

WORKFORCE DEVELOPMENT BOARD AND WORKFORCE DEVELOPMENT CENTER ADMINISTRATION DIVISION[877]

[Prior to 9/24/86, see Employment Security[370], renamed Job Service Division[345]
under the "umbrella" of Department of Employment Services by 1986 Iowa Acts, chapter 1245]
[Prior to 3/12/97, see Job Service Division[345]]

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CHAPTER 1
WORKFORCE DEVELOPMENT BOARD

877—1.1(84A,PL113-128) Composition.

1.1(1) *Voting members.* The board shall have voting members in accordance with Iowa Code section 84A.1A(1)“a” and Section 101(b) of the Workforce Innovation and Opportunity Act (WIOA), Public Law No. 113-128. For purposes of the board’s membership criteria, the following terms shall have the following meanings:

“*Community-based organization*” means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

“*Competitive integrated employment*” shall have the meaning given the term in Section 7 of the Rehabilitation Act of 1973 (29 United States Code Section 705), for individuals with disabilities.

“*Demonstrated expertise and effectiveness*” means that an individual has documented leadership in developing or implementing workforce development, human resources, training and development, or a core program function, which may include individuals with experience in education or the training of job seekers with barriers to employment, as defined in Section 3(24) of WIOA, including but not limited to serving veterans; providing or supporting competitive integrated employment for individuals with disabilities; or serving eligible youth.

“*Eligible youth*” means, except as provided in subtitles C and D of Title I of WIOA, in-school youth, as described in Section 129(a)(1)(B) of WIOA, or out-of-school youth, as described in Section 129(a)(1)(C) of WIOA.

“*In-demand industry sector*” means an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state economy and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

“*In-demand occupation*” means an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state.

“*Optimum policymaking authority*” means that an individual can reasonably be expected to speak affirmatively on behalf of the entity the individual represents and to commit that entity to a chosen course of action.

“*Veteran*” has the meaning given the term in 38 United States Code Section 101.

1.1(2) *Nonvoting members.* The board shall have nonvoting members in accordance with Iowa Code section 84A.1A(1)“b.”

1.1(3) *Chairperson.* The governor shall select a chairperson for the board from among the members who are representatives of business.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—1.2(84A) Meetings. The board shall meet at the call of the chairperson or when a majority of members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—1.3(84A,PL113-128) Purpose and duties.

1.3(1) *Purpose.* The purpose of the board is to convene state, regional, and local workforce system and partners to:

- a. Enhance the capacity and performance of the workforce development system;
- b. Align and improve the outcomes and effectiveness of federally funded and other workforce programs and investments and, through these efforts, promote economic growth;
- c. Engage public workforce system representatives, including businesses, education providers, economic development, labor representatives, and other stakeholders to help the workforce development

system achieve the purpose of the Workforce Innovation and Opportunity Act, Public Law No. 113-128; and

d. Assist to achieve the state's strategic and operational vision and goals as outlined in the state plan under Iowa Code section 84A.1 and the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

1.3(2) Duties. The board shall perform the duties outlined in Iowa Code section 84A.1B and other functions as necessary and proper to carry out its responsibilities under the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—1.4(84A) Records. Agendas, minutes, and materials presented to the board are available from the Public Records Custodian, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection 21.5(5) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—1.5(84A) Coordination with the department of corrections on private sector employment projects. To assist the department of corrections with programs that employ offenders in the private sector, the department of workforce development shall be responsible for coordinating the following process:

1.5(1) Prior to an employer's submitting an application to the department of corrections for a private sector employment project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.5(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.5(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-level wage rate for the proposed job(s), the entry-level wage range, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available. The average wage rate and wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.5(4) Average entry-level wage rates and entry-level wage ranges for jobs currently held by offenders and employment levels of companies employing offenders shall be updated by the department of workforce development every six months upon the department of corrections' sending a letter listing all current companies employing offenders and the offenders' job classifications to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.5(5) The department of workforce development shall provide a periodic report to the state workforce development board regarding information supplied to the department of corrections for private sector employment projects. Frequency of the report will depend upon the level of activity.

1.5(6) Inquiries concerning private sector employment projects shall be in writing and address the following questions:

a. Whether and how the project is believed to violate the intent of Iowa Code section 904.809;

b. Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed; and

c. Whether private sector employees or employees involved in a labor dispute have been displaced as a result of the project.

Inquiries shall be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of prison industries and the affected regional advisory board concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The administrative rules committee of the state workforce development board shall review the inquiry and any additional responses or oral testimony requested by the committee and make a recommendation to the full board as to whether the intent of Iowa Code section 904.809 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the administrative rules committee, oral presentations may be requested from the party(ies) to the inquiry. The full board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

877—1.6(84A) Coordination with the department of corrections on construction and maintenance projects. To assist the department of corrections with the employment of offenders on construction and maintenance projects, the department of workforce development shall be responsible for coordinating the following process:

1.6(1) Prior to an employer's submitting an application to the department of corrections for employing offenders on a construction or maintenance project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development's jobs Internet site.

1.6(2) The department of corrections shall send a letter requesting verification of the employer's 30-day job listing, the average wage rate for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders. The letter should be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.6(3) The department of workforce development shall verify in writing the job listing, including the number of qualified applicant referrals and hires made as a result of the job order, the average entry-level wage rate for the proposed job(s), the entry-level wage range, the prevailing wage as determined by the U.S. Department of Labor, the current unemployment rate for the county where the employer is located, and the current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available. The average entry-level wage rate and entry-level wage range will be based on the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide.

1.6(4) It is recommended that all offenders employed in construction and maintenance projects receive a ten-hour OSHA safety course provided free of charge by the department of workforce development. The department of workforce development will make every effort to conduct the training within a reasonable time period after receipt of a request for training.

1.6(5) If the contract to employ offender labor exceeds six months, the department of corrections shall request and receive from the department of workforce development the average wage rates and wage ranges for jobs currently held by offenders and current employment levels of companies employing offenders. The letter should be addressed to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

1.6(6) The department of workforce development shall provide a periodic report to the state workforce development board regarding information supplied to the department of corrections for construction and maintenance projects. Frequency of the report will depend upon the level of activity.

1.6(7) Inquiries concerning construction and maintenance projects performed by offenders may be made by area workers, or their representatives, that are affected by a project. Inquiries shall be in writing and address the following questions:

- a.* Whether and how the project is believed to violate the intent of Iowa Code sections 904.701 and 904.703;
- b.* Evidence of a local surplus of labor in the job classifications of the type in which offenders are employed;
- c.* Whether private sector employees or state, county or local government employees or employees involved in a labor dispute have been displaced as a result of the project; and
- d.* Whether existing contracts for employment or services have been impaired.

Inquiries shall be sent to Division Administrator, Division of Policy and Information, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A copy of the inquiry shall be sent to the department of corrections. The director of the department shall consult with the director of the department of corrections and the affected regional advisory board concerning the inquiry prior to the workforce development board's making a final recommendation regarding possible corrective action.

The administrative rules committee of the state workforce development board shall review the inquiry and any additional responses or oral testimony requested by the committee and make a recommendation to the full board as to whether the intent of Iowa Code sections 904.701 and 904.703 has or has not been met and whether corrective action, if any, needs to be taken by the department of corrections to meet the intent. At the discretion of the administrative rules committee, oral presentations may be requested from the party(ies) to the inquiry. The full board shall make a final recommendation within 60 days of receipt of the inquiry. The board's final recommendation shall be mailed to both the department of corrections and the party(ies) making the inquiry.

These rules are intended to implement Iowa Code sections 84A.1A and 84A.1B.

[Filed 4/28/97, Notice 2/26/97—published 5/21/97, effective 6/25/97]

[Filed 4/21/00, Notice 2/9/00—published 5/17/00, effective 6/21/00]

[Filed ARC 3610C (Notice ARC 3480C, IAB 12/6/17), IAB 1/31/18, effective 3/7/18]

CHAPTER 2
MISSION AND STRUCTURE

877—2.1(84A) Mission. The division of workforce development center administration was established by the director as authorized under Iowa Code section 84A.1(3). The mission of the division is to develop and administer employment, placement, and training services in all 99 counties of Iowa.

877—2.2(84A) Overall organization.

2.2(1) Organization. The division of workforce development center administration is under the direction of the division administrator and divided into three bureaus: administrative service bureau, service delivery bureau, and the enterprise development, implementation and evaluation bureau.

2.2(2) Administrative service bureau. The administrative service bureau is under the direction of a bureau chief who assists the division administrator in planning, directing and coordinating activities for the division. The chief directs the administrative support functions of the bureau. The bureau is responsible for the administration of the following programs: work opportunity tax credit, alien labor certification, child labor, testing, bonding certification, and the migrant seasonal farm worker program, as well as other duties assigned by the division administrator.

2.2(3) Service delivery bureau. The service delivery bureau is under the direction of a bureau chief who assists the division administrator in planning, directing and coordinating activities for the division. The chief directs the monitoring and technical assistance functions of the bureau. The bureau is responsible for the administration of the following programs: Iowa conservation corps, Job Training Partnership Act, state labor management cooperation, mentor advisory board, nontraditional employment, workforce investment, quality jobs, PROMISE JOBS, dislocated workers, and rapid response, as well as other duties assigned by the division administrator.

2.2(4) Enterprise development, implementation, and evaluation bureau. The enterprise development, implementation and evaluation bureau is under the direction of a bureau chief who assists the division administrator in planning, directing and coordinating activities for the division. The chief directs the administrative support and technical functions of the bureau. The bureau is responsible for the administration of the consolidation of the employment and training services delivered through a competitive regional service delivery model in consultation with the regional advisory board, as well as other duties assigned by the division administrator.

877—2.3(17A,84A) Criticism of agency rule. The division administrator of the Division of Workforce Development Center Administration, Workforce Development Department, 150 Des Moines Street, Des Moines, Iowa 50309, is designated as the office where interested persons may submit by mail criticism regarding an administrative rule of the workforce development board/services division. A criticism of a specific rule must be more than a mere lack of understanding of a rule or a dislike regarding the rule. To constitute a criticism of a rule, the criticism must be in writing, indicate it is a criticism of a specific rule, be signed by the complainant, not be part of any other filing with the department of workforce development, and have a valid or legal basis for support. All requests for criticism received on any rule will be kept in a separate record for a period of five years by the division of workforce development center administration and be a public record open for public inspection. All requests for criticism must be in the following format:

DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT CENTER ADMINISTRATION

(NAME OF PERSON SUBMITTING CRITICISM).	}	CRITICISM OF (SPECIFY RULE THAT IS UNDER CRITICISM).
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Reasons for criticism:

Name, address, telephone number and signature of person submitting the criticism.

The administrative rules committee of the workforce development board will periodically review criticisms received for potential rule changes.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and chapter 84A.

1877—2.4(17A,ExecOrd11) Requests for waiver of rules. Requests for waiver of a rule in the Workforce Development Board/Services Division[877] of the Iowa Administrative Code shall be made to the Division Administrator, Division of Workforce Development Center Administration, 150 Des Moines Street, Des Moines, Iowa 50309.

2.4(1) Waivers from division rules shall not be granted unless the following circumstances are met:

a. The department has exclusive rule-making authority to promulgate the rule from which waiver is requested; and

b. No statute or rule otherwise controls the grant of a waiver from the rule from which waiver is requested.

2.4(2) The person that requests waiver of the rule must provide clear and convincing evidence that:

a. Compliance with the rule will create an undue hardship on the person requesting the waiver.

b. Substantially equal protection of health and safety will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

c. The waiver will not harm other persons and will not adversely affect the public interest.

2.4(3) The director shall grant or deny the waiver within 60 days of the date the request is filed with the department after review and recommendation of the division administrator. A denial of a request for a waiver is absolutely final and is not appealable. The director shall deny the request for waiver of a state or federal statute. If the request for waiver relates to a time requirement of a rule, the request must be received before the time specified in the rule has expired. The director may deny the request if the request does not comply with the provisions of this rule.

2.4(4) Waivers are granted at the complete discretion of the director after consideration of all relevant factors including, but not limited to, the following:

a. The need of the person or entity directly affected by the exception. Exceptions will be granted only in cases of extreme need.

b. Whether there are exceptional circumstances justifying an exception to the general rule applicable in otherwise similar circumstances.

c. Whether granting the exception would result in a net savings to the state or promote efficiency in the administration of programs or service delivery. Net savings or efficiency will make an exception more likely.

d. In the case of services, assistance, or grants, whether other possible sources have been exhausted. Exceptions will not generally be granted if other sources are available.

e. The cost of the exception to the state and availability of funds in the department's budget.

2.4(5) All requests for waiver must substantially conform to the following form:

(NAME OF PERSON REQUESTING WAIVER).	}	REQUEST FOR WAIVER OF (SPECIFY RULE FOR WHICH WAIVER IS REQUESTED).
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Reasons for requesting waiver:

Name, address, telephone number and signature of person submitting waiver request.

The specific rule to which an exception is requested or the substance thereof.

The specific waiver requested.

The nature of the waiver requested, including any alternative means or other proposed condition or modification proposed to achieve the purpose of the rule.

2.4(6) The director may condition the grant of a waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

2.4(7) A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The director may, at any time, cancel a waiver upon appropriate notice if the director finds the facts as stated in the request appear not true, material facts have been withheld, the alternative means of compliance provided in the waiver has failed to achieve the objectives of the statute, or the person requesting the waiver has failed to comply with conditions set forth in the waiver approval.

2.4(8) All grants of waivers shall be indexed and available to members of the public in the Division of Workforce Development Center Administration, 150 Des Moines Street, Des Moines, Iowa 50309. In addition, the director shall notify the workforce development board of any ruling to grant a waiver at its next regularly scheduled meeting following the ruling.

This rule is intended to implement Iowa Code chapter 17A and Executive Order Number Eleven.

¹ Effective date of March 15, 2000, delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, Iowa Code section 84A.1 and Iowa Code chapter 96.

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¹ Effective date of 2.4 delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000.

CHAPTER 3
Reserved

CHAPTER 4
COORDINATING SERVICE PROVIDER

877—4.1(84A,84B) Purpose. A coordinating service provider will be established in each region to manage the workforce development centers, design products and services, integrate them into a seamless delivery system, and accept responsibility for the performance of the workforce development system.

877—4.2(84A,84B) Definitions.

“Coordinating service provider” means the entity that will be responsible for ensuring that all workforce development services are delivered throughout the region.

“Department” means the department of workforce development.

“JTPA grantee” means any organization, agency, or unit of government that is designated by the private industry council to receive and administer Job Training Partnership Act funds within a region.

“Local elected official” means an official as defined in 877—Chapter 12, Iowa Administrative Code.

“Participating provider” means a member organization of the coordinating service provider that is not the department of workforce development or Job Training Partnership Act grantee.

“Regional advisory board” means an advisory board as defined in 877—Chapter 6, Iowa Administrative Code.

“Service provider” means an agency or organization in a region that provides direct services to customers and receives funding directly from the department of workforce development. The coordinating service provider is also a service provider.

“Vendor” means an agency or organization in a region that provides direct services to customers and receives funding from the coordinating service provider.

877—4.3(84A,84B) Regional advisory boards. The regional advisory board in each region initiates the formation of the coordinating service provider by convening a meeting of all workforce development service providers and other interested parties. Each regional advisory board conducts a regional needs assessment and analysis plan, which the coordinating service provider shall utilize in designing its annual service delivery plan. The regional advisory board approves the 28E agreement that creates the coordinating service provider and the regional customer service plan before they are submitted to the state workforce development board for final approval. The regional advisory board also provides oversight and guidance to the coordinating service provider on service delivery and the performance of the regional system.

877—4.4(84A,84B) Membership. All interested public and private workforce development organizations in the region are encouraged to be members of the coordinating service provider.

4.4(1) Member requirements. Each participating provider shall:

a. Be a corporation duly organized, validly existing and in good standing under the laws of the state of Iowa or another state and have the full power and authority to carry on its business in Iowa as now conducted;

b. Demonstrate, to the satisfaction of the department, that it has sufficient funds to participate in the coordinating service provider and to satisfy potential liabilities arising from its participation in the agreement;

c. Integrate products and services agreed to be offered through the region’s workforce development system;

d. Use and share customer information through the department’s integrated customer service system;

e. Accept financial responsibility and liability for its actions related to financial and audit matters, personal injury, property damage, performance outcomes, employment matters, and all other matters arising out of its respective performance in the agreement; and

f. Actively participate in the management of the delivery of workforce development services.

4.4(2) Additional members. After the original formation of the coordinating service provider, organizations wishing to join the coordinating service provider and meeting the eligibility criteria may do so with the approval of the coordinating service provider and regional advisory board on July 1 of each year.

4.4(3) Member contributions. Each member organization is expected to contribute resources to the regional workforce development system (for example, funds, staff, equipment or office space).

877—4.5(84A,84B) 28E agreement. The coordinating service provider will be formed through the execution of a 28E agreement. The format of the 28E agreement shall be provided by the department, must meet the requirements of Iowa Code chapter 28E, and be approved by the attorney general's office. The 28E agreement shall also be approved by the regional advisory board and the state workforce development board before final execution. The fully executed 28E agreement will be filed by the department with the county recorder in Polk County and with the secretary of state.

877—4.6(84A,84B) Responsibilities. The coordinating service provider is responsible for:

1. Developing a budget and approving the expenditure of funds received by the fiscal agent on behalf of the coordinating service provider.

2. Coordinating the delivery of workforce development services, the design and implementation of integrated products and services, and the management of the workforce development center system.

3. Utilizing the department's integrated customer service system.

4. Marketing and maintaining the identity of the regional workforce development center system.

5. Developing and implementing a regional workforce development customer service plan based upon the results of the regional assessment and analysis, product and service priorities established by the department and the regional advisory board, and developing and implementing a service redesign process.

6. Deciding how best to deliver its products and services and allocating available funds for the delivery of products and services subject to all applicable laws and restrictions.

7. Having the authority to enter into contracts necessary to deliver approved products and services subject to all applicable laws and restrictions. Any such contracts must be in a form satisfactory to counsel for the department. The coordinating service provider shall also have authority to purchase personal property subject to applicable law and regulations.

8. Providing reports to the department, the workforce development board, the regional advisory board, local elected officials, and the private industry council as required.

877—4.7(84A,84B) Fiscal agent. Each coordinating service provider shall select an entity to serve as the fiscal agent to receive and disburse funds on behalf of the coordinating service provider. If the fiscal agent selected is not a member of the coordinating service provider, a competitive process must be used to select the fiscal agent. In order to be a fiscal agent, an organization must be a legal entity that meets the following criteria annually:

1. Its most recent audit report including a statement of financial position and an operating statement must substantiate the financial capability and viability of the organization; and

2. At the time of entering into a contract with the department, the organization has a successful preaward survey completed by the state auditor's office or has a successful preaward survey on file with the state auditor's office. Community colleges and political subdivisions of the state of Iowa are exempt from this requirement. In accordance with the state workforce development board's authority to review grants and contracts, an organization shall not be denied a contract if the state auditor is not timely in completing the preaward survey.

877—4.8(84A,84B) Workforce development centers. The purpose of workforce development centers is to provide a one-stop career center within each region of the state to deliver an integrated network of information resources and workforce development services to job seekers, businesses, employees, students, schools and colleges, and the public at large.

4.8(1) Core services. The following services shall be provided in each workforce development center in the state:

1. Individual career and employment consulting.
2. Employment readiness training.
3. Occupational skill development.
4. Basic skills development.
5. Individual income and support services.
6. Business employment consulting.
7. Employment networking and placement.
8. Labor market information services.
9. Special assistance with plant closings and layoffs.
10. Community workforce development consulting.

4.8(2) Optional services. Other services may be offered in a workforce development center by the coordinating service provider based upon needs identified by each regional advisory board.

4.8(3) Satellite centers. In addition to a full-service workforce development center in each region, full-time or part-time satellite offices may be established to provide ease of customer access.

4.8(4) Electronic access. Workforce development services may be accessed electronically via the Internet and other means.

4.8(5) Service coverage. Every county in each region must have access to services either through electronic means or through a satellite office or workforce development center.

4.8(6) Accessibility. All locations must meet the requirements of the Americans with Disabilities Act. All locations are also encouraged to provide office hours which meet customers' needs for accessibility.

4.8(7) Other service providers. Other public and private workforce development vendors are encouraged, but not required, to locate within the workforce development centers to expand services available to the public. Organizations locating within the centers will be required to share the cost of the lease and maintenance of the building and their share of actual secretarial and other required support costs.

4.8(8) Training assistance. Training assistance shall not be provided in occupations for which there is a current oversupply of trained persons or in subjects which are considered as general life improvement, as compared to educational, job-keeping, job-retention, or skill improvement.

877—4.9(84A,84B) Performance measures. The coordinating service provider will be required to meet performance measures issued periodically, but not more than annually, by the department.

877—4.10(84A,84B) Supervision of department staff. If a member organization of the coordinating service provider is responsible for the supervision of department staff within the region, the supervision must be in accordance with department personnel policies, state collective bargaining contract provisions, and the administrative rules of the department of personnel. In addition, the member organization and the department shall enter into a separate 28E agreement specifically detailing the responsibilities of the supervision of department staff.

877—4.11(84A,84B) Rules and regulations. The coordinating service provider shall comply with federal and state laws, regulations, rules, and policies for the Job Training Partnership Act programs, Wagner-Peyser programs, veterans services programs, unemployment insurance programs, food stamps employment and training program, PROMISE JOBS, Iowa welfare-to-work program, the strategic workforce development fund, and other programs deemed appropriate and contained in the coordinating service provider guide.

877—4.12(84A,84B) Contract. The department shall issue a contract to the fiscal agent authorized by each coordinating service provider in the provider's 28E agreement. The contract is a financial contract and is contingent upon the annual receipt of federal and state appropriations. The contract shall be

modified each year to reflect changes in budget, performance and customer satisfaction measures and other federal and state requirements.

877—4.13(84A,84B) Vendors. Organizations which are not a part of the coordinating service provider but receive funding for services from the coordinating service provider shall be selected through a procurement process. In most cases, a competitive bidding process shall be required, but, when appropriate, sole source selection is allowable. Examples of allowable sole source selection include, but are not limited to, procuring on-the-job training providers and classroom training courses for a single participant.

877—4.14(84A,84B) Incentives and sanctions. If the coordinating service provider meets all of its performance outcome requirements and a required level of customer satisfaction, incentives consistent with federal and state laws and regulations could be given. In the event the coordinating service provider does not meet performance outcome requirements, the department will assist the coordinating service provider to improve its performance. If a coordinating service provider does not meet performance outcome requirements for two consecutive years, a new coordinating service provider shall be selected using a competitive process.

