later than 30 days after the end of the reporting period. The annual

reports shall be sent to arrive no later than 60 days after the end of the fiscal year.

(c) Separate reports will be required for each Annual Plan Subpart.

§ 676.45 Annual plan subpart settlement procedures; termination of master plan.

(a) The settlement of an Annual Plan Subpart is the process by which the Department of Labor determines that all applicable administrative actions and all required work of the Annual Plan Subpart have been completed by the prime sponsor and DOL.

(b) The RA shall determine, from the best information available, for each expiring Annual Plan Subpart:

- (1) Total fund availability;
- (2) Estimated accrued expenditures;
- (3) Estimated carryout.

(c) The RA shall issue a Notice of Fund Availability to transfer estimated carryout from the previous Annual Plan Subpart. A second Notice of Fund Availability shall be issued by the RA to transfer the carryout into the new Annual Plan Subpart.

(d) By a date specified by the RA, each recipient shall submit a final Financial Status Report for each of the previous year's Annual Plan Subparts.

(e) If the final reports are acceptable, the RA shall effect a preliminary settlement by transferring remaining funds into the current year's Annual Plan Subpart. Final settlement of expired Annual Plan Subparts shall not be complete until an audit has been performed, audit findings have been resolved, and final reports have been submitted.

(f) End of the Master Plan. The Master Plan shall terminate only if:

(1) All activity under the Annual Plan has been completed or the Annual Plan has been terminated and final settlement of the Annual Plan, including an inventory settlement, has been reached.

(2) The Master Plan is a multiparty agreement and one or more signatory parties has legally withdrawn from the agreement and an inventory settlement under the Master Plan has been reached.

§ 676.46 Secretary's responsibilities.

(a) As used in this section, the term "assessment" refers to the Federal review of the performance of individual recipients and the term "evaluation" refers to the Federal study of overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary shall provide for the continuing assessment and evaluation of all programs, activities, and research and demonstration projects including

their cost effectiveness in achieving the purposes of the Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs (sec. 313(a)).

(c) To carry out these responsibilities, special reports may be requested from recipients, as deemed necessary and appropriate by the Secretary (sec. 133(a)(1)).

§ 676.47 Reallocation of funds based on nonutilization.

(a) The RA may reallocate any amount of any allocation under the Act to the extent that it is determined that a recipient will not be able to use such amount within a reasonable period of time.

(b) When the Department reallocates funds, the Department shall not consider as nonutilization a carryover into the next fiscal year by a prime sponsor of up to 10 percent of its annual allocation for each Annual Plan Subpart.

(c) When the RA determines that a reallocation from a prime sponsor is appropriate, the prime sponsor, the general public, and the appropriate Governor shall be given a notice of proposed action to remove funds from the grant. Such notice shall include specific reasons for the action being taken and shall invite the prime sponsor, the appropriate Governor, and general public to submit comments on the proposed reallocation of funds. These comments shall be submitted to the RA within 30 days from the date of the notice. After considering any comments timely submitted, the RA shall notify the Governor and affected prime sponsors on any decision to reallocate funds and shall have any such decision published in the *Federal Register* (sec. 108(b) (1) and (2)).

(d) The producers set out in this section are in lieu of any other procedures which might otherwise be applicable under the Complaints and Sanctions provisions in Subpart F.

(e) In reallocating funds from the prime sponsor, priority shall be given

first to other potential deliveries in the prime sponsor's area capable of delivering the services, second to other prime sponsors within the same State and third to prime sponsors within other States. In determining where to reallocate funds, consideration should be given the number of unemployed individuals in the area as well as the ability of the prime sponsor to effectively utilize any reallocated funds. In giving consideration to the number of unemployed individuals, first consideration should be given to areas whose average unemployment rate, during the past four quarters for which data are available, was at least 6.5 percent (sec. 108(b)(3)).

Subpart D—Nondiscrimination and Equitable Service

§ 676.51 General.

This Subpart sets out the Department of Labor's regulations for insuring that discrimination prohibited by section 132 of the Act does not occur in any CETA programs, and that services are provided on an equitable basis to the significant segments of the eligible population. To the extent such provisions apply to them, recipients shall also comply with the provisions of titles VI and VII of the Civil Rights Act, (42 USC 2000 d and 2000 e) the Age Discrimination in Employment Act, (29 USC 620 *et. seq.*) the Equal Pay Act, (29 USC 206(d)) the Rehabilitation Act, (29 USC 794) Title IX of the Education Amendments Act of 1972 (20 USC 1681), the Age Discrimination Act (42 USC 6101) and other applicable nondiscrimination laws.

§ 676.52 Nondiscrimination.

(a) No person shall, on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, be discriminated against, or denied employment as a participant, administrator, or staff person, in connection with any program under the Act.

(b) Recipients shall comply with the Department of Labor's nondiscrimination requirements at 29 CFR Part 31 under Title VI of the Civil Rights Act, which prohibits discrimination by race, color or national origin. They shall also comply with the Department of Labor's regulations under Section 504 of the Rehabilitation Act, which prohibits discrimination because of handicap. Both sets of regulations will soon be published for comment in the *Federal Register*.

(c) All programs, to the maximum extent feasible, shall contribute to the elimination of sex stereotyping. Prime sponsors, in planning their program activities, shall:

(1) Recruit for, and encourage, female entry, through such means as training, into occupations with skill shortages where women represent less than 25 percent of the labor force; and

(2) Recruit for, and encourage, male entry, through such means as training, in occupations with skill shortages where men represent less than 25 percent of the labor force.

(d) All programs shall contribute to the maximum extent feasible to the elimination of architectural barriers (sec. 121(a)(4) and (5)).

(e)(1) No person shall be denied training or employment in any program because of artificial barriers to employment.

(2) Prime sponsors shall analyze and reevaluate job descriptions and qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, with a view toward removing artificial barriers to public service employment, as defined in § 675.4 (sec. 122(f)).

(3) Where tests or selection procedures have an adverse impact on any race, sex, or national origin group in the selection of participants or staff, such tests or selection procedures shall be validated in accordance with the Uniform Guidelines on Employee Selection Procedures (41 CFR Part 60-3). Tests or selection procedures which have been validated shall not be considered to be artificial barriers to employment.

(f) Prime sponsors shall establish procedures to ensure against discrimination and foster equal employment opportunity.

(g) Each prime sponsor shall assign EEO responsibilities on a full-time basis to an individual or staff, or if this is not practicable, explain why in the Master Plan.

(h) Members of the eligible population shall be provided maximum feasible opportunities for employment in the administration of programs, including staff positions in which they will have opportunities for occupational training and career advancement. Prime sponsors shall make special efforts to recruit and hire staff who will reflect the make-up of the population of the area by age, race, sex, and national origin, and shall take corrective action if the make-up of their staffs vary significantly from this goal (sec. (b)(1)(B)).

§ 676.53 Affirmative action.

(a) Each recipient shall establish an affirmative action plan for outreach to, and training, placement, and advancement of, handicapped individuals in employment and training programs under the Act. Such an affirmative action plan shall be described in the Annual Plan or grant application (sec. 103(b)(15)). In identifying and removing architectural barriers, recipients shall be guided by the standards of American National Standards Institute (ANSI).

(b) Any recipient, which has been determined by DOL or another Federal, State or local government agency to have discriminated in its CETA program, shall take affirmative action to overcome the effects of that discrimination. Other recipients are also encouraged to undertake affirmative action in order to increase the participation of previously underrepresented groups.

(c) The affirmative action plans required by paragraphs (a) and (b) of this section shall include as a minimum:

(1) The development and implementation of specific steps, including the assignment of management responsibility, to achieve objectives within specific timeframes, e.g., special recruitment efforts, test validation, display of EEO posters, identification of artificial barriers, to employment and development of upward mobility programs;

(2) The establishment of monitoring and evaluation procedures to measure progress in meeting the goals of the affirmative action plan within the projected timeframes;

(3) Internal dissemination of an affirmative action policy statement to all CETA management officials, staff, and participants, and external dissemination of the statement to community groups, community-based organizations, minority and women's organizations, and the general public;

(4) Written documentation that subgrantees and contractors are aware of the affirmative action plan including the specific staffing and service goals; and

(5) Placement of advertisements regarding programs in minority owned or operated newspapers and magazines.

§ 676.54 Equitable provision of services to the significant segments of the eligible population.

(a) CETA recipients shall provide employment and training opportunities on an equitable basis to the significant segments of the eligible population (age,

race, sex, or national origin group) (sec. 121(b)(1)).

(b) When planning and developing employment and training opportunities, prime sponsors shall first set planned service levels, taking into consideration the age, race, sex, and national origin composition of the eligible population. Whenever giving affirmative action to handicapped individuals, or giving special consideration to Vietnam-Era and special disabled veterans and public assistance recipients, giving special emphasis to groups such as the target groups set forth in the Act, or otherwise serving those most in need will result in service to a significant segment at a level more or less than the incidence of persons in that significant segment in the total eligible population, the prime sponsor's Annual Plan shall provide adequate justification, including an explanation of how the make-up of the target groups by age, race, sex, and national origin will impact on the overall service levels by age, race, sex, and national origin. Prime sponsors may design program and services to assist specific target groups.

(c) The recipient shall take positive steps, such as active recruitment, to ensure that the planned levels of participation are realized. If service levels by prime sponsors to a significant segment (age, race, sex, or national origin group) differ by more than 15 percent from the levels set forth in the approved CETA, the RA shall require corrective action of any prime sponsor which is not able to adequately justify the variance.

Subpart E—Prevention of Fraud and Program Abuse**§ 676.61 General.**

(a) To ensure the integrity of the CETA programs, special efforts are necessary to prevent fraud and other program abuses. Fraud includes deceitful practices and intentional misconduct, such as willful misrepresentation in accounting for the use of program funds. "Abuse" is a general term which encompasses improper conduct which may or may not be fraudulent in nature. While any violation of the Act or regulations may constitute fraud or program abuse, this Subpart E identifies and addresses those specific program problems which were of most concern to the Congress during the reauthorization of CETA.

(b) This Subpart sets forth specific responsibilities of recipients and subrecipients and of the Secretary to prevent fraud and program abuse in CETA programs.

§ 676.62 Conflict of interest.

(a) No member of any council under the Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member or any organization which such member directly represents or on any matter which would financially benefit such member or any organization such member represents (sec. 121(h)(2)). However, members of the PIC may vote on the title VII Annual Plan subpart even if that subpart provides funds to the PIC.

(b) Each recipient and subrecipient shall avoid organizational conflict of interest, and their personnel shall avoid personal conflict of interest and appearance of conflict of interest in awarding financial assistance, and in the conduct of procurement activities involving funds under the Act, in accordance with the code of conduct requirements for financial assistance programs set forth in 41 CFR 29-70.216-4 (sec. 123(g)).

(c) Neither the Secretary nor any recipient or subrecipient shall pay funds under the Act to any nongovernmental individual, institution or organization to conduct an evaluation of any program under the Act if such individual, institution or organization is associated with that program as a consultant or technical advisor (sec. 121(h)(1)).

§ 676.63 Kickbacks.

No officer, employee or agent of any recipient or subrecipient shall solicit or accept gratuities, favors or anything of monetary value from any actual or potential subrecipient or contractor (sec. 123(g) and 41 CFR 29-70.216-4).

§ 676.64 Commingling of funds.

Recipients shall comply with the applicable requirements of 41 CFR 29-70.201-2, regarding separate bank accounts (sec. 123(g)).

§ 676.65 Charging of fees.

(a) No funds under this Act shall be used for the payment of a fee charged to an individual for the placement of that individual in a training or employment program under the Act.

(b) No person or organization, including private placement agencies, may charge a fee to any individual for the placement or referral of that individual in any CETA program. Any contract requiring the individual to pay such fees therefore shall not render the individual liable for such fees (sec. 123(j)).

(c) Nothing in this section shall be interpreted as prohibiting the recipient or subrecipient from entering into an

agreement for the purpose of obtaining outreach, recruitment and/or intake services, and placement of participants into unsubsidized jobs as part of its approved plan, provided the individuals served are not charged a fee.

§ 676.66 Nepotism.

(a) Restriction. No recipient, subrecipient, or employing agency may hire a person in an administrative capacity, staff position, public service employment position, or on-the-job training position funded under the Act if a member of that person's immediate family is engaged in an administrative capacity for that recipient, subrecipient, or employing agency.

(b) No subrecipient or employing agency may hire a person in an administrative capacity, staff position, public service employment position or on-the-job training position funded under the Act, if member of that person's immediate family is engaged in an administrative capacity for the recipient or program agent from which that subrecipient or employing agency obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed (sec. 123(g)).

(c) For purposes of this section: (1) The term "immediate family" means wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, and stepchild

(2) The term "person in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under the Act, as well as other officials who have influence or control over the administration of the program, such as the project director, deputy director and unit chiefs, and persons who have selection, hiring, placement or supervisory responsibilities for public service employment or OJT participants. Persons who are economically disadvantaged and serving on the prime sponsor's planning council, youth council, PIC, or State employment and training council shall not be considered persons in an administrative capacity.

(3) The term staff position includes all CETA staff positions funded under the Act, such as instructors, counselors and

other staff involved in administrative, training or service activities.

§ 676.67 Child labor.

All recipients and subrecipients shall comply with applicable Federal, State and local child labor laws.

§ 676.68 Political patronage.

(a) No recipient or subrecipient may select, reflect, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employees as a reward for political services or as a form of political patronage is partisan in nature, is prohibited.

(b) There shall be no selection of subrecipients of contractors based on political patronage or affiliation (sec. 123(g)).

§ 676.69 Political activities.

(a) No program under the Act may involve political activities (sec. 131(a)).

(1) No participant may engage in partisan or nonpartisan political activities during hours for which the participant is paid with CETA funds.

(2) No participant may, at any time, engage in partisan political activities in which such participant represents himself/herself as a spokesperson of the CETA program.

(3) No participant may be employed or outstationed in the Office of a member of Congress or a State or local legislator or on any staff of a legislative committee.

(4) No participant may be employed or outstationed in the immediate office of any chief-elected executive official (or officials, if the office of chief executive is shared by more than one person) of a State or unit of general local government, except that:

(i) In rural areas, BOS and CEP prime sponsors may employ participants in such positions provided that documentation is presented to and approved by the RA which makes clear that such positions are nonpolitical; and

(ii) Where positions are technically in such office, but are actually program activities not in any way involved in political functions, documentation attesting to the nonpolitical nature of the positions is to be provided to the Secretary for approval prior to enrollment of participants in such positions.

(5) No participant may be employed or outstationed in positions involving political activities in the offices of other elected executive officials. However, since under the responsibility of such elected officials are non-political activities, placement of participants in

such nonpolitical positions is permissible. Prime sponsors shall develop safeguards to ensure that participants placed in these positions are not involved in political activities. These safeguards shall be described in the Annual Plan and will be subject to review and monitoring.

(b) Persons governed by Chapter 15 of Title 5, United States Code, the Hatch Act, shall comply with its provisions as interpreted by the United States Office of Personnel Management. These provisions apply:

(1) To persons (including participants) employed by States and local government in the administration of the CETA program; and

(2) Generally to any participant whose principal employment is in connection with an activity financed by other Federal grants or loans (sec. 131(b)).

§ 676.70 Lobbying activities.

No funds provided under the Act may be used in any way:

(a) To attempt to influence in any manner a member of Congress to favor or oppose any legislation or appropriation by Congress (sec. 123(g) and 18 USC 1913); or

(b) To attempt to influence in any manner State or local legislators to favor or oppose any legislation or appropriation by such legislators. Communications and consultation with State and local legislators for purposes of providing information such as on matters necessary to provide compliance with the Act shall not be considered lobbying (sec. 123(g)).

§ 676.71 Sectarian activities.

(a) The Act provides the following prohibitions regarding sectarian activity:

(1) Participants shall not be employed on the construction, operation or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship (sec. 121(a)(2)); and

(2) Participants shall not be involved, nor CETA funds expended, for religious or anti-religious activities (sec. 123(g)).

(b) The Department intends to publish proposed regulations to further clarify provisions regarding sectarian activities in the near future. Prime sponsors shall present to the Assistant Secretary for approval the specific circumstances for any new hiring into positions involving sectarian institutions or facilities to assure compliance with the provisions of the Act as described in paragraph (a).

§ 676.72 Unionization and antiunionization activities/work stoppages.

(a) No funds under the Act shall be used in any way to either promote or oppose unionization (sec. 123(g)).

(b) No individual shall be required to join a union as a condition for enrollment in a program in which only institutional training is provided, unless such institutional training involves individuals employed under a collective bargaining agreement which contains a union security provision (sec. 121(n)(2)).

(c) No participant in work experience or public service employment may be placed into, or remain working in, any position which is affected by labor disputes involving a work stoppage. If such a work stoppage occurs during the grant period, participants in affected positions must (1) be relocated to positions not affected by the dispute; (2) be suspended through administrative leave; or (3) where participants belong to the labor union involved in the work stoppage, be treated in the same manner as any other union member except such members must not remain working in the effected position. The grantee shall make every effort to relocate participants, who wish to remain working, into suitable positions unaffected by the work stoppage.

(d) No person shall be referred to or placed in an on-the-job training position affected by a labor dispute involving a work stoppage and no payments may be made to employers for the training and employment of participants in on-the-job training during the periods of work stoppage.