877—4.15(84A,84B) Planning process. The planning process should be conducted to allow opportunity for employers, labor organizations, communities, community-based organizations and the public to provide input into the plan. At a minimum, one public hearing shall be conducted and a public notice of the planning process issued no later than ten days prior to the public hearing.

4.15(1) Public notice. The public notice describes the region's planning process, location of where and how the draft and final regional plan may be obtained, and how to provide input into the planning process. The notice also includes a federal funds contribution statement, including the percentage of total cost of programs which will be financed with federal funds, dollar amounts of federal funds for each program, and the percentage and dollar amounts of the total cost of each program that will be financed from nongovernmental sources.

4.15(2) Legislative notice. Ten days prior to the submittal of the plan to the regional advisory board and local elected officials for review and approval, the proposed plan shall be made available to each house of the state legislature. Copies should be sent to the Secretary of the Senate, State Capitol, Des Moines, Iowa 50319, and the Chief Clerk of the House, State Capitol, Des Moines, Iowa 50319.

4.15(3) Education notice. Ten days prior to the submittal of the plan to the regional advisory board and local elected officials for review and approval, the proposed plan shall be made available to the primary area education agency of the region, the primary community college, and the local vocational area planning council.

4.15(4) Labor notice. Ten days prior to the submittal of the plan to the regional advisory board and local elected officials for review and approval, the proposed plan shall be made available to local labor unions and local labor-management committees.

4.15(5) Final plan. The final plan shall be submitted to the regional advisory board and local elected officials for review and approval. After their joint approval, the plan shall be submitted to the department by June 1 of each year for review and approval by the state workforce development board. If the regional advisory board and local elected officials are unable to agree on the approval of the plan, the department will facilitate a process for agreement to be reached locally.

877—4.16 to 4.25 Reserved.

These rules are intended to implement Iowa Code section 84A.5(8) and chapter 84B.

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CHAPTER 5
Reserved

CHAPTER 6
REGIONAL ADVISORY BOARDS

877—6.1(84A,PL113-128) Definitions.

“*Chief elected official*” means designated representatives of the units of local government joined through a 28E agreement, pursuant to Section 107(c)(1)(B) of WIOA, for the purpose of sharing liability and responsibility in accordance with Title I of the WIOA.

“*Community-based organization*” means a private nonprofit organization (which may include a faith-based organization) that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce development.

“*Department*” means the department of workforce development.

“*Eligible youth*” means, except as provided in Subtitles C and D of Title I of WIOA, in-school youth, as described in Section 129(a)(1)(B) of WIOA, or out-of-school youth, as described in Section 129(a)(1)(C) of WIOA.

“*In-demand industry sector*” means an industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

“*In-demand occupation*” means an occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

“*Local workforce development board*” means a local workforce development board established in accordance with Section 107 of the Workforce Innovation and Opportunity Act, Public Law No. 113-128.

“*Optimum policymaking authority*” means that an individual can reasonably be expected to speak affirmatively on behalf of the entity the individual represents and to commit that entity to a chosen course of action.

“*Representative with demonstrated expertise and effectiveness on a local workforce development board*” means an individual who is a workplace learning advisor as defined in Section 3(70) of WIOA; who contributes to the field of workforce development, human resources, training and development, or a function of a core program as defined in Section 3(12) of WIOA; or whom the local workforce development board recognizes for valuable contributions in education or workforce development-related fields.

“*Veteran*” has the meaning given the term in Section 101 of Title 38, United States Code.

“*WIOA*” means the federal Workforce Innovation and Opportunity Act, Public Law No. 113-128.
[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.2(84A,PL113-128) Number of boards. The governor, in consultation with chief elected officials, shall appoint a regional advisory board in each workforce development region of the state.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.3(84A,PL113-128) Composition—voting members. Each regional local workforce development board shall meet the membership criteria in Section 107(b) or Section 107(i) of WIOA.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.4(84A,PL113-128) Nomination process for voting members. The following procedures shall be used in soliciting nominations for voting members.

6.4(1) All nominations for members which represent business shall be made by local or regional business organizations or trade associations. Business representatives should be owners of businesses, chief executive or operating officers of business and other business executives or employers with optimum policymaking or hiring authority and represent businesses with employment opportunities that reflect the employment opportunities of the region.

6.4(2) All nominations for members which represent labor shall be made by appropriate local federations of labor, union councils, or state federations of labor.

6.4(3) All nominations for members representing an eligible provider of adult education and literacy where there is more than one such eligible provider in the local workforce development area shall be made by such eligible providers.

6.4(4) All nominations for members representing a vocational rehabilitation program shall be made by Iowa vocational rehabilitation services or the Iowa department for the blind.

6.4(5) All nominations shall be made in writing with the signed approval of the required nominating organization.

6.4(6) The overall membership of the board shall be balanced by gender and political affiliation consistent with Iowa Code sections 69.16 and 69.16A. To the extent possible, the members should represent all counties within a region served by the board and both voting and nonvoting members should represent persons with disabilities, minorities and older workers of the region.

6.4(7) All nominations for members representing the employment service program under the Wagner-Peyser Act shall be made by the department.

6.4(8) Nominations are valid for an unlimited time period unless the local elected officials of a region set a specific time limit in the local annual plan.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.5(84A,PL113-128) Appointment process.

6.5(1) In making appointments to the boards, the chief local elected officials shall submit a nominee for a board vacancy to the department within 45 days of the vacancy.

6.5(2) The governor shall review a nominee for a vacancy on a local workforce development board and either appoint or reject such nominee. The governor shall notify the chief elected officials within 45 days of a nominee's appointment or rejection.

6.5(3) If the governor rejects a nominee, the chief elected officials shall submit the name of a new nominee to the department within 45 days of such rejection.

6.5(4) If the chief elected officials fail to submit the name of a nominee for a vacancy within the 45-day time period or fail to reach agreement locally on appointments to the board, the governor may appoint a person to fill the vacancy.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.6(84A,PL113-128) Meetings. The board shall meet in May of each year. The chief elected official for the local workforce development area will name a chairperson from among the local workforce development board's representatives of business. The chairperson and vice chairperson shall not be of the same political party. The board shall meet at the call of the chairperson or when a majority of the members of the board file a written request of the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.7(84A,PL113-128) Duties. The local workforce development board shall perform the following duties and other functions as necessary and proper to carry out its responsibilities under Title I of WIOA and listed in Iowa Code section 84A.4(2).

1. Conduct a needs assessment to identify the workforce development needs of the region.
2. Recommend to the state workforce development board and the department of workforce development awards of grants and contracts administered by the department in the region.
3. Monitor the performance of grants and contracts awarded in the region.
4. File an annual report with the department as required by Iowa Code section 84A.1B.
5. Recommend to the state workforce development board and department of workforce development the services to be delivered in the region.
6. Fulfill the responsibilities of a local workforce investment board as required by the WIOA, subsequent amendments and all related regulations.

7. Enter into an agreement with the region's chief elected officials board to delineate their respective duties related to administration of the WIOA.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.8(84A,PL113-128) Board certification and decertification. The governor will certify each local workforce development board in accordance with Section 107(c)(2) of WIOA and may decertify a board pursuant to Section 107(c) of WIOA.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.9(84A,PL105-220) Board decertification. Rescinded ARC 3610C, IAB 1/31/18, effective 3/7/18.

877—6.10(84A,PL113-128) Member travel expenses. Board members may be reimbursed for actual and necessary travel expenses for board meetings and other authorized board travel. Expenses will be reimbursed according to guidelines issued by the department of revenue.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

877—6.11(84A,PL113-128) Records. Agendas, minutes, and materials presented to the board are available from the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, except those records concerning closed sessions which are exempt from disclosure under Iowa Code subsection 21.5(5) or which are otherwise confidential by law. Board records contain information about persons who participate in meetings. This information is collected pursuant to Iowa Code section 21.3 and subsection 96.11(6). These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

Rule-making records may contain information about persons making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. These records are not stored in an automated data processing system and may not be retrieved by a personal identifier.

[ARC 3610C, IAB 1/31/18, effective 3/7/18]

These rules are intended to implement Iowa Code section 84A.4 and the federal Workforce Innovation and Opportunity Act, Public Law No. 113-128.

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CHAPTER 7
IOWA WORKFORCE INVESTMENT ACT PROGRAM

877—7.1(84A,PL105-220) Designation of responsibility. Through Executive Order Number One and Executive Order Number Five, the department of workforce development was designated by the governor as the department responsible for activities and services under the Workforce Investment Act (WIA) of 1998 (P. L. 105-220).

877—7.2(84A,PL105-220) Purpose. The purpose of the Iowa workforce investment Act program is to meet the needs of businesses for skilled workers and the training, education and employment needs of individuals through a statewide, one-stop workforce development center system.

877—7.3(84A,PL105-220) Definitions.

“Chief elected official board” means the units of local government joined through an agreement for the purpose of sharing liability and responsibility for programs funded by the Workforce Investment Act of 1998.

“Contractor” means grantees, subrecipients, coordinating service providers, and service providers.

“Coordinating service provider” means the entity or consortium of entities selected by the regional workforce investment board and the chief elected official board to coordinate partners within the workforce development center system. The coordinating service provider is one of the workforce development center system partners.

“Department” means the department of workforce development.

“Director” means the director of the department of workforce development.

“Local elected official” means the county supervisors and mayors of a region’s cities with a population of more than 50,000.

“Local grant recipient” means the chief elected official board.

“Mandatory partners” means the service providers that make their services available through the workforce development center system and use a portion of their resources to support the operation of the regional workforce development center system and the delivery of core services to their customers. Entities that carry out the following federal programs are required to make their services available through the workforce development center system: Wagner-Peyser Act; Unemployment Insurance; Senior Community Service Employment Activities - Title V Older Americans Act; Adult Education and Literacy Activities - Title II; Title I of the Rehabilitation Act of 1973; Welfare to Work; Veterans Services under Chapter 41, Title 38; Employment and Training Activities under Community Block Grants; HUD Employment and Training Activities; and Post-Secondary Vocational Education Activities under the Carl Perkins Act. In addition, those entities selected to provide Workforce Investment Act funded services for adults, dislocated workers and youth are mandatory partners, as are service providers for Native American programs, migrant and farm worker programs, veterans workforce programs, and Job Corps.

“Regional workforce investment board (RWIB)” means a board established according to 877—Chapter 6, “Regional Advisory Boards,” Iowa Administrative Code.

“Subrecipient” means an entity selected by the chief elected official board to receive the Workforce Investment Act funds in a region from the department and disburse those funds to the entity(ies) designated by the regional workforce investment board.

“Workforce development center system” means the regional network of workforce development centers and access points for workforce development services supported by the chief elected official board, regional workforce investment board, partners, service providers, and vendors. The system is focused on meeting the needs and priorities of the customer through an integrated service delivery system based on interagency partnerships and the sharing of resources.

“Workforce Investment Act of 1998,” “WIA” or “the Act” means Public Law 105-220.

877—7.4(84A,PL105-220) Service delivery region designations. The governor is responsible for the designation of workforce investment regions with the assistance of the state workforce development board, after consultation with the chief elected officials and after consideration of comments received through a public comment process.

7.4(1) In making the designation of regions, the governor shall take into consideration the following:

- a.* Geographic areas served by local educational agencies and intermediate educational agencies;
- b.* Geographic areas served by postsecondary educational institutions and vocational education schools;
- c.* The extent to which the regions are consistent with labor market areas;
- d.* The distance that individuals will need to travel to receive services provided in the regions; and
- e.* The resources of the areas that are available to effectively administer the activities carried out through the workforce development centers.

7.4(2) In order to initiate the designation process, the governor shall publicly announce the proposed region designations after receiving a recommendation from the state workforce development board. This will begin a public comment period of two weeks, during which local elected officials and other interested parties may comment on the proposed designations. Due to state legislative limitations, the maximum number of regions that may be designated is 16.

7.4(3) Any request from any unit of local government with a population of 500,000 or more shall be approved by the governor. In addition, the governor shall approve any requests from any unit of general local government, or consortium of contiguous units of general local government, that was a service delivery area under the federal Job Training Partnership Act, provided that it is determined that the area performed successfully in each of the last two program years and has sustained the fiscal integrity of funds. For the purposes of this subrule, “performed successfully” means that the service delivery area met or exceeded the performance for the following performance standards as appropriate:

- a.* Title IIA: adult follow-up employment rate; adult welfare follow-up employment rate; adult follow-up weekly earnings; and adult welfare follow-up weekly earnings.
- b.* Title III: entered employment rate; and average wage at placement.

Also for the purposes of this subrule, “sustained fiscal integrity” means that the Secretary of the Department of Labor has not made a final determination during any of the last three years that either the grant recipient or administrative entity misspent funds due to willful disregard of the requirements of the Job Training Partnership Act, gross negligence, or failure to observe accepted standards of administration.

7.4(4) The final designation of the regions shall be made by the governor once all comments have been received and reviewed.

7.4(5) Any unit of general local government, or consortium of contiguous units of general government, that requests, but is not designated, a region under 7.4(3) may submit an appeal in accordance with the provisions of 7.24(12).

877—7.5(84A,PL105-220) Chief elected official board. Each region is required to form a chief elected official board made up of representatives of the elected officials of local governments within the region.

7.5(1) The board shall consist of a representative of each county within a region and a representative of each of the region’s cities with a population of 50,000 or more. Although required to participate, the supervisors or mayors may choose to “opt out” by resolution of their full boards of supervisors or city councils. By exercising this option, the county or city will no longer share in the liability for the WIA funds or have a voice in the design and oversight of the system.

7.5(2) The board shall be formed through an agreement that details how the responsibilities and liabilities related to WIA programs will be shared by the local governments. At a minimum, the agreement must contain the following items:

- a.* All elements of an agreement required by Iowa Code chapter 28E for joint exercise of governmental powers;
- b.* Process for selecting the chairperson;
- c.* Process for nominating and selecting appointments to the regional workforce investment board;

d. Apportionment of responsibility and liability among participating units of government, including losses, expenses and burdens that may result from any misuse of WIA grant funds; and

e. Designation of an entity to serve as the local subrecipient.

7.5(3) The fully executed agreement, or any amendments to the agreement, must be filed with the secretary of state and the county recorder of each county that is a party to the agreement. A copy of the agreement and any amendments must also be sent to Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

7.5(4) The chief elected official board shall serve as the local grant recipient and be liable for any misuse of WIA grant funds, unless an agreement is reached with the department to act as the local grant recipient and to bear such liability. The department shall serve as a region's local grant recipient only in rare or extreme circumstances.

7.5(5) The chief elected official boards have the following roles and responsibilities:

a. Providing input to the governor, through the department and state workforce development board, on designation of workforce investment regions;

b. Securing nominations for regional workforce investment board vacancies in accordance with 877—Chapter 6, “Regional Advisory Boards,” Iowa Administrative Code; and

c. Accepting liability for any misuse of WIA funds expended under contract with the chief elected official board.

7.5(6) In partnership with the regional workforce investment board, the chief elected official board is responsible for:

a. Negotiating and reaching agreement with the department on regional performance standards;

b. Appointing a youth advisory council;

c. Determining the role of the coordinating service provider;

d. Designating and certifying the coordinating service provider;

e. Developing a chief elected official/regional workforce investment board agreement to detail how the two boards shall work together in establishing and overseeing the region's workforce development center system, as defined in 877—7.7(84A,PL105-220);

f. Developing and entering into a memorandum of understanding with the region's workforce development center system's partners;

g. Conducting oversight of the WIA adult and dislocated worker services, youth programs, and the workforce development center system;

h. Evaluating service delivery to determine if regional needs and priorities are being met;

i. Determining whether regional needs have changed and, if so, whether a plan modification is necessary;

j. Ensuring quality improvement is ongoing and performance standards are met; and

k. Developing and submitting the regional workforce development customer service plan based on a regional needs assessment and analysis.

877—7.6(84A,PL105-220) Regional workforce investment board. Each region shall establish a regional workforce investment board as defined in 877—Chapter 6, “Regional Advisory Boards,” Iowa Administrative Code. The roles and responsibilities of the regional workforce investment board include:

1. Selecting service providers for WIA adult and dislocated worker intensive services and youth programs.

2. Establishing policy for the region's workforce development center system.

3. Developing a budget to carry out the duties of the board, subject to the approval of the chief elected official board.

4. Coordinating WIA youth, adult and dislocated worker employment and training activities with economic development strategies and developing other employer linkages with these activities.

5. Promoting the participation of private sector employers in the workforce development system and ensuring the availability of services to assist such employers in meeting workforce development needs.

6. Certifying eligible training providers.
7. Determining the use of the strategic workforce development fund, including the operation and funding of a summer or in-school youth program(s), use of discretionary funds, and selection of service providers.
8. Selecting the welfare-to-work service provider.
9. Submitting an annual report to the state workforce development board.
10. Establishing cooperative relationships with other boards in the region.
11. Directing the activities of the youth advisory council.
12. Sharing the duties with the chief elected official board as outlined in subrule 7.5(6).

877—7.7(84A,PL105-220) Regional workforce investment board/chief elected official board agreement. Each regional workforce investment board and chief elected official board shall enter into an agreement to define how they shall share certain responsibilities.

7.7(1) At a minimum, the agreement must include the following elements:

- a. How the coordinating service provider will be selected;
- b. How the boards will be involved in negotiations of performance measures with the department;
- c. How the boards will develop a memorandum of understanding with the region's workforce development center system's partners;
- d. How the boards will develop and approve the regional workforce development customer service plan;
- e. How the boards will share the oversight of the workforce development center system;
- f. Process that will be used by the boards to appoint members to the youth advisory council;
- g. Process for modifying or amending the agreement;
- h. Process to be used to develop an operating budget for the regional workforce investment board and youth advisory council; and
- i. Methods of communications between the two boards.

7.7(2) A fully executed copy, and any subsequent modifications, of the agreement shall be submitted to Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

877—7.8(84A,PL105-220) Youth advisory council. Each region must appoint a youth advisory council to provide expertise and make recommendations regarding youth employment and training policy.

7.8(1) The roles and responsibilities of the youth advisory council, at the direction of the regional workforce investment board, include the following:

- a. Assist in the development of the regional customer service plan relating to eligible youth;
- b. Recommend and oversee youth service providers; and
- c. Coordinate youth activities funded under WIA.

7.8(2) Youth advisory council membership shall include:

- a. Members of the regional workforce investment board that have a special interest or expertise in youth policy;
- b. Individuals who represent youth service agencies, such as juvenile justice and local law enforcement agencies;
- c. Individuals who represent local public housing authorities, if applicable;
- d. Parents of youth eligible for WIA youth services or who were served under a Job Training Partnership Act youth program;
- e. Individuals with experience relating to youth activities;
- f. Former Job Training Partnership Act participants;
- g. Representatives of the Job Corps, if Job Corps has an office within the region; and
- h. Any other individuals that the chairperson of the regional workforce investment board, in cooperation with the chief elected official board, determines to be appropriate.

7.8(3) The size of the youth council, the number of representatives from each sector, term length, nomination process, and county/city representation are decisions of the regional workforce investment board and chief elected official board.

7.8(4) The regional workforce investment board shall submit the name, mailing address, and sector affiliation of each youth advisory council appointee to the department for mailing list purposes. The list, and subsequent updates due to new appointments, shall be submitted to Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

877—7.9(84A,PL105-220) Selection of coordinating service provider. To receive funds made available under Title I of WIA, the regional workforce investment board, in agreement with the chief elected official board, must designate an entity as the coordinating service provider for the workforce investment region.

7.9(1) The regional workforce investment board and chief elected official board must determine the role of the coordinating service provider. At a minimum, the coordinating service provider's roles and responsibilities shall include the following:

- a.* Provide overall customer management and tracking, including responsibility for results of enrollments.
- b.* Manage the workforce development center system in the region, including workforce development center facilities, and ensure that services are accessible and available in every county of the region.
- c.* Ensure workforce development center system partners' compliance with the memorandum(s) of understanding.
- d.* Coordinate and negotiate the resource sharing agreement.
- e.* Ensure that performance standards and customer satisfaction goals for the region's workforce development center system are met.
- f.* Provide information and feedback to the regional workforce investment board and chief elected official board concerning the delivery of the services outlined in the customer service plan versus the needs and priorities identified in the regional needs assessment and analysis.
- g.* Maintain, promote and market the regional workforce development center system.
- h.* Develop and submit an annual progress report toward meeting the needs and priorities identified in the regional needs assessment and analysis to the regional workforce investment board.
- i.* May, as described in the memorandum(s) of understanding, determine eligibility for training services.

7.9(2) The regional workforce investment board and chief elected official board need to determine if they want to grandfather the current coordinating service provider, based on the role that has been determined. The boards also need to determine if the current coordinating service provider desires to be grandfathered.

7.9(3) If the regional workforce investment board or chief elected official board does not desire to grandfather the existing coordinating service provider, or if the coordinating service provider members do not desire to be grandfathered, then the service provider(s) needs to be selected prior to the designation of the coordinating service provider.

7.9(4) The coordinating service provider may be a public or private entity, or a consortium of entities, of demonstrated effectiveness located in the region. Eligible entities may include, but are not limited to, the following:

- a.* A postsecondary educational institution;
- b.* An employment service agency established under the Wagner-Peyser Act;
- c.* A private nonprofit organization (including a community-based organization);
- d.* A private, for-profit entity;
- e.* A government agency; or
- f.* Another interested organization (includes a local chamber of commerce, labor organization or other business organization).

Elementary schools and secondary schools are the only entities not eligible for designation or certification as a coordinating service provider. However, nontraditional public secondary schools and area vocational schools are eligible for designation.

7.9(5) To designate a coordinating service provider, the regional workforce investment board must utilize one of the three processes listed below. More than one option may be pursued concurrently.

a. An agreement with the governor to designate the coordinating service provider that was in place on August 7, 1998. In order to utilize this option, the chairpersons of the regional workforce investment board and chief elected official board must provide a written notice to the department indicating that both boards have taken appropriate action and desire to pursue this option.

b. A competitive process. At a minimum, the competitive process to designate the coordinating service provider shall include the following:

(1) Public notice. A public notice shall be published in one of the official county newspapers, as designated by the county board of supervisors. The public notice must indicate that both boards shall hold a joint meeting to select the coordinating service provider(s) for the region. The notice must list the criteria that will be used in the selection of the coordinating service provider(s). The notice must also require that written proposals be submitted by a specific date and invite interested entities to give presentations and answer questions relating to the selection criteria in 7.9(6) at the joint public meeting. Notices must also be mailed to potentially interested entities within the region.

(2) Public meeting. Since both boards must agree on the designation of the coordinating service provider, at a minimum, the boards shall jointly conduct a public meeting to review the written proposals received, obtain any additional information from entities submitting written proposals, and reach an agreement as to the selection(s).

c. An agreement between the regional workforce investment board and a consortium of entities that, at a minimum, includes three or more of the mandatory partners. In order to utilize this option, at a minimum, the regional workforce investment board and chief elected official board shall notify all partners that they are willing to consider proposals from mandatory partners and hold an open meeting to obtain input and finalize the action.

7.9(6) The following criteria are suggested for use in the selection of a coordinating service provider:

a. The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports, and capability of the agency's fiscal unit to manage a similar type of program or project;

b. The likelihood of meeting program goals based upon factors such as past performance, staff commitment, and availability and location of staff;

c. The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the programs; and

d. Other criteria as determined by both boards.

877—7.10(84A,PL105-220) Selection of service providers. Core and intensive services for the adult program and the dislocated worker program shall be provided through the workforce development center. These services may be provided by one entity or a number of different entities. If the role of the coordinating service provider includes the provision of core and intensive services for adults and dislocated workers, then the selection of adult and youth service providers may be combined with the selection of the coordinating service provider. The regional workforce investment board and chief elected official board must determine the most effective and efficient manner to provide these services in the region. The regional workforce investment board and chief elected official board must also determine which service providers will be responsible for ensuring that performance standards are met and that the service provider(s) responsible for performance have the authority to make enrollment decisions for their participants.

7.10(1) In selecting service providers, the regional workforce investment board may use the following procedure or may develop a more formal procurement procedure. At a minimum, the procedure to designate service providers must include the following:

a. Public notice. A public notice shall be published in the official county newspaper, as designated by the county board of supervisors. The public notice must indicate that the regional workforce investment board shall hold a meeting to select the service provider(s) to provide core and intensive services for the adult and dislocated worker programs under Title I. The notice shall list the criteria for the selection of the service provider(s) and invite interested entities to give presentations and answer questions relating to the selection criteria. Notices shall also be mailed to potentially interested entities within the local region.

b. Public meeting. The regional workforce investment board shall conduct a public meeting to obtain information from entities interested in providing core and intensive services in the local region and to reach an agreement as to the selection of the service provider(s).

c. Criteria for selecting service providers. The following are examples of criteria that could be considered and addressed in the selection of a service provider:

(1) The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports, previous partnerships negotiated for services for customers, and capability of the agency's fiscal unit to manage a similar type of program or project;

(2) The likelihood of meeting performance goals based upon factors such as past performance, effective use of previous grant funds, staff commitment, and availability of staff;

(3) The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the program; and

(4) Other criteria as determined by the regional workforce investment board.

7.10(2) Youth service providers shall be selected via a competitive process and based on recommendations of the youth advisory council. Since the delivery of the youth services could be accomplished through a number of different service providers, the regional workforce investment board should initially designate a youth service provider to coordinate the operation of the youth program and to provide eligibility, enrollment, objective assessment and individual service strategy services for youth. Additional youth service providers could be designated at a later date. At a minimum, the procedure to designate the youth service provider(s) must include the following:

a. Public notice. A public notice shall be published in one of the official county newspapers, as designated by the county board of supervisors. The public notice must indicate that the regional workforce investment board shall hold a public meeting to select a youth service provider to coordinate the operation of the youth program, and to provide eligibility, enrollment, objective assessment and individual service strategy services for youth. The notice must list the criteria to be used in the selection of the youth service provider(s) and must require that written proposals be submitted by a specific date. The notice must also invite interested entities that have submitted written proposals to give presentations and answer questions relating to the selection criteria at the public meeting. Notices must also be mailed to potentially interested entities within the local region.

b. Public meeting. The regional workforce investment board must conduct a public meeting to review the written proposals received, obtain any additional information from entities submitting written proposals, and reach an agreement as to the selection(s).

c. Criteria for selecting youth service providers. The following are examples of criteria that could be considered and addressed in the selection of a service provider:

(1) The effectiveness of the agency or organization in delivering comparable or related services based on documentation of achievement of performance and service level requirements, previous audit and monitoring reports and capability of the agency's fiscal unit to manage a similar type of program or project;

(2) The likelihood of meeting performance goals based upon factors such as past performance, staff commitment, and availability of staff;

(3) The effectiveness of the agency or organization in minimizing the duplication of services, while at the same time maximizing the coordination with other agencies and organizations to provide the highest quality activities and services to the participants in the program; and

(4) Other criteria as determined by the regional workforce investment board.

7.10(3) Entities with taxing authority may not use tax paid services as in-kind matching funds.

877—7.11(84A,PL105-220) Memorandum of understanding. The memorandum of understanding is an agreement developed and executed between the regional workforce investment board, with the agreement of the chief elected official board, and the workforce development center system partners relating to the operation of the workforce development center system in the region. There may be a single memorandum of understanding developed that addresses the issues relating to the regional workforce development center system, or the regional workforce investment board and partners may decide to enter into several agreements. Regardless of whether there is a single agreement or multiple agreements, each partner should be aware of the contents of all of the agreements executed.

7.11(1) The regional workforce investment board and the chief elected official board should initiate the negotiation process for the development of the agreement. Prior to the start of negotiations, the following tasks shall be completed:

- a. Identify all of the local partners and the services they provide.
- b. Name the coordinating service provider.
- c. Determine the role of the coordinating service provider.
- d. Complete the regional needs assessment and analysis.
- e. Execute a single memorandum of understanding or multiple memorandums of understanding.

7.11(2) At a minimum, the memorandum of understanding shall include:

- a. The services to be provided through the workforce development center system.
- b. The location of the comprehensive workforce development center(s), as well as other locations where each partner's services will be provided. All partners must make their core services available, at a minimum, at one comprehensive physical center in the region. All adult and dislocated worker core services shall also be available at the comprehensive center. In addition, core services may be provided at additional sites, and partners' applicable core services need not be provided exclusively at the comprehensive workforce development center. The core services may be made available by the provision of appropriate technology at the comprehensive workforce development center by co-locating personnel at the center, by cross-training of staff, or through a cost reimbursement agreement.

- c. The programs and services that will be available at the different locations must be specified, as well as the manner in which the services will be made available.

- d. The particular arrangements for funding the services provided through the workforce development center system and the operating costs of the system. Each partner must contribute a fair share of the operating costs based on the use of the workforce development center delivery system by the individuals attributable to the partner's program. While the resources that a partner contributes do not have to be cash, the resources must be of value and must be necessary for the effective and efficient operation of the center system. The specific method of determining each partner's proportionate responsibility must be described in the agreement. This could include a list of resources that each partner is providing toward the operation of the system. Since most partners' budgets fluctuate on an annual basis, partner contributions for the operating costs of the system should be reevaluated annually.

- e. The partners who will be using the common intake/case management system as the primary referral mechanism, and how referrals will occur between and among the partners not utilizing the common intake/case management system.

- f. When the agreement will become effective as well as when the memorandum will terminate or expire. The effective date must be no later than July 1, 2000.

- g. The process or procedure for amending the agreement. The procedure should include such items as:

- (1) Identification of who can initiate an amendment;
- (2) Time lines for completing an amendment;

- (3) Conditions under which an amendment will become necessary; and
- (4) Method of communicating changes to all of the partners.

7.11(3) It is a legal obligation for the regional workforce investment board, chief elected official board and partners to engage in good-faith negotiation and reach agreement on the memorandum of understanding. Any or all parties may seek the assistance of the department or other appropriate state agencies in negotiating the agreements. After exhausting all alternatives, the department or the other state agencies may consult with the appropriate federal agencies to address impasse situations. If the regional workforce investment board and chief elected official board have not executed a memorandum of understanding with all of the mandatory partners and service providers, the region shall not be eligible for state incentive grants awarded for local cooperation.

877—7.12(84A, PL105-220) Performance measures. The programs authorized in Title I are evaluated by measures established by the Act on a state and regional basis. In order for the state to qualify for incentive funds, it must meet performance standards set for these measures, in conjunction with successful performance by programs funded under the Carl Perkins Act and the Workforce Investment Act Title II.

7.12(1) Standards for measurement for each region shall be established through negotiations between the department, the chief elected official board and each regional workforce investment board.

7.12(2) Performance outcome measures. The overall mission of Iowa's workforce development center system is to increase the size of the skilled labor force and increase earned income among Iowa citizens. Each region's workforce development center system shall address its locally developed priorities in conjunction with the above goals. In addition to having the performance of the regional workforce development center system evaluated as a whole, all Title I programs shall be evaluated based on the following outcome measures:

a. Adult program outcome measures.

- (1) Entry into unsubsidized employment;
- (2) Retention in unsubsidized employment for six months after entry into employment;
- (3) Earnings received in unsubsidized employment for six months after entry into employment;

and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

b. Dislocated worker program outcome measures.

- (1) Entry into unsubsidized employment;
- (2) Retention in unsubsidized employment for six months after entry into employment;
- (3) Earnings received in unsubsidized employment for six months after entry into employment;

and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter unsubsidized employment.

c. Youth aged 19 to 21 outcome measures.

- (1) Entry into unsubsidized employment;
- (2) Retention in unsubsidized employment for six months after entry into employment;
- (3) Earnings received in unsubsidized employment for six months after entry into employment;

and

(4) Attainment of a recognized credential related to achievement of educational skills (such as a secondary school diploma or its recognized equivalent), or occupational skills, by participants who enter postsecondary education, advanced training, or unsubsidized employment.

d. Youth aged 14 to 18 outcome measures.

- (1) Attainment of basic skills and, as appropriate, work readiness or occupational skills;
- (2) Attainment of secondary school diplomas or their recognized equivalents; and

(3) Placement and retention in postsecondary education, advanced training, military service, employment, or qualified apprenticeships.

e. Customer satisfaction of participants.

f. Customer satisfaction of employers.

7.12(3) Other measures. The following measures shall also be tracked and progress reported.

a. Entry by participants who have completed training services into unsubsidized employment related to the training received;

b. Wages at entry into employment (including rate of wage replacement for groups of participants, such as dislocated workers);

c. Cost of workforce investment activities relative to the effect of the activities on the performance of participants;

d. Retention and earnings received in unsubsidized employment 12 months after entry into the employment; and

e. Performance of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals, as required by the Department of Labor.

7.12(4) Retention in employment measures and wages earned measures will be calculated using data from the unemployment insurance wage record database with the assistance of the department.

7.12(5) Regional performance standards shall be negotiated between the department, the regional workforce investment board and chief elected official board. Performance standards shall be negotiated for each region annually. The department, the regional workforce investment board and chief elected official board shall evaluate regional performance and the appropriateness of the negotiated standards each year. Formal negotiation shall be conducted for two-year periods and remain consistent with years in which needs assessment activities are conducted.

The department shall establish a minimum acceptable level of performance for each measure, based upon levels established through negotiation between the state and the Department of Labor and using historical data. Negotiation will focus on the adjusted level of performance, which will serve as the regional objective. Performance of a program within a region below the minimum acceptable levels shall be the basis for corrective action or sanctions. Performance above adjusted levels shall be the basis for incentive awards. In addition, regions may negotiate maximum levels of performance (level at which adjusted levels shall not be negotiated beyond during the first five years).

7.12(6) Incentive awards. A portion of the state level funds shall be reserved from Title I programs to provide incentive awards to regions that demonstrate superior performance and to provide technical assistance to all regions. Incentive awards, which are granted during a program year, shall be distributed based upon performance from the previous program year. Actual distribution of the funds shall occur after the end of each program year when final performance standards are calculated. At that time, performance shall be compared against the region's adjusted levels to determine eligibility for, and the amount of, incentive awards.

Incentive awards shall be distributed to regional workforce investment boards when average performance across all measures exceeds the average adjusted levels for the percent achieved score for each measure. When the percent achieved score is greater than 100 percent, the region qualifies for a regional incentive award. There is no requirement for the number of individual measures that must be exceeded, but the customer and employer satisfaction measures must be exceeded for a region to qualify for an incentive award.

The regional workforce investment board must utilize the incentive funds to support Title I services, but it is possible for a region to purchase services that do not count toward performance measurement.

The determination of actual performance achievement on the 17 performance measures and any subsequent incentive awards shall be based on data contained in the integrated customer service (ICS) system. The initial determination of incentive awards shall be made no later than September 1 following the end of the program year. By that time, the chair of each regional workforce investment board shall be notified of its initial performance and incentive award determination. The regional workforce investment board, or its designee, shall be allowed two weeks in which to respond to these initial determinations. The response shall be limited to the calculation of the awards. Changes to the data shall not be permitted

unless authorized by the department. A final determination and the awarding of incentive funds shall occur no later than October 1 following the end of the program year. The department reserves the authority to adjust the time lines for the awarding of incentive funds if circumstances warrant such an adjustment.

7.12(7) If a region does not meet performance outcome requirements, the department shall provide technical assistance to the region to improve its performance. The following process shall be used:

a. Technical assistance shall be available to the Title I service providers through the department's staff. In situations where regional performance falls below the minimum acceptable level, the department will assist the regional workforce investment board, or its designee, with the development of a performance improvement plan.

b. If regional Title I programs do not meet the minimum acceptable level of performance for two consecutive years, the regional workforce investment board shall be required to develop a performance improvement plan. Technical assistance shall also be available to the regional workforce investment board and chief elected official board to adjust the regional customer service plan to facilitate the success of the region's performance improvement plan.

c. The performance improvement plan must be reviewed and approved by the chief elected official board prior to its submittal of the plan to the department.

7.12(8) If a region falls below the minimum acceptable levels of performance agreed upon for the region's average composite percent achieved score in any of the program areas for two consecutive years, the governor, through the department, shall take corrective action. The critical measures that determine possible sanctions are:

1. Adult program measures average;
2. Dislocated worker program measures average;
3. Youth program measures average; and
4. Customer satisfaction measures average.

At a minimum, the corrective action shall include the development of a performance improvement plan and the possibility of a reorganization plan, under which the governor:

- a.* Requires the appointment and certification of a new regional workforce investment board;
- b.* Prohibits the use of particular service providers that have been identified as achieving poor levels of performance;
- c.* Requires the certification of a new coordinating service provider;
- d.* Requires the development of a new regional plan; or
- e.* Requires other appropriate measures designed to improve the performance of the region.

An appeal to sanctions may be made by following the process identified in 7.24(15). If a region is being sanctioned, it shall not qualify for an incentive award in the Title I category.

877—7.13(84A,PL105-220) Regional customer service plan. Each regional workforce investment board, in partnership with the chief elected official board, shall develop and submit to the governor a five-year comprehensive plan that is in compliance with the state's workforce investment plan. A region must have an approved plan in place prior to receiving funds.

7.13(1) The plan shall contain the following elements:

- a.* Workforce development services available in the region.
- b.* An explanation of how customers access the services.
- c.* Statement of the region's workforce development priorities.
- d.* An identification of the workforce investment needs of businesses, job seekers, and workers in the region.
- e.* Current and projected employment opportunities, and the job skills necessary to obtain such opportunities.

f. A description of the regional workforce development center system, including the locations of access points, such as the region's one-stop center, satellite workforce development centers, resource centers, and other locations within the region where access to services shall be provided (including the access point in each county for department services that is required by state law); what products and

services will be delivered at each of these locations and how access to those services will be provided at that location; identification of the products and services that may be provided upon a fee basis and an explanation of the amount and circumstances when the fee will be applied; and a description or flowchart of the service delivery system, identifying how customers will be served and referred within the center system, and when necessary, how program services, including the adult, dislocated worker and youth programs, will be provided to employers, and to other customers through the adult, dislocated workers, rapid response, and youth programs.

g. Description of the region's policies regarding issues such as activities and services, eligibility, selection, enrollment, and applicant and participant processes.

h. If a region will be sharing the costs of delivering services with another region within a labor market area, that arrangement and cost-sharing agreement shall be described.

i. Identification of the chief elected official board's and regional workforce investment board's oversight policies concerning the region's performance standards and continuous improvement activities.

j. Identification of how the regional workforce investment board and chief elected official board will evaluate the service delivery process and service providers' performance.

k. Description of the annual budget development, review and monitoring process for the region.

l. Description of how economic development groups, older workers, disabled individuals, and partners are provided an opportunity to provide periodic and meaningful input regarding the operation of the workforce development system.

m. Identification of the subrecipient or entity responsible for the disbursement of grant funds.

n. Attachments, including the regional needs assessment and analysis; region's negotiated performance measures; the region's memorandum of understanding; a copy of the region's complaint procedures; procurement procedures; and any documentation customers will be asked to provide for enrollment.

o. Public input process, including proof of publication for public notices soliciting public input for the plan.

p. Limitations on the dollar amount or duration of an individual training account (ITA), or both. There may be a limit for an individual participant that is based on the needs identified in the individual employment plan, as documented by an individual needs determination, or there may be a maximum amount applied to all ITAs. The amount of any ITA must be decreased by the amount of any Pell Grant awarded to a participant.

7.13(2) Prior to submitting the plan to the governor, the regional workforce investment board shall provide opportunities for public input regarding the plan. The public input process must include, at minimum:

a. Making copies of a proposed plan available to the public through such means as public hearings and public notices in local newspapers.

b. Allowing a 30-day period for regional workforce investment board members and members of the public, including representatives of business and labor organizations, to submit comments to the regional workforce investment board on the proposed plan after the plan is made available to the public. When the plan is submitted to the governor, any comments received expressing disagreement with the plan shall be included.

c. Holding open meetings to make information about the plan available to the public on an ongoing basis.

7.13(3) The plan must be formally approved by the regional workforce investment board and chief elected official board. An original signed document and four copies must be submitted by April 1, 2000, to the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

7.13(4) The department shall review the plan and recommend approval to the state workforce development board, unless deficiencies in the plan are identified in writing by the department and revision is required; or the plan is not in compliance with federal and state laws and regulations, including required consultations and public comment provisions.

7.13(5) Modifications to the plan may be required by the department under certain circumstances, including significant changes in regional economic conditions, changes in the financing available, changes in the regional workforce investment board structure, or a need to revise strategies to meet performance goals. A proposed modification of the plan must be approved by vote of the regional workforce investment board and chief elected official board at a public meeting.

877—7.14(84A,PL105-220) Activities and services.

7.14(1) Core services. Core services are designated as self-service and informational, which do not require registration or eligibility determination; and staff-assisted, which require registration and eligibility determination.

a. The following types of activities and services are considered self-service or informational core services:

- (1) Determination of eligibility to receive services under WIA;
- (2) Outreach, intake (which may include worker profiling) and orientation to the information and other services available through the system;
- (3) Initial assessment of skill levels, aptitudes, abilities, and supportive service needs;
- (4) Job search and placement assistance and, where appropriate, career counseling;
- (5) Provision of employment statistics information, related to local, regional, and national labor market areas, such as job vacancy listings in such labor market areas, information on job skills necessary to obtain the jobs listed, and information relating to local occupations in demand and the earnings and skill requirements for such occupations;
- (6) Provision of performance and program cost information on eligible providers of training services;
- (7) Provision of information regarding how the local area is performing on the local performance measures and any additional information with respect to the workforce development center system in the local region;
- (8) Provision of accurate information relating to the availability of supportive services, including child care and transportation available in the local region, and referral to such services as appropriate;
- (9) Provision of information regarding filing claims for unemployment compensation;
- (10) Assistance in establishing eligibility for welfare-to-work and programs of financial aid for assistance for training and education programs that are not funded under the Act and are available in the region;
- (11) Follow-up services, including counseling regarding the workplace, for WIA participants who are placed in unsubsidized employment, for not less than 12 months after the first day of employment, as appropriate.

b. The following types of activities and services are considered staff-assisted core services:

- (1) Counseling;
- (2) Individual job development;
- (3) Job clubs; and
- (4) Screened referrals.

7.14(2) Intensive services. A participant must receive intensive services before being determined to be in need of training services to obtain employment that leads to self-sufficiency. Intensive services include:

a. Comprehensive and specialized assessments of skill levels and service needs, including diagnostic testing and use of other assessment tools, and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;

b. Development of an individual employment plan to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals;

c. Group counseling;

d. Individual counseling and career planning;

e. Case management for participants seeking training services;

f. Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training;

- g.* Out-of-area job search expenses;
- h.* Relocation expenses;
- i.* Internships; and
- j.* Work experience.

7.14(3) Training services. The following types of activities and services are considered to be training services:

- a.* Occupational skills training, including training for nontraditional employment;
- b.* Programs that combine workplace training with related instruction, which may include cooperative education programs;
- c.* Training programs operated by the private sector;
- d.* Skill upgrading and retraining;
- e.* Entrepreneurial training;
- f.* Job readiness training; and
- g.* Customized training.

7.14(4) Supportive services . Supportive services are those services necessary to enable an individual to participate in activities authorized under WIA. The following types of supportive services are allowable:

- a.* Clothing;
- b.* Counseling;
- c.* Dependent care;
- d.* Financial assistance;
- e.* Health care;
- f.* Housing assistance;
- g.* Miscellaneous services;
- h.* Needs-related payments;
- i.* Residential/meals support;
- j.* Services to individuals with disabilities;
- k.* Supported employment and training; and
- l.* Transportation.

7.14(5) Youth services. An array of services may be made available to youth. The list of youth services, which must be made available in each region, is as follows:

- a.* Tutoring, study skills training and instruction leading to secondary school completion, including dropout prevention strategies;
- b.* Alternative secondary school offerings;
- c.* Summer employment opportunities directly linked to academic and occupational learning;
- d.* Paid and unpaid work experiences, including internships and job shadowing;
- e.* Occupational skill training;
- f.* Leadership development opportunities;
- g.* Supportive services;
- h.* Adult mentoring, for a duration of at least 12 months, which may occur both during and after program participation;
- i.* Follow-up services; and
- j.* Comprehensive guidance and counseling, including drug and alcohol abuse counseling.

7.14(6) Customized training . The purpose of customized training is to provide training specific to an employer's needs, so individuals will be hired, or retained, by the employer after successful completion of the training. Customized training is normally provided in a classroom setting and is designed to meet the special requirements of an employer or group of employers. The employer(s) must commit to hire, or in the case of incumbent workers, continue to employ, an individual on successful completion of the

training and must pay not less than 50 percent of the cost of the training. Participants enrolled in this activity must be covered by adequate medical and accident insurance.

7.14(7) *Entrepreneurial training.* The purpose of entrepreneurial training is to help participants acquire the skills and abilities necessary to successfully establish and operate their own self-employment businesses or enterprises.

a. The methods of providing training may include classes in small business development, marketing, accounting, financing, or any other courses that could contribute to a participant's goal of self-employment. On-site observation and instruction in business skills may also be provided, as well as individualized instruction and mentoring.

b. Entrepreneurial training may not be used for training in job-specific skills other than business management. However, it may be provided concurrently or consecutively with specific skill training for the purpose of establishing an enterprise that utilizes those skills.

c. Payments under entrepreneurial training are limited to training programs and activities that provide instruction in business operation and management. Funds may not be used for any direct costs associated with the establishment or operation of the business (e.g., materials, inventory, overhead, or advertising).

d. All participants who are enrolled in this training must apply for any financial assistance for which they may qualify, including Pell Grants. For purposes of this requirement, financial assistance does not include loans.

e. Participants must be covered by adequate medical and accident insurance.