(e) Nothing in this section shall prevent an employer from checking off union dues or service fees pursuant to applicable collective bargaining agreements or State law.

§ 676.73 Maintenance of effort.

(a) To ensure maintenance of effort under all programs under the Act,

(1) Recipients and subrecipients shall ensure that such programs:

(i) Result in an increase in employment and training opportunities over those which would otherwise be available (sec. 121(e)(1));

(ii) Do not result in the displacement of currently employed workers, including partial displacement, such as reduction in hours of nonovertime work, wages, or employment benefits (sec. 122(e)(2));

(iii) Do not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed (sec. 121(e)(3) and (g)(1)), including services normally

provided by temporary, part-time or seasonal workers or through contracting such services out; and

(iv) Result in the creation of jobs that are in addition to those that would be funded in the absence of assistance under the Act (sec. 121(g)(1)(B)).

(2) Funds under this Act shall supplement, and not supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs (sec. 121(g)(1)(c)).

(b) In addition to the requirements of paragraph (a) of this section, for public service employment programs funded under this Act:

(1) Recipients and subrecipients shall insure that such public service employment positions shall not

(i) Substitute for existing federally assisted jobs (sec. 122(e)); and

(ii) Be created in any promotional line that will infringe in any way upon promotional opportunities of persons currently in jobs not funded under the Act (sec. 122(d)).

(2) Whenever a promotional freeze affects non-CETA funded employees it shall apply to CETA participants similarly employed.

(3) No participant shall be hired into, or remain working in, any position when:

(i) The same or a substantially equivalent position is vacant due to a hiring freeze, unless the prime sponsor can demonstrate that the freeze resulted from lack of funds to sustain staff levels and was not established in anticipation of the availability of funds under the Act;

(ii) Any other person not supported under the Act or by other Federal funds (other than general revenue sharing) is on lay-off from the same or any substantially equivalent job. The same or equivalent job means any job or position for which:

(A) Per a personnel code or practice or per a collective bargaining agreement, a recall list or other reemployment policy is in effect as to former employees, who have the first right to any job vacancies occurring within a specific period of time in the position.

(B) If there is no recall list, or any other reemployment policy, practice or contractual obligation, one or more employees have been laid off due to a lack of funds or work from a job in the type position anytime during the last operating year of the department or agency (sec. 122(c)(1)).

(4) When termination of CETA participants is imminent due to conditions noted in (3) above, the prime sponsor shall make every feasible

attempt to place such participants into other nonaffected positions or otherwise attempt placement into unsubsidized jobs or into another CETA program or activity.

(5) No former employees laid off or terminated in anticipation of CETA funding of a position may be rehired under CETA into such a position.

(6) A recipient or subrecipient shall not use CETA funds in any manner which results in a reduction of the customary level of public service provided by itself or another public entity in the area, by allowing PSE participants to be placed with or outstationed to private nonprofit organizations.

(c) Prime sponsors shall notify the RA in writing of any layoff or hiring freeze and of any recall rights of employees on lay off, in a department or agency where public service employment participants are employed. Prime sponsors shall, at the direction of the RA, submit documentation and budgetary expenditure records, revenue statements, and other available information relevant to a determination under this section. RA's shall not approve any plan unless prime sponsors have submitted, when directed by the RA, conclusive evidence that the proposed use of funds fully meets the requirements of this Section.

§ 676.74 Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations and other criminal provisions.

The criminal provision of 18 U.S.C. 665 states that:

(a) Whoever, being an officer, director, agent or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Employment and Training Act knowingly hires an ineligible individual or individuals; embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to such Act shall be fined not more than \$10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed \$100, such person shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment, or of refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment

and Training Act, induces any persons to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than \$1,000, or imprisoned for not more than 1 year, or both.

(c) Whoever willfully obstructs or impedes, or endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the regulations thereunder, shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

(d) In addition to the criminal provisions set forth in paragraph (a), (b) and (c) of this section, individuals may be held criminally liable under other Federal laws. For example, 18 USC sections 600 and 601 hold them liable if they:

(1) Directly or indirectly, promise any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by funds under the Act, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of, or opposition to, any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office (18 USC 600); or

(2) Directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of any employment or benefits funded under the Act (18 USC 601).

§ 676.75 Responsibilities of recipients and subrecipients for preventing fraud and program abuse and for general program management.

§ 676.75-1 General requirements.

(a) Each recipient and subrecipient shall establish and use internal program management procedures sufficient to prevent fraud and program abuse.

(b) Each recipient and subrecipient shall ensure that sufficient, auditable, and otherwise adequate records are maintained which support the expenditure of all funds under the Act. Such records shall be sufficient to allow the Secretary to audit and monitor the recipients' and subrecipients' programs and shall include the maintenance of a management information system in

accordance with the requirements of § 676.34 (sec. 103(a)(1) and 123(g)).

§ 676.75-2 Prime sponsor monitoring procedures.

(a)(1) Prime sponsors, as part of their internal program management procedures, shall establish a monitoring unit which shall be independent of, and not accountable to, any unit being monitored. This unit shall report to a level of management such as the CETA director or the chief-elected official, which will be high enough to ensure adequate monitoring coverage and appropriate action on findings and recommendations. The organizational location of this unit shall be positioned to maximize its objectivity, facilitate its access to information necessary to carry out its monitoring responsibilities and to minimize organizational conflict of interest.

(2) The independent monitoring unit shall periodically monitor and review through on-site visits, and program data, all program activities and services and program administration and management practices supported with funds under the Act in order to ensure compliance with the Act, the regulations and the terms of any subagreements entered into under the prime sponsor's grant. Examples of areas of monitoring are:

- (i) Reviewing all systems for controlling program administration, particularly systems for determining participant eligibility;
- (ii) Reviewing pay records and attendance reports to insure controls are established for preventing unauthorized payments;
- (iii) Interviewing participants to determine job-related problems;
- (iv) Examining worksites and work conditions;
- (v) Reviewing plans and procedures and subrecipient capability to carry out programs and activities;
- (vi) Monitoring subrecipient maintenance of records on all expenditures of CETA funds;
- (vii) Reviewing affirmative action plans as applicable.

(3) The independent monitoring unit shall:

- (i) Make recommendations to the prime sponsor for corrective action whenever it identifies noncompliance with the Act, the CETA or these regulations;
- (ii) Document its monitoring and review activities, the findings resulting therefrom, and any recommendation made for corrective action;
- (iii) Maintain on file the prime sponsor's replies to its monitoring

reports pursuant to paragraph (a)(5) of this section.

(4) The prime sponsor shall ensure that the monitoring unit is adequately staffed and trained to fulfill its responsibilities (sec. 121(q)).

(5) The prime sponsor shall review all monitoring reports submitted to it by the monitoring unit, acknowledge receipt thereto and respond to the monitoring unit with respect to the action taken or planned in response to the recommendations made.

(6) The prime sponsor shall further require each subrecipient to establish monitoring procedures, and may require, for those subrecipients which have the administrative capability, that they establish and maintain an independent monitoring unit to monitor their programs through review of data, observation of operations and examination of records related to their agreement in order to ensure compliance with:

- (i) The Act and the regulations;
- (ii) The provisions of its subagreement;
- (iii) The provisions of subagreements awarded by it.

(b) Nothing in (a) above should be interpreted as prohibiting the monitoring or review and assessment of the recipients' or subrecipients' program activities and performance by designated CETA staff, in addition to the monitoring undertaken by the independent monitoring unit. When such efforts are undertaken, they shall be considered as distinct from those of the independent monitoring units.

§ 676.75-3 Eligibility Determination and Verification.

(a) *General.* (1)(i) Each recipient and any subrecipient delegated responsibility for eligibility determination, shall establish procedures as described in paragraphs (b)(1), (2), and (3) of this section for the establishment of an eligibility determination system.

(ii) The system is based on the attestation by the applicants that the full and complete information on the application form is true to the best of their knowledge. The recipient or subrecipient makes the determination of participant eligibility based on the information on the form. This determination is backed up by a complete review of the form as soon after enrollment as possible but no later than 30 days. This review is to check the completeness of the information on the form and accuracy of the determination as well as the consistency of the information presented. This review is

followed by a quarterly verification of a sample of the applications of participants enrolled in the quarter. It is this sample where specific documentation will be examined to establish the accuracy of the elements presented on the application form. These three basic steps are described in (b) (1), (2), and (3) of this Section.

(2) The specific procedures for eligibility determination are included in the *Forms Preparation Handbook*.

(3) Each recipient shall be responsible for describing its eligibility determination system in its grant application and for the subsequent effective operation of such system. Liability for questioned costs relating to participant eligibility shall be based on the manner in which the recipient manages its system and the procedures included in § 676.88(b) regarding grant officer authority to allow question costs.

(b) *Elements of the determination system.* All recipients' and subrecipients' eligibility determination systems are to be based on the requirements at (1), (2), and (3).

(1) *The application.* A full and complete application must be taken on all applicants in order to establish participant eligibility.

(i) The application form must include each of the following elements:

- (A) Name
- (B) Social Security Number
- (C) Birthdate and age
- (D) Application date
- (E) Citizenship Status
- (F) Residential address
- (G) Family Status
- (H) Number in family
- (I) Institutionalized Status
- (J) Handicapped Status
- (K) Public Assistance Status
- (L) Work History (list all jobs held in the past twenty-six weeks)
- (M) Labor Force Status:
 - (1) Employed
 - (2) Unemployed
 - (3) In-school Youth
 - (4) Underemployed
 - (5) Others
 - (6) Unemployment Insurance Claimant
- (N) Family Income
 - (1) LLSI does not exceed 70%
 - (2) LLSI does not exceed 85%
 - (3) LLSI does not exceed 100%
- (Q) Economically Disadvantaged
- (R) Veteran's Status
- (S) Record of prior CETA Participation
- (T) Relatives in administrative capacity

(ii) *Signature of the applicant.* The signature of the applicant and the date of application shall be required on an

application form attesting that the information on the application is true to the best of the applicant's knowledge and that there is no intent to defraud. It should also acknowledge that such information is subject to verification and that the participant shall be subject to termination subsequent to enrollment if found ineligible. In the case of an applicant who is a minor (except minors who are heads of households), the signature of the parent, responsible adult or guardian is also required.

(iii) *Signature of the intake officer.* The signature of the intake officer shall be included on the application.

(iv) If there is greater than a 45 day period between the time of application and enrollment, the original application form must be updated, re-signed, and re-dated.

(2) 30 Day Review.

(i) There shall be a review of all applications as soon as possible after enrollment but not later than 30 days of the date of enrollment, by someone other than the intake officer, to determine that:

- (A) The application is complete;
- (B) The determination based on the information contained on the application was correct; and
- (C) The information on the application is internally consistent and in all other regards reasonable.

(ii) There shall be immediate verification of the eligibility of those participants whose applications are determined by the review in paragraph (b)(2)(i) above to be deficient or internally inconsistent.

(3) Sample Verification and Documentation.

(i)(A) There shall be a verification of participant eligibility on a quarterly basis of a random sample of participants which is adequate to establish the credibility of the system and to determine whether it is reliable. The random sample should consist of participants enrolled during the preceding 3 months. The size of the sample shall be based on the total participants enrolled during the quarter in accordance with the percentage shown for that number in the *Forms Preparation Handbook*. In no case shall the required random sample exceed 10%.

(B) Specific sources for verifying each element of eligibility are identified in the *Forms Preparation Handbook*.

(C) Where the percentage of ineligibles identified through the quarterly verification exceeds 5% of the number verified, the recipient shall initiate the necessary action to identify and correct deficiencies in the system, and expand the sample taken in order to

determine whether the percentage represents a consistent pattern. When the percentage of ineligibles identified through the quarterly verification exceeds 10% of the number verified, the recipient shall present a specific corrective action plan to the grant officer.

(ii) Adequate documentation shall be maintained to ensure the credibility of the eligibility determination. Such documentation shall at a minimum consist of the following:

(A) A completed application for participation;

(B) Documentation of the review conducted pursuant to paragraph (b)(2) of this section and the verification conducted pursuant to subparagraphs (b)(2)(ii) and (b)(3)(i)(A) of this section including the numbers of applications taken, the number of ineligible participants identified, and the reasons for ineligibility; and

(C) Records of all actions taken to correct deficiencies identified in the eligibility determination procedures.

(d) Other Responsibilities.

(1) There shall be an immediate termination of any participant determined to be ineligible.

(2) Prime sponsors may delegate the responsibility for determination of eligibility, under reasonable safeguards which include, in addition to the requirements of paragraphs (a), (b), (c), and (d) of this section, provision for reimbursement of costs incurred as a result of erroneous determinations made deliberately or with insufficient care. Where funds cannot be recovered the prime sponsor is responsible for such liabilities (sec. 123(i)).

§ 676.76 Action required of the Secretary.

The Secretary shall annually assess the effectiveness of the monitoring units established in accordance with the requirements of § 676.75-2 of these regulations (sec. 121(g)).

Subpart F—Complaints, Investigations, and Sanctions

§ 676.81 Scope and Purpose.

(a) *General.* This subpart establishes the procedures to receive, investigate and resolve complaints, and conduct hearings to adjudicate disputes under the Act. It governs grievance procedures at the recipient or subrecipient level, the receipt and investigation of complaints at the federal level, the procedures for resolving audit disputes or resolving investigative findings, the rules of practice for adjudicative hearings, and the rendering of decisions pursuant to the Act. Judicial review of final action of

the Department after opportunity for an administrative hearing has been exclusively established in the United States Courts of Appeals for the circuits in which the affected parties reside or transact business.

(b) *Initiation of investigations.* CETA investigations may be initiated upon the request of any person or organization or by the Department on its own initiative.

(c) *Non-CETA remedies.* Whenever any person, organization or agency believes that a recipient or subrecipient has engaged in conduct that violates the Act and that such conduct also violates the Federal or a State constitution, a Federal statute other than CETA, or a State or local law, that person, organization or agency may, with respect to the non-CETA cause of action, institute a civil action or pursue other remedies authorized under other Federal, State, or local law against the recipient or subrecipient without first exhausting the remedies in this subpart. For example, if a subrecipient believes that a prime sponsor has breached the subgrant agreement between the prime sponsor and itself, the subrecipient may institute a civil action for breach of contract in a state court if so authorized by State law. Nothing in the Act, this paragraph, nor any other provision in Parts 675-695 of this Chapter shall:

(1) Allow any person or organization to join or sue the Secretary with respect to his or her responsibilities under CETA except after exhausting the remedies in this subpart,

(2) Allow any person or organization to file a suit which alleges a violation of CETA or these regulations without first exhausting the administrative remedies described in this subpart, or

(3) Be construed to create a private right of action. (Sec. 106(1) and 132(d).)

§ 676.82 Protection of informants.

(a) *Informants.* Where possible the identity of any person who has furnished information relating to, or assisted in, an investigation of a possible violation of the Act will be held in confidence. Where disclosure of the person's identity is essential to assure a fair determination of the issues, or where necessary to effectively accomplish responsibilities under the Act, the Inspector General, the Solicitor, the Regional Administrator for CETA, or the Administrative Law Judge presiding over a hearing in which the matter arises, may disclose such identity upon such conditions as will promote the continued receipt of confidential information by the Department and effectuate the protections and policies stated in paragraph (b) of this section.

(b) *Discriminatory discharge prohibited.* No person, organization or agency may discharge, or in any other manner discriminate or retaliate against any person, or deny to any person a benefit to which that person is entitled under the provisions of the Act or the regulations in Parts 675-695 of this Chapter because such person has filed any complaint, instituted or caused to be instituted any proceeding under or related to the Act, has testified or is about to testify in any such proceeding or investigation, or has provided information or assisted in an investigation (Sec. 106(f)(1)).

§ 676.83 Complaint and hearing procedures at the recipient level.

(a) *Policy* (1) Each recipient shall establish and maintain a procedure for resolving any complaint alleging a violation of the Act, regulations, grant or other agreements under the Act, including any complaint arising in connection with the CETA programs operated by its subrecipients procedures must meet the requirements of this section. The complaint procedure shall provide for final resolution of complaints within 60 days after filing the complaint. Where existing complaints or grievance procedures include the elements set forth in this section, recipients may adopt such mechanism as, or as part of, their CETA procedure.

(2) Participants shall be provided, upon enrollment into employment or training, with a written description of the complaint procedures including notification of their right to file a complaint and instructions on how to do so. Recipients should designate an individual to monitor the operation of the complaint procedures, to ensure that complaints and related correspondence are logged and filed, to ensure that assistance is available for properly filing complaints, and to ensure the availability, coordination, and promptness of all elements of the procedures. Upon filing a complaint, and at each stage thereafter, each complainant shall be notified in writing of the next step in the procedure.

(3) Complaints may be brought by any individual or organization including, but not limited to, program participants, subrecipients, contractors, staff of the recipient or subrecipient, applicants for participation or financial assistance, labor unions, and community-based organizations (sec. 106(a)(1)).

(4) With the exception of complaints alleging fraud or criminal activity, the filing of a complaint must be made

within one year of the alleged occurrence (sec. 106(a)(1)).