7.14(8) *Follow-up services .* The purpose of these services is to identify any problems or needs that might preclude a former participant from remaining employed or continuing to progress toward unsubsidized employment. The provision of follow-up services and contacts or attempted contacts must be documented in the participant file.

a. Follow-up services must be provided for all adults and dislocated workers who enter employment for not less than 12 months after the first day of employment. The first follow-up contact must occur within the first 30 days of entering employment. The first contact must be a personal contact (in person or by telephone) with the participant. A second contact must occur approximately 90 days after the first day of employment. Contacts are required quarterly thereafter for the next three quarters. The types of follow-up services provided must be based on the needs of the adult or dislocated worker. Follow-up services may include:

- (1) Counseling regarding the workplace;
- (2) Assistance to obtain better employment;
- (3) Determination of the need for additional assistance; and
- (4) Referral to services of partner agencies or other community resources.

b. Follow-up services must be provided for all youth for not less than 12 months from the date of exit from the program. The first follow-up contact must occur within the first 30 days of entering employment. The first contact must be a personal contact (in person or by telephone) with the participant. A second contact must occur approximately 90 days after the first day of employment. Contacts are required quarterly thereafter for the next three quarters. Follow-up services may be provided beyond 12 months at the discretion of the RWIB. The types of services provided must be determined based on the needs of the youth. Follow-up services for youth may include:

- (1) Leadership development and supportive services;
- (2) Regular contact with the youth's employer, including assistance in addressing work-related problems that arise;
- (3) Assistance in securing better paying jobs, career development, and further education;
- (4) Work-related peer support groups;
- (5) Adult mentoring; and
- (6) Tracking the progress of youth in employment, postsecondary training, or advanced training.

7.14(9) *Guidance and counseling .* Guidance and counseling is the provision of advice to participants through a mutual exchange of ideas and opinions, discussion and deliberation. Guidance and counseling should be academic or employment-related, and may include drug and alcohol abuse

counseling and referral. Guidance for youth must be categorized as either academic (primarily provided to assist a youth in achieving academic success), or employment-related (primarily provided to assist a youth in achieving employment-related success).

7.14(10) Institutional skill training . The purpose of this service is to provide individuals with the technical skills and information required to perform a specific job or group of jobs. Institutional skill training is conducted in a classroom setting.

a. All participants who are enrolled in this service must apply for any financial assistance for which they may qualify, including Pell Grants. All participants must be covered by the training institution's tuition refund policy. In the absence of a refund policy established by the training institution, the WIA service provider must negotiate a reasonable refund policy with the training site.

b. Participants must be covered by adequate medical and accident insurance.

c. A participant who is employed must not be earning a self-sufficiency wage to be enrolled in this service.

7.14(11) Job club. The purpose of this activity is to provide a structured job search activity for a group of participants who develop common objectives during their time of learning and working together, supporting one another in the job search process. The scheduled activities and required hours of participation should reflect proven job search techniques and the employment environment of the region.

a. Participants in job club shall meet the following objectives:

(1) Have been prepared to understand and function in the interview process and the workplace;

(2) Have completed all tools needed for effective work search, including a résumé and an application letter; and

(3) Have the opportunity to complete as many actual job contacts and interviews as possible after completing all of the job search tools.

b. Participants must be covered by adequate medical and accident insurance.

7.14(12) Leadership development. The purpose of leadership development is to enhance the personal life, social, and leadership skills of participants, and to remove barriers to educational and employment-related success. Leadership development opportunities may include the following:

a. Exposure to postsecondary educational opportunities;

b. Community and service learning projects;

c. Peer-centered activities, including peer mentoring and tutoring;

d. Organizational and team training, including team leadership training;

e. Training in decision making, including determining priorities;

f. Citizenship training, including life skills training such as parenting, work behavior training, and budgeting of resources;

g. Employability training; and

h. Positive social behavior or "soft skills," including but not limited to, positive attitudinal development, self-esteem building, cultural diversity training, and work simulation activities.

Leadership development activities are normally conducted in a group setting and must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule. Participants must be covered by adequate on-site medical and accident insurance.

7.14(13) Limited internship. The purpose of a limited internship is to provide a participant with exposure to work and the requirements for successful job retention that are needed to enhance the long-term employability of that participant.

a. Limited internships are limited in duration, devoted to skill development, and enhanced by significant employer investment.

b. Internships may be conducted at public, private, for-profit and nonprofit work sites. The use of an intern should involve a substantial investment of effort by employers accepting the intern, and an intern must not be employed in a manner that subsidizes or appears to subsidize private sector employers.

c. The total participation in a limited internship for any participant must not exceed 500 hours per enrollment. In addition, for in-school youth, participation must be limited to 20 hours per week during the school year. In-school youth may participate full-time during summer vacation and holidays.

d. Limited internship agreements must be written only for positions for which a participant would not normally be hired because of lack of experience or other barriers to employment.

e. Participants may be compensated for time spent in the activity. This compensation may be in the form of incentive and bonus payments or wages. If the participant receives wages, the WIA service provider is the employer of record. The wages paid to the participant must be at the same rates as similarly situated employees or trainees of the employer of record, but in no event less than the higher of the federal or state minimum wage. Participants receiving wages must always be paid for time worked, must not be paid for any scheduled hours they failed to attend without good cause, and must, at a minimum, be covered by workers' compensation in accordance with state law. In addition, all participants who are paid wages must be provided benefits and working conditions at the same level and to the same extent as other employees of the employer of record working a similar length of time and doing the same type of work.

f. Participants receiving incentive or bonus payments based on attendance must not receive any payment for scheduled hours that they failed to attend without good cause.

g. Participants who are not receiving wages must be covered by adequate on-site medical and accident insurance.

h. Limited internships may be used in conjunction with on-the-job training with the same employer. However, when this occurs, the internship must precede on-the-job training, and the on-the-job training time for the participant must be reduced.

i. If the private sector work site employer hires the participant during internship, the internship for that participant must be terminated.

7.14(14) Mentoring. The purpose of mentoring is to provide a participant with the opportunity to develop a positive relationship with an adult. The adult mentor should provide a positive role model for educational, work skills, or personal or social development. Mentoring for youth must be categorized as either academic (primarily provided to assist a youth in achieving academic success) or employment-related (primarily provided to assist a youth in achieving employment-related success).

7.14(15) On-the-job training. The purpose of on-the-job training (OJT) is to train a participant in an actual work situation that has career advancement potential in order to develop specific occupational skills or obtain specialized skills required by an individual employer.

a. Since OJT is employment, state and federal regulations governing employment situations apply to OJT. Participants in OJT must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer. Wages paid must not be less than the highest of federal or state minimum wage or the prevailing rates of pay for individuals employed in similar occupations by the same employer.

b. Participants in OJT must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of job. Each participant in OJT must be covered by workers' compensation in accordance with state law.

c. Payment to employers is compensation for the extraordinary costs of training participants, including costs of classroom training, and compensation for costs associated with the lower productivity of such participants. A trainer must be available at the work site to provide training under an OJT contract. For example, a truck driving position in which the driver drives alone or without immediate supervision or training would not be appropriate for OJT. The payment must not exceed 50 percent of the wages paid by the employer to the participant during the period of the training agreement. Wages are considered to be moneys paid by the employer to the participant. Wages do not include tips, commissions, piece-rate-based earnings or nonwage employee fringe benefits. Payment for overtime hours and holidays is only allowable in accordance with local policies. Holidays may be used as the basis for OJT payments only if the participant actually works and receives training on the holiday.

d. An OJT contract with an employer may be written for a maximum of 6 calendar months unless the contract is for a part-time OJT of less than 500 hours, in which instance the contract period may

be extended to a maximum of 12 months. Under no circumstances may an OJT contract be written for a participant if the hours of training required for the position in which the participant is to be trained are determined to be less than 160 hours. The number of OJT training hours for a participant must be determined using a standardized chart, unless the regional customer service plan contains an alternative methodology for determining the length of OJTs. The hours specified must be considered as a departure point for determining actual WIA training hours. If the total number of training hours for the OJT position cannot be provided during the maximum contract length allowable, as many training hours as possible must be provided. The OJT training hours for a participant must be reduced if a participant has related prior employment or training in the same or similar occupation. Previous training or experience, which occurred so long ago that skills gained from that experience are obsolete, may be disregarded to the extent that those skills need to be relearned or reacquired. The number of training hours for a participant may be increased based upon the participant's circumstances, such as a disability. The number of hours of training for any participant as well as the process for extending or reducing those training hours from the basic method of determination must be documented.

e. OJTs may not be written with temporary help agencies or employee leasing firms for positions which will be "hired out" to other employers for probationary, seasonal, temporary or intermittent employment. A temporary employment agency may serve as the employer of record only when the OJT position is one of the staff positions with the agency and not a position that will be "hired out."

f. In situations in which an employer refers an individual for eligibility determination with the intent of hiring that individual under an OJT contract, the individual referred may be enrolled in an OJT with the referring employer only when the referring employer has not already hired the individual and an objective assessment and service plan have been completed which support the development of an OJT with the referring employer.

g. Prior to recontracting with an OJT employer, the past performance of that employer must be reviewed. An OJT contract must not be entered into with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees. Employer eligibility for future OJT contracts need not result in termination if OJT participants voluntarily quit, are terminated for cause, or are released due to unforeseeable changes in business conditions. An employer that has been excluded from OJT contracting because of failing to hire participants may again be considered for an OJT placement one year after that sanction was imposed. In this recontracting situation, if the employer fails to retain the participant after the OJT ends, and there is no apparent cause for dismissing the employee, the employer must not receive any future OJT contracts.

h. OJTs may be written for employed workers when the following additional criteria are met and documented:

(1) The employee is not earning a self-sufficiency wage as defined in the regional customer service plan; and

(2) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills or workplace literacy, or other appropriate purposes identified in the regional customer service plan.

7.14(16) Preemployment training. The purpose of preemployment training is to help participants acquire skills necessary to obtain unsubsidized employment and to maintain employment.

a. Activities may include, but are not limited to:

(1) Instruction on how to keep jobs, including employer's expectations relating to punctuality, job attendance, dependability, professional conduct, and interaction with other employees;

(2) Assistance in personal growth and development which may include motivation, self-esteem building, communication skills, basic living skills, personal maintenance skills, social planning, citizenship, and life survival skills; and

(3) Instruction in how to obtain jobs, including completing applications and résumés, and interviewing skills.

b. Preemployment training activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

c. Participants must be covered by adequate on-site medical and accident insurance.

7.14(17) Remedial and basic skill training. The purpose of remedial and basic skill training is to enhance the employability of participants by upgrading basic literacy skills through basic and remedial education courses, literacy training, adult basic education, and English as a second language (ESL) instruction. Remedial and basic skill training may be conducted in a classroom setting or on an individual basis. Remedial and basic skill training may be used to improve academic or language skills prior to enrollment in other training activities.

a. For adults and dislocated workers, remedial and basic skill training must be offered in combination with other allowable training services (not including customized training).

b. Remedial and basic skill training activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

c. Participants must be covered by adequate on-site medical and accident insurance.

7.14(18) Secondary education certification. The purpose of secondary education certification is to enhance the employability of participants by upgrading their level of education. Secondary education certification activities may be conducted in a classroom setting or on an individual basis.

a. Secondary education certification must be categorized as one of the following:

- (1) Secondary school;
- (2) Alternative school;
- (3) Tutoring; or
- (4) Individualized study.

b. Participation in this component must be expected to result in a high school diploma, general educational development (GED) certificate, or an individualized educational program (IEP) diploma.

c. Secondary education certification activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

d. Participants must be covered by adequate on-site medical and accident insurance.

7.14(19) Skill upgrading. The purpose of skill upgrading is to provide short-term prevocational training to participants to upgrade their occupational skills and enhance their employability. Examples of allowable skill upgrading activities include a typing refresher to increase speed and accuracy, keyboarding, or basic computer literacy. Skill upgrading may be conducted in a classroom setting or on an individual basis, but must be short-term in nature and must not exceed nine weeks in duration. Participants must be covered by adequate on-site medical and accident insurance.

7.14(20) Summer activities. The purpose of summer activities is to provide a youth with summer employment activities that are directly linked to academic and occupational learning.

a. The employment component provides participants with a positive employment experience during the summer months. The employment experience should be directly linked to academic and occupational learning activities. The employment component could be a limited internship, on-the-job training, vocational exploration, or work experience.

b. The summer academic learning component assists youth in achieving academic success. For in-school youth the goal is to prevent the erosion of basic literacy skills over the summer months and, to the extent possible, to increase basic literacy skill levels, particularly in reading and math. In addition, the purpose of the academic learning component includes the improvement of the employment potential of individuals who are not intending to return to school.

(1) All participants must have at least 30 hours of academic learning activities included in their service strategies.

(2) The academic learning activities should be designed as a comprehensive instructional approach that includes thinking, reasoning, and decision-making processes that are necessary for success in school, on the job, and in society in general.

(3) The academic learning activity may include:

1. Remedial and basic skill training;
2. Basic literacy training;
3. Adult basic education;
4. English as a second language;
5. General educational development (GED) instruction;
6. Tutoring;
7. Study skills training;
8. Leadership development opportunities;
9. Adult mentoring;
10. Citizenship training;
11. Postsecondary vocational and academic courses;
12. Applied academic courses; and
13. Other courses or training methods that are intended to retain or improve the basic educational skills of the participant.

(4) The academic learning activities may be conducted in a classroom setting or on an individual basis. The academic learning curriculum provided to a participant should take into account the learning level and interests of that participant.

(5) A participant may be paid a wage-equivalent payment (stipend) based upon attendance for time spent in the academic learning activity, or may be paid release time wages for time spent in the academic learning activity if work experience, on-the-job training, limited internship or vocational exploration is the primary activity. In lieu of being paid a stipend or wages, the youth may be rewarded with an incentive and bonus payment. Participants cannot be paid for unattended hours in the academic learning activity.

c. The occupational learning component provides youth with an opportunity to learn occupational skills related to a specific occupation, or to an occupational cluster. The occupational learning activities may be incorporated in the employment or academic learning component or may be a separate component such as skill upgrading.

d. Participants must be covered by adequate on-site medical and accident insurance.

7.14(21) Vocational exploration. The purpose of vocational exploration is to expose participants to jobs available in the private or public sector through job shadowing, instruction and, if appropriate, limited practical experience at actual work sites.

a. Vocational exploration may take place at public, private nonprofit, or private-for-profit work sites.

b. The total participation in this activity for any participant in any one occupation must not exceed 160 hours per enrollment.

c. The length of a participant's enrollment is limited to a maximum of 640 hours, regardless of the number of explorations conducted for the participant.

d. The participant must not receive wages for the time spent in this activity and is not necessarily entitled to a job at the end of the vocational exploration period.

e. The service provider must derive no immediate advantage from the activities of the participant and on occasion the operation of the employer may actually be impeded. In the case of private-for-profit organizations, the participant must not be involved in any activity that contributes, or could be expected to contribute, to additional sales or profits or otherwise result in subsidization of wages for the organization.

f. Vocational exploration activities must include a schedule for the participant to follow, regular contact by a staff person, a maximum length of time allowed in the activity, and documentation that the participant and staff are making the required contacts and following the established schedule.

g. Participants must be covered by adequate on-site medical and accident insurance.

7.14(22) Work experience. The purpose of work experience is to provide participants with short-term or part-time subsidized work assignments to enhance their employability through the development of good work habits and basic work skills. Work experience should help participants acquire the personal attributes, knowledge, and skills needed to obtain a job and advance in employment.

a. This activity should be used for individuals who have never worked or have been out of the labor force for an extended period of time including, but not limited to, students, school dropouts, individuals with disabilities, displaced homemakers, and older individuals. Work experience must be limited to persons who need assistance to become accustomed to basic work requirements, including basic work skills, in order to successfully compete in the labor market.

b. Work experience may be used to provide:

(1) Instructions concerning work habits and employer and employee relationships in a work environment;

(2) An improved work history and work references;

(3) An opportunity to actively participate in a specific work field; and

(4) An opportunity to progressively master more complex tasks.

c. Work experiences may be paid or unpaid. If the participant is paid wages, the wages must be at the same rates as similarly situated employees or trainees of the employer of record, but in no event less than the higher of the federal or state minimum wage. In most situations, the service provider is the employer of record. Participants must always be paid for time worked, but must not be paid for any scheduled hours they failed to attend without good cause.

d. In addition, all individuals participating in work experience must be provided benefits and working conditions at the same level and to the same extent as other employees of the employer of record working a similar length of time and doing the same type of work. Each participant must be covered either by workers' compensation in accordance with state law or by adequate on-site medical and accident insurance. Participants are exempt from unemployment compensation insurance. Therefore, unemployment compensation costs are not allowable.

e. Under certain conditions participants in a wage-paying work experience may be paid for time spent attending other activities. Such payments may be made only if work experience participation is scheduled for more than 50 percent of the scheduled training time in all activities. Usually, the participant will be enrolled simultaneously in both the work experience and another activity.

f. Service providers may supplement the costs of wages and fringe benefits only if the service provider is the employer of record. In these instances, the payment for work experience would be made to the employer after adequate time and attendance and supporting documentation is provided. Any such arrangement must be specified in an agreement with the service provider.

g. Work experience may take place in the private, for-profit sector, the nonprofit sector, or the public sector. A participant cannot be placed in work experience with an employer with whom the participant is already employed in an unsubsidized position.

h. Work experience must not be used as a substitute for public service employment activities.

i. A work experience agreement at one work site may be written for a maximum of 13 calendar weeks unless the agreement is for a part-time work experience of less than 500 hours, in which instance the activity period may be extended to a maximum of 26 weeks.

7.14(23) Miscellaneous services.

a. Bonding is an allowable cost, if it is not available under federally or locally sponsored programs. If bonding is an occupational requirement, it should be verified that the participant is bondable before the participant is placed in training for that occupation.

b. The costs of licenses or application fees are allowable if occupationally required.

c. The costs of relocation are allowable if it is determined by service provider staff that a participant cannot obtain employment within a reasonable commuting area and that the participant has secured suitable long-duration employment or obtained a bona fide job offer in the area of relocation.

d. The costs of lodging for each night away from the participant's permanent home are allowable if required for continued program participation. While the participant is away from home or in travel status for required training the costs for meals are allowable.

e. The costs of special services, supplies, equipment, and tools necessary to enable a participant with a disability to participate in training are allowable. It is not an allowable use of WIA funds to make capital improvements to a training or work site for general compliance with the Americans with Disabilities Act requirements.

f. Supported employment and training payments are allowable to provide individuals requiring individualized assistance with one-on-one instruction and with the support necessary to enable them to complete occupational skill training and to obtain and retain competitive employment. Supported employment and training may only be used in training situations that are designed to prepare the participant for continuing nonsupported competitive employment. Employment positions supported at sheltered workshops or similar situations may not utilize this activity.

g. The cost of transportation necessary to travel to and from WIA activities and services, including job interviews, are allowable.

h. Incentive and bonus payments are allowable to reward youth for attendance or achievement. Payments must be based upon a local policy that is described in the regional customer service plan, is applied consistently to all participants and is based on attendance or achievement of basic education skills, preemployment/work maturity skills, or occupational skills. The payments may be based on a combination of attendance and achievement.

877—7.15(84A,PL105-220) Individual training accounts. The individual training account (ITA) is established on behalf of a participant by the intensive service provider. ITA is the mechanism through which adults and dislocated workers shall purchase training services from eligible training providers. Payment for supportive services and related needs is not allowable under the ITAs.

7.15(1) Adult and dislocated worker service providers must provide participants the opportunity to select an eligible training provider, maximizing participant choice yet also allowing consultation from the participant's case manager. Unless the program has exhausted funding or has insufficient funds to cover the estimated cost of the program, the service provider must refer the individual to the selected training provider. Since funds are limited, priority shall be given to recipients of public assistance and other low-income individuals.

7.15(2) Participants whose application for a Pell Grant is pending may receive training services; however, an agreement must be in place between the participant and the training provider. In the event the Pell Grant is awarded, funds shall be released to reimburse the program and not the participant.

7.15(3) Payments from ITAs may be made in a variety of ways including credit vouchers, electronic transfer of funds through financial institutions, purchase orders, credit/debit cards or other appropriate methods. How funds will be transferred within a region, within the state and outside the state shall be a local decision as described by the regional workforce investment board in the local plan.

7.15(4) The actual implementation of ITAs will involve the service provider(s) in the region where the participant resides and the selected training provider. Payment amounts and duration of an ITA may be limited according to the needs identified in the individual's employment plan and specified in the local plan.

877—7.16(84A,PL105-220) Certification of training providers.

7.16(1) Eligible training providers. Eligible training providers include:

a. Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and provide a program that leads to an associate degree, baccalaureate degree or certificate;

b. Entities that carry out programs under the National Apprenticeship Act; and

c. Other public or private providers of a program of training services.

7.16(2) Training programs. A program of training services is one or more courses or classes that, upon successful completion, lead to a certificate, an associate degree, or baccalaureate degree; or a competency or skill recognized by employers; or a training regimen that provides individuals with additional skills or competencies generally recognized by employers.

7.16(3) Certification process. An application for each training program must be submitted to the regional workforce investment board in the region in which the training provider desires its program to be approved. Each program of training services must be described, including appropriate performance and cost information. Training providers shall be approved, initially, as well as subsequently, by regional workforce investment boards in partnership with the department.

7.16(4) Regional workforce investment board role. The regional workforce investment board shall be responsible for:

- a.* Accepting applications from postsecondary educational institutions, entities providing apprenticeship programs, and public and private providers for initial and subsequent approval.
- b.* Submitting to the department the local list of approved providers, including performance and cost information for each program.
- c.* Ensuring dissemination of the statewide list to participants in employment and training activities through the regional workforce development center system.
- d.* Consulting with the department in cases where approved providers shall have their approval revoked because inaccurate information has been provided.
- e.* Notifying all known providers of training in their region regarding the process and time line for accepting applications.

7.16(5) Department role. The department shall be responsible for:

- a.* Establishing initial approval criteria as well as setting minimum levels of performance for public and private providers;
- b.* Setting minimum levels of performance measures for all providers to remain subsequently approved;
- c.* Developing and maintaining the state list of eligible training providers, which is compiled from information submitted by the regional workforce investment boards;
- d.* Verifying the accuracy of the information on the state list;
- e.* Removing training providers who do not meet program performance levels;
- f.* Disapproving training providers who provide inaccurate information; and
- g.* Disapproving training providers who violate any provision of the Workforce Investment Act.