(5) The recipient may delegate the authority to operate and maintain the complaint and hearing procedure to its subrecipients except for issues between the recipient and its subrecipients, issues involving more than one of its subrecipients, or complaints directly involving the operations or responsibilities of the recipient. Where the procedure is delegated, the recipient may provide for an appeal to itself from the decision of the subrecipient or the recipient may provide that the subrecipient's decision is the final decision of the recipient. Where the procedure is delegated, the recipient shall ensure that the procedures specified in this section are followed and a decision issued promptly within 60 days after a complaint is filed.

(6) In any case where the alleged violation of the Act or regulations is also an alleged violation of another law, regulation or agreement, nothing in this section shall preclude an individual or an organization from filing a complaint or grievance under such other law or agreement with respect to the non-CETA cause of action, as well as filing a complaint under CETA.

(7) When a participant is an employee of a recipient or subrecipient and alleges that an occurrence constitutes a violation of the Act, regulations, grant, or other agreements under the Act, as well as a violation of the terms and conditions of employment under a state or local law or a collective bargaining agreement, the participant may pursue the complaint and hearing procedures in this section, or the applicable grievance procedures under the state or local law or the collective bargaining agreement, pursuant to § 676.84. A participant who selects the procedures provided in this section, unless otherwise prohibited, is not precluded from filing a complaint under § 676.84. Similarly, a participant who selects the procedure in § 676.84, unless otherwise prohibited, is not precluded from filing a complaint under this section (Sec. 106(a)).

(8) The complaint procedures shall provide that the identity of any person who has furnished information relating to, or assisting in, an investigation of a possible violation of the Act shall be kept confidential to the extent possible, consistent with a fair determination of the issues. The above sentence shall also apply to complaints filed with the recipient against the subrecipient.

(b) *Complaint procedures.* The complaint resolution procedure shall include:

(1) Opportunity to file a complaint. All complaints shall be in writing.

(2) Opportunity for informal resolution of the complaint.

(3) Written notification of an opportunity for a hearing when an informal resolution has not been accomplished. The notice shall state the procedures for requesting a hearing and shall describe the elements in the hearing procedures including those set forth in paragraph (c).

(4) Opportunity to amend the complaint prior to a hearing.

(5) Opportunity for a hearing pursuant to paragraph (c) of this section within 30 days of filing the complaint.

(6) A final written decision to the complainant which shall be made within 60 days of the filing of the complaint and shall include:

(i) The reason(s) for the decision.

(ii) A statement that the procedures delineated in this section have been completed.

(iii) Notice of the right to file a complaint with the Grant Officer pursuant to § 676.86 of this subpart where any party disagrees with the decision.

(c) *Hearing procedure.* A hearing, when requested, shall be provided within 30 days after filing a complaint. The hearing procedure shall include:

(1) Written notice of the date, time and place of the hearing, the manner in which it will be conducted, and the issues to be decided. Other interested parties may apply for notice. Such other interested party is a person or organization potentially affected by the outcome. The notice to other interested parties shall include the same information furnished to the complainant and shall further state whether such interested parties may participate in the hearing and if applicable, the method by which they may request such participation.

(2) Opportunity to withdraw the request for hearing in writing before the hearing.

(3) Opportunity to request rescheduling of the hearing for good cause.

(4) Opportunity to be represented by an attorney or other representative of the complainant's choice.

(5) Opportunity to bring witnesses and documentary evidence.

(6) Opportunity to have records or documents relevant to the issues produced by their custodian when such records or documents are kept by or for the recipient or its subrecipient in the ordinary course of business.

(7) Opportunity to question any witnesses or parties.

(8) The right to an impartial hearing officer.

(9) A written decision from the hearing officer to the complainant(s), and any other interested parties within 60 days of the filing of the complaint. This period may be extended with the written consent of all of the parties for good cause. The written decision shall include a synopsis of facts, a statement of reasons for the decision and a statement of remedies to be applied.

(10) Where a complaint procedure provides for a recipient's review of the hearing officer's decision, the recipient shall provide a final written decision to the complainant(s), and any other parties, as provided in paragraph (c)(9) of this section.

(11) Where local law or other personnel rules require procedures in addition to those specified above, similarly employed CETA participants shall be notified of their right to use the same procedures (sec. 122(k)).

§ 676.84 Grievance or complaint procedures at employer level.

(a) *Policy.* Whenever the recipient or subrecipient is an employer, it shall continue to operate or shall establish and maintain for its participants a grievance or complaint procedure relating to the terms and conditions of CETA employment. The employer who does not have a grievance or complaint procedure may use the procedure of the recipient or subrecipient under § 676.83 (Sec. 106(a)(2)).

(b) *Minimum requirements.* Those employers who do not utilize the procedures in § 676.83, shall establish or maintain procedures which shall provide at a minimum:

(1) Notice, upon enrollment into employment or training, of the scope and availability of such procedures.

(2) Notice, at the time the complaint is filed, of the procedures under which the complaint is being processed.

(3) Written notification of the disposition of the complaint, and the reasons therefore, which shall be issued within 60 days of the filing of the complaint, unless the grievance procedure or the collective bargaining agreement specifically provides other limits.

(4) Written notification of the right to file a complaint with the Grant Officer of the decision issued, pursuant to § 676.86.

(c) *Equal benefits.* Where local law or other personnel rules require procedures, in addition to those specified in paragraph (b) above, for any adverse action including termination of employment, similarly employed CETA

participants shall be notified of their right to use the same procedures (sec. 122(k)).

(d) *Private for profit employer grievance procedures.* Nothing in this section shall require a private for profit employer to establish a new grievance procedure or to modify an existing procedure as a condition of participating in programs for the training and hiring of participants under the Act. If a private for profit employer does not have a grievance procedure for its employees regarding the terms and conditions of employment the employees may use the procedures specified in § 676.83.

§ 676.85 Exhaustion of recipient level procedure.

(a) *Exhaustion required.* No complainant subject to the grievance procedures specified in either § 676.83 or § 676.84 may file a complaint with the Grant Officer until the recipient level grievance procedures have been exhausted.

(b) *Exhaustion exceptions.* Complainants who have not exhausted the procedures at the recipient level may file the complaint at the federal level, and the Grant Officer shall accept such complaint if he or she determines that:

(1) The recipient or subrecipient has not acted within the time frames specified in § 676.83 and § 676.84; or

(2) The recipient's or subrecipient's procedures are not in compliance with § 676.83 or 676.84, whichever is applicable; or

(3) An emergency situation exists.

§ 676.86 Complaints and investigations at the Federal level.

(a)(1) *General; final determination of substantial evidence.* Where local administrative remedies have been exhausted, section 106(b) of the Act requires that a final determination of the complaint shall be made within 120 days after the Grant Officer receives the complaint. The Grant Officer's resolution pursuant to section 106(i)(1) of the Act constitutes the "final determination" required to be accomplished within the 120 days specified in section 106(b) of the Act. The final determination process consists of the non-criminal investigation, the determination of substantial evidence (either supporting or not supporting the allegations of the complaint or the belief that a recipient or subrecipient is failing to comply with the requirements of the Act or the regulations), and the procedures regarding notice, informal resolution or lack of informal resolution, and notice of opportunity for hearing

contained in section 106(i) of the Act, as established in § 676.88 below.

(2) *Final action distinguished.* Section 107 of the Act provides for judicial review of "final action" with respect to disapproval of a prime sponsor's "comprehensive employment and training plan under section 104 of the Act," or "final action" taken with respect to any recipient in the nature of a sanction under section 106. Such "final action" is defined in § 676.90(f) and is different than "final determination" as described in paragraph (a)(1), for the reason that an opportunity for a hearing to persons outside the agency shall be given prior to imposition of a sanction or disapproval of a Comprehensive Employment and Training Plan, pursuant to Sec. 106(i)(2). The length of the hearing process is subject to the actions of the parties requesting the hearing and the complexity of the issues being heard.

(b) *Contents of complaints.* Every complaint shall be filed in writing before the commencement of any investigation or corrective action shall be required. The complaint shall be filed only after local remedies have been exhausted and no later than 30 days from the date of receipt of the written decision or notice required by § 676.83 or § 676.84. The complaint should contain the following:

(1) The full name, telephone number (if any), and address of the person making the complaint.

(2) The full name and address of the respondent (the recipient, or subrecipient or person against whom the complaint is made).

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.

(4) Where known, the provisions of the Act, regulations, grant or other agreements under the Act believed to have been violated.

(5) A statement disclosing whether proceedings involving the subject of the complaint have been commenced or concluded before any federal, state or local authority, and, if so, the date of such commencement or conclusion and the name and address of the authority.

(6) A copy of the final decision of the recipient or subrecipient issued pursuant to § 676.83 or § 676.84 of this subpart.

(7) A complaint will be considered to have been filed when the Grant Officer receives from the complainant a written statement sufficiently precise to both identify those against whom the allegations are made, and to fairly afford the respondent an opportunity to prepare a defense. A complaint may be amended to cure defects or omissions, or to clarify and amplify allegations

made therein, and such amendments relate back to the original filing date.

(8) A complaint once filed may be withdrawn only with the consent of the Grant Officer. If the complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the complainant.

(9) Complaints alleging discrimination on the basis of race, creed, color, national origin, religion, sex, handicap or age shall be investigated by a Department of Labor EEO officer and otherwise handled in accordance with the federal level procedures set forth at 29 CFR Part 31, or any amendments thereto. When a complaint alleges both discrimination and other violations, those portions of the complaint alleging discrimination shall be handled under 29 CFR Part 31 and those portions of the complaint alleging other violations shall be handled in accordance with the procedures in the following sections of this subpart, provided any hearings and adjudications may be joined as provided in § 676.89(c).

(c) *Investigation of complaints.* Whenever the Grant Officer receives a complaint filed in accordance with sections (a) and (b) above, the complaint shall be investigated if it alleges that any person, recipient or subrecipient is failing to comply with the requirements of the Act, regulations, grant or other agreements under the Act. Such investigation shall be completed and a conclusion made pursuant to § 676.88(a) within 60 days after the filing of a complaint, or such additional time not to exceed 30 days as the Grant Officer may allow. No extensions shall relieve the Grant Officer of the duty to make his or her final determination within 120 days of the filing of the complaint.

(d) *Audit reports.* Upon receipt of a final audit report the Grant Officer will promptly transmit the audit report to the recipient and/or subrecipient for a comment period not to exceed 30 days, or for such additional time as the Grant Officer may allow. Within 30 days after the end of the comment period the Grant Officer shall make his initial determination pursuant to § 676.88(a).

(e) *Onsite reviews and other bases for investigation.* If after an onsite review, monitoring visit, review of reports, data or other information, the Grant Officer has reason to believe that a recipient or subrecipient is failing to comply with the requirements of the Act, regulations, grant or other agreements under the Act, the Grant Officer or other designated authority shall investigate the matter.

(f) *Non-Grant Officer investigations.*

(1) The Assistant Secretary for

Employment and Training may, for purposes of making any investigation, assign a single complaint or classes of complaints to the Office of Investigation and Compliance of the Employment and Training Administration, under such conditions as may be appropriate.

(2) The Assistant Secretary for Employment and Training may, by agreement with the Office of the Inspector General, or the Office of the Inspector General may pursuant to the Inspector General Act of 1978, Pub. L. 95-492, 92 Stat. 1101, assume responsibility for any investigation arising under CETA.

(g) *Utilizing other services.* With the consent and cooperation of state agencies charged with the administration or enforcement of state laws, the Secretary may elect for the purpose of carrying out this subpart and Section 133 of the Act, to utilize the services of state and local agencies and their employees, and notwithstanding any other provision of law, may reimburse, in whole or in part, such state and local agencies and their employees for services rendered for such purposes (sec. 106(h)).

(h) *Criminal investigations.* Notwithstanding any other provision of this subpart, investigation by the Department of any matter concerning a potential federal criminal violation shall be conducted as the Inspector General shall direct pursuant to the powers granted by the Inspector General Act of 1978, Public Law 95-452, 92 Stat. 1101.

§ 676.87 Subpoenas.

(a) *Subpoenas in investigations.* (1) The Assistant Secretary of Labor for Employment and Training may issue a subpoena directing the person named therein to appear before a designated representative at a designated time and place to testify or to produce documentary evidence, or both, relating to any matter arising under the Act being investigated. The Solicitor, the Associate Solicitor for Employment and Training Legal Services or the Regional Solicitors, for good cause shown, may extend the time prescribed for compliance with such subpoenas (Sec. 133(a)(3)).

(2) Any motion to limit or quash any investigational subpoena shall be filed with the Chief Administrative Law Judge within 10 days after service of the subpoena, or, if the return date is less than 10 days after service of the subpoena, within such other time as may be allowed.

(3) The timely filing of a motion to limit or quash any investigational subpoena shall stay the requirement of a

return on the portion challenged. If the Administrative Law Judge has not ruled upon the motion by the return date, or if the Administrative Law Judge rules subsequent to the return date, and the ruling denies the motion in whole or in part, the Administrative Law Judge shall either specify a new return date or direct that the office which issued the subpoena do so.

(4) All motions to limit or quash investigational subpoenas, and the investigator's responses thereto, shall be part of the public record of the Office of the Administrative Law Judges except as otherwise ordered or provided under these regulations.

(b) *Noncompliance.* (1) In cases of failure to comply with compulsory processes, appropriate action may be initiated, including actions for enforcement, forfeiture, penalties or criminal actions.

(2) The Solicitor of Labor, with the consent of the Attorney General, may:

(i) Institute on behalf of the Secretary an enforcement proceeding in connection with the failure or refusal of a person, partnership, corporation, recipient or other entity to comply with or to obey a subpoena if the return date or any extension thereof has passed; or

(ii) Request on behalf of the Secretary the institution of civil actions, as appropriate, if the return date or any extension thereof has passed including seeking civil contempt in cases where a court order enforcing compulsory process has been violated.

§ 676.88 Initial and final determination; request for hearing at the Federal level.

(a) *Initial determination.* Upon the conclusion of an investigation conducted pursuant to § 676.86, or after the conclusion of the comment period for audits provided in § 676.86, the Grant Officer shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grant or other agreements under the Act. The determination may conclude either:

(1) That there is insufficient evidence to support the allegation. In such instances the Grant Officer may seek informal resolution of the matter, pursuant to § 676.88(c), or may dismiss the complaint.

(2) That there is substantial evidence to support the allegation, or finding of questioned costs or activities.

(b) *Contents of Initial determination.* The initial determination shall: (1) be in writing, (2) state the basis of the determination, (3) specify the costs or

activities disallowed, (4) specify the corrective actions and/or sanctions proposed, and (5) give notice of an opportunity for informal resolution of the matters as necessary to the appropriate parties, which should include all interested parties specified by the Grant Officer. This initial determination shall be mailed by certified mail return receipt requested to the parties and interested parties.

(c) *Allowability of certain questioned costs.* In any case in which the Grant Officer determines that there is sufficient evidence that funds have been misspent, the Grant Officer shall disallow the costs, except that costs associated with ineligible participants and public service employment programs may be allowed when the Grant Officer finds:

(1) The activity was not fraudulent and the violation did not take place with the knowledge of the recipient or subrecipient; and

(2) Immediate action was taken to remove the ineligible participant; and

(3) Eligibility determination procedures, or other such management systems and mechanisms required in these regulations, were properly followed and monitored; and

(4) Immediate action was taken to remedy the problem causing the questioned activity or ineligibility; and

(5) The magnitude of questioned costs or activities is not substantial.

(d) *Informal resolution.* The Grant Officer shall not revoke a recipient's grant, in whole or in part, nor institute corrective action or sanctions against a recipient without first providing the recipient with an opportunity to informally resolve those matters contained in the Grant Officer's initial determination. If the matters are informally resolved the Grant Officer shall notify the parties in writing of the nature of the resolution, and may close the file.

(e) *Final determination.* If all the parties and the Grant Officer cannot informally resolve any matter pursuant to paragraph (d), the Grant Officer shall, not later than 120 days after the filing of the complaint (or receipt of a final audit or investigation report in the absence of a complaint), provide each party with a final written notice in duplicate by certified mail, return receipt requested, that (1) indicates that efforts to informally resolve matters contained in the initial determination pursuant to paragraph (a) have been unsuccessful, (2) lists those matters upon which the parties continue to disagree, (3) lists any sanctions, and required corrective actions, including any other alteration or

modification of the plan, grant, agreement or program intended by the Grant Officer, and (4) informs the parties of their opportunity to request a hearing pursuant to these regulations. The Grant Officer shall also mail a copy of his final determinations to any parties in interest.

(f) *Request for hearing.* Within 10 days of receipt of the Grant Officer's dismissal of the complaint or of the Grant Officer's final determination, any affected recipient, subrecipient or complainant may request a hearing by filing a request for hearing with the Chief Administrative Law Judge, United States Department of Labor, Room 700, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036, with a copy to the Grant Officer. The request for hearing shall be mailed by certified mail return receipt requested not later than 10 days after receipt of the Grant Officer's determination and shall be considered filed upon receipt at the office of the Chief Administrative Law Judge. The request for hearing shall be accompanied by a copy of the Grant Officer's final determination or dismissal of the complaint and shall specifically state those provisions of the determination upon which a hearing is requested. Those provisions of the determination not specified for hearing, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to further review.

(g) *Notification of filing.* Upon the receipt of a request for hearing the Chief Administrative Law Judge shall promptly notify the Grant Officer, the Associate Solicitor for Employment and Training Legal Services and each party and party in interest named in the Grant Officer's final determination by certified mail, return receipt requested, that the request has been filed and the date of filing. Such notice shall include a copy of the Grant Officer's determination and the request for hearing. Within 30 days of receipt of such notice the Grant Officer shall submit to the Administrative Law Judge an administrative file consisting of all pertinent documents tabbed and containing an index listing the documents. The Grant Officer shall simultaneously transmit two copies of the administrative file to the Associate Solicitor for Employment and Training Legal Services, Room N-2101, 200 Constitution Avenue N.W., Washington, D.C. 20210, and shall retain one copy. Each party or party in interest shall file a notice of intent to participate with the Office of the Chief Administrative Law Judge upon such terms as the

Administrative Law Judge assigned the case shall order.

(h) *Automatic participation.* The Grant Officer shall be a party to all proceedings. Attorneys employed by the Solicitor of Labor shall represent the Grant Officer.

(i) *Discretionary hearing.* Whenever not otherwise eligible for a hearing, an opportunity for a hearing may also be extended when the Assistant Secretary determines that fairness and the effective operation of CETA programs would be furthered.

(j) *Emergency sanctions.* In emergency situations as determined by the Assistant Secretary, where it is necessary to protect the integrity of the funds, or insure the proper operation of the program the Assistant Secretary may immediately terminate or suspend a grantee's authority to obligate funds, in whole or in part and withdraw unexpended funds and make alternative temporary arrangements to carry out the grant program. Within 30 days after such termination or suspension the Assistant Secretary shall notify the grantee of the reason for the action and provide an opportunity to request a hearing (Sec. 106(e)).

§ 676.89 Rules of procedure.

(a) *Applicability of the Federal Rules of Civil Procedure.* On any procedural question not regulated by this subpart, the Act, or the Administrative Procedure Act, the Administrative Law Judge shall be guided to the extent practicable by any pertinent provisions of the Federal Rules of Civil Procedure, including the rules governing intervention.

(b) *Filing.* All papers after the request for hearing required to be served on a party shall be filed with the Administrative Law Judge either before service on the parties of record or within a reasonable time thereafter. The filing of papers with the Office of Administrative Law Judges, as required by these rules, shall be made by filing them with the clerk, except that the Administrative Law Judge may permit the papers to be filed, in which event he or she shall note thereon the filing date and forthwith transmit them to the Clerk.

(c) *Consolidated or joint hearings.* (1) In cases in which the same or related facts are asserted to constitute noncompliance with these regulations and the regulations of one or more other federal departments or agencies, the Administrative Law Judge may, by agreement with such other departments or agencies, provide for the conduct of consolidated or joint hearings conducted in accordance with these rules.

(2) Upon motion of any party, and for good cause shown, the Chief Administrative Law Judge may order the consolidation of hearings in which similar facts and legal issues are present.

(d) *Amicus curiae.* A brief of an amicus curiae may be filed only if accompanied by written consent of all parties, or by leave of the Administrative Law Judge granted upon motion, or on the request of the Administrative Law Judge, except that consent or leave shall not be required when the brief is presented by an officer or agency of the United States, or by a state, territory or commonwealth. The amicus curiae shall not participate in the conduct of the hearing, including the presentation of evidence and the examination of witnesses.

(e) *Discovery.* The provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Courts, Title V, 28 U.S.C., Rules 26 through 37, may be made applicable in any proceeding conducted under these regulations to the extent that the Administrative Law Judge concludes upon application that their use would contribute to the just, speedy, and inexpensive determination of the proceeding. A subpoena necessary to secure the attendance of a witness at a deposition (including the production of documents or things) shall be obtained and issued as provided in section 676.89(a) of these regulations.

(f) *Prehearing procedures.* (1) *Prehearing conference.* Prehearing conferences may be scheduled by the Administrative Law Judge upon reasonable notice in advance of the hearing in order to permit time in which to complete any prehearing stipulation. The purpose of this conference is to make a good faith effort to:

- (i) Discuss the possibility of settlement;
- (ii) Stipulate to as many facts or issues as possible;
- (iii) Examine all exhibits or documents and other items of tangible evidence to be offered by any party at the hearing;
- (iv) Exchange the names and addresses of all witnesses; and
- (v) Prepare a prehearing stipulation.

(2) *Prehearing agreement.* (i) Alternatively, the Administrative Law Judge may enter an order requiring the parties to prepare a proposed prehearing order setting forth the issues to be heard, the stipulated and disputed facts, the anticipated witnesses and evidence to be presented, and any other matter deemed appropriate.

(ii) The Administrative Law Judge shall make an order which recites the action taken at the conference, or pursuant to any prehearing agreement, which limits the issues to those not disposed of by admissions or agreements. The order, when entered, shall control the subsequent course of the proceeding, unless modified to prevent manifest injustice.

§ 676.89 Hearings.

(a) *Time and place.* Hearings shall be held at a time and place ordered by the Administrative Law Judge upon reasonable notice to the parties. Due regard shall be given to the convenience of the parties and the witnesses in selecting a place for the hearing. Subpoenas necessary to secure the attendance of witnesses and the production of documents or things shall be obtained from the Office of the Administrative Law Judges and shall be issued pursuant to the authority contained in section 133(a)(3) of the Act incorporating 15 U.S.C. § 49.

(b) *Burden of proof.* The party requesting the hearing shall have the burden of establishing the facts and the entitlement to the relief requested.

(c) *Evidence.* Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties. A transcript shall be made of the oral evidence presented at the hearing. Copies of all exhibits introduced at the hearing and of stipulations of the parties shall be maintained as part of the record. All decisions shall be based upon the hearing record and written findings shall be made.

(d) *Amendments to conform to the evidence.* When issues not raised by the request for hearing, prehearing stipulation or prehearing order are tried by express or implied consent of the parties, they shall be treated in all respect as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made on motion of any party at any time; but failure to so amend does not affect the

result of the hearing of these issues. The Administrative Law Judge may grant a continuance to enable the objecting party to meet such evidence.

(e) *Non-appearance of parties.* If a party fails to appear at a hearing the Administrative Law Judge may hear the cause on behalf of the remaining parties, or may decide the cause on the briefs or dismiss the cause.

(f) *Record for decision.* The transcript of testimony, exhibits and all papers and requests filed in the proceedings including rulings and any proposed findings of fact and conclusions of law, shall constitute the exclusive record for decision.

§ 676.90 Post-hearing procedures.

(a) *Post-hearing briefs; findings and conclusions.* The Administrative Law Judge shall fix the time for filing post hearing briefs, which may contain proposed findings of fact and conclusions of law and, if permitted, reply briefs. Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

(b) *Decision.* After the time for submission of post-hearing briefs has expired, the Administrative Law Judge shall render a decision adjudicating the cause. A copy of the decision shall be served upon all parties and each amicus curiae, if any.

(c) *Contents of decisions.* The decision of the Administrative Law Judge shall state the factual and legal bases for the decision and shall state the relief to be ordered. The Administrative Law Judge shall have the full authority of the Secretary in ordering relief, including direct action against the subrecipients as authorized by § 106(d)(1) of the Act. Orders for relief may provide for suspension or termination of, or refusal to grant or continue federal financial assistance in whole or in part, and may contain such terms, corrective action, conditions, sanctions (including awards of back pay), reallocations, and other provisions as are consistent with and will effectuate the purposes of the Act and regulations issued thereunder, including provisions designed to insure that no federal financial assistance will thereafter be extended under such program unless and until the prime sponsor, recipient or subrecipient corrects its noncompliance and makes satisfactory assurance that it will fully comply with the Act and regulations.

(d) *Adjustments in payments.* When after a hearing pursuant to this subpart it appears that program funds have been

expended in violation of the Act, the regulations, grant, or other agreements under the Act, the Administrative Law Judge may direct, in order to prevent further unauthorized expenditures, that unexpended funds be returned or that funds otherwise payable under the Act be withheld in order to recover any amount expended for unauthorized purposes in any fiscal year. When such action is taken the recipient shall neither reduce program operations, nor reduce compensation to any participant, or otherwise expend less than those sums called for in the grant. Any such reduction in expenditures may be deemed sufficient cause for emergency termination (sec. 106(g)).

(e) *Termination of grant.* When the final decision terminates the grant in whole or in part after hearing pursuant to this subpart, the final decision shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of this notice, the recipient shall:

(1) Discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant.

(2) Promptly cancel all subgrants, agreements and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant.

(3) Settle, with the approval of the Secretary, all outstanding claims arising from such termination.

(4) Submit, within a reasonable period of time, after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant.

(f) *Final decision.* The decision of the Administrative Law Judge shall become the final decision of the Secretary unless the Secretary modifies or vacates the decision within 30 days after it is served.

(g) *Alternative provision of services.* If the final decision specifies suspension or termination of the grant the Grant Officer shall determine how services shall be maintained in the recipients area. As part of the determination, the Grant Officer shall determine whether any funds shall be reallocated to the state or to another recipient to serve the area formerly served by the terminated or suspended recipient. The Grant Officer may also consider the desirability of providing direct federal services to the area through appropriate means (sec. 102).

§ 676.91 Final action; judicial review.

(a) *Final action.* The final decision of the Secretary constitutes final action within the meaning of the Act and the Administrative Procedure Act, 5 U.S.C. § 704.

(b) *Judicial review.* Judicial review of final action shall be in accordance with section 107 of the Act.

§ 676.92 Other authority.

Nothing contained in this subpart shall be deemed to prejudice the separate authority of other law enforcement officials to pursue remedies and sanctions available outside the Act. Nothing in this subpart shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients.

PART 677—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Authority: Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., P.L. 95-524 92 Stat. 1907), unless otherwise noted.

Subpart A—General Provisions

§ 677.1 Purpose.

It is the purpose of this Part to provide employment and training to ease barriers to labor force participation encountered by economically disadvantaged persons, to enable such persons to secure and retain employment at their maximum capacity, and to increase their earned income.

§ 677.2 Employability development plan.

(a) Prime sponsors shall assess each participant in accordance with § 675.6. Based on the assessment, the prime sponsor, in conjunction with each participant, shall develop an Employability Development Plan identifying the available services and activities for the participant.

(b) In establishing such a plan, the prime sponsor shall consider the participant's skills, interest and career objectives, and barriers to employment or occupational advancement faced by the participant (sec. 205(a)).

(c) The Employability Development Plan shall include, but need not be limited to, the following (sec. 205):

- (1) Assessment data showing the participant's employability readiness;
- (2) Barriers to employment faced by the participant;
- (3) Specific employment and training needs;
- (4) Specific services and activities to be developed and provided to meet those needs; and
- (5) An individualized plan for transition from program activities to placement in unsubsidized employment.

(d) A copy of the plan shall be retained in the permanent record, and a copy given to the participant.

(e) The Employability Development Plan (EDP) shall be reviewed periodically throughout the duration of participation, and revised accordingly (sec. 205(b)). When developing EDPs for participants who receive assistance from other agents or programs which require similar assessments, such as

WIN, the plan development should be coordinated with such programs.

§ 677.3 Agreements with State or local educational agencies or institutions of higher education.

(a) The prime sponsor shall enter into nonfinancial or financial agreements with State or local educational agencies or institutions of higher education for the provision of employment and training programs. Such programs shall be designed to prepare individuals for employment. Local educational agencies and institutions of higher education in the area shall be notified by the prime sponsor of the opportunity to enter into such agreements. Specific arrangements for entering into such agreements shall be provided to those which express an interest, and the procedures in (e) shall apply to such agencies (sec. 203(a)).

(b) In the development of the agreement, the prime sponsor shall carefully examine educational resources, consider use of services available at no cost and, where appropriate, procedures for coordination with local educational agencies or institutions of higher education.

(c) Such programs may consist of:

- (1) Vocational training;
- (2) Instruction in basic cognitive skills;
- (3) Employment of persons in schools controlled by such agencies or institutions of higher education; and
- (4) Other employment and training activities (sec. 203(c)(1)).

(d) Each agreement shall contain provisions to assure that funds will not supplant State or local funds expended for the same purpose (sec. 203(c)(2)).

(e) If a prime sponsor is unable to reach an agreement with the local educational agencies or institutions of higher education, or if the agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, they may request the RA to review such arrangements. The RA shall try to resolve the dispute by conciliation within 90 days but may not arbitrate the dispute without first offering the parties a hearing (sec. 203(c)(3)).

Subpart B—Training Activities for the Economically Disadvantaged

§ 677.11 Purpose.

This subpart contains the regulations for comprehensive employment and training programs and services authorized under Title II, Part B of the Act. These regulations also implement the administrative provisions found in sections 201 through 216 of the Act.

§ 677.12 Participant eligibility.

Eligibility requirements governing this program may be found in § 675.5-2.

§ 677.13 Activities and services.

(a) Activities and services which may be undertaken are:

(1) Those described in § 676.25, except PSE.

(2) Any programs or activities authorized by Part A of Title III, Title IV and Title VII of the Act with prior approval of the RA (sec. 211(14)).

(b) Examples of programs and activities which may be undertaken within the four categories of allowable activities and services (classroom training, OJT, work experience and services to participants), which may be appropriate for Title II B include:

(1) Job search assistance as described in § 676.25-5(b)(5) (sec. 211(1));

(2) Supported work programs as described in § 676.25-4(c) (sec. 211(3));

(3) Training leading to self-employment in small business (sec. 211(5));

(4) Development of labor market information;

(5) Activities such as job restructuring (sec. 211(1));

(6) Part-time, flexi-time, and other alternative work arrangements for individuals who, because of age, handicap, or other factors are unable to work full-time (sec. 211(1));

(7) Post-termination services to individual to enable them to retain employment such as post-placement follow-up, counseling, and supportive services which shall not exceed 30 days (sec. 211(8)).

(c) *Youth.* (1) Activities and services for youth shall be designed to assist them in overcoming barriers to employment. Such barriers include: lack of basic educational or vocational skills; insufficient preparation for labor force participation; inability to find or successfully apply for employment; financial barriers to labor force participation; and lack of appropriate job opportunities including job opportunities offering alternative working arrangements (sec. 214(a)).

(2) Prime sponsors shall coordinate activities with those under Part A of Title IV of this Act, and have plans reviewed by the youth council. To the maximum extent feasible, programs similar to those authorized in Title IV, Part A, Subpart 3, except for public service employment will be utilized to serve youth under this Part (sec. 214(b)).

(3) Prime sponsors are not to reduce the level of services for youth under their Title II subpart. All Title II subparts must provide for a level and

general mix of services to youth which continues without reduction the level of service to youth provided during the operation of their fiscal year 1977 Title I grant (secs. 421 and 431).

(d) *Older Workers.* (1) Activities and services for older workers shall be designed to assist them in overcoming the particular barriers to employment experienced by older workers, including: skills that are obsolete or no longer needed in the community; physical characteristics associated with aging; employer reluctance to hire older workers; financial barriers to labor force participation; and the lack of appropriate job opportunities, including job opportunities offering alternative working arrangements (sec. 215(a)).

(2) Prime sponsors shall use activities described in Section 308 of the Act (projects for Middle-Aged and Older Workers) and coordinate activities under this Part with programs and services provided by senior centers, area agencies on aging, and State agencies on aging (as designated under the Older Americans Act 42 USC S3001 note). (sec. 215(b)).

(e) *Public Assistance Recipients.* (1) Activities and services for public assistance recipients shall be designed to assist them in overcoming the particular barriers to employment experienced by such recipients, including: lack of basic education or vocational skills; insufficient preparation for adapting to labor force participation; inability to find or successfully apply for employment; inability to obtain satisfactory child care; and inability to obtain transportation to employment opportunities; inability to obtain proper needed services; and lack of appropriate job opportunities including job opportunities offering alternative work arrangements (sec. 216(a)); or successfully apply for employment; inability to obtain satisfactory child care; and lack of appropriate job opportunities (sec. 216(a)).

(2) Prime sponsors shall coordinate services with other programs under the Act, Work Incentive Program (WIN), and services provided by State and local public assistance agencies (sec. 216(b)).

(3) Prime sponsors and WIN sponsors should particularly coordinate in the following areas: Overall planning; eligibility determination/intake; client employability planning; and mutual referral mechanisms.

§ 677.14 Allocation of funds.

Allocations shall be provided to States and prime sponsors pursuant to section 202 of the Act (section 202).

§ 677.15 Annual plan subpart.

(a) *General.* To receive financial assistance under Parts B and C of Title II, a prime sponsor shall submit the following information, which will become part of the Annual Plan described in § 676.11. This Subpart shall consist of a Narrative Description, Program Planning Summary, and Budget Information Summary specific to Parts B and C of Title II.

(b) The Narrative Description shall include: (1) *Objectives and needs for assistance.* (i) Identify those groups that have been determined for priority of service and most in need.

(ii) A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided for these significant segments in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and Benefits.* Provide a statement on:

(i) Specific quantified performance and placement goals, by program activity;

(ii) Any performance and placement goals, with respect to groups designated to be served (sec. 103(b)(4));

(iii) Explain any variation between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4); and

(iv) Any non-quantifiable goals or outcomes.