7.16(6) Initial provider approval. Upon completion of the application, initial approval shall be granted to:

- a.* Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and provide a program that leads to an associate or baccalaureate degree, certificate, or diploma; and
- b.* Entities that carry out apprenticeship programs registered under the National Apprenticeship Act.
- c.* Other public and private providers of training services that currently provide a training program shall be required to submit additional information to the regional workforce investment board in the region in which they desire to provide training services.

The department shall accept documentation from the appropriate certification body for postsecondary educational institutions that are eligible to receive funds under Title IV and National Apprenticeship programs, who do not provide a program of training services at the time of application.

7.16(7) Other public and private providers of training services that currently do not provide a program of training services at the time of application must:

- a.* Document the need for the training based on specific employer needs in the region; and
- b.* Develop a training curriculum with the agreement of local employers.

Once the training provider's program is approved, the training provider shall be included on a statewide list that will be available to customers seeking training services.

7.16(8) To be eligible effective July 1, 2000, interested training providers must submit their applications to the regional workforce investment board in their region. The application date shall be established by each regional workforce investment board. All approved applications must be submitted to the department by May 31, 2000. The department has 30 days from the receipt of the regionally approved applications to review and verify the information provided. Initial approval for all training providers shall be effective until November 30, 2001.

7.16(9) If a training provider has been determined to be initially eligible and desires to continue its eligibility, it must submit performance information to the regional workforce investment board and meet performance levels annually.

7.16(10) Each regional workforce investment board shall maintain a list of all approved training providers, including providers for on-the-job and customized training in the region, and make the list available statewide. The regional workforce investment board shall submit all approved applications to the department after the applications are received locally. The department shall be responsible for maintaining the statewide list of all approved training providers. The list will be updated at least annually or as needed and made available to participants in employment and training activities and others through the regional workforce development center system. The regional workforce investment board has the responsibility of notifying all known providers of training in the board's region regarding the process and time line for accepting applications. The department may approve training providers from other neighboring states when requested.

7.16(11) Application process for initial approval.

a. Postsecondary educational institutions that are eligible to receive funds under Title IV of the Higher Education Act of 1965 and entities that carry out programs under the National Apprenticeship Act must submit an application as required by the regional workforce investment board. The regional workforce investment board may develop its own application procedures or adopt the procedure developed by the department for other public and private training providers.

b. Other public or private providers of a program of training services shall be required to complete and submit an application to the regional workforce investment board in each region as specified below. The application requires identifying information on the training provider and enrollment periods, as well as the following information:

- (1) The name and description of the training program(s) to be offered.
- (2) The cost of each training program (tuition; books; supplies, including tools; uniforms; fees, including laboratory; rentals, deposits and other miscellaneous charges) to complete a certificate or degree program or an employer-identified competency skill.
- (3) A description of the facility and organization of the school.

c. Program completion rate for all individuals participating in the applicable program conducted by the provider. A program completer is a person who has obtained a certificate, degree, or diploma; or received credit for taking the program; or received a passing grade in the program; or finished the required curriculum of the program.

d. Percentage of all students in the program who obtained unsubsidized employment.

e. Average wages of all students in unsubsidized employment.

For initial approval, the regional workforce investment board may require additional information.

7.16(12) Required information for subsequent approval. To remain an approved training provider, all training providers must have their performance information reviewed by the regional workforce investment board on an annual basis. The required performance information for subsequent approval includes the following information:

a. Program completion rate for all individuals participating in the applicable program conducted by the provider.

b. Percentage of all students who obtained unsubsidized employment.

c. Average wages of all students who obtained unsubsidized employment. (If a training provider is using the unemployment insurance database to calculate wages, the average starting wage will be calculated by a national Department of Labor formula that converts quarterly unemployment insurance wages into an hourly rate.)

d. Where applicable, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skill of the graduates of the training program.

e. Percentage of WIA participants who obtained unsubsidized employment.

f. Percentage of WIA participants who have completed the training program and who are placed in unsubsidized employment.

g. Retention rates in unsubsidized employment, six months after the first day of employment, of WIA participants who have completed the training program.

h. Average wages, six months after the first day of employment, received by WIA participants who have completed the training program.

i. Average actual cost of training, including tuition, fees, and books, for WIA participants to complete the training program.

The department shall publish, on an annual basis, guidelines on acceptable performance measures for training providers.

7.16(13) Nonapproval. The department, in consultation with the regional workforce investment board, determines whether or not to approve a training provider. If the regional workforce investment board determines that the training provider does not meet the established performance levels, a written recommendation shall be sent to the division administrator of the division of workforce development center administration. The division administrator shall make a determination whether the training provider is disapproved and removed from the list. Regional workforce investment boards and the department must take into consideration the following factors when determining subsequent approval:

a. The specific economic, geographic, and demographic factors in the region in which the training providers seeking approval are located; and

b. Characteristics of the populations served by the training providers seeking approval, including difficulties in serving such populations, where applicable.

If it is determined that an eligible provider or an individual supplying information on behalf of the provider intentionally supplies inaccurate information, the department shall terminate the approval of the training provider for a minimum of two years. If either the regional workforce investment board or the department determines that an eligible provider substantially violates any requirement under the Act, it may terminate approval to receive funds for the program involved or take other such action as determined to be appropriate. A provider whose approval is terminated under any of these conditions is liable to repay all WIA training funds it received during the period of noncompliance.

7.16(14) Appeal process. If a training provider has been determined to be ineligible by failing to meet performance levels, intentionally supplying inaccurate information, or violating any provision of the Act, it has the right to appeal the denial of approval to the department. The training provider shall follow appeal procedures as defined in 7.24(13).

877—7.17(84A,PL105-220) Financial management. Allowable costs shall be determined in accordance with the Office of Management and Budget (OMB) circulars applicable to the various entities receiving grant funds from the department. Nothing in this rule shall supersede the requirements placed on each entity as promulgated by the applicable OMB circular including factors which affect allowability of costs, reasonable costs, allocable costs, applicable credits, direct costs, indirect or facility and administrative costs, allowable costs as defined in “selected items of costs,” in accordance with the appropriate OMB circular.

Additional regulations applicable to contractors are found in 29 CFR Part 97 for State and Local Governments and Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations. Exceptions to those regulations are that:

1. Procurement contracts and other transactions between local boards and units of state and local governments must be conducted only on a cost reimbursement basis.

2. Program income shall be calculated based on the methods outlined in 7.17(2).

3. Any excess revenue over expenditures incurred for services provided by a governmental unit or nonprofit must be considered program income.

7.17(1) General requirements of a financial management system. Financial management systems should provide fiscal controls and accounting procedures that conform to generally accepted accounting principles (GAAP) as they relate to programs administered. A financial management system must also have certain procedures in place to ensure that the system meets the requirements of state and federal laws and regulations.

7.17(2) Program income means income generated by a program-supported activity or earned only as a result of the contract.

a. Program income includes:

(1) Income from fees for services performed and from conferences;

(2) Income from the use or rental of property acquired with contract funds;

(3) Income from the sale of commodities or items fabricated under a contract;
(4) Income generated due to revenue in excess of expenditures for services rendered, when provided by a governmental unit or nonprofit entity.

b. Program income does not include:

(1) Interest earned on grant funds, rebates, credits, discounts, refunds, or any interest earned on any of them. (Such funds shall be credited as a reduction of costs if received during the same funding period. Any credits received after the funding period must be returned to the department.);

(2) Taxes, special assessments, levies, fines, and other governmental revenues raised by a contractor;

(3) Income from royalties and license fees, copyrighted material, patents, patent applications, trademarks, and inventions developed by a contractor;

(4) Any other refunds or reimbursements, such as Pell Grant reimbursement. (Such funds shall be credited back to the program that incurred the original costs.);

(5) Any other funds received as the result of the sale of equipment. (Such funds shall be credited back to the program that incurred the original costs.)

c. Costs incidental to the generation of program income must be deducted, if not already charged to the grant, from gross program income to determine net program income. Net program income earned may be retained and not sent back to the department, if such income is added to the funds committed to the particular program under which it was earned. Net program income must be used for allowable program purposes, and under the terms and conditions applicable to the use of that program's funds. Program income generated may be used for any allowable activity under the program that generated that income.

d. All net program income generated and expended must be reported to the department each month on the financial status report. Documentation of the use of net program income must be maintained on file. Any net program income not used in accordance with the requirements of this rule must be returned to the department.

(1) The classification of costs, including cost limitations, apply to net program income. Net program income must be disbursed prior to requesting additional cash payments. Net program income not disbursed prior to the submittal of the annual closeout reports must be returned to the department.

(2) If the net program income cannot be used by the region that generated such income for allowable purposes, the funds must be returned to the department. The department may permit another region to use the net program income for allowable purposes.

7.17(3) Working capital advance payments of federal funds.

a. Reimbursement is the preferred method for payment. However, the subrecipient may provide working capital advance payments of federal funds only to contractors, not vendors or training providers, after determining that:

(1) Reimbursement is not feasible because the contractor lacks sufficient working capital;

(2) The contractor meets the standards of this rule governing advances to contractor;

(3) Advance payment is in the best interest of the grantee or subrecipient; and

(4) The reason for needing an advance is not the unwillingness or inability of the grantee or subrecipient to provide timely reimbursements to meet the contractor's actual cash disbursements.

b. If the conditions in 7.17(3) "a" are met, working capital advance payments may be made to contractors by use of one of the two procedures outlined below:

(1) Cash is only advanced (through check or warrant) to the contractor to cover its estimated disbursement needs for an initial period, generally geared to the contractor's disbursement cycle, but in no event may the advance exceed 20 percent of the contract amount. After the initial advance, the contractor is only reimbursed for its actual cash disbursements; or

(2) Cash is advanced electronically on a weekly basis similar to the system maintained between the department and its contractors. Drawdowns and expenditures must be timed in a way that minimizes the delay between the receipt and actual disbursement of those funds.

7.17(4) Cost allocation. The methods of cost allocation identified in this subrule are not all inclusive. Any method chosen must be consistent with cost allocation principles as defined in the OMB circular applicable to the contractor.

a. Any single cost which is properly chargeable to more than one program or cost category is allocated among the appropriate programs and cost categories based on the benefits derived. Contractors that receive WIA funds are required to maintain a written cost allocation for WIA expenditures. A cost allocation plan is the means by which costs related to more than one program or cost category are distributed appropriately. All costs included in a cost allocation plan must be supported by formal accounting records that substantiate the propriety of eventual charges. Each subrecipient must develop a written plan that addresses how joint costs will be allocated during the fiscal year. The plan must include:

- (1) The time period involved;
- (2) Programs that must be allocated;
- (3) Basis to be used for allocation; and
- (4) Exceptions to the general rules.

Any cost that cannot be identified as a direct cost of a particular program or a cost category is allocated based on one of the acceptable methods discussed above and must be included in the cost allocation plan.

b. Cost allocation plans are based on a documented basis. The basis upon which a given cost is allocated is relevant to the nature of the cost being allocated, and whether the cost is a legitimate charge to the program(s) and cost category to which it is being allocated. The basis upon which costs are allocated is consistent throughout the fiscal year.

c. Possible acceptable actual bases for allocating costs include:

- (1) Staff timesheet allocation basis (fixed or variable).
- (2) Service level allocation basis (fixed or variable).
- (3) Usage rate allocation basis (fixed or variable).
- (4) Full-time employees basis (fixed only).

d. Funds received under various programs may be allocated using the cost pooling method. Under a cost pooling method, expenditures that cannot be identified to a particular cost category or program may be pooled and allocated in total on a monthly basis. If this method is established, the expenditures must be allocated to each program based upon the benefit derived by each program. Cost pools may be established for a cost category, a line item in an agency's budget or to include multiple programs. The process used to allocate pool costs must ensure that no program or cost category is charged an amount in excess of what is allowed by law or regulation. Examples include:

(1) Administrative, program services or combined cost category pool. (An administrative pool may be used if an entity also has administrative costs associated with programs other than WIA Title I programs.)

- (2) Facility or supplies line item cost pool.
- (3) Workforce (multiple) programs.

e. Cost allocation plans must be submitted by August 31 of each year to Bureau of Administrative Support, Budgeting and Reporting, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

7.17(5) Indirect costs may be charged to programs, if the contractor has an approved indirect cost agreement with a federal cognizant agency or another state agency and the agreement covers the term of the grant. The plan must be in compliance with the applicable OMB circular for the entity charging indirect costs.

7.17(6) Time and attendance documentation must be maintained for any individual who receives any part of the individual's wage from programs funded by WIA and for all participants receiving payments based in whole or in part on attendance in programs funded by WIA.

7.17(7) A contractor receiving federal or state funds from the department and conducting its own procurement must have written procurement procedures. The procedures must be consistent with applicable state and local laws and regulations; the procurement standards set forth in this subrule; and the regulations as described in 29 CFR Part 95 for institutions of higher education and nonprofit organizations; or 29 CFR Part 97 for state and local government organizations.

a. State and federal procurement laws and regulations, including the procurement standards set forth in this subrule, take precedence over any contractor procurement policies and procedures.

b. The written procurement policies and procedures of each contractor must include, at a minimum, the following elements:

- (1) Authority to take procurement actions;
- (2) Standards of conduct;
- (3) Methods of procurement;
- (4) Solicitation procedures; and
- (5) Documentation requirements.

c. There are three types of allowable procurement procedures: request for quotations (RFQ), request for proposals (RFP), and sole source. Contractors must conduct competitive procurement except as outlined in “*d*” below.

d. The circumstances or situations under which sole source procurement is allowable are limited to the following:

- (1) Any single purchase of supplies, equipment, or services totaling less than \$2,000 in the aggregate;
- (2) Single participant work experience, vocational exploration, limited internship and on-the-job training contracts;
- (3) Enrollment of individual participants in institutional skills training;
- (4) All other individual training or services contracts involving only one participant, except where such contracts include the purchase of property. Such property must be purchased through competitive procedures;
- (5) Activities and services that are provided by the fiscal agent, designated service provider, or subrecipient when a determination of demonstrated performance clearly documents the staff’s ability to provide the training or services;
- (6) A modification to a contract that does not substantially change the statement of work of that contract;
- (7) After solicitation of an adequate number of sources, only one acceptable response was received;
- (8) Any single service or workshop costing less than \$5,000 identified in the regional customer service plan;
- (9) Supplies, property and services which have been determined to be available from a single source; and
- (10) An emergency situation for which the department or applicable governing boards provide written approval.

7.17(8) Property purchased with funds received through the department must be acquired in accordance with the department standards.

a. Prior approval must be obtained from the department before purchasing any property with a unit acquisition value of \$5,000 or more.

b. Real property (real estate and land) shall not be purchased with funds received through the department.

c. Title to all property purchased with the department funds, including participant property, is vested with the state if the state is the majority owner. (If more than one agency contributed funds for the purchase of property, the majority owner is the entity that provided the largest portion of funds. In instances in which entities contributed the same amount of funding, the state is considered the majority owner.)

d. Prenumbered department property tags shall be affixed to all property with a unit acquisition value of \$2,000 or more, and to all personal computer logic units and monitors. Unnumbered department property tags shall be affixed to all property with an aggregate value of \$2,000 or more at time of purchase. Prenumbered and unnumbered tags will be provided to each region.

- e.* At a minimum, an inventory of all property must include the following:
1. Property tag number, if applicable;
 2. Description of the property;

3. Stock or identification number, including model and manufacturer's serial number, when applicable;

4. Manufacturer;
5. Purchase date;
6. Purchase order number, when applicable;
7. Unit cost;
8. Location of property;
9. Condition of property;
10. Disposition of property as applicable; and
11. Grant agreement number.

f. A physical observation of all property must be conducted by the program operator prior to the end of each fiscal year (June 30). A complete inventory list must be provided to the department in each fiscal year's close-out package.

g. All property purchased with the department funds or transferred from programs under the authority of the department must be used to meet program objectives and the needs and priorities identified in the regional customer service plan. Property purchased with the department funds must be used by the coordinating service provider or program operator in the program or project for which it was acquired, as long as it is needed for that project or program. When no longer needed for the original program or project, the property may be used in other activities supported by the department.

h. The department-purchased property may be made available for use on other projects or programs providing such use does not interfere with the work on the project or program for which it was originally acquired. Priority should be given to other programs or projects supported by the department.

i. Disposition of any property, including participant property, is allowable only with the written concurrence of the department. The request to dispose of property must be in writing and include:

1. A description of the property;
2. Its purchase price;
3. Property tag number;
4. Current condition; and
5. Preference for the method of disposal.

j. The method of disposal may be the outright disposal by local waste agencies of items that are either unusable or unsafe or are currently of immaterial value. Those items that do not fit this definition may be sold locally, using a public process, to generate program income.

k. Requests to dispose of property are to be sent to Business Management, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

l. Any funds generated from sale of property are to be considered program income and must be used to further the objectives of the program(s) that paid for that property originally. If that funding source no longer exists, then the program income generated must be used for other allowable employment or training activities. In cases where the property was purchased from multiple funding sources, the program income generated may be attributed to the funding source that paid the greatest share of the cost of the property. Otherwise, the program income must be allocated by the same percentages as were used to purchase the property originally.

7.17(9) Certifications. All contractors must certify, as a condition to receive funding, compliance with the following laws and implementing regulations:

- a.* Workforce Investment Act of 1998 (P. L. 105-220) and all subsequent amendments.
- b.* U.S. Department of Labor implementing regulations.
- c.* Iowa Code chapters 84, 84A, and 96.
- d.* Iowa Administrative Code 877—Chapter 11.
- e.* Iowa Civil Rights Act of 1965.
- f.* OMB Circular A-87 for State and Local Governments.
- g.* OMB Circular A-122 for Non-Profit Entities.
- h.* OMB Circular A-21 for Institutions of Higher Education.
- i.* Appendix E of 45 CFR Part 74 for hospitals receiving research and development grants.

- j.* 29 CFR Part 97 for State and Local Governments.
- k.* 29 CFR Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations.
- l.* Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).
- m.* Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
- n.* Americans with Disabilities Act of 1990.
- o.* Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).
- p.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).
- q.* Debarment and suspension; restrictions on lobbying (29 CFR Part 93).
- r.* Drug-Free Workplace (29 CFR Part 98).
- s.* Other relevant regulations as noted in the department's handbook for grantees and contracts for services with the department.

7.17(10) Unallowable costs. WIA funds shall not be spent on the following:

- a.* Wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.
- b.* Expenses prohibited under any other federal, state or local law or regulation.
- c.* Foreign travel, if the source of funds is formula funds under Subtitle B, Title I of WIA.
- d.* Financial assistance for any program involving political activities.
- e.* The encouragement of a business to relocate from any location in the United States if the relocation results in any employees losing their jobs at the original location.
- f.* Customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employees losing their jobs at the original location.
- g.* Any region may enter into an agreement with another region within the same labor market to pay or share costs of program services, including supportive services. The agreement must be approved by each regional board providing guidance to the area and shall be described in the regional customer service plan.
- h.* WIA funds cannot be used for public service employment except for disaster relief employment.
- i.* Fees may not be charged for placement or referral to a WIA activity. However, services, facilities, or equipment funded under the WIA may be used on a fee-for-service basis by employers in a region in order to provide employment and training activities to incumbent workers when such services, facilities, or equipment is not in use to provide services for WIA participants; if such use for incumbent workers would not have an adverse affect on providing services to WIA participants; and if the income derived from such fees is used to carry out WIA programs.
- j.* WIA funds may not be spent on employment generating activities, economic development, and other similar activities, unless they are directly related to training for eligible individuals. Employer outreach and job development activities are directly related to training for eligible individuals. Allowable employer outreach and job development activities include:
 - (1) Contacts with potential employers for the purpose of placement of WIA participants;
 - (2) Participation in business associations (such as chambers of commerce);
 - (3) Staff participation on economic development boards and commissions, and work with economic development agencies to provide information about WIA programs, to assist in making informed decisions about community job training needs, and to promote the use of first source hiring agreements and enterprise zone vouchering services;
 - (4) Active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure;
 - (5) Subscriptions to relevant publications;
 - (6) General dissemination of information of WIA programs and activities;
 - (7) The conduct of labor market surveys;
 - (8) The development of on-the-job training opportunities; and
 - (9) Other allowable WIA activities in the private sector.

k. The employment or training of participants in sectarian activities is prohibited, as is the construction, operation or maintenance of any part of any facility that is used for sectarian instruction or religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants.

l. WIA Title I funds may not be used for the encouragement of a business to relocate from any location in the United States if the relocation results in any employee's losing a job at the original location. Also, WIA Title I funds may not be used for customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee's losing a job at the original location. Pre-award reviews must be conducted to verify that employers are new or expanding and are not relocating from another area.

m. A participant in a program or activity authorized under Title I of WIA shall not displace (including a partial displacement) any current employee as of the date of the participation. In addition, a program or activity authorized under Title I of WIA must not impair existing contracts for services or collective bargaining agreements. If so, the appropriate labor organization and employer must provide written concurrence before the program or activity begins. Regular employees and program participants alleging displacement may file a complaint under WIA grievance procedures.

7.17(11) Record retention. Contractors must maintain all records pertinent to funds received from IWD, including financial, statistical, property, and participant records and supporting documentation.

a. Contractors shall maintain books, records, and documents that sufficiently and properly document and calculate all charges billed for a period of at least five years after the end of each contractor's fiscal year.

b. All records must be retained for a longer period of time if any litigation, audit, or claim is started and not resolved during that period. In these instances, the records must be retained either for five years after the end of the entity's fiscal year or for three years after the litigation, audit, or claim is resolved, whichever is longer.

c. Records for property must be retained for a period of three years after the final disposition of the property.

7.17(12) Disaster recovery system. The contractor must ensure that a satisfactory plan is in place for record recovery in the event that critical records are lost due to fire, vandalism, or natural disaster. All computerized or microfilmed MIS and accounting records must be safeguarded by off-site or multiple-site storage of such records.

7.17(13) Access to records. The state, U.S. Department of Labor, Director—Office of Civil Rights, the Comptroller General of the United States, and any of their authorized representatives must have timely and reasonable right of access to any pertinent books, documents, papers, or other records of the contractor to make audits, examinations, excerpts or transcripts. These rights are not limited to the record retention policies, but may last as long as the records are actually retained by the contractor. If the contractor has established a retention period longer than that required by the regulations, access to those records, by any of the above organizations, does not cease until the records are actually destroyed or discarded.

7.17(14) Records substitution. Substitution of original records can be made by microfilming, photocopying, film imaging or other similar methods.