(3) *Approach.* (i) Program Activities and Services.

(A) A description of the program activities and services to be provided including a description of how the proposed work experience activities conform to the program requirements for work experience as distinct from PSE.

(B) A description of the circumstances that warrant a waiver of the work experience limitations set forth in § 676.30(g)(2), if appropriate.

(C) A description of upgrading or retraining activities including the prime sponsor's system for determining eligibility for participation, the criteria used for selection of occupations and employers, and the length of the training period (sec. 221 (a) and (b)).

(ii) A description of arrangements to ensure that funds under Subparts 2 and 3 of Part A Title IV of the Act will not be used to replace opportunities available for eligible youth under Title II (secs. 421 and 431).

(iii) A list of the selected service deliverers (summary of recipients and contractors) and the services or facilities to be provided by each. (sec. 103(b)(7)).

(c) The prime sponsor shall attach a Program Planning Summary (PPS) which reflects the goals, objectives and activities for the program year.

(d)(1) The prime sponsor shall attach a Budget Information Summary (BIS) containing the proposed budget for programs under Parts A, B, and C of Title II.

(2) If any item of capital equipment which individually costs more than \$1,000 is to be purchased, a list, including quantity and prices of items, must be provided.

(3) If administrative costs are planned to exceed 20% of the funds allocated, adequate justification must be provided.

§ 677.16 Administrative limitations.

(a) Prime sponsors shall not use funds allocated under Title II-B of the Act for public service employment (sec. 212(a)).

(b) Not more than 6.5 percent of each prime sponsor's allocation may be used for programs and activities under Subpart C (Upgrading and Retraining) of this Part (sec. 203(b)).

(c)(1) At least 80 percent of the funds allocated to a prime sponsor shall be expended for wages, fringe benefits, allowances, training, and services to participants enrolled under Subparts B and C of this Part.

(2) The remaining funds may be used for administrative costs incurred by the prime sponsor, and its subrecipients and contractors.

(3) The RA may waive the limitations on expenditures in (1) and (2) above when adequate justification is provided in the Annual Plan Subpart.

Subpart C—Upgrading and Retraining

§ 677.21 Purpose.

This part contains the regulations for upgrading and retraining services, under Title II, Part C of the Act. Upgrading and retraining programs offer additional opportunities to those groups, particularly minorities and women, who are frequently locked into low-paying, dead-end jobs.

§ 677.22 Participant eligibility.

Eligibility requirements governing these programs are found in § 675.5-3.

§ 677.23 Activities and services.

(a) Classroom training and on-the-job training are the only allowable program activities for upgrading and retraining programs. Supportive and employment and training services are the only allowable services to participants (sec.

221(a)). These activities and services are to be conducted in accordance with the requirements contained in § 676.25, except as noted in this Section.

(b)(1) Prime sponsors may conduct retraining programs directly or through public and private employers or other organizations and agencies.

(2) Prime sponsors may conduct upgrading programs for their own employees or through written agreements with public and private employers who in turn may conduct upgrading training through other organizations.

(c) Prime sponsors should coordinate upgrading and retraining programs with Private Industry Councils, particularly in developing and conducting upgrading and retraining programs.

(d) Upgrading Programs. (1) The positions for which participants are being upgraded shall be those:

(i) Which would not otherwise have been available to entry-level employees;

(ii) Which provide opportunities in highly skilled jobs or for upward mobility beyond the occupation for which training is provided; and

(iii) For which adequately trained personnel are not currently available within the employing organization (sec. 221(a)(1)).

(2) The education and skill content of upgrading programs shall provide participants with qualifications for positions of greater skill, responsibility, remuneration or career advancement in the employer's own enterprise (sec. 221(3)).

(3)(i) The upgrading program must clearly qualify trainees to work at a particular occupation, identified prior to the start of training.

(ii) The training period shall be consistent with periods customarily required for comparable training (sec. 221(a)(4)).

(4) The prime sponsor shall make every effort to ensure that participants receive, upon completion, placement in the occupation for which training was provided, and at not less than the prevailing wage rate for the occupation (sec. 221(a)(8)).

(5) Prime sponsors shall give first consideration to those employers who indicate that, for every employee to receive upgrading, at least one new individual is to be hired into unsubsidized employment at the entry level:

(i) Under this agreement, the filling of the unsubsidized, vacated or lower-level job should occur by or before the time the participant completes training; and

(ii) Employers shall hire from the prime sponsor's pool of eligible

applicants or from those individuals currently enrolled in activities funded under any of the Titles.

(e) Retraining Programs. (1) Retraining programs must teach participants new skills distinct from those possessed upon entering the program, and shall be for those occupations in which skill shortages exist (sec. 221(b)(3)).

(2) The skill training shall be for those occupations which provide a reasonable expectation of continued employment (sec. 221(b)(3)).

(3)(i) Programs are to be operated only if there is a prior commitment from an employer to hire the participant into the position for which the participant has been retrained (sec. 221(b)(3)).

(ii) Where an individual's current employer expresses no interest in retraining programs, the individual may seek retraining services elsewhere in anticipation of securing employment with another employer.

§ 677.24 Agreements with employers.

Prime sponsors shall enter into a written agreement with any employer whose employees are to receive upgrading or with the providers of retraining services prior to the start of the program. This agreement shall suffice in fulfilling the requirements of § 676.25-2 with respect to OJT agreements. A separate OJT agreement need not be executed. The agreement shall include:

(a) Identification of parties and a signatory page;

(b) Identification of providers(s) of classroom training or services to participants if to be provided by other than the employer;

(c) Training outline:

(1) Criteria for successful completion of the program;

(2) Occupation and wage rate of participant prior to training;

(3) Identified occupation and wage rate upon completion of training;

(4) Identified skills of participant prior to and completion of training;

(d) Methodology and maximum amount of reimbursement;

(e) Reporting requirements.

Subpart D—Special Grants to Governors

§ 677.31 Purpose.

(a) This Subpart contains the regulations for programs to be operated under the Special Grant to Governors which are authorized in Section 202(b)(c)(d) and (e) of the Act. These programs address issues of employment and training which are generally beyond the scope of local prime sponsor

programs. These regulations also implement the administrative provisions found in sections 105, 110, and 204 of the Act. The regulations found in Part 676 and Subpart (B) and (C) of this part also apply to programs under the Special Grants To Governors except as indicated in this Subpart.

(b) It is the purpose of the programs under the Special Grant to:

(1) Provide supplemental vocational education assistance in areas served by prime sponsors;

(2) Encourage coordination and establish linkages between prime sponsors and appropriate educational agencies and institutions;

(3) Conduct Governors' coordination and special services within the State; and

(4) Provide support to State employment and training councils.

§ 677.32 Allocation of funds.

(a) An amount equal to 6 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for supplemental vocational assistance in the State, as described in sec. 202(b) of the Act.

(b) An amount equal to 1 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for costs of the State Employment and Training Council provided for in sec. 202(c) of the Act.

(c) An amount equal to 1 percent of the funds available for Parts A, B, C, and D of Title II shall be made available to Governors for coordination and establishment of linkages with educational agencies as provided in sec. 202(d) of the Act.

(d) An amount equal to 4 percent of the funds available for Parts A, B, and C of Title II shall be made available to Governors for coordination and special services as provided for in sec. 202(e) of the Act.

§ 677.33 Grant application; annual plan.

(a)(1) Upon notification by the Secretary of the amount of funds available for a special grant to the State, the Governor shall submit a Special Grant Annual Plan to the RA. Copies of all forms and instructions are contained in the *Forms Preparation Handbook*.

(2) The Governor shall comply with the comment and publication requirements specified in § 676.12(a), (b) and (d).

(3) In addition, the Governor shall 45 days prior to submission of the plan to the RA, provide (sec. 104(a)):

(i) A summary of the Special Grant Annual Plan to each prime sponsor in the State and to units of general local

government within the Balance of State with a population of at least 25,000;

(ii) A summary of the Special Grant Annual Plan to appropriate Native American program sponsors and to appropriate labor organizations, and

(iii) A description of any programs to be funded within a prime sponsor's area with State coordination and special services funds to the prime sponsor in whose jurisdiction the program is to be funded.

(b) The Governor shall develop a separate Master Plan for the Special Grant as described in § 676.10, as applicable.

(c) The Special Grant Annual Plan shall contain the following: (1) Application for Federal Assistance, Standard Form 424.

(2) Special Grant Program Planning Summary specifying the number of participants to be served by vocational education projects and State Coordination and Special Services and educational linkages.

(3) Special Grant Budget Information Summary specifying funding of vocational education projects, State Employment and Training Councils, State Coordination and Special Services, activities or projects, and activities for establishing linkages and services between prime sponsors and educational agencies.

(4) Special Grant Program Narrative as set forth in (d) below.

(d) The Special Grant Program Narrative shall consist of:

(1) Vocational Education Services Program Narrative

(i) A description of the manner in which the Governor will allocate funds to prime sponsor areas and the rationale for the method used;

(ii) A description of the arrangements for conducting the vocational education programs and activities through the State Board for Vocational Education, and for ensuring the accountability of the State Board to the Governor for these funds;

(iii) A description of the statewide activities, training or services that will be developed including, but not limited to:

(A) The utilization of funds under this Act and the Vocational Education Act, as amended, to enhance economic growth and development in the State (sec. 204(c)(2)(B));

(B) The extent to which information, curriculum materials, and technical assistance in curriculum and staff development will be provided to prime sponsors by State Vocational Education agencies (sec. 204(c)(2)(E)).

(iv) A description of the activities and services provided to, or with, prime sponsors for the prime sponsor areas, including:

(A) How such funds are to be used to coordinate programs under this Act with existing vocational education programs (sec. 204(c)(2)(A));

(B) How linkages between vocational education, education, and training programs under this Act and private sector employers will be developed (sec. 204(c)(2)(C));

(C) How technical assistance will be provided to local vocational education and educational institutions to aid them in making cooperative arrangements with prime sponsors 204(c)(2)(D)).

(v) An explanation of any nonfinancial agreements which have been negotiated between a prime sponsor and the State Vocational Education Board, including:

(A) The steps the Governor will use to ensure that agreement will be reached; and

(B) The process for mediating and resolving any disagreements over the provision of training or services under the nonfinancial agreements.

(2) *State Employment and Training Council Program Narrative*

(i) A list of groups represented on the council;

(ii) A description of the Council's responsibilities pursuant to § 677.36(e).

(3) *State Coordination and Special Services Program Narrative.*

A description of arrangements or planned activities for carrying out each of the activities provided for in § 677.37.

(4) *State Coordination and Establishment of Linkages Between Prime Sponsor and Educational Agencies and Institutions Program Narrative.* A description of arrangements for carrying out each of the activities provided for in § 677.38.

§ 677.34 Governor's distribution of vocational educational funds.

Upon notification of the funds available to the State for vocational education, the Governor shall inform in writing the State Vocational Education Board and each prime sponsor of the amount of funds available to be spent in each prime sponsor's area and the methodology used to determine that amount. If a prime sponsor elects not to use all or part of the funds available for its area, it shall notify the Governor, who shall redistribute the funds among other eligible prime sponsors.

§ 677.35 Nonfinancial agreement between prime sponsor and vocational education board.

(a)(1) Upon notification of the funds available for its area, the prime sponsor shall develop a non-financial agreement in conjunction with the Vocational Education Board, consisting of a statistical, and narrative plan for the expenditure of the funds from the Governor by the Vocational Education Board in the prime sponsor's area. (sec. 204(a)(1)).

(2) Prior to making any agreement with a prime sponsor, the State Vocational Education Board shall consult with, and obtain, the written advice of the State agencies' committee involved in the formulation of the plan for vocational education required by Section 197(a)(1) of the Vocational Education Act, as amended. (sec. 204(a)(2)).

(b) The nonfinancial agreement shall consist of: (1) Prime sponsor's vocational education nonfinancial agreement signature sheet;

(2) Part I of the Special Grant Annual Plan Program Planning Summary;

(3) Appropriate columns of the Special Grant Annual Plan's Budget Information Summary; and

(4) Vocational education program narrative, including the identification of the potential recipient(s) of the funds for program administration.

(c) After the agreement is signed, a copy shall be sent by the Vocational Education Board to the Governor for review and approval.

(d) The Governor shall develop procedures for modifying the nonfinancial agreement.

(e) The Governor shall ensure that the Vocational Education Board provides services consistent with the Governor's Special Grant plan for vocational education services and the nonfinancial agreements.

(f) If, within 90 days after the notification of available funds for the area, the prime sponsor and the Board are unable to reach an agreement, the Governor shall mediate the dispute, so that the local vocational needs of the prime sponsor's area are met. If mediation by the Governor does not result in a solution acceptable to both parties within 120 days after the notification of available funds, the RA shall arbitrate the dispute.

§ 677.36 State Employment and Training Council.

(a) The Governor shall establish a State Employment and Training Council (SETC) which except as provided by paragraph (g) of this section shall be in

addition to the Balance of State planning council, and representative of the geographic area to be served. The SETC function is advisory and does not relieve the State of its final decisionmaking responsibilities under the Act.

(b) The Governor shall appoint Council members, as follows:

(1) At least one quarter of the membership of the Council shall be representatives of units or combinations of units of general local government, including those which are prime sponsors, who have been nominated by their chief executive officers (sec. 110(a)(3)(A)).

(2) One quarter of the membership of the council shall be representatives from organized labor, business and agricultural employers and workers (sec. 110(a)(3)(B)).

(3) One quarter of the council shall be representatives of the eligible population to be served under the Act and of the general public. At least one half of such representatives should be economically disadvantaged at the time of appointment. (sec. 110(a)(3)(c)).

(4) Not more than one quarter of the council shall be representatives of service deliverers, including:

(i) One representative from each of the following: the State Public Employment Service; the State Advisory Council on Vocational Education; the State Board of Vocational Education; the State public assistance agency; any State agency which the Governor believes has an interest in employment and training and human resource utilization within the State.

(ii) Representatives of community-based organizations, veterans organizations, and organizations representative of handicapped individuals (sec. 110(a)(3)(d)).

(c) The Governor shall provide the Council with professional, technical, and clerical staff, and other necessary support services (sec. 110(a)(2)).

(d) The Governor shall appoint someone other than an elected official, appointed official or employee of the State as chairperson of the Council. The Council shall meet as it deems necessary, but not less than five times annually. All meetings shall be announced in advance, and shall be open and accessible to the general public (sec. 110(a)(2)(B)(4)).

(e) Funds not needed for the State Employment and Training Council may be used for State coordination and special services. (sec. 202(c)).

(f) The Council shall: (i) Review continuously the operation of programs conducted by prime sponsors in the

State and the availability, responsiveness, and adequacy of State services provided by all employment-related agencies. The reviews conducted by SETC's shall include an emphasis upon the following: statewide and inter-prime sponsor issues of utilization and coordination; employment and training resources of State agencies, and the coordination of plans and operations in contiguous areas. The review procedures must be publicized to all prime sponsors and affected State agencies prior to being implemented;

(ii) Submit a public Annual Report to the Governor no later than February of each year, with copies to the State Advisory Council on Vocational Education and the RA, and issue such other studies, reports or documents to the Governor and prime sponsors as the SETC believes necessary to effectively carry out the Act. The Annual Report shall analyze the coordination of employment and training programs during the previous fiscal year, and recommend improvements. It shall also describe any special programs or linkages.

(iii) Consult with the State Advisory Council on Vocational Education to identify employment, training, and vocational education needs of the State and to assess the extent of coordination among employment and training, vocational education, vocational rehabilitation, public assistance and other such programs.

(iv) Comment at least once annually on the reports of the State Advisory Council on Vocational Education which shall incorporate such comments in the annual report it submits pursuant to Section 105 of the Vocational Education Act, as amended.

(v) Review proposed CETP and modifications of prime sponsors, and comment thereon, particularly with respect to non-utilization or duplication of existing services.

(vi) Review plans of State agencies providing employment, training and related services. Provide comments and recommendations to the Governor, appropriate State agencies, prime sponsors, the general public and the appropriate Federal agencies on the relevancy and effectiveness of employment, training and related service delivery systems in the State and on means of improving effectiveness.

(vii) Participate in the development of the Governor's coordination and special services plan.

(viii) No later than May 15, to the maximum extent feasible, the council shall share with prime sponsors

information on economic development, vocational rehabilitation, SESA activities, occupational demands and labor market demands.

(g) *Combined planning and services councils.* In any State where the State is the only prime sponsor, the prime sponsor planning council may also serve as the State Employment and Training Council. In such instances, the membership of the prime sponsor's planning council shall reflect the membership requirements of the State Employment and Training Council, in addition to meeting the membership requirements of a prime sponsor planning council, except that paragraph (b)(1) of this section is not applicable.

§ 677.37 Governor's coordination and special services.

(a) Funds provided under § 677.32(d) of these regulations shall be used for the following activities (sec. 105(b)):

(1) Coordination of all employment, training, education and related services provided by the State, by prime sponsors, by State education agencies and other appropriate institutions of vocational and higher education, by State and local public assistance agencies, by apprenticeship programs and by other providers of such services (sec. 105(b)(1));

(2) Coordination of programs financed under the Wagner-Peyser Act, 29 USC § 49 *et seq.* and this Act, including assisting in the negotiation of any agreement (including partnership arrangements described in section 307) between prime sponsors and State employment security agencies (sec. 105(b)(2));

(3) Minimizing the duplication of services (sec. 105(b)(3));

(4) Assistance to the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service agencies and to take affirmative action, on behalf of veterans as required in Section 2012(a) of Title 38, United States Code (sec. 105(b)(4));

(5) Promotion of prime sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, vocational rehabilitation, and social services (sec. 105(b)(5));

(6) Exchange of information between States and prime sponsors with respect to State, interstate and regional planning for economic development, human

resources development, education and other subjects relevant to employment and training planning (sec. 105(b)(6));

(7) Development and provision to prime sponsors of information on a State and local area basis regarding economic, industrial and labor market conditions (sec. 105(b)(7));

(8) Provision to prime sponsors, upon request, of appropriate information and technical assistance to assist them in developing and implementing their programs (sec. 105(b)(8));

(9) Conduct of special model training and employment programs and related services which may include programs for offenders (sec. 105(b)(9));

(10) Provision of financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas (sec. 105(b)(11));

(11) Provision of labor market and occupational information to prime sponsors and appropriate educational agencies and institutions without reimbursement (sec. 105(b)(11));

(12) Facilitating and fostering the activities of the State Occupational Information Coordination Committee established with special emphasis on the systematic use of occupational information for prime sponsor planning as well as assisting and encouraging the development and use of career outlook information for individuals who are receiving rehabilitation services, students in local schools and individuals using the services of prime sponsors and local offices of State employment security agencies (sec. 105(b)(11));

(13) Assistance or support to State or local activities under the Targeted Jobs Tax Credit program.

(b) Funds may be used for additional support of the State Employment and Training Council, if explained in the Special Grant Annual Plan.

(c) When using funds provided under § 677.32(d) for employment and training activities the appropriate requirements of § 676.25 (Employment and Training Activities) apply.

(d) PSE may be funded with funds provided under § 677.32(d) only as a model or demonstration program with the approval of the RA.

§ 677.38 Coordination and establishment of linkages with Education agencies.

(a) Funds provided under § 677.32(c) shall be available for encouraging coordination and establishing linkages between prime sponsors and appropriate educational agencies and institutions, and institutions providing training programs approved by the Secretary such as apprenticeship

programs. Funds may be used for activities such as:

(1) Providing assistance to prime sponsors or education institutions in the development of agreements between prime sponsors and State Boards of Vocational Education and State or local educational agencies or institutions of higher education (sec. 203(c), sec. 433(d)(2), and sec. 436(c));

(2) Establishing mechanisms to increase information exchange between prime sponsors and educational agencies and institutions;

(3) Developing and disseminating models of linkages which can be shared with all prime sponsors in the State;

(4) Providing technical assistance to prime sponsors and educational agencies in the extension of educational offerings to prime sponsor jurisdictions which lack access to various education opportunities;

(5) Providing information, curriculum materials and technical assistance in curriculum development and staff development to prime sponsors;

(6) Providing assistance in development of systems for assessment and testing of the educational attainment of participants in prime sponsor programs;

(7) Providing assistance to eliminate barriers in the educational system which hamper employment and training activities, such as development of open entry/open exit courses and academic credit for CETA training.

(b) Funds for services to eligible participants shall be used for the purposes of encouraging and supporting training activities which are jointly delivered by employment and training agencies and appropriate educational agencies and institutions, including apprenticeship programs or hometown plans. Funds may be used to:

(1) Expand the size of jointly delivered programs;

(2) Enhance training and services available to participants in jointly delivered programs;

(3) Assist in the planning, development and evaluation of jointly delivered programs.

§ 677.39 Vocational education activities.

(a) The Governor shall provide vocational education funds received by special grant to the State Vocational Education board as described in § 677.34 of this Subpart D and approve the plans for expenditure of those funds.

(b)(1) The State Vocational Education Board representatives will provide the training and services detailed in a nonfinancial agreement with the prime

sponsor as described in § 677.35 of this Subpart D.

(2) If no Vocational Education Board exists within a State, the Governor may provide financial assistance to an alternate agency which serves the same purpose as a State Vocational Education Board. If the Vocational Education Board refuses to participate in this program the Governor shall make alternative arrangements to provide these services.

(c) Vocational education services which may be provided by a State Vocational Education Board include, but are not limited to, basic or general education, educational programs conducted for offenders, institutional training, and supportive services. Vocational education funds may be used for the payment of allowances to participants in vocational education training and for administrative costs incurred for the vocational education programs funded under the Act.

(d) When funds for vocational education services are used for the payment of allowances to participants, the method of payment utilized must be that of the prime sponsor whose participants are receiving such allowances.

(1) Where the prime sponsor has an established delivery system for the payment of allowances pursuant to § 676.26 (Compensation for participants), the State Vocational Education Board shall utilize the agency or agencies administering that system.

(2) Where the prime sponsor has no allowances payment delivery system, the method of payments shall be developed between the prime sponsor and the State Vocational Education Board subject to the requirements of § 676.26.

(e) For funds for vocational education assistance, not less than 85 percent shall be used for providing vocational education services to prime sponsor's participants in programs under the Act.

(1) Of this amount, not more than 20 percent of the funds used for such education and services may be used for administration.

(2) At least fifty percent of the vocational education funds allocated to administration shall be made available to local prime sponsor areas unless adequate justification for not doing so is provided to the RA by the Governor.

(f) Subject to the limitations specified in § 676.40 (Allowable costs under CETA), and § 677.39 (e)(1) above, the remaining funds may also be used by the Vocational Education Board for the following activities:

(1) To coordinate programs under this Act with existing vocational education programs;

(2) To coordinate the utilization of funds under this Act with the Vocational Education Act, as amended, to enhance economic growth and development in the State;

(3) To develop linkages between vocational education and training programs under this Act with private sector employers;

(4) To provide technical assistance to vocational education agencies to aid them in making cooperative arrangements with appropriate prime sponsors;

(5) To provide information, curriculum materials and technical assistance in curriculum development and staff development to prime sponsors.

(g) Of the total amount provided for vocational education assistance, the Governor may retain only the nominal amount of administrative funds necessary to carry out his or her responsibilities to provide for passing the funds through to the Vocational Education Board.

§ 677.40 Funding; grant administration.

(a) Funding. Special grants to Governors will be funded in the same way as grants to prime sponsors under this Part.

(b) Grant Administration. The requirements related to grant administration contained in Part 676 are applicable to special grants to Governors, except as provided in this Subpart. Requirements pursuant to § 676.75-2 also apply. The overall 20 percent limitation on funds used for administration as set out in § 676.40 shall not apply to the special grant, except as specified in sec. 677.39(e) and (f).

§ 677.41 Reporting.

(a) Financial and statistical reports, as described in the *Forms Preparation Handbook*, shall be submitted quarterly. In addition, an end of year narrative report will be submitted which describes achievement during the year.

(b) The following financial and statistical reports are required:

(1) A Special Grant Program Status Summary;

(2) A Special Grant Financial Status Report; and

(3) A Quarterly Summary of Participant Characteristics (QSPC). The QSPC shall be required only for participants where the State coordination and special services or

educational linkages funds are utilized to fund training and employment opportunities. A QSPC shall not be required for vocational education services since all participants will be involved in a prime sponsor program and will be reported through regular quarterly reports.

(c) The Governor shall supply to each prime sponsor to which vocational education services are provided, a Special Grant Program Status Summary and a Special Grant Financial Status Report for funds expended in the prime sponsor's area and shall submit a summary Special Grant Program Status Summary and a Special Grant Financial Status Report to the RA.

(d) Each of the three reports in (b) above shall be submitted to the RA no later than 30 days after the end of the reporting period. The narrative report required under paragraph (a) shall be submitted no later than 30 days after the end of the fiscal year. Instructions for completion of these reports are in the *Forms Preparation Handbook*.

§ 677.42 Coordination with prime sponsor.

(a) The financial and statistical information from the approved Nonfinancial Agreement Program Planning Summary and Budget Information Summary shall be entered into the relevant columns of the Governor's Special Grant Program Planning Summary and Budget Information Summary. If the Governor's Special Grant Annual Plan has been signed prior to final approval of the Vocational Education Agreement, a modified Special Grant Program Summary and Budget Information Summary shall be submitted.

(b) The prime sponsor shall provide on a quarterly basis to the State Vocational Education Board a list of the participants enrolled in classroom training under the nonfinancial agreement. The list shall include names, social security numbers, date of birth and Title under which enrolled. The State Vocational Education Board shall prepare the Vocational Education Program Status Summary and submit the report to the Governor for submittal to the RA.

(c) The prime sponsor need not report the participant or financial information in the Program activity section on the Program Status Summary or their Financial Status Report unless prime sponsor funds are also expended.

Subpart E—Transitional Employment Opportunities for the Economically Disadvantaged

§ 677.51 Purpose.

This Subpart contains the regulations governing prime sponsors for transitional employment opportunities for economically disadvantaged persons under Title II, Part D of the Act. This program provides public service employment only for unemployed, economically disadvantaged persons and provides related training and services to these individuals to enable them to move into employment or training not supported under the Act. This program targets resources to those structurally unemployed persons who lack the necessary skills and/or employment experience to enable them to successfully compete in the labor market. The program combines public service employment with other employment and training activities including employability counseling and job search assistance (sec. 231).

§ 677.52 Participant eligibility.

Eligibility requirements applicable to this Subpart may be found in § 675.5-5.

§ 677.53 Activities and services.

(a) Subject to the cost provisions of § 677.58, prime sponsors shall use funds for entry-level public service employment, including projects carried out by project applicants, or for activities authorized under § 677.13 (secs. 232(a)(1) and 234).

(b) Prime sponsors shall periodically assess each participant in relation to that participant's employability development plan to determine if the participant needs additional training or services (sec. 205(b)).

(c)(1) For those public service employment participants who are determined, on the basis of their employability development plans, to be in need of additional training and services, appropriate training and services shall be given such participants, when such training and services are available from the prime sponsor or other sources in the area (sec. 232(a)(2)).

(2) Training and services may be offered before, during, or after the public service employment to which they are related, in accordance with the participant's employability development plan.

(3)(i) For the purposes of meeting the requirements of § 677.58(a)(1)(ii), training shall be in the form of classroom training or individualized

instruction as described in § 676.25(a) which:

(A) Provides technical skills and information required to perform a specific job or group of jobs;

(B) Is designed to enhance the employability of the participant in terms of upgrading basic skills (e.g., remedial education); or

(C) Provides skills in job-search techniques.

(ii) Training shall not be in the form of on-the-job training.

(d) Training and services conducted by program agents shall be coordinated with those conducted by the prime sponsor.

(e) Prime sponsors should work with the Bureau of Apprenticeship and Training to develop public sector apprenticeship programs that provide training applicable to the private sector.

(f) In carrying out PSE activities, the provisions of § 676.73, relating to maintenance of effort, shall apply.

(g) Jobs shall be allocated among State and local public agencies and subdivisions thereof, such as educational agencies, within the prime sponsor's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies and the ratio of jobs in the area at each governmental level. The prime sponsor has the ultimate responsibility for determining the equitable distribution and for the selection, job structure, participant benefits, and all other aspects of the jobs funded under this Subpart.

(h) Where prime sponsors undertake public service employment in projects, the provisions of § 678.3(b), (c), and (d) shall apply.

§ 677.54 Eligibility for funds.

(a) Prime sponsors, designated under § 676.5, are eligible to receive funds under this Subpart.

(b)(1) A jurisdiction or a combination of jurisdictions desiring to become a program agent shall so notify the prime sponsor, in writing, no later than May 15, preceding the fiscal year in which such arrangement is to take effect. Prime sponsors shall subgrant to program agents those funds allocated to the prime sponsors for the use of those program agents (sec. 606(b)(1)).

(2) Program agents shall have administrative responsibility for developing, funding, overseeing, and monitoring programs within their areas, consistent with the comprehensive employment and training plan. The subgrant shall be jointly developed by

the prime sponsor and the program agent (sec. 606(b)(2)).

(3) If a program agent fails to comply with paragraph (b)(2) of this section, the prime sponsor, after review and concurrence of the RA, shall ensure compliance by such action as reallocating funds to an alternative program agent to serve the area, or serving the area itself.

(4) When two or more units of general local government attempt to qualify as program agents with respect to the same area, the designation provisions in § 676.5(b)(2) shall apply (sec. 606(b)(3)).

§ 677.55 Allocation of funds.

Funds shall be allocated by the Secretary in accordance with Section 233 of the Act.

§ 677.56 Annual plan subpart.

(a) *General.* To receive financial assistance under Part D of Title II of the Act, a prime sponsor shall submit the following information as the Annual Plan Subpart which will become part of its Annual Plan:

Narrative Description, Program Planning Summary, Budget Information Summary, Monthly Schedule, and PSE Occupational Summary.

(b) *Narrative Description.* The narrative description shall include:

(1) *Objectives and Needs for Assistance.* A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and Benefits.* The results and benefits expected including:

(i) Specific quantifiable performance and placement goals by program activity;

(ii) Performance and placement goals with respect to groups designated to be served (sec. 103(b)(4));

(iii) The relationship between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)); and

(iv) Non-quantifiable goals which the prime sponsor intends to achieve.

(3) *Approach.* The approach to be used in producing the expected results and benefits, including:

(i) Program activities and services to be provided, including a description of the arrangements for the provision of training and services that will assist

participants in obtaining unsubsidized employment;

(ii) How the prime sponsor will provide for an orderly transition from the number of jobs funded in the current fiscal year to the number of jobs that will be funded with the allocation for the next fiscal year (sec. 602(c));

(iii) The wages or salaries and fringe benefits for public service employment participants and a comparison of these with the wages or salaries and fringe benefits paid to persons in similar public occupations by the same employer; levels of employment not supported under the Act; layoffs, and hiring and promotional freezes in each employing agency (sec. 103(b)(10));

(iv) The methods to be used to ensure that, at the end of the fiscal year, the annual average wage rate does not exceed the area's required annual average wage rate, as described in § 676.26-1(c)(3);

(v) The methods to be used to determine wage rates if wage rates for comparable jobs have not been established; and

(vi) How the public service employment program is integrated with other programs under the Act.

(4) *Service Deliverers.* A list of the selected service deliverers and the services or facilities to be provided by each (summary of subrecipients and contractors).

(c) *Program Planning Summary (PPS).* A PPS reflecting the goals and activities for the program year.

(d) *Budget Information Summary (BIS).* A BIS containing the proposed budget and a list specifying the quantity and price of each piece of capital equipment exceeding \$1,000 to be purchased during the fiscal year.

(e) *Monthly Schedule.* A monthly schedule which contains an estimate of the total number of participants who will be enrolled in Title II, Part D programs at the end of each month and the total cumulative expenditures expected to have been incurred by the end of each month by the PSE and non-PSE programs.

(f) *Public Service Employment Occupational Summary.* A Public Service Employment Occupational Summary which includes a listing, by employing agency, of proposed public service employment positions and wages and a comparison of such wages with those paid persons in similar unsubsidized jobs.

§ 677.57 Wages and wage supplementation.

Wages paid to public service employment participants and the

supplementation of such wages shall be in accordance with § 676.26-1(c) (sec. 237).

§ 677.58 Special cost provisions.

(a)(1) Of the funds utilized by prime sponsors for project and non-project public service employment programs:

(i) Not more than 10 percent may be contributed to the administrative cost pool (sec. 232(b)(1));

(ii) Not less than the following percentages shall be used only for training for PSE participants:

(A) 10 percent of such funds available for expenditure after April 1, 1979;

(B) 15 percent of such funds for fiscal year 1980;

(C) 20 percent of such funds for fiscal year 1981;

(D) 22 percent of such funds for fiscal year 1982 (sec. 232(b)(2)).

(iii) The remaining funds may be expended only for wages, fringe benefits, training and services to persons employed in public service employment (sec. 232(b)(3)).

(2) Wages, a proportional share of fringe benefits, and allowances paid to PSE participants for the period of their training may be counted towards the percentage amounts that are required to be used for such training. Records of these wages, fringe benefits, and allowances shall be maintained separately by the prime sponsor to be available for audit.

(b) Funds under this title may be utilized by prime sponsors for other activities as set forth in § 677.13 for eligible persons not in PSE (sec. 234); however, not more than 10 percent of the funds utilized for such activities may be contributed to the administrative cost pool.

(c) Unless otherwise agreed to, at least 50% of the amount available for administration of the program shall be available to program agents for administrative costs.

PART 678—PUBLIC SERVICE EMPLOYMENT PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

678.1 Purpose.

678.2 Participant eligibility.

678.3 Activities and services.

678.4 Eligibility for funds.

678.5 Allocation of funds.

678.6 Annual plan subpart.

678.7 Wages and wage supplementation.

678.8 Special cost provisions.

Authority.—Sec. 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., P.L. 95-524 92 Stat. 1907), unless otherwise noted.

§ 678.1 Purpose.

This Part contains the regulations governing prime sponsors for countercyclical public service employment (PSE) under Title VI of the Act. This program provides temporary employment during periods of high unemployment when the national rate of unemployment is in excess of 4 percent. It is intended that the number of jobs funded shall be sufficient to provide jobs for 20 percent of the number of unemployed in excess of 4 percent, and, when the national rate of unemployment is in excess of 7 percent, to provide jobs for 25 percent of the number of unemployed in excess of 4 percent (sec. 601).