877—7.18(84A,PL105-220) Auditing.

7.18(1) State and local governments, nonprofits, institutions for higher education and hospitals. Contractors that expend \$300,000 or more in a fiscal year in federal funds shall have a single or program-specific audit conducted for that year. Contractors that expend \$300,000 or more in federal funds in a fiscal year shall have a single audit conducted, in compliance with OMB Circular A-133 (A-133), except when they elect to have a program-specific audit conducted. Program-specific audits are allowed under the following circumstances:

a. A contractor expends federal funds under only one federal program; and

b. Federal program laws, regulations, or grant agreements do not require a financial statement audit of the contractor.

Contractors that expend less than \$300,000 in federal funds in a fiscal year are exempt from federal audit requirements for that year. However, records must be made available for review or audit by the state and federal agencies and the General Accounting Office.

7.18(2) Commercial organizations. If such entities expend more than \$300,000 in federal funds in their fiscal year, then either an A-133 audit or a program-specific audit must be conducted.

7.18(3) Vendors. In most cases, contractors need only ensure that procurement, receipt, and payment for goods or services comply with the laws, regulations, and the provisions of contracts or agreements. However, the contractor is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine compliance. If these transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of the contract or agreement.

7.18(4) Relation to other audits. Audits performed in accordance with A-133 are in lieu of any financial audit required under individual federal awards. To the extent that this audit meets a federal agency's needs, it shall rely upon and use such audits. However, this does not limit the authority of the federal agency, including the General Accounting Office, to conduct or arrange for additional audits. Federal agencies that conduct additional audits shall ensure that they build upon audit work previously conducted and be responsible for costs incurred for the additional audit work.

7.18(5) Frequency of audits. With the following exceptions, the audit is normally conducted on an annual basis. Entities which are required by constitution or statute, in effect on January 1, 1987, to have audits performed less frequently are permitted to undergo audits biennially. Also, nonprofit entities that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, are permitted to undergo audits biennially.

7.18(6) Completion and submittal. The audit must be completed and data collection/reporting package forms are to be submitted the earlier of 30 days after the completion of the audit or within nine months after the period covered by the audit. The data collection form and reporting package must also be submitted to the federal clearinghouse designated by the Office of Management and Budget. In addition, one copy of the reporting package and any management letters issued by the auditors are to be submitted to Budgeting and Reporting Bureau, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319. Each contractor shall provide one copy of the reporting package to the contracting entity that provided the contractor with WIA funds.

7.18(7) Data collection form. Each contractor shall submit a data collection form to the contracting entity that provided the contractor with WIA funds. This form should state whether the audit was completed in accordance with A-133 guidelines and provide information concerning the federal funds and the results of the audit. The form used shall be approved by the Office of Management and Budget, available from the clearinghouse designated by OMB, and include a signature of a senior level representative of the contractor. Also, a certification must be submitted which states that the entity audited complied with the requirements of A-133, that the form was prepared in accordance with A-133, and that the form, in its entirety, is accurate and complete.

The auditors must sign a statement to be included with the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, the form is not a substitute for the reporting package, and the content of the form is limited to the data elements prescribed by OMB.

7.18(8) Reporting package. Auditors are required to complete a reporting package that includes:

1. Financial statements and schedule of expenditures of federal awards;
2. Summary schedule of prior audit findings;
3. Auditor's report(s); and
4. Corrective action plan.

7.18(9) Records retention. One copy of the data collection form and one copy of the reporting package must remain on file for three years from the date of submission to the federal clearinghouse.

7.18(10) Audit resolution. If an audit is completed with no findings, the department shall receive a notification of audit letter from the appropriate audit firm. The auditee shall be notified of the acceptance of that letter. In no case shall the date from receipt of an acceptable audit report or notification letter to the date of the final determination exceed 180 days. The department shall issue an initial determination within 30 days of receipt of each audit report with negative findings. Such initial determination shall identify costs questioned under the audit and either propose corrective actions to be taken or request additional documentation from the auditee.

a. Each initial determination shall include:

- (1) Relevant statutory, regulatory or grant agreement citations supporting the findings and determinations;
- (2) Necessary corrective actions required by the auditee to achieve compliance;
- (3) A request for additional documentation, as necessary, to adequately respond to the findings; and
- (4) Notice of the opportunity for an audit resolution conference with the department.

Each auditee shall be allowed a 30-day period in which to respond. An additional 30 days in which to respond may be requested in writing prior to the end of the initial 30 days. Such request shall include the reason the extension is needed and the date by which the response will be completed. Such a request must be received by the department no later than 30 days after the issuance of the initial determination. The auditee shall be notified in writing of the approval or disapproval of the request.

b. Within 30 days after the due date of the response to the initial determination, a final determination shall be issued and sent to the auditee. A final determination shall be issued whether or not a response to the initial determination has been made. The final determination shall include:

- (1) Identification of those costs questioned in the audit report that will be allowed and an explanation of why those costs are allowed;
- (2) Identification of disallowed costs, a listing of each disallowed cost and a description of the reasons for each disallowance;
- (3) Notification to the chief elected official board and auditee of final determination and debt establishment, if relevant; and
- (4) Information on the auditee's and chief elected official board's right to appeal through the department's appeals process.

When a debt has been established, the final determination will be used to set up a debt account in the amount of the debt.

7.18(11) The decision to impose the disallowed cost sanction shall take into consideration whether or not the funds were expended in accordance with that program's rules and regulations, the contract agreement, the Iowa Administrative Code and generally accepted accounting practices. Ignorance of the requirements is not sufficient justification to allow a previously questioned cost nor will the auditee's inability to pay the debt be a consideration in the decision to impose the disallowed cost sanction.

7.18(12) An audit file shall be maintained for each audit or notification letter received from each auditee. The audit may not be considered closed until such time as the federal clearinghouse designated by the Office of Management and Budget accepts the state's resolution report.

877—7.19(84A,PL105-220) Debt collection procedures.

7.19(1) Debt collection begins once the debt has been established by either an audit final determination or financial/program monitoring final decision letter. Debts arising from other forms of oversight will be identified through written communication to the chief elected official board.

7.19(2) If the debt is appealed, debt collection is suspended until that appeal is resolved. If the appeal is granted, debt collection shall not be established.

7.19(3) No earlier than 15 days, but not later than 20 days, after the debt has been established, an initial demand for repayment letter shall be sent to the chief elected official board by certified mail with return receipt requested. The initial demand letter informs the chief elected official board that a debt has been established and references the previous letter that established the debt. When applicable, instructions for requesting a waiver from debt shall be provided in the letter. The chief elected official board shall be granted 15 days from the date of the initial demand letter either to submit payment in full

or to forward the applicable request for waiver. If the chief elected official board refuses those options, does not accept the letter, or if no response is received within the required time frame, a final demand for payment shall be issued.

7.19(4) The final demand letter, also sent by certified mail with return receipt requested, shall ask for payment within 10 days from the date of that letter. If the chief elected official board refuses the options identified in the final demand letter, does not accept the letter or does not respond, legal action shall be taken. Such action will seek payment of the debt as well as applicable court costs and accrued interest.

7.19(5) The debt collection process is suspended if a request for waiver is received by the department in accordance with waiver policies applicable to that program. If the request for waiver is denied, the debt collection process will continue.

7.19(6) Payment options. Payment options include the following:

a. Payment in full. Payment of debts is generally a one-time cash payment due at the time of final determination by the department. In cases of documented financial hardship or for other reasons as allowed by law, the department may grant repayment as outlined in “*b*” or “*c*” below. However, the department may charge interest on debts from the date they are established.

b. Repayment agreement. A repayment agreement may be negotiated for a time period not to exceed one year. The agreement must be written and signed by both parties. The agreement must include a schedule of payments which includes exact payment dates, amount of debt and each payment, interest, dates of agreement and a requirement for payment in full for breach of the agreement by the chief elected official board.

c. Allocation reduction. Where allowable, a reduction may be made in a chief elected official board’s budget to offset a debt. This may be done in cases where the misexpenditure of funds was not due to willful disregard of the Act or regulations, gross negligence, failure to observe accepted standards of administration or a pattern of misexpenditure. Such allocation reductions will come from administrative funds only.

877—7.20(84A,PL105-220) Grantee report requirements.

7.20(1) *Financial reports.* Financial status reports and funds verification forms are tools used by the department for oversight of financial activity, as well as providing the documentation necessary to complete state and federal reports. Failure to report in a timely manner may result in advance payment delays, negative performance evaluations or possible termination of the contract.

a. Financial status reports. Expenditures must be reported according to the programs and cost categories identified in the budget summary section of each contract. Revenue is reported according to the amount drawn from the department, via wire transfer, at the end of the reporting period. At least quarterly (September, December, March and June reports) expenditures must be reported on an accrued cost basis. Expenditures should further be reported on a modified first-in, first-out basis, which means the oldest year’s funds, by cost category, are to be expended first. Financial status reports and fund source pages are to be submitted to Department of Workforce Development, Bureau of Financial Management, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

b. Funds verification forms. Funds drawn by the contractor from the department are done so by electronic funds transfer. The funds are generally requested on Monday of each week and distributed on Friday of the same week. Exceptions are made for weeks that include holidays, and those are addressed on a case-by-case basis. The financial management bureau of the department shall notify contractors in advance of call-in date changes. Funds are requested by preparation of an electronic funds verification form that is attached to an E-mail request. This is sent to the financial management bureau and is the basis for the Friday wire transfer. In order to establish a wire transfer system for a contractor, bank account information must be received by the department two weeks prior to the first wire transfer of funds. The timing of the contractor’s receipt of funds and the disbursement of those funds must be done in a manner that minimizes the time that elapses between those two transactions.

7.20(2) *Program reports.* The information entered into the department’s management information system is the official database to be used for reporting. Reports are to be submitted to the program coordinator responsible for each individual program. Monthly expenditure reports are due the twentieth

of the month following the month that is being reported. Final federal program reports for adult and dislocated worker programs are due August 15 of each year.

Final federal program reports for youth programs are due May 15 of each year.

7.20(3) *Performance reports.* Progress on performance objectives must be reported to the department on a quarterly basis. Quarterly progress reports are due from each regional workforce investment board on October 30, January 31, and April 30 of each year. The annual progress report is due from each region to the department on August 15 of each year.

877—7.21(84A,PL105-220) Compliance review system. The department shall conduct annual financial, program, and quality reviews.

7.21(1) *Financial compliance reviews.* An annual financial compliance review shall be conducted by the department. The on-site reviews will be of all programs administered through written agreement between the department, the subrecipient, and the fiscal agents. Monitoring of non-fiscal agent entities will be limited to those subcontractors of the department that receive \$100,000 or more during the fiscal year. The monitoring will be performed to ensure compliance with, but is not limited to, federal and state laws and regulations, the workforce development center system handbook, welfare-to-work handbook, contractual agreements with the department, and generally accepted accounting principles, memorandum(s) of understanding, resource sharing agreements and cost allocation plans.

7.21(2) *Program compliance reviews.* An annual program compliance review shall be conducted by the department. The reviews will focus on the designated service providers for various programs. The on-site reviews include, but are not limited to, the following: activities and services; applicant and participant processes; participant eligibility; participant file review; procurement procedures; management information systems; local plans; and verifications of program performance. The review will ensure local compliance with the applicable state and federal laws and regulations.

7.21(3) *Initial determination.* Separate initial determination letters are completed for each on-site visit. The report shall include a description of findings, which includes specific references to the standards, policies or procedures which have been violated; if necessary, recommended and required corrective action to be implemented by the contractor, designated service provider or coordinating service provider; a description of any questioned costs, including the amount; and time frames for completing any corrective action and responding to the initial report. Responses to the initial determination letter shall be submitted to the department within 20 days from the date of receipt of the letter.

7.21(4) *Final determination.* A final determination letter shall be issued to the subrecipient within 20 days after receipt of the response from the fiscal agent. The letter shall state the department's determination on all findings that required a response and the notification of the right to appeal the final determination. If any findings are unresolved or if costs are disallowed, the letter shall also include a description of the unresolved finding(s); a citation or reference to the applicable regulations or policies on which the finding was based; the final determination of the department on each unresolved finding; and, if there are disallowed costs, the amount of costs disallowed and notification that an initial demand letter shall be sent. Copies of the final determination letter shall be sent to each region's regional workforce investment board, chief elected official board, and coordinating service provider chairs.

7.21(5) *Follow-up.* Follow-up on findings identified shall be conducted during the following fiscal year's review. The department's follow-up will review corrective actions taken in response to those findings.

7.21(6) *Appeals.* The subrecipient may submit an appeal of a final determination within ten days of receipt of the final determination. The appeal may be on behalf of a designated service provider, coordinating service provider or the fiscal agent. The appeal must be directed to the Division Administrator, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309. The request for an appeal must also include a copy of the final determination and the basis for the appeal. Appeals shall be reviewed by a three-member appeal committee which shall include one staff member from three different bureaus in the department. Appeals shall be reviewed by staff not actually involved in the on-site monitoring

that resulted in the original finding and subsequent final determination. A decision on the appeal shall be rendered by a majority vote of the appeal committee. If the appeal committee cannot arrive at a decision, the division administrator shall make the final decision.

7.21(7) Quality reviews. The department shall conduct annual quality reviews. The reviews will focus on overall workforce development center system performance, customer satisfaction, and continuous improvement.

a. System performance measures will be reviewed with the coordinating service provider to identify areas of strength and areas that may need improvement. The review will include an interview with the required workforce development center system partners individually or the partners as a group, or both. The regional customer service plan will also be reviewed to determine what progress is being made to meet the needs and priorities identified by the regional workforce investment board and chief elected official board. In the event system performance standards are not being met, the objective of the review will be to help identify methods for improvement. Should the same issues be identified for two consecutive years, a corrective action plan will be required by the department. All other issues will be referred to the regional workforce investment board for its action.

b. The memorandum(s) of understanding between the workforce development center system partners and the regional workforce investment board will be reviewed. The purpose is to ensure that the products and services offered through the system are available, accessible, and being used.

c. The review will look at efforts being made to coordinate workforce development services throughout the region, to build new partnerships, and to assess the results of these efforts. This may include, but is not limited to, joint grant applications, efforts to integrate services and minimize duplication from the system, level of participation in the system by required and voluntary partners, and unique funding or service delivery methods involving multiple service providers.

d. Overall customer satisfaction of the workforce development center system is to be evaluated. Randomly selected program participants and employers identified in the common intake system will be interviewed. The interview will include, at a minimum, a review of the customer's file as presented on the common intake system, the customer's overall perception of how the customer was treated, an evaluation of the services offered as compared to the needs of the customer, and a review of the case file with the case manager.

e. An exit interview to review the findings will be conducted with the regional workforce investment board and coordinating service provider. Methods for improving systems will be discussed and an agreement reached on their implementation. The coordinating service provider will have 14 days to respond to the findings and recommendations, at which time a final report will be prepared and delivered to the chair of the regional workforce investment board.

877—7.22(84A,PL105-220) Equal opportunity compliance. Reserved.

877—7.23(84A,PL105-220) Regional level complaint procedures. Each coordinating service provider must establish procedures for grievances and complaints. At a minimum, the local procedures must provide:

7.23(1) A process for dealing with grievances and complaints from participants and other interested parties affected by the local workforce investment system, including one-stop partners and service providers;

7.23(2) An opportunity for an informal resolution and a hearing to be completed within two days of the filing of the grievance or complaint;

7.23(3) A process which allows an individual alleging a labor standards violation to submit a grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides; and

7.23(4) An opportunity for a local level appeal to the department when:

a. No decision is reached within 60 days; or

b. Either party is dissatisfied with the local hearing decision.

7.23(5) Participants, service providers and other interested individuals must be informed of the local complaint procedure in writing, as well as the ability and procedures to appeal local decisions to the department.

877—7.24(84A,PL105-220) Department complaint procedures. Complaints may be filed with the department to resolve alleged violations of the Act, federal or state regulations, grant agreement, contract or other agreements under the Act. The department's complaint procedure may also be used to resolve complaints with respect to audit findings, investigations or monitoring reports.

7.24(1) Grievances and complaints from customers and other parties related to the regional workforce development center system and regional programs shall be filed through regional complaint procedures. Any party which has alleged violations at the regional level, and has filed a complaint at the regional level, may request review by the department if that party receives an adverse decision or no decision within 60 days of the date the complaint was filed at the regional level.

7.24(2) Any interested person, organization or agency may file a complaint. Complaints must be filed within 90 calendar days of the alleged occurrence. Complaints must be clearly portrayed as such and meet the following requirements:

- a.* Complaints must be legible and signed by the complainant or the complainant's authorized representative;
- b.* Complaints must pertain to a single subject, situation or set of facts and pertain to issues over which the state has authority (unless appealed from the regional level);
- c.* The name, address and telephone number (or TDD number) must be clearly indicated. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address and telephone number of the representative must also appear in the complaint;
- d.* Complaints must state the name of the party or parties complained against and, if known to the complainant, the address and telephone number of the party or parties complained against;
- e.* Complaints must contain a clear and concise statement of the facts, including pertinent dates, constituting the alleged violations;
- f.* Complaints must cite the provisions of federal or state regulations, grant agreements, or other agreements believed to have been violated, if applicable;
- g.* Complaints must state the relief or remedial action(s) sought;
- h.* Copies of documents supporting or referred to in the complaint must be attached to the complaint; and
- i.* Complaints must be addressed to Complaint Officer, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

7.24(3) A complaint is deemed filed with the department when it has been received by the complaint officer and meets the requirements outlined in 7.24(2). Upon receipt of a complaint, the department will send a copy of the complaint and a letter of acknowledgment and notice to the complainant and any persons or entities cited in the complaint within seven calendar days. The letter of acknowledgment and notice shall contain the filing date and notice of the following opportunities:

- a.* The opportunity for informal resolution of the complaint at any time before a hearing is convened; and
- b.* The opportunity for a party to request a hearing by filing with the complaint officer within seven calendar days of receipt of the acknowledgment of the complaint.

7.24(4) Failure to file a written request for a hearing within the time provided constitutes a waiver of the right to a hearing, and a three-member panel shall rule on the complaint based upon the information submitted. If a hearing is requested within seven calendar days of receipt of the acknowledgment of the complaint, the hearing shall be held within 20 calendar days of the filing of the complaint. The party(ies) to the complaint shall have the opportunity to submit written evidence, statements, and documents in a time and manner prescribed by the complaint officer.

7.24(5) The complaint officer shall convene a review panel of three agency staff members to review complaints within 20 calendar days of the receipt of the complaint. The review panel may, at its

discretion, request oral testimony from the complainant and the parties complained against. Within 30 calendar days of the receipt of the complaint, the review panel shall issue a written decision, including the basis for the decision and, if applicable, remedies to be granted. The decision shall detail the procedures for a review by the director if the complainant is not satisfied with the decision.

7.24(6) Party(ies) may appeal the decision by filing an appeal with the complaint officer no later than 10 calendar days from the issuance date of the decision. The complaint officer will forward the complaint file to the director for review. If no appeal of the decision is filed within the time provided, the decision shall become the final agency decision.

7.24(7) A complaint may, unless precluded by statute, be informally settled by mutual agreement of the parties at any time before a hearing is convened. The settlement must be effected by a settlement agreement or a statement from the complainant that the complaint has been withdrawn or resolved to the complainant's satisfaction. The complaint officer must acknowledge the informal settlement and notify the parties of the final action. With respect to the specific factual situation which is the subject of controversy, the informal settlement constitutes a waiver by all parties of the formalities to which they are entitled under the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A, the Act, and the rules and regulations of the Act.

7.24(8) Upon receipt of a timely request for a hearing, the complaint officer shall assign the matter to a panel. The panel will give all parties at least seven days' written notice either by personal service or certified mail of the date, time and place of the hearing. The notice may be waived in case of emergency, as determined by the panel, or for administrative expediency upon agreement of the interested parties.

a. The notice of hearing shall include:

- (1) A statement of the date, time, place, and nature of the hearing;
- (2) A brief statement of the issues involved; and
- (3) A statement informing all parties of their opportunities at the hearing.

b. All parties are granted the following opportunities at hearing:

- (1) Opportunity for the complainant to withdraw the request for hearing before the hearing;
- (2) Opportunity to reschedule the hearing for good cause, provided the hearing is not held later than 20 days after the filing of the complaint;
- (3) Opportunity to be represented by an attorney or other representative of choice at the complainant's expense;
- (4) Opportunity to respond and present evidence and bring witnesses to the hearing;
- (5) 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 state, contractor or its subcontractor in the ordinary course of business and where prior reasonable notice has been given to the complaint officer;
- (6) Opportunity to question any witnesses or parties;
- (7) The right to an impartial review panel; and
- (8) A final written agency decision shall be issued within 60 days of the filing of the complaint.

7.24(9) An appeal to the director must be filed within 10 calendar days from the issuance date of the decision and include the date of filing the appeal and the specific grounds upon which the appeal is made. Those provisions upon which an appeal is not requested shall be considered resolved and not subject to further review. Appeals must be addressed to Complaint Officer, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

Upon receipt of an appeal, the complaint officer shall forward the complaint file to the director. The complaint officer shall give written notice to all parties of the filing of the appeal and set a deadline for submission of all written evidence, statements, and documents. The director shall consider all timely filed appeals, exceptions, statements, and documents at the time the decision is reviewed. With the consent of the director, each party may present oral argument. The director may adopt, modify or reject the review panel's decision or remand the case to the review panel for the taking of such additional evidence and the making of such further findings of fact, decision and order as the director deems necessary.

Upon completing the review of the review panel's decision, the director shall issue and forward to all parties a final written decision no later than 60 days after the filing of the initial complaint.

7.24(10) The director's decision is final unless the Secretary of Labor exercises the authority of federal review in accordance with 20 CFR Part 667. Federal level review may be accepted by the Secretary if the complaint meets the requirements of 20 CFR Part 667. Upon exhaustion of the state's grievance and complaint procedure, or when the Secretary has reason to believe that the state is failing to comply with the Act, the state plan, or the region's customer service plan, the Secretary must investigate the allegation or belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true.

7.24(11) Any party receiving an adverse decision at the regional level may file an appeal within 10 calendar days to the department's complaint officer. In addition, any complaint filed at the regional level with no decision within 60 days of the date of the filing may be reviewed by the department. The request to review the complaint must be filed with the complaint officer within 15 calendar days from the date on which the decision should have been received. The appeal or request for review must comply with the procedures as prescribed in 7.24(2) for filing a complaint. The parties involved shall be afforded the rights and opportunities for filing a state level complaint.

The complaint officer shall review all complaints filed within seven calendar days. If the subject and facts presented in the complaint are most relevant to regional policy, the complaint officer shall remand the complaint to the coordinating service provider of the appropriate region for resolution.