§ 678.2 Participant eligibility.

Eligibility requirements applicable to this Part may be found in § 675.5-6.

§ 678.3 Activities and services.

(a)(1) Prime sponsors shall use at least fifty percent of the funds received under this Part which are available for new hires between April 1, 1979, and September 30, 1979, for public service jobs in projects, except where the prime sponsor is, on April 1, 1979, utilizing at least fifty percent of the funds for this purpose and maintain a fifty percent level in projects for the entire fiscal year.

(2) After September 30, 1979, prime sponsors shall use at least fifty percent of the funds available under this Part for PSE jobs in projects.

(b)(1) Public service jobs in projects are not limited to entry level positions (sec. 605(a)).

(2) To the extent feasible, all public service jobs shall be provided in occupational fields which are most likely to expand (sec. 122(m)).

(c) Each prime sponsor shall establish procedures for its own use and the use of its program agents:

(1) For notifying potential project applicants of the application process and cut-off date for acceptance of project applications;

(2) For submitting, upon receipt, a copy of each project application to the prime sponsor's planning council to allow the council to submit comments and recommendations with respect to the project application.

(d) Prime sponsors and program agents should provide at least one-third of the project funds to project applicants that are nonprofit organizations.

(e) All projects shall be planned not to exceed eighteen months from their commencement. A project may be extended in increments of up to eighteen months, if, after a documented review of

the project, the prime sponsor determines that the project has been effective. Projects may be extended for reasons such as:

(1) Expanding the geographic area of the project; or

(2) Expanding the project to serve additional persons; or

(3) Expanding the scope and design of the original project; or

(4) Continuing weatherization projects.

(f) In addition to providing public service employment in projects, prime sponsors may utilize funds under this Part for entry level PSE not in such projects, in accordance with the special cost provisions in § 678.8.

(g) Jobs shall be allocated among State and local public agencies and subdivisions thereof, such as educational agencies, within the prime sponsor's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies and the ratio of jobs in the area at each governmental level. The prime sponsor has the ultimate responsibility for determining the equitable distribution and for the selection, job structure, participant benefits and all other aspects of the jobs funded under this Part.

(h) Prime sponsors shall periodically assess each public service employment participant to determine whether the participant needs additional training, employability counseling or other services, in order to obtain unsubsidized employment. Prime sponsors shall utilize funds in accordance with the special cost provisions in § 678.8(b)(1)(ii) to provide services, such as employability counseling, including job search techniques, intensified job development, and training, as described in § 677.53(c)(3)(i), for public service employment participants to enable them to obtain unsubsidized employment. Such training or services conducted by program agents shall be coordinated with those conducted by the prime sponsor.

(i) Activities other than PSE authorized under Title II, Part A of Title III, Title IV, and Title VII may be provided in accordance with the special cost provisions in § 678.8(c) (sec. 610).

(j) Prime sponsors should work with the Bureau of Apprenticeship and Training to develop public-sector apprenticeship programs that provide training applicable to the private sector.

(k) In carrying out public service employment activities, the provisions of § 676.73 relating to maintenance of effort shall apply.

§ 678.4 Eligibility for funds.

(a) Prime sponsors, designated under § 676.5, are eligible to receive funds under this Part.

(b)(1) A jurisdiction or a combination of jurisdictions desiring to become a program agent shall so notify the prime sponsor, in writing, no later than May 15 preceding the fiscal year in which such arrangement is to take effect. Prime sponsors shall subgrant to program agents those funds allocated to the prime sponsors for the use of those program agents (sec. 606(b)(1)).

(2) Program agents shall have administrative responsibility for developing, funding, overseeing, and monitoring programs within their areas consistent with the comprehensive employment and training plan. The subgrant shall be jointly developed by the prime sponsor and the program agent (sec. 606(b)(2)).

(3) If a program agent fails to comply with paragraph (b)(2) of this section, the prime sponsor, after review and concurrence of the RA, shall ensure compliance by such action as reallocating funds to an alternative program agent to serve the area, or serving the area itself.

(4) When two or more units of general local governments attempt to qualify as program agents with respect to the same area, the designation provisions in § 676.5(b)(2) shall apply (sec. 606(b)(3)).

§ 678.5 Allocation of funds.

Funds shall be allocated by the Secretary in accordance with Section 604 of the Act.

§ 678.6 Annual plan subpart.

(a) *General.* To receive financial assistance under Title VI of the Act, a prime sponsor shall submit the following information as the Annual Plan Subpart which will become part of its Annual Plan: Narrative Description, Program Planning Summary, Budget Information Summary, Monthly Schedule, and PSE Occupational Summary.

(b) *Narrative Description.* The narrative description shall include:

(1) *Objectives and needs for assistance.* A breakout of the eligible population by race, sex, national origin and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and Benefits.* The results and benefits expected including:

(i) Specific quantifiable performance and placement goals by program activity;

(ii) Performance and placement goals, with respect to groups designated to be served (sec. 103(b)(4));

(iii) The relationship between the prime sponsor's performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)); and

(iv) Non-quantifiable goals which the prime sponsor intends to achieve.

(3) *Approach.* The approach to be used in producing the expected results and benefits including:

(i) Program activities and services to be provided, including a description of the arrangements for the provision of training and services that will assist participants in obtaining unsubsidized employment;

(ii) How the prime sponsor will provide for an orderly transition from the number of jobs funded in the current fiscal year to the number of jobs which will be funded with the allocation for the next fiscal year (sec. 602(c));

(iii) The extent to which the prime sponsor will supplement wages of persons other than those who were in the program on September 30, 1978, including:

(A) The maximum amount of funds used to supplement any one particular job funded under this Part; and

(B) The total amount of funds used to supplement all jobs funded under this Part;

(iv) The wage rates or salaries and fringe benefits for public service employment participants and a comparison of these with the wages or salaries and fringe benefits paid to persons in similar public occupations by the same employer; levels of employment not supported under the Act; layoffs, and hiring and promotional freezes in each employing agency (sec. 103(b)(10));

(v) The methods to be used to ensure that, at the end of the fiscal year, the annual average wage rate does not exceed the area's required annual average wage rate, as described in § 676.26-1(c)(3);

(vi) The methods to be used to determine wage rates if wage rates for comparable jobs have not been established; and

(vii) How the public service employment program is integrated with other programs under the Act.

(4) *Service Deliverers.* A list of the selected deliverers and the services or facilities to be provided by each (summary of subrecipients and contractors).

(c) *Program Planning Summary (PPS).* A PPS reflecting the goals and activities for the program year.

(d) *Budget Information Summary (BIS).* A BIS containing the proposed budget and a list specifying the quantity and price of each piece of capital equipment exceeding \$1,000 to be purchased during the fiscal year.

(e) *Monthly Schedule.* A monthly schedule which contains an estimate of the total number of participants who will be enrolled in Title VI programs at the end of each month, and the total cumulative expenditures expected to have been incurred by the end of each month by the PSE and non-PSE programs.

(f) *Public Service Employment Occupational Summary.* A Public Service Employment Occupational Summary which includes a listing by employing agency of proposed public service employment positions and wages and a comparison of such wages with those paid persons in similar unsubsidized jobs.

§ 678.7 Wages and wage supplementation.

(a) Wages paid to public service employment participants and the supplementation of such wages shall be in accordance with § 676.26-1(c) (sec. 608).

(b) Wages paid to public service employees hired on or after January 26, 1979 under this Part may be supplemented by additional wages from non-CETA sources only if:

(1) The total amount of funds used in any fiscal year to provide such supplemented wages does not exceed an amount equal to 10 percent of the prime sponsor's Title VI allocation for such fiscal year; and

(2) The wage supplementation to any public service employee is not at a rate which exceeds:

(i) Ten percent of the maximum wage applicable for the prime sponsor's area; or

(ii) Twenty percent of the maximum wage applicable for the prime sponsor's area in any area where the average wage rate (during the period for which the most recent data is available) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of such wages subject to contribution under such law) exceeds 125 percent, but does not exceed 150 percent, of the national average wage rate in such employment.

(c) Any public service employee hired between September 30, 1978, and January 26, 1979, receiving wages

supplemented from non-CETA sources may continue to receive such wage after January 26, 1979, only if such supplementation is in accordance with the provisions in paragraph (b) above.

(d) Any PSE participant who was on September 30, 1978, receiving wages from non-CETA sources may continue to receive such wages, any may receive any subsequent increase which is either a bona fide cost of living increase or a scheduled raise, so long as the participant remains in the same position or a PSE position with the same or lower wage rate. These wages are not subject to the limitations of, nor counted in determining compliance with, paragraph (b) of this section. However, the non-CETA portion shall not be reduced if the maximum wage rate has been adjusted above \$10,000 after September 30, 1978, until the incumbent participant leaves this position or until the next prime sponsor budgetary cycle, whichever comes earlier (sec. 122(i)(3)(B)).

(e) Any PSE participant who was receiving only CETA wages on September 30, 1978, at a rate less than \$10,000 a year may have such wages supplemented above the \$10,000 rate from non-CETA sources after September 30, 1978, if such increase is the result of a bona-fide cost of living increase or a scheduled raise, and the person remains in the same position. These wages are not subject to the limitations of, nor counted in determining compliance with, paragraph (b) above.

(f) When a public service employment participant, hired after September 30, 1978, is eligible for a promotion, a general salary increase or overtime pay, the employer shall pay from non-CETA funding sources that amount in excess of the maximum amount payable from CETA funds as well as a prorata share of the increased fringe benefits, unless such payments would be in violation of the limitations on public service wage supplementation contained in paragraph (b) above. If such payment would be in violation, then the participants affected must be transferred to other positions or be terminated.

§ 678.8 Special cost provisions.

(a) In accordance with § 678.3(a), prime sponsors shall use at least fifty percent of the funds received under this Part for public service jobs in projects.

(b)(1) Of the funds utilized by prime sponsors for project and non-project public service employment programs:

(i) At least 80 percent shall be expended for wages and fringe benefits (sec. 603(a));

(ii) At least 10 percent of such funds available for expenditure between April

1, 1979, and September 30, 1979, and at least 5 percent of such funds for all subsequent fiscal years, shall be expended for training and services to PSE participants employed in public service jobs under this Part (sec. 603(a));

(iii) Not more than 10 percent of such funds for fiscal year 1979, and not more than 15 percent for subsequent fiscal years, may be contributed to the administrative cost pool (sec. 603(a)).

(2) Wages, a proportional share of fringe benefits, and allowances paid to PSE participants for the period of their training or services may be counted towards the percentage amounts that are required to be used for such training or services. Records of these wages, fringe benefits, and allowances shall be maintained separately by the prime sponsor to be available for audit.

(c) Funds under Title VI may be utilized by prime sponsors for activities authorized under Title II, Part A of Title III, Title IV and Title VII for eligible persons not in PSE (sec. 610). Not more than 20 percent of the funds utilized for such activities may be contributed to the administrative cost pool.

(d) Unless otherwise agreed to, at least 50 percent of the amount available for administration of the program shall be available to program agents for administrative costs.

PART 679—PRIVATE SECTOR INITIATIVE PROGRAM FOR THE ECONOMICALLY DISADVANTAGED UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

- 679.1 Scope and purpose.
- 679.2 Participant eligibility.
- 679.3 Private Industry Councils (PIC's).
- 679.3-1 Purpose.
- 679.3-2 Appointment of PIC members.
- 679.3-3 Chairperson.
- 679.3-4 Organization of positions.
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- 679.3-7 Functions of the PIC.
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- 679.3-9 Conflict of interest.
- 679.4 Allocation of funds.
- 679.5 Annual plan subpart.
- 679.6 Administrative standards and procedures.
- 679.7 Allowable activities.

Authority.—Sec 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq., P.L. 95-524 92 Stat. 1907), unless otherwise noted.

§ 679.1 Scope and purpose.

This Part contains the regulations for activities under Title VII of the Act, known as the Private Sector Initiative Program.

(a) Title VII of the Act is a demonstration Title. It authorizes a variety of approaches to increase the involvement of the business community in employment and training activities under the Act.

(b) Title VII is designed to increase private sector employment and training opportunities for persons eligible under this Part.

(c) As a primary vehicle to assist prime sponsors in meeting these goals, Title VII provides for the establishment of Private Industry Councils (PIC's) which are to participate jointly with the prime sponsor in the local development and implementation of programs under this Part, and to consult with the prime sponsor on other employment and training activities. Title VII encourages the formulation of a local partnership between the private sector and the prime sponsor in order to meet its purposes.

(d) The ultimate goal of Title VII is to increase private sector employment and training opportunities under all Titles of the Act, commensurate with reduced emphasis on public and private nonprofit subsidized employment.

(e) An important thrust of the Act is to provide for maximum feasible coordination of programs under the Act with related functions supported by the Department and by other Federal, State and local agencies. Accordingly, PIC's formed by prime sponsors to assist in Title VII implementation are encouraged to work with Job Service Improvement Program (JSIP) employer committees, the Bureau of Apprenticeship and Training, and State Apprenticeship Councils, as well as the Economic Development Administration, Small Business Administration, Community Services Administration, and U.S. Department of Housing and Urban Development, among others, in order to increase the effectiveness of programs under this Part and under the Act in securing employment for economically disadvantaged persons (sec. 701).

(f) This Part, in conjunction with Parts 675 through 677, Subpart B, comprise the regulations for Title VII of the Act.

§ 679.2 Participant eligibility.

To participate in programs described in this Part, a person shall be:

- (a) Economically disadvantaged; and
- (b) Unemployed, underemployed, or in school (sec. 701).

§ 679.3 Private Industry Councils (PIC's).

§ 679.3-1 Purpose.

(a) To receive financial assistance under this Part, each prime sponsor shall

establish a Private Industry Council (PIC). Its purpose shall be to increase the involvement of the business community, including small business, minority business enterprises, and labor organizations in employment and training activities under the Act, and to increase private sector employment opportunities for economically disadvantaged persons (secs. 701 and 704(a)(1)).

(b) Given the diversity of local circumstances and the differing environments in which PIC's will operate, the structure, level of activity, and composition of PIC's may vary considerably from one prime sponsor jurisdiction to another.

(c) Generally, meetings of the PIC shall be open and accessible to the general public, and minutes shall be maintained.

§ 679.3-2 Appointment of PIC members.

Each prime sponsor shall appoint the members of the PIC (sec. 704).

(a) *General.* (1) A majority of the PIC membership shall be representatives of industry and business (including small business and minority business enterprises). The PIC shall also include members representing organized labor, community-based organizations, and educational agencies and institutions.

(2) Existing local councils or committees may be designated or adapted to serve as the PIC (sec. 704(a)).

(3) The prime sponsor shall make ultimate decisions regarding the membership of the PIC after soliciting and considering the recommendations of the business and industrial community. Additionally, the prime sponsor should consult with labor organizations, community-based organizations, educational agencies and institutions, the appropriate apprenticeship agency, the State employment security agency (SESA), and women's organizations, existing councils and committees, and other organizations expressing an interest in the Title VII program (sec. 704(a)).

(4) In prime sponsor jurisdictions in which a National Alliance of Business (NAB) metro organization exists, it should be given consideration in the establishment of the PIC.

(5) Nothing in this section is meant to give a presumptive role to any particular organization in the establishment of the PIC (sec. 704(d)).

(b) *Business and industry members.*

(1) The prime sponsor shall make every effort to recruit business and industry members for the PIC who will be representative of the private for profit employment community in terms of the

types of business represented, such as small businesses, minority-owned businesses, businesses owned by women and others reflective of the commercial and industrial makeup of the area (sec. 704(a)(1)).

(2) Where possible, at least half of the industry and business representatives shall be representatives from small business. For purposes of this requirement, "small business" means any private for profit enterprise employing five hundred or fewer employees (sec. 704(a)(1) and (2)).

(3) Minority business enterprises shall be represented on the PIC, at least consistent with their representation in the business community (sec. 704(a)(1)).

(4) Prime sponsors may consider either the residence of the prospective PIC member or the location of the business with which that person is associated in considering appointments to the PIC.

(c) *Other required members.* At least one representative of each of the following shall be included among the PIC membership:

(1) Organized labor. In appointing members from organized labor, the prime sponsor should consult State or central labor bodies, the Human Resources Development Institute (HRDI), appropriate apprenticeship agencies, and unions representing major occupations in the area.

(2) Community-based organizations that have demonstrated to the prime sponsor a record of effectiveness in their relationships with the business community.

(3) Educational agencies and institutions that have demonstrated to the prime sponsor a record of effectiveness in providing education or vocational training oriented toward the needs of the business community.

(d) *Other members.* Prime sponsors may also appoint to the PIC other members, such as representatives of persons eligible to participate in activities under this Part and representatives of organizations having unique relationships to both the CETA system and the private sector, such as SESA's and appropriate apprenticeship agencies (sec. 704(a)(1)).

§ 679.3-3 Chairperson.

(a) A chairperson pro tem from the business and industrial community should be appointed by the prime sponsor to assist in identifying potential members and in establishment of the PIC.

(b) Once established, the PIC shall have a permanent chairperson selected by the members of the PIC, who should

be a representative of business and industry.