Failure to file the complaint or grievance in the proper venue does not negate the complainant's responsibility for filing the complaint in the appropriate time frames.

7.24(12) A unit or combination of units of general local governments or a rural concentrated employment program grant recipient that requests, but is not granted automatic or temporary and subsequent designation as a local workforce investment area, may appeal to the state workforce development board within 30 days of the nondesignation. If the state workforce development board does not grant designation on appeal, the decision may be appealed to the Secretary of Labor within 30 days of the written notice of denial. The appeal must be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210. The appellant must establish that it was not accorded procedural rights under the appeal process described in the state plan or establish that it meets the requirements for designation in the Act. The Secretary shall take into account any comments submitted by the state workforce development board.

7.24(13) Training providers have the opportunity to appeal denial of eligibility by a regional workforce investment board or the department, termination of eligibility or other action by a regional workforce investment board or the department, or denial of eligibility as a provider of on-the-job training or customized training by the coordinating service provider. All appeals must be filed with the department within 30 days of receipt of written notice of denial or termination of eligibility. Appellants must follow the procedures for a complaint described in 7.24(2). Appeals shall be handled in the same manner as a complaint. State decisions issued under this subrule may not be appealed to the Secretary of Labor.

7.24(14) WIA participants subject to testing for use of controlled substances and WIA participants who are sanctioned after testing positive for the use of controlled substances may appeal to the department using the procedures for a complaint described in 7.24(2). State decisions issued under this subrule may not be appealed to the Secretary of Labor.

7.24(15) A workforce development region may appeal nonperformance sanctions to the Secretary of Labor under the following conditions:

- a.* The region has been found in substantial violation of WIA Title I, and has received notice from the governor that either all or part of the local plan will be revoked or that a reorganization will occur; or
- b.* The region has failed to meet regional performance measures for two consecutive years and has received the governor's notice of intent to impose a reorganization plan.

Revocation of the regional plan or reorganization does not become effective until the time for appeal has expired or the Secretary has issued a decision. An appeal must be filed within 30 days after receipt of written notification of plan revocation or imposed reorganization. It must be submitted by certified mail, return receipt requested, to Secretary of Labor, Attention: ASET, U.S. Department of Labor, Washington, DC 20010. A copy of the appeal must be simultaneously provided to the governor. In deciding the

appeal, the Secretary may consider comments submitted in response from the governor. The Secretary will notify the governor and appellant in writing of the Secretary's decision within 45 days after receipt of the appeal filed under 7.24(15) "a" above; and within 30 days after receipt of appeals filed under 7.24(15) "b" above.

These rules are intended to implement Iowa Code sections 84A.1 to 84A.1B, Iowa Code chapter 96, and the Workforce Investment Act of 1998.

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CHAPTER 8
PLACEMENT

[Prior to 9/24/86, see 370—Ch 7]

[Prior to 3/12/97, see 345—Ch 7]

877—8.1(96) Definitions. The following words and terms, when used in these rules, shall have the following meaning, unless the context clearly indicates otherwise:

“*Affirmative action*” means a program or procedure intended to provide or foster employment opportunities for members of groups pursuant to legislation, court order, consent decree, government contracts or other fair employment practice authority.

“*Alien*” means a foreign-born resident who has not been naturalized and is still a subject or citizen of a foreign country.

“*CFR*” means Code of Federal Regulations.

“*DOT*” means dictionary of occupational titles.

“*Employer*” means a corporation, company, partnership, or organization that provides a job and pays wages for a salary to devote toward a particular activity.

“*Farm labor contractor*” means any person who, for a fee, either for self or on behalf of another person, recruits, solicits, hires, furnishes, or transports migrant workers for agricultural employment.

“*General provisions*” means items imposed by the United States federal government to be considered as part of the contract.

“*Migrant*” means a seasonal farm worker whose farm work experience during the preceding 12 months required travel such that the worker was unable to return to such worker’s residence (domicile) in the same day.

“*Migrant food processing worker*” means a person who has had experience during the preceding 12 months doing food processing for a scheduled period of 150 days or less provided that it required travel such that the worker was unable to return to such worker’s residence (domicile) in the same day.

“*Monitor advocate*” means a position within the division of workforce development center administration established to monitor procedures to ensure compliance with Title 20, Code of Federal Regulations, Parts 653.111, 658.400 through 658.414 and 658.500 through 658.502.

“*OJT*” means on-the-job training.

“*Public service employer*” means a nonprofit organization or political jurisdiction or subdivision thereof.

“*Questionable*” means one who has a previous history of physical or mental health problems.

“*Re:*” means with regard to.

“*Reverse referral system*” means an agreement between the division of workforce development center administration and an employer whereby the employer does not register walk-in employment seekers but refers them to the division of workforce development center administration where division employees perform the initial interviewing and preliminary personnel tasks. The names of those applicants who indicate an interest in working for a particular employer are placed in a file at the workforce development center. When an opening is listed for a particular employer, an interviewer employed by the department of workforce development reviews the applicants and those persons found to be best qualified are referred to the employer in a number specified by the employer. The interviewer determines compliance with the civil rights Act and other statutory requirements for job applicant referral.

“*Seasonal farm worker*” means a person who has at least 25 days’ experience during the preceding 12 months working for wages in farm work for a scheduled period of 150 consecutive days or less in any one establishment engaged in agricultural production or agricultural services. Nonmigrant individuals who are full-time students are excluded. For the purpose of this definition, an individual who is hired repeatedly on a short-term basis is a seasonal farm worker even if this results in such individual working for any one agricultural establishment for a period of 150 consecutive days or more.

“*Select*” means designated and established by the division of workforce development center administration.

“*Selection*” means the process of choosing suitably qualified applicants using the application form for referral to job openings in a number specified by the employer.

“*State workforce development office staff*” means a person employed by a workforce development center of the division of workforce development center administration.

“*Veteran*” means a person who served in the active military, naval, or air service and who was discharged or released therefrom with other than a dishonorable discharge.

“*Waiver*” means the act of intentionally relinquishing or abandoning a known right, claim, or privilege or an instrument evidencing such act.

“*Where appropriate*” means when the applicant has previously been a client.

This rule is intended to implement Code of Federal Regulations, Part V, Chapter 20, Section 604.1, dtd. November 2, 1976, and Iowa Code section 96.10, 96.11 and 96.19.

877—8.2(96) Job application and related areas.

8.2(1) An individual may register as an applicant seeking permanent employment, part-time employment, or short-term employment at any workforce development center within the state of Iowa.

8.2(2) An applicant seeking information may utilize the job information unit in some workforce development centers, or may utilize job bank viewers with assistance from agency staff in all other workforce development centers. Applicants wanting referral services to job openings must register with the workforce development center.

8.2(3) To register for work, the applicant must complete a Form 60-0330, Application for Job Placement Assistance and/or Job Insurance. The applicant must complete the Form 60-0330 according to its instructions or as directed by a workforce development representative.

8.2(4) All applicants will be asked by agency staff to indicate if they have veteran status. Veteran status is designated by 20 CFR, Chapter 5, Part 653, Subpart C, Paragraph 653.201. Those applicants so designated will complete a Form 60-0330.

8.2(5) Registered applicants will receive a numerical DOT code from a workforce development representative indicating to which job(s) the individual is most interested in receiving a referral. This number(s) shall be placed in the designated part of Form 60-0330.

8.2(6) When several DOT codes are assigned to an applicant, multiple filing may be required. Agency staff will complete a Form 62-2022 for each applicant DOT code beyond the first code on behalf of the applicant.

8.2(7) An applicant seeking employment in the federal civil service must complete civil service standard application Form 171 which is then submitted to the proper federal civil service authority. This form is available, along with instructions, at any workforce development center.

8.2(8) An applicant seeking employment with agencies of the state of Iowa which require hiring from registers established by the Iowa department of personnel must complete Form 552-0072 R, Application. This form is available, along with instructions, at any workforce development center.

8.2(9) An applicant seeking summer employment or corn-detasseling work may register with workforce development centers or other designated agency offices using Form 60-0244, Detasseling and Summer Job Application. This form is a mail-in form which can be obtained from workforce development centers or other designated agencies, can be self-completed, and can be mailed to the required addressee by the applicant.

8.2(10) An applicant who has filed a claim for unemployment insurance shall register for work using the Form 60-0330, Application for Job Placement Assistance and/or Job Insurance.

8.2(11) An applicant who has filed an interstate claim for unemployment insurance shall register for work using Form 61-1000 (IB-1), obtained from workforce development centers, as part of the initial interstate claim assembly.

8.2(12) An ex-service member holding a general or other than honorable discharge from the armed forces may document good conduct by applying for an exemplary rehabilitation certificate. The form, ex-service member—exemplary rehabilitation certificate—how to apply, may be obtained from any workforce development center. The instructions are self-contained.

8.2(13) An ex-service member who presents an exemplary rehabilitation certificate to a workforce development center or a prospective employer shall be accorded the same priority as a veteran if all other veteran criteria are met. If the ex-service member does not meet the criteria for a veteran, the ex-service member shall be accorded special counseling and job development assistance through the regular counseling and placement services of the workforce development center.

8.2(14) An applicant having questionable physical capacity to perform a job without jeopardizing the applicant's health or safety, as well as that of other coworkers, may be required to have a Form 60-0141, Request for Medical Report, completed by a physician.

8.2(15) An applicant having questionable mental capacity to perform a job without jeopardizing the applicant's health or safety, as well as that of other coworkers, may be required to have a Form 60-0141, Request for Medical Report, completed by a physician. This form is to be presented to the workforce development interviewer who will consider the information before referral to a job opening.

8.2(16) An applicant wishing to release information contained in the physical status report must complete Form 60-0141, Request for Medical Report, and return it to the workforce development center for processing.

8.2(17) The reverse referral process will be explained to the applicant who will be advised that a contact will be made when and if the company lists a vacancy for which the applicant qualifies.

8.2(18) When the agreement calls for the department of workforce development to fill out company applications, the applicant may do so if the employer is required under affirmative action to maintain applications on all applicants applying for employment.

This rule is intended to implement Code of Federal Regulations, Part V, Chapter 20, Section 604.1, dtd. November 2, 1976, and Iowa Code sections 96.10 to 96.12.

877—8.3(96) Job orders and related areas.

8.3(1) An employer wishing to list a job opening with a workforce development center shall appear at the office, and may telephone, fax or mail to the office all information pertinent to the job opening. This information will be reported on Form 62-2024 by the agency staff. The data collected on this form will become the source data for the microfiche used as the job listings to be viewed by the job applicants or workforce development staff.

8.3(2) Job listings are put on microfiche for viewing by job applicants. A microfiche is a photographic negative (film) which can be viewed in a job bank viewer in each workforce development center. The microfiche gives all the details concerning job openings and is updated each working day. The microfiche may be viewed in the company of an agency interviewer who is considering the person for job referral.

8.3(3) Job listings for use in job information centers in workforce development centers are put on a suppressed microfiche. The suppressed microfiche does not give the name of the employer and is used by job applicants seeking job information before possible referral to the opening. The suppressed microfiche can be viewed in a job bank viewer found near the reception area. Assistance in operating the job bank viewer is available from the receptionist.

8.3(4) In case of a shortage of domestic agricultural workers, an employer's job order may be extended to states other than Iowa where a surplus of these workers might occur. The job order must be extended using Form ETA 790, Clearance Order—Rural Manpower Job Offer.

8.3(5) In instances where the employer is furnishing housing and facilities for a job order that has been extended on job Form ETA 790 the workforce development center must complete Form 68-0533, Employer Furnished Housing and Facilities, as a support document. This form, along with copies of inspections made by the state health department, fire prevention authorities, and other inspection agencies must be on file in the workforce development center.

8.3(6) A farm labor contractor wishing to obtain a certificate of registration should make application to the United States Department of Labor on Form WH-510, Application for a Farm Laborer Contractor Certificate of Registration. This form, along with instructions, is available from the workforce development center to an applicant operating as an individual farm labor contractor, a representative

of a corporation, partnership, association, or other organization as a farm labor contractor, or one who transports migrant workers.

8.3(7) A farm labor contractor certificate of registration, Form WH-511, is awarded to a farm labor contractor by the United States Department of Labor, who applies using Form WH-510. This form allows the contractor to operate a migrant crew for agricultural employment.

8.3(8) The farm labor contractor employee wishing to obtain an identification card should make application to the United States Department of Labor using Form WH-512, Application for a Farm Labor Contractor Employee Identification Card. This form, along with instructions, is available at workforce development centers to an individual who represents a corporation, partnership, association, or other organization.

8.3(9) Farm labor contractor employee identification card, Form WH-513, is awarded to a farm labor contractor employee by the United States Department of Labor who applies using Form WH-512. This form allows the employee to identify as a farm labor contractor employee.

8.3(10) A farm labor contractor who wishes to transport migrant workers in any vehicle the contractor owns, operates, or causes to be operated in connection with business activities or operations as a farm labor contractor must obtain Form WH-514, Vehicle Mechanical Inspection Report, complete the form and submit it to the United States Department of Labor. This form is available in workforce development centers.

8.3(11) A farm labor contractor who wishes to transport migrant workers in any vehicle the contractor owns, operates, or causes to be operated in connection with business activities or operations as a farm labor contractor must obtain Form WH-515, Doctors Certificate, complete and submit it to the United States Department of Labor. This form is available in workforce development centers.

8.3(12) A farm labor contractor who wishes to transport migrant workers in any vehicle the contractor owns, operates or causes to be operated in connection with business activities or operations as a farm labor contractor must obtain Form FD-258, Applicant Fingerprint Card, complete the card and submit it to the United States Department of Labor. This form is available in workforce development centers.

8.3(13) The employer job order, Form 62-2024, accepted by the department of workforce development shall contain only job-related information sufficient to select qualified applicants for job referral.

8.3(14) The employer job order, Form 62-2024, accepted by the department of workforce development shall contain the employer account number for purposes of providing employer identification of new accounts.

8.3(15) Sole proprietors not having an employer account number will be asked for their social security number for purposes of providing employer identification.

8.3(16) New employers not providing either employer account number or social security number will be asked to provide the names and addresses of adjoining or immediate area employers for purposes of establishing their place of business.

8.3(17) New employers unable to provide identification as required in 8.3(14), 8.3(15) and 8.3(16) will be subject to other such investigation as the agency shall determine.

8.3(18) Employer account numbers will be cross-checked with information now on file through computer verification procedures. Employer files will be updated and corrected as new employer information is collected.

8.3(19) Neither the Employment and Training Administration of the United States Department of Labor nor the division of workforce development center administration is a guarantor of the accuracy or truthfulness of information contained on job orders submitted by employers. No job order accepted constitutes an offer to contract to which the Employment and Training Administration of the United States Department of Labor or the division of workforce development center administration is in any way a party. Nevertheless, material misrepresentation of job order information supplied by the employer constitutes a violation of these regulations. Upon discovery of a violation of these regulations by the Employment and Training Administration of the United States Department of Labor or the division of workforce development center administration, the division of workforce development

center administration shall notify the employer in writing that it intends to discontinue services to the employer and the reason for doing so.

This rule is intended to implement the Code of Federal Regulations, Part V, Chapter 20, Section 604.1, dtd. November 2, 1976, and Part IX, Chapter 20, Sections 651.1, 653.5, and 658.502, dtd. January 23, 1981, and Iowa Code sections 96.10 and 96.11.

877—8.4(96) Order filling and related areas.

8.4(1) An applicant may be called in for possible referral to a job order by mail, using Form 62-2016, Call In Card. This card is a two-part card asking the applicant to come in to a workforce development center or to respond by mail giving information concerning availability for future job referrals. An applicant may also be called in for job referral by telephone or through other means.

8.4(2) An applicant that is being referred to a job opening will be given a Form 62-2017, Introduction Card, which is to be presented to the employer. This form is a return mail card that is to be completed by the employer to show the disposition of the referral and the job opening. A record of the job referral is entered on the applicant's 62-0219, Application Card, and on the 62-2024, Job Order. The applicant may be referred to other job openings should the initial referral show that the applicant was not hired.

8.4(3) An applicant may be promoted for job referral by workforce development centers by using Form 60-0208, Notice of Job Applicant Registration. This form is mailed to the employer and requests the employer to respond if there is interest in the job applicant.

8.4(4) An employer needing bonding coverage for an employee, that cannot be obtained through commercial sources, may obtain this service from a workforce development center. The workforce development center must complete Form 68-0612, Sponsor's Certification (front side) to provide bonding coverage. Bonding coverage may last a maximum of 12 months, or until the employee terminates from the job, at which time the workforce development center will complete Form 68-0612, Sponsor's Request for Termination (reverse side), to terminate the bonding coverage.

8.4(5) An applicant applying for a position through the federal Civil Service Commission may take a typing proficiency test at a workforce development center. The test scores are entered on Form 68-0102, Certificate of Proficiency Skill, and given to the applicant for transfer to the federal civil service authority.

8.4(6) A handicapped applicant seeking employment through the federal Civil Service Commission may be referred to the proper authority by workforce development center staff, using Form 171, Referral for Federal Employment. Assistance in completing the form will be granted.

8.4(7) Activity affecting an unemployment insurance claimant who has filed an application for employment in a workforce development center may be reported to the unemployment insurance section by using Form 60-0242, Employer Verification of Application.

8.4(8) Activity concerning the job referral of a food stamp applicant may be reported to the department of human services by a workforce development center on Form 60-0261, Food Stamp Applicant Status.

8.4(9) An applicant who is to be referred to a job opening with an employer involved in a labor dispute must sign Form 68-0613, Notice of Existence of a Labor Dispute, for information purposes, so that the applicant will be made aware of conditions that exist with the employer.

8.4(10) An applicant being referred to a temporary help agency must sign Form 68-0241, Temporary Help Agency Referral Form, for information purposes, so that the applicant will be made aware that no fee is to be charged by the temporary help agency for this service.

8.4(11) Applicants will be selected on the agreed-to job-related criteria determined by the employer and department of workforce development. The department of workforce development files will be searched for applicants that meet selection criteria to ensure all applicants are given equal access to job referrals.

This rule is intended to implement Code of Federal Regulations, Part V, Chapter 20, Section 604.1, dtd. November 2, 1976, Iowa Code sections 96.10 to 96.12.

877—8.5(96) Complaints.

8.5(1) An applicant wishing to submit comments concerning service received from any workforce development center may do so using Form 70-8007, Comment Card. This form is a mail-in form and may be obtained from any workforce development center.

8.5(2) An applicant wishing to file a formal complaint against the division of workforce development center administration or a private company served by the division of workforce development center administration may do so using Form 309-0371, Formal Complaint. This form is signed by the person making the complaint and the agency staff accepting the complaint.

8.5(3) After action has been taken concerning a complaint, the results are mailed to the person making the complaint who must be advised of appeal rights in the event the resolution is unsatisfactory to such person.

8.5(4) A person wishing to file a complaint of suspected discrimination against an employer should obtain the Form 68-0597, Formal Complaint, from a workforce development center. This form should be completed and may be left with the agency for forwarding to the Iowa civil rights commission.

8.5(5) All complaints that cannot be resolved by the workforce development center are sent to the monitor advocate in the department's administrative office who, after appropriate investigation, takes whatever action is necessary to informally resolve the complaint.

8.5(6) A detailed description of the complaint system is contained in 20 CFR 658.400 through 658.423.

This rule is intended to implement Title 20, Code of Federal Regulations, 658.400 to 658.423, dtd. June 12, 1980, and Iowa Code sections 96.10 and 96.11.

877—8.6(96) Iowa work permits.

8.6(1) A youth aged 14 or 15 seeking employment, must obtain Child Labor Form number 1, Iowa Employers Agreement for Minors Aged 14 and 15, from a workforce development center or the youth's school. This form must be completed by the employer offering the job, signed by a parent or guardian and returned to the workforce development center for filing.

8.6(2) A youth aged 10 or above seeking a work permit, must obtain Child Labor Form number 2, Iowa School Record, from a workforce development center. This form must be completed by the applicant's school and returned to the agency for filing.

8.6(3) A youth aged 10 or above may be issued a work permit using Child Labor Form number 3, Iowa Child Labor Form, by a workforce development center.

8.6(4) A migrant youth aged 12 to 16 may be issued a work permit using Child Labor Form number 4, Special Work Permit for Migrant Minors Aged 12 to 16, by a workforce development center.

8.6(5) All work permits are issued in triplicate, one copy of which is retained by the issuing agency—either the workforce development center or the school, the second copy is given to the employer and the third copy is sent to the state division of labor services.

This rule is intended to implement Iowa Code sections 96.10 to 96.12.

877—8.7(96) Alien employment certification.

8.7(1) An alien individual seeking employment in the United States may apply for employment certification using Form 68-0624, Application for Alien Employment Certification—Statement of Qualifications of Alien, available with instructions at the Iowa Workforce Development Center Administration Office, 150 Des Moines Street, Des Moines, Iowa 50309. The application will be forwarded to the United States Department of Labor by the department of workforce development.

8.7(2) An employer wishing to hire an alien may offer employment to the alien using Form 68-0624, Application for Alien Employment Certification, available with instructions at the Iowa Workforce Development Center Administration Office, 150 Des Moines Street, Des Moines, Iowa 50309. The offer will be forwarded to the United States Department of Labor by the department of workforce development.

8.7(3) An employer may wish information concerning procedures for hiring an alien. This information is in a pamphlet titled "Notice for Employers, Attorneys, Agents" available from the Iowa

Workforce Development Center Administration Office, 150 Des Moines Street, Des Moines, Iowa 50309.

This rule is intended to implement Title 20, Code of Federal Regulations, Part 656, effective December 19, 1980, and Iowa Code sections 96.5(10), 96.10 and 96.11.

877—8.8(96) Defense manpower policy number 4 (DMP-4). A firm may become eligible for a labor surplus area set-aside award under DMP-4 if it agrees to perform a substantial proportion (considered to be more than half of the award) of the contract in an area classified as a labor surplus area as of the date of the award. The Department of Labor quarterly publication, “Area Trends in Employment and Unemployment,” identifies localities that are classified as labor surplus areas. Guidelines for eligibility for preference under DMP-4 can be obtained from the federal agency awarding the contract.

This rule is intended to implement Iowa Code sections 96.10 to 96.12.

877—8.9(96) Federal regulation (41 CFR 50-250)— Executive Order 11701. An employer with a federal contract over \$10,000 and subject to Executive Order 11701, must list job openings with the nearest workforce development center.

This rule is intended to implement Executive Order 11701, dtd. January 24, 1973, and Iowa Code sections 96.10 and 96.11.

877—8.10(96) PROMISE JOBS program. The PROMISE JOBS program is the responsibility of the department of human services. See human services 441—Chapter 93.