§ 679.3-4 Organizational position.

(a) The organizational position occupied by the PIC within the overall employment and training delivery system shall be determined by the prime sponsor in consultation with the PIC. Such position and relationship shall be designed to enable the PIC to carry out its responsibilities.

(b) To carry out its duties, the PIC should appoint subcommittees to deal with particular areas of concern and secure, either through its staff or other means, the expertise of persons in the private sector having knowledge of business practices and policies (sec. 704(c)).

(c) PIC relationship to the prime sponsor's planning council.

(1) The activities of the PIC shall be coordinated by the prime sponsor with those of the prime sponsor's planning council, and area planning bodies in the case of State prime sponsors. The planning council shall be consulted in the development of the Title VII program, and shall be afforded the opportunity to review and comment on the Title VII Annual Plan subpart (sec. 703(b)(4)).

(2) For purposes of Title VII, the PIC shall not be subordinate in its authority to the prime sponsor's planning council.

(3) The PIC chairperson (or designee) shall, at a minimum, serve as an ex officio, nonvoting member of the prime sponsor's planning council, and the chairperson (or designee) of the prime sponsor's planning council shall, at a minimum, serve as an ex officio, nonvoting member of the PIC. However, the prime sponsor may assign either chairperson the status of a full voting member on the respective councils (sec. 704(b)).

(d) Due to the unique nature of Balance-of-State organizational structures, such prime sponsors are authorized to develop alternate measures regarding the organization and structure of PIC's, such as PIC's covering sub-State planning areas, a single PIC for the entire prime sponsor jurisdiction with a decentralized staff, and other special arrangements.

§ 679.3-5 Staff.

The PIC shall be appropriately staffed, commensurate with its responsibilities. The staffing composition of the PIC shall be determined through mutual agreement between the PIC and the prime sponsor.

(a) When the PIC is a subgrantee or contractor of the prime sponsor, staff

shall be hired in a manner consistent with that status and with the terms of the PIC's subgrant or contract with the prime sponsor.

(b) If the PIC is other than a subgrantee or contractor, it shall be consulted by the prime sponsor on the matter of its staffing. To the extent possible, consistent with applicable personnel rules, the PIC should be party to decisions on staff selection or hiring.

§ 679.3-6 Multijurisdictional PIC's.

A PIC may be established to cover more than one prime sponsor area, pursuant to arrangements and agreements between the prime sponsors and the PIC.

(a) A PIC may be established to cover a multijurisdictional area with the affected prime sponsors submitting and reporting upon separate Title VII Annual Plan subparts.

(b) The above approach does not preclude other arrangements. Prime sponsors may propose alternatives as part of their Title VII Annual Plan Subpart. The RA may approve such arrangements after considering the desirability of the proposed arrangements in view of the purposes of Title VII and after reviewing their feasibility in terms of reporting and otherwise meeting Comprehensive Employment and Training Plan requirements of § 676.9, § 676.10 and § 676.11.

(c) Financial incentives shall be provided to prime sponsors establishing multijurisdictional PIC's that meet criteria discussed in § 679.4.(b)(2) (secs. 702(b) and 704(a)(1)).

§ 679.3-7 Functions of the PIC.

The prime sponsor and the Private Industry Council shall determine those functions that the PIC will perform, based upon local conditions, the interests of the private sector, and the needs of the community. Those functions include the following, among others:

(a) *General.* (1) The PIC shall serve as an intermediary to assist the local employment and training structure to become more responsive to the business community.

(2) The PIC shall serve as the business and industry contact point in the local employment and training system, to present the private sector's view and recommendations for making programs more responsive to local employment needs.

(3) The PIC shall advise and provide direction to the local employment and training system on ways to increase private sector job placements for

persons eligible under this Part (secs. 701 and 704(c)).

(b) *Planning and coordination.* (1) The PIC shall, in conjunction with the prime sponsor, design and develop the Title VII program and subpart to the prime sponsor's Annual Plan (sec. 703(b)).

(2) In designing the plan, and on a continuing basis, the PIC shall analyze private sector job opportunities, including estimates by occupation, industry, and location. The analysis should survey employment demands in the private sector and training possibilities, such as apprenticeship, in order to develop projections of short and long range labor needs, and to refine employment and training programing so that it becomes increasingly responsive to private sector labor needs. In undertaking such analysis, the PIC should assess and utilize information contained in economic development plans for the area and currently available labor market information from sources already in place, such as the SESA and appropriate apprenticeship agencies (sec. 703(b)(3)).

(3) The PIC should, in conjunction with the prime sponsor, develop specific private sector employment and training projects.

(4) The PIC should, in conjunction with the prime sponsor, develop criteria for the types of occupations to be selected for the expenditure of training funds.

(5) The PIC should, in conjunction with the prime sponsor, develop standards and specifications for training in particular occupations.

(6) In designing the plan, the PIC and prime sponsor should, to the extent possible, ensure that the plan is consistent with plans, funding applications and grants for programs related to private sector employment and training which are funded by other Federal agencies. For planning purposes and to coordinate with activities under other Federal programs, the PIC and prime sponsor should where possible review and comment on such plans and funding applications, especially regarding ways in which they affect employment and training, including apprenticeship, in the private sector (including those of the Economic Development Administration, Department of Housing and Urban Development, Small Business Administration and Community Services Administration) (secs. 103(a)(20), 704(c) and 705(a)(4)).

(7) The PIC should consult with the prime sponsor and its planning council during the development of, and shall have the opportunity to review and

comment on, other Annual Plan subparts under the Act (sec. 704(c)).

(c) *Operational functions.* (1) The PIC should actively solicit public and private support for and participation in the Private Sector Initiative Program and other programs and activities designed to increase private sector employment and training opportunities for persons who are economically disadvantaged.

(2) The prime sponsor may involve the PIC through arrangements and written agreements so that the PIC can carry out its responsibilities. In particular, the PIC should be involved with the SESA, Job Service Improvement Program (JSIP) Committees, local WIN sponsors and other private sector intermediaries in marketing and disseminating information on the Targeted Jobs Tax Credit, created by the Revenue Act of 1978 (P.L. 95-600), and the WIN Tax Credit.

(3) The prime sponsor and the PIC may decide that the PIC will administer and directly operate local private sector employment and training programs. Such an operational function could involve directly marketing on-the-job and other training agreements with private employers, developing training programs, entering into contracts with private firms, community-based organizations, educational agencies and institutions and SESA's and other related activities. Consistent with State and local law, PIC's may incorporate for these purposes.

(4) Organizations represented on the PIC may be directly involved in the operation of employment and training programs funded under this Part, consistent with the conflict of interest provisions of § 679.3-9.

(5) In accordance with § 676.38(b), the PIC may participate with the prime sponsor in developing criteria for the selection of any nongovernmental organization, association, firm or other entity for the conduct of programs or activities under this Part (secs. 121(o) and 704(c)).

(d) *Review and Assessment.* (1) The PIC shall participate with the prime sponsor in overseeing activities under this Part. Programs under this Part are subject to the prime sponsor's monitoring responsibilities (sec. 704(c)).

(2) The PIC may, in consultation with the prime sponsor, identify the factors to be addressed in an assessment of the effectiveness of activities under this Part.

(3) In consultation with existing groups, such as JSIP employer committees and prime sponsor's planning and youth councils, the PIC may examine the performance of the

local CETA and SESA delivery system to determine how to better meet the needs of business and industry and increase private sector employment opportunities for the economically disadvantaged, and advise the prime sponsor and the SESA of its observations and recommendations (sec. 704(c)).

(e) Nothing in this section is intended to limit the functions of the PIC, with respect to assisting the prime sponsor to improve the responsiveness of employment and training programs to employment opportunities in the private sector. The business community should be involved in determining the functions of the PIC so that these will be responsive to the needs and interests of business and industry.

§ 679.3-8 Accountability.

The Department holds the prime sponsor accountable for activities conducted and funds expended under this Part.

(a) The PIC, in working with the prime sponsor to develop activities under this Part, must recognize the prime sponsor's ultimate liability for all of the PIC's activities. The PIC and the prime sponsor are thus both responsible for program performance, and the Department in assessing the Title VII program will take both the prime sponsor's and the PIC's performance of functions into account.

(b) Where the PIC is a contractor or subgrantee of the prime sponsor, it is financially liable to the prime sponsor for funds received.

§ 679.3-9 Conflict of interest.

(a) Prime sponsors may provide broad administrative responsibility to the PIC, including the authority to enter into contracts and subgrants. However, contracts in excess of \$10,000 between the PIC and any private organization with which a PIC member is associated as an officer, member or employee shall be subject to the final written approval of the prime sponsor, prior to execution of the contract or subgrant.

(b) The Conflict of Interest provisions of § 676.62 also apply to the PIC.

§ 679.4 Allocation of funds.

(a) *Prime sponsor basic allocations.* Ninety-five percent of funds available under Title VII of the Act shall be allocated to prime sponsors as provided in section 202(a) of the Act except that:

(1) In order to ensure that every prime sponsor receives an allocation of sufficient size to mount a viable program, a minimum allocation level may be established; and

(2) In the case of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianas, these shall be allocated the same percentage of Title VII funds as the percentage of Title II Parts A, B and C funds allocated to them.

(b) *Other allocations.* The remaining five percent of the funds shall be allocated in the following manner:

(1) *Assistance to Native American entities.* No less than two percent of the total funds available under Title VII of the Act will be used to support Title VII programs for Native American entities described in sections 302(c)(1) (A) and (B) of the Act.

(2) *Assistance to prime sponsors who establish a single Private Industry Council.* Additional funds shall be provided to prime sponsors who establish a single Private Industry Council that serves a substantial portion of a functioning labor market area, as determined by the Secretary. Included may be:

(i) An existing consortium covering a substantial portion of a functioning labor market area that qualifies for incentive funds under § 676.4(c);

(ii) Two or more prime sponsors establishing a PIC that serves at least 75% of a functioning labor market area; and

(iii) To the extent that funding is available, other combinations of prime sponsors forming a single PIC (sec. 702(b)).

(c) Funds may be reallocated pursuant to the provisions of § 676.47 (sec. 108).

§ 679.5 Annual plan subpart.

(a) *General.* To receive financial assistance under this Part, a prime sponsor shall submit the following information, which will become part of the Annual Plan as described in § 676.11. This subpart shall consist of a Narrative Description, Statement of Concurrence, Program Planning Summary, and Budget Information Summary, specific to Title VII (sec. 103(b)).

(b) The prime sponsor shall transmit a copy of the Title VII Annual Plan subpart to the prime sponsor's planning council, to appropriate labor organizations, community-based organizations, educational agencies and institutions, Overall Economic Development Program committees and to such other parties as are required by § 676.12(d). The comment and publication procedures of § 676.12 apply to this Part (secs. 703(b) (4) and (5)).

(c) The Annual Plan subpart shall have the concurrence of both the PIC

and the prime sponsor in order to be approved. Therefore, a Statement of Concurrence shall be submitted, signifying the concurrence of the PIC and the prime sponsor with the contents of the Annual Plan subpart.

(d) *Narrative Description.* The narrative description shall include:

(1) *Objectives and need for assistance.* (i) State the objectives and need for funding under this Part, including an identification of private sector occupations where there are labor shortages.

(ii) Analyze the eligible population by race, sex, national origin and age, and present the planned levels of service to be provided these significant segments in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(2) *Results and benefits.* Provide a statement on:

(i) Specific quantified performance and placement goals, by program activity.

(ii) Any performance and placement goals with respect to groups designated to be served (sec. 103(b)(4)).

(iii) Explain any variation between such performance and placement goals and the Secretary's performance standards (sec. 103(b)(4)).

(iv) Any nonquantifiable goals or outcomes.

(3) *Approach.* Provide a description of:

(i) The specific activities to be conducted, and how these activities will be integrated with other training and placement activities under the Act (sec. 703(a)).

(ii) The procedures and standards to be used for the selection of occupations in which training is to be provided.

(iii) The system that will be used to review and assess the success of activities, including a description of the role of the PIC.

(4) *Private Industry Council (PIC).* Provide the following:

(i) The responsibilities assumed and the functions to be performed by the Private Industry Council in the planning, operation and review of programs.

(ii) A list of the PIC membership indicating representation from among those membership categories identified in § 679.3-2.

(iii) Staffing arrangements for support of the PIC agreed upon by the PIC and the prime sponsor.

(iv) A description of procedures established to ensure periodic consultation and coordination of activity

between the PIC and the prime sponsor's planning council and other appropriate agencies in the labor market area.

(v) For multijurisdictional PIC's (except for existing consortia) identify the geographic area to be served, the prime sponsors participating, administrative and programmatic relationships between the PIC and the participating prime sponsors and the functions to be performed by each. A copy of the written agreement cited in § 679.3-6 must be included as an attachment to the Annual Plan Subpart.

(e) *Statement of Concurrence.* This statement documents the concurrence of the PIC and the prime sponsor with the contents of the Annual Plan Subpart.

(f) *Program Planning Summary (PPS).* The PPS reflects the goals, objectives and activities planned under Title VII for the program year.

(g) *Budget Information Summary (BIS).* The BIS contains the planned budget under Title VII for the program year.

§ 679.6 Administrative standards and procedures.

(a) *General.* The General Provisions of § 676 shall apply except as otherwise indicated.

(b) *Allowable costs and cost allocation.* The provisions of § 676.40 and § 676.41 shall apply to programs under Title VII except as follows:

(1) *Employment generating services.*

(i) For programs funded under Title VII only, costs for activities which are not directly related to the immediate provision of training or employment for participants but which are intended to result in the creation or expansion of employment opportunities for persons eligible under this Part may be classified as employment generating services and charged to the "Services" cost category. Examples are:

(A) Those items enumerated in paragraphs (b) (1), (2), (3), (4), (6), (7), (9), (10), (12), (13), (14) and (15) of § 679.7, Allowable Activities.

(B) The costs for the salaries and fringe benefits of labor market and program analysts, for consultants under contract for employment generating services, and for technical assistance to contractors and subgrantees.

(ii) While such activities are allowable and desirable under Title VII, no more than 30 percent of a prime sponsor's Title VII funds may be used for employment generating services.

(iii) The program activity against which the costs for employment generating services are to be allocated is "Other Activities."

(iv) No costs attributable to the general administration of the Title VII program shall be charged to the "Services" cost category.

(2) *Administrative costs.* (i) For purposes of Title VII, administrative costs are those costs which fall within the category of administration as defined in § 676.41-1(f), exclusive of employment generating services.

(ii) The total amount of funds expended for administration by all prime sponsors in carrying out programs under this Part shall not exceed 20 percent of the total expenditures for all prime sponsor Title VII programs. Each prime sponsor and PIC must make every effort to limit administrative costs to only those that are necessary to assure the effective operation of programs under this Part. If the prime sponsor and PIC determine that more than 20 percent is necessary to operate the planned program, a higher amount may be requested by providing a satisfactory explanation of the need for such amount in the Title VII Annual Plan Subpart. The special needs of urban and rural areas and other relevant factors shall be considered by the RA in reviewing requests for administrative costs in excess of 20 percent (sec. 705(b)).

(iii) It is recognized that startup and initial implementation of programs under this Part may require administrative expenditures greater than those necessary for the operation of established program. Thus, it should subsequently become possible for administrative costs to be reduced such that they are brought to a more appropriate level of 10 percent. Prime sponsors and PIC's should therefore plan to reduce administrative costs after startup and initial implementation.

(3) Payments to private-for-profit employers through methods not specifically authorized under Parts 676 through 677, Subpart B shall not be allowable unless and until the method of payment is explained in advance and authorization for its use is specifically granted. Prime sponsors shall transmit to the RA requests to permit such new payment methods. The RA shall transmit such requests, with comments and recommendations, to the Assistant Secretary for Employment and Training. Action on a request shall be taken within 60 days after the prime sponsor's submission of the request to the RA. Nothing in this paragraph authorizes wage subsidies (sec. 703(c)).

§ 679.7 Allowable activities.

Funds under this Part shall be used to augment private sector-related activities under Part 677, including on-the-job

training with private employers (sec. 703(b)(2)). Funds shall be used to provide employment and training and related activities consistent with the purposes of Title VII including:

(a) Activities and services authorized in § 677.13, and

(b) The following:

(1) Coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

(2) Developing a small business intern program to provide practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

(3) Developing relationships between employment and training programs, educational institutions, and the private sector;

(4) Developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low-income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

(5) Conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

(6) Developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

(7) Coordinating programs under this Part with other job development, placement, and employment and training activities carried out by public and private agencies;

(8) Providing on-the-job training subsidies on a declining ratio to wages over the period of training;

(9) Providing followup services with employees placed in private employment and employers who hire recipients of services under the Act;

(10) Encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

(11) Using direct contracts for training and employment programs with private

for profit and private nonprofit organizations;

(12) Developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not presently exist in the area;

(13) Increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

(14) Providing technical assistance to private employers to reduce the administrative burden of employment and training programs;

(15) Disseminating information to private employers so that they may more fully utilize programs under the Act; and

(16) Other program activities which demonstrate effective approaches to the training and employment of persons eligible to participate in programs under this Part (sec. 705(a)).

Signed at Washington, D.C., the 29th day of March 1979.

Ray Marshall,
Secretary of Labor.

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