This rule is intended to implement Title 45, Code of Federal Regulations, Part 205, and Iowa Code section 239.19.

877—8.11(96) Trade Act of 1974.

8.11(1) An applicant who qualifies for Trade Act benefits for training purposes may apply for living allowances by completing Form ETA-858, Request and Determination of Worker Entitlement to Allowances While In Training. The form is available in workforce development centers serving an approved Trade Act petition.

8.11(2) An applicant who has been approved for training allowances must request weekly allowances by completing Form ETA-858, Weekly Request for Allowances by Worker In Training. The form is available in workforce development centers serving an approved Trade Act petition.

8.11(3) An applicant who qualifies for Trade Act benefits may apply for reimbursement of certain costs incurred while attending a job interview outside a commuting distance from the applicant’s residence by completing Form ETA-861, Request for Job Search Allowance. The form is available in workforce development centers serving an approved Trade Act petition.

8.11(4) An applicant who qualifies for Trade Act benefits may apply for reimbursement of certain costs incurred while relocating to a new residence outside a commuting distance from the applicant’s current residence by completing Form ETA-860, Request for Relocation Allowance. The form is available in workforce development centers serving an approved Trade Act petition.

8.11(5) An applicant who has been approved for relocation allowances must receive verification of a job offer necessitating relocation. Form ETA-861, State Employment Service Commissioner Certification of Suitable Employment, must be completed by the resident workforce development center and verified by the relocation workforce development center.

This rule is intended to implement Public Law 100-418, dtd. August 24, 1988.

877—8.12(96) Food stamp program.

8.12(1) Food stamp applicants who must comply with work registration and job search requirements, as determined by the department of human services, must register with the Iowa division of workforce development center administration, as outlined in rule 8.2(96).

8.12(2) Food stamp applicants found suitable for referral to job openings must report for an interview upon the request of division of workforce development center administration.

8.12(3) Food stamp applicants may be required to take part in a job search assignment.

8.12(4) Food stamp applicants who fail to comply with subrules 8.12(1), 8.12(2) and 8.12(3) for no good cause shall be referred to the Iowa department of human services for possible disqualification as a food stamp recipient.

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CHAPTER 9
LABOR-MANAGEMENT COOPERATION PROGRAM

[Prior to 7/17/96, see 261—Ch 10]

[Prior to 3/12/97, see 345—Ch 11]

877—9.1(77GA,ch1225) Purpose. The 1998 Iowa legislature appropriated funds to the department of workforce development to improve communications and facilitate dialogue between labor, management, and government on workforce development problems, to establish in-plant labor-management committees, and to provide technical assistance to promote effective labor-management policies in the state. The workforce development board appointed by the governor is responsible for overseeing the establishment of a labor-management effort in the state by promoting the establishment of areawide and in-plant labor-management committees.

877—9.2(77GA,ch1225) Definitions.

“DWD” means the department of workforce development.

“Labor-management committee” means any existing or newly created labor-management committee, which meets the following criteria:

1. The committee has been jointly organized by employers and labor organizations representing employees in that plant, area or industry; and
2. The committee is established for the purpose of improving labor-management relations, job security, organizational effectiveness, enhancing economic development or improving communications with respect to subjects of mutual interest or concern to labor and management; and
3. The committee shall not interfere with the collective bargaining activities in any plant or industry.

877—9.3(77GA,ch1225) Requests for training funds.

9.3(1) Request for training funds. Labor-management committees may request training funds from DWD by submitting a request letter and training plan. The training plan shall include a description of each training session to be conducted, who will provide the training, when the training will be provided, and the cost of the training session.

9.3(2) Request submittal. Completed requests shall be submitted to the Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, Attention: Labor-Management Coordinator.

9.3(3) Review procedure. Eligible requests will be reviewed and approved by staff of the DWD. A monthly report of requests received and funded will be provided to the DWD board.

877—9.4(77GA,ch1225) Grant period and amount of grants.

9.4(1) The maximum training grant amount will be established annually by the DWD board based upon funds available for this purpose.

9.4(2) Approved training must be completed during the 12-month program year beginning July 1 and ending June 30. Training funded during one fiscal year does not automatically guarantee funding in future fiscal years.

877—9.5(77GA,ch1225) Technical assistance. Technical assistance for establishing an in-plant or areawide labor-management committee may be requested either by writing the Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, Attention: Labor-Management Coordinator or by telephoning the labor-management coordinator at (515)281-9018.

877—9.6(77GA,ch1225) Monitoring. DWD reserves the right to monitor and evaluate the activities of any committee receiving funding under this chapter.

These rules are intended to implement 1998 Iowa Acts, chapter 1225, section 9, paragraph 6.

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CHAPTER 10
YOUTH AFFAIRS
[Prior to 3/12/97, see 345—Ch 12]

877—10.1(84A) Iowa conservation corps. The department of workforce development is responsible for administering the Iowa conservation corps (ICC). The purpose of the ICC is to provide meaningful and productive public service jobs for the young, the unemployed, and the handicapped.

10.1(1) Components. The Iowa conservation corps consists of three program components: an in-school public service employment program for disadvantaged and handicapped youth; a summer employment program for youth from all social and economic classifications; and a program for unemployed young adults.

10.1(2) Special projects. Up to \$30,000 each fiscal year may be used to fund special projects which:

- a. Meet the purposes of the Iowa conservation corps;
- b. Are multistate, national or international in scope; and
- c. Provide significant educational or career development benefits to Iowa conservation corps enrollees.

To be funded, projects must be approved in writing by the director of the department of workforce development. ICC local matching requirements are waived for all special projects.

10.1(3) All inquiries concerning the Iowa conservation corps should be directed in writing or orally to Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

877—10.2(84A) Summer component.

10.2(1) Objectives. The objectives of the summer employment program are to accomplish needed conservation work on public lands, to provide gainful employment for 15- through 18-year-old youth from all social, economic, ethnic, and racial backgrounds, and to develop in participating youth an understanding and appreciation of Iowa's natural environment and heritage.

10.2(2) Participating agencies. Nonprofit private and public agencies will be chosen to operate summer employment programs through a request for proposal process. For fiscal year 1999, regional advisory boards have the option of selecting participating agencies from the agencies that have been participating agencies of this component from previous fiscal years using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program during the summer of 1998.

10.2(3) Selection system. Each regional advisory board shall develop a regional request for proposal (RFP), including at a minimum the RFP selection criteria, work projects and environmental awareness activities to be conducted, health and safety plan, staff roles and responsibilities, and a detailed budget. The RFP will be widely distributed throughout the region to potential participating agencies.

10.2(4) Youth served. To be eligible for the summer employment program youth shall be at least 15 years of age as of June 1 of the year they wish to participate in the program and no older than 18 years of age as of August 31 of the year they wish to participate in the program and be able to participate in strenuous physical activity.

10.2(5) Project period. Projects will be funded for all or part of the three-month period beginning June 1 and ending August 31 of each year.

10.2(6) Local contribution. Fifty percent of the total project cost shall be provided from local sources. Up to a maximum of 25 percent of the total project costs may be in the form of in-kind services.

10.2(7) Program requirements.

a. Recruiting for program enrollees shall be conducted in a manner that youth of all social, economic, and ethnic backgrounds have equal opportunity in applying for positions available.

b. Youth shall be paid the prevailing minimum wage for 32 hours per week for six to eight weeks. Youth may be hired as youth leaders and may be paid an additional 25 cents per hour. An additional eight hours per week shall be nonpaid, environmental instruction.

c. Sponsoring agencies shall abide by federal and state child labor laws.

- d. Youth and staff are required to wear a uniform consisting of a safety helmet, hard-toed shoes, blue jeans, and blue work shirts.
- e. Staff may be paid for a maximum of 40 hours per week for ten weeks.
- f. Sponsoring agencies will assume responsibility for any tort claims related to their project and shall maintain workers' compensation and liability insurance covering their operations.
- g. All contracts for the operation of summer programs shall be on a reimbursement basis.
- h. All sponsoring agencies are required to conduct an audit performed by a certified public accountant within 90 days following the termination date of the contract.

If an agency conducts an agencywide audit in accordance with the federal OMB Circular A-133, the audit shall be due within 90 days of the end of the agency's fiscal year. In the case of agencies utilizing the state auditor, the audit will be required 30 days after the state auditor issues the audit report.

10.2(8) Allowable costs. Allowable program costs include:

- a. Enrollee wages based on the minimum wage for an average of 32 hours per week. Youth leaders may be paid an additional 25 cents per hour. A minimum of 85 percent of the state funds awarded shall be allocated to enrollee wages and benefits.
- b. Enrollee fringe benefits including FICA, workers' compensation insurance and liability insurance. Enrollees who successfully complete the program may be paid a bonus, not to exceed \$100, to reimburse the cost of work boots, uniforms, and state camp fees.
- c. Staff pay calculated at an hourly rate comparable to other similar temporary summer employment opportunities in the local area.
- d. Staff fringe benefits including FICA, workers' compensation insurance, IPERS, health and life insurance and other benefits as provided by the applicant agency.
- e. Travel and per diem for staff travel directly related to the operation of the ICC program; work-related travel, such as travel to and from work sites; and enrollee travel to state camp, for example.
- f. Equipment items which are necessary for the completion of work projects may be purchased. Items with a unit cost of more than \$100 and used only on an occasional basis should be rented, rather than purchased.
- g. Supplies, including safety equipment (for example, hard hats, goggles, first-aid kits), small hand tools, work-related supplies, environmental educational materials and supplies, office supplies (for example, paper, envelopes, stamps, pencils).
- h. Other costs, including food and lodging costs for state camp, fiscal administration, audit, liability insurance, telephone and other costs deemed necessary for the efficient operation of the program.

10.2(9) Grant awards. Rescinded IAB 7/15/98, effective 7/1/98.

10.2(10) Program reporting. Sponsoring agencies shall submit monthly financial reports and a final performance report as required by the department and the regional advisory board.

877—10.3(84A) In-school public service employment program.

10.3(1) In-school component objectives. The objectives of the in-school program are to provide disadvantaged youth between the ages of 14 and 21 years with supervised work experience, educational services and other services designed to assist them in completing their secondary education and becoming self-sufficient adults.

10.3(2) Participating agencies. Nonprofit private and public agencies will be chosen to operate in-school programs through a request for proposal process. For fiscal year 1999, regional advisory boards have the option of selecting participating agencies from the agencies that have been participating agencies of this component from previous fiscal years or a member of the region's coordinating service provider using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program during the fall of 1998.

10.3(3) Selection system. Each regional advisory board shall develop a regional request for proposal (RFP), including at a minimum the RFP selection criteria, participant work sites, career awareness activities to be conducted, staff roles and responsibilities, and a detailed budget. The RFP will be widely distributed throughout the region to potential participating agencies.

10.3(4) Youth served. To be eligible to participate in the in-school program a youth shall at the time of application be at least 14 years old, but no older than 21 years; either a current recipient of AFDC or disadvantaged; and enrolled in a full-time educational program leading to the completion of a secondary degree or its equivalent.

a. *“Current recipient of AFDC”* means a recipient of the family investment program (FIP) and includes youth in the FIP foster care program.

b. *“Disadvantaged”* means those youth who fall in one or more of the following categories:

(1) Youth who are from families whose gross income is equal to or less than the federal OMB poverty level guidelines. A complete income statement signed by the head of the household shall accompany the enrollee’s application for admission into the program.

(2) Youth who have been or potentially will be judged as delinquent by the appropriate law enforcement agency, by the juvenile court or by the probation department in the county in which the youth resides. A brief narrative description of the youth’s circumstances and relevant data should be attached to the application along with the recommendation of an official of one of the above-mentioned agencies.

(3) Youth who are mentally retarded, which for purposes of these rules means any individuals scoring 79 or below on an individually administered psychological examination by a qualified psychologist or any individual presently enrolled in a program for the mentally retarded. An identifying statement documenting the youth’s mental retardation should be attached to the application.

(4) Youth who have been determined as disadvantaged for some other cause such as family disruption, under foster care, learning disabilities, physical handicaps, potential school withdrawal, or behavioral disorders. A brief statement, which is signed by the referring agency, describes the rationale for utilizing this category, indicates the source of information on which the rationale is based and gives all other pertinent information, shall be attached to the enrollee’s application.

10.3(5) Project period. Projects will be funded for all or part of the ten-month period beginning August 15 and ending June 15 of each program year.

10.3(6) Local contribution. Fifty percent of the total project costs shall be provided from local sources. Up to a maximum of 20 percent of the total project costs may be in the form of in-kind services.

10.3(7) Mandatory components. Each in-school project shall be composed of the following three components: work experience; support services; project administration.

a. *“Work experience”* means work activities related to soil conservation, land management, energy savings, community improvement and work benefiting human service programs. Work sites are restricted to public and private nonprofit agencies. Youth shall work a maximum of 18 hours per week while school is in session and a maximum of 40 hours per week during school recesses. Youth may work no more than 540 total hours under the work experience component unless a waiver is granted by the department of workforce development. Waivers will be granted on an individual basis based on need and prior attendance.

b. *“Support services”* means services designed to expand a youth’s understanding of employment and experience in the world of work or broaden a youth’s perception of the environment. At least one hour of supportive services will be provided to each youth for every 20 hours they work. This time may be paid or nonpaid at the project’s discretion.

c. *“Project administration”* means activities related to project management, bookkeeping and payroll.

10.3(8) Audit. Within 90 days from the contract’s termination date, unless an extension of time is approved by the department of workforce development, every organization awarded a contract shall submit to the workforce development department two copies of an audit report performed by a certified public accountant or a public accountant, as defined by Iowa Code chapter 542C. The audit report shall, at a minimum, include:

a. Short form auditor’s opinion on the financial statements;

b. The auditor’s comments on:

(1) The compliance of subgrantee with the terms and conditions of the contract (including the statement of work) and policies and procedures prescribed by the subgrantee's governing board regarding financial operations;

(2) The internal accounting controls;

(3) The reasonableness of the cost allocation methods if personnel and overhead costs are allocated to more than one project;

c. A cumulative statement of the resources and expenses by individual project; contract for the full contract period with a balance sheet if there are receivables and payables at the end of the project period;

d. Notes to the financial statements and comments on questioned costs and accounting systems weaknesses.

If the audit of the contract is included as a part of an annual agencywide audit conducted in accordance with the federal OMB Circular A-133, the audit will meet the requirements of the subrule. The audit report shall be due within 90 days of the end of the agency's fiscal year, rather than 90 days within the end of the contract. In the case of agencies utilizing the state auditor, the audit will be required 30 days after the state auditor issues the audit report.

10.3(9) Allowable program costs. To be allowable, the costs shall be necessary and reasonable for the proper and efficient administration of the program, be allocable to the program under standard accounting procedures, and shall be properly documented.

a. *Work experience costs.* Allowable cost categories for the work experience component are youth salaries, FICA, liability insurance and workers' compensation. All contractors shall report the amount of grant funds expended for wages and fringe benefits for all minority youth employed.

b. *Reimbursement.* No reimbursements shall be made for costs which relate to youth who have not been certified eligible by the project director, or for claims which are over three months old.

c. *Administrative costs.* Administrative costs including those for support services may not exceed 20 percent of the total project budget, unless a higher amount, not to exceed 30 percent, is specifically allowed in writing by the regional advisory board based on adequate justification submitted by the contractor.

Allowable administrative costs are limited to: project management (job development, placement, supervision, recruitment, certification), bookkeeping, payroll activities, travel, consumable supplies, printing, audit, postage, telephone, and rent. Every effort should be made to share costs with other programs and agencies to minimize administrative expenses.

Travel reimbursements shall not exceed mileage, meals and lodging allowed for state employees.

10.3(10) Funds allocation. Regional advisory boards will determine funds available for this component on an annual basis.

10.3(11) Youth planning areas. Rescinded IAB 7/15/98, effective 7/1/98.

877—10.4(84A) Iowa corps. Rescinded IAB 7/15/98, effective 7/1/98.

877—10.5(84A) Young adult component.

10.5(1) Objectives. The objectives of the young adult program are to accomplish meaningful and productive work on public lands and to provide gainful employment for 18- through 24-year-old, unemployed persons. The corps shall provide opportunities in the areas of park maintenance and restoration, soil conservation, wildlife and land development, energy savings, community improvement projects, tourism, economic development, and work benefiting human service programs.

10.5(2) Participating agencies. Nonprofit private and public agencies will be chosen to operate programs through a request for proposal process. For fiscal year 1999, regional advisory boards have the option of selecting participating agencies from the agencies that have been participating agencies of this component from previous fiscal years using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program during the summer of 1998.

10.5(3) Selection system. Each regional advisory board shall develop a regional request for proposal (RFP), including at a minimum the RFP selection criteria, work projects and environmental awareness

activities to be conducted, health and safety plan, staff roles and responsibilities, and a detailed budget. The RFP will be widely distributed throughout the region to potential participating agencies.

10.5(4) Youth served. To be eligible for the young adult program, persons shall be at least 18 years of age and no older than 24 years of age at time of application; be unemployed; possess a minimum level of work skills; and have not been convicted of a felony in the past two years.

10.5(5) Project period. Projects will be funded for all or part of the four-month period beginning May 15 and ending September 15 each year. Under extenuating circumstances, such as natural disasters or unusual weather conditions, the project period may begin earlier than May 15 or end after September 15 with the written permission of the department of workforce development.

10.5(6) Local contribution. Fifty percent of the total project cost shall be provided from local sources. Twenty-five percent shall be in the form of cash and 25 percent may be in the form of in-kind services directly to the operation of the project.

10.5(7) Program requirements.

a. Recruiting for corps members shall be conducted in such a manner that persons who are eligible have equal opportunity to apply for positions available.

b. Corps members shall be paid the prevailing minimum wage for 40 hours per week. Eligible persons employed as lead workers may be paid an additional 35 cents per hour.

c. Corps members and staff are required to wear a uniform consisting of a safety helmet, hard-toed shoes, blue jeans and blue work shirt or a uniform consistent with the agency's personnel policies.

d. Participating agencies will assume responsibility for any tort claims related to their project and shall maintain workers' compensation and liability insurance covering their operations; or, in the case of state agencies, provide assurances that alternative arrangements are made to cover such liabilities.

e. Corps members are exempted from the provisions of Iowa Code chapters 19A, 96, and 97B. Corps members shall follow all personnel policies of the participating agency.

f. All contracts for the operation of the young adult program shall be on a reimbursement basis.

g. All participating agencies are required to conduct an audit performed by a certified public accountant within 90 days following the termination date of the contract. If an agency conducts an agencywide audit in accordance with the federal OMB Circular A-133, the audit shall be due within 90 days of the end of the agency's fiscal year. In the case of agencies utilizing the state auditor, the audit will be required 30 days after the state auditor issues the audit report.

h. Corps members may be allowed up to five hours per week of nonpaid release time to attend graduate equivalency diploma (GED) classes.

i. Participating agencies shall prepare written work project plans for each project that is performed. Plans shall include projected and actual costs of labor and materials, special equipment needs, time line to perform project, and safety hazards.

j. Participating agencies shall designate a project supervisor and ensure that corps members will receive appropriate supervision at all times.

k. During the last three weeks of employment, corps members may be granted eight hours of paid time each week to search for permanent employment.

l. Personnel files shall be maintained for each person enrolled in the program; the files shall include a standardized application form, state and federal withholding forms, federal immigration form (Form I-9), time sheets signed by the corps member and supervisor, evaluation reports, any disciplinary actions and termination form.

m. The director of the department of workforce development or designee retains the right to monitor the project, including a review of personnel files, work project plans and financial report, for program compliance.

10.5(8) Allowable costs. Allowable program costs include:

a. Corps members' wages based on the minimum wage for an average of 40 hours per week. One hundred percent of state funds awarded shall be allocated to corps members' wages and fringe benefits.

b. Corps members' fringe benefits, including FICA, workers' compensation insurance, and liability insurance. Enrollees who successfully complete the program may be paid a bonus, not to

exceed \$200, to reimburse the cost of work boots, work clothing, and other extraordinary work-related costs.

c. Staff pay and fringe benefits, including FICA, workers' compensation insurance, IPERS, health and life insurance, and other benefits as provided by the applicant agency.

d. Travel and per diem for staff travel directly related to the operation of the program; work-related travel, such as travel to and from work sites.

e. Equipment items may be purchased which are necessary for the completion of work projects. Items with a unit cost of more than \$100 and used only on an occasional basis should be rented, rather than purchased.

f. Supplies, including safety equipment (hard hats, goggles, first-aid kits, for example), small hand tools, work-related supplies, and office supplies (for example, paper, envelopes, stamps, pencils).

g. Educational costs, including the cost of enrollment in a GED program.

h. Other costs, including fiscal administration, audit, liability insurance, telephone, and other costs deemed necessary for the efficient operation of the program.

10.5(9) *Grant awards.* Rescinded IAB 7/15/98, effective 7/1/98.

10.5(10) *Program reporting.* Participating agencies shall submit monthly financial reports and a final performance report as required by the department and the regional advisory board.

These rules are intended to implement Iowa Code section 84A.4.

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¹ Rules regarding "Green Thumb Program" were previously 290—Ch 70.

CHAPTER 11
WORK FORCE INVESTMENT PROGRAM

[Prior to 7/17/96, see 261—Ch 18]

[Prior to 3/12/97, see 345—Ch 13]

877—11.1(84A) Purpose. The program is designed to enable more Iowans to enter or reenter the work force by providing training and support services to groups within the population that have historically faced barriers to employment and which have been more difficult to serve with traditional job training programs.

877—11.2(84A) Definitions.

11.2(1) Eligibility terms.

“DWD” means the department of workforce development, the department responsible for the administration of the program.

“Employed” means:

1. An individual who, during the seven consecutive days prior to the application, did any type of work including working as a paid employee; working in the individual’s own business, profession or farm; or working 15 or more hours as an unpaid worker in an enterprise operated by a member of the family; or
2. An individual who is not working, but has a job or business from which the individual is temporarily absent because of illness, bad weather, vacation, labor-management dispute, or a personal reason, whether or not paid by the employer for time off, and whether or not seeking another job; or
3. Members of the armed forces who have not been discharged or separated; or
4. Participants in registered apprenticeship programs.

“Employed part-time” means an individual who is defined as being employed but is regularly scheduled for work less than 30 hours per week.

“Not in the work force” means a civilian 14 years of age or older who is not classified as employed, unemployed or employed part-time.

“Underemployed” means a working individual whose annualized wage rate does not exceed the higher of either the poverty income level for a family-of-one as established by the federal office of management and budget or 70 percent of the lower living standard income level for a family-of-one.

“Unemployed” means an individual who did not work during the seven consecutive days prior to application, who made specific efforts to find a job within the past four weeks prior to application, and who was available for work during the seven consecutive days prior to application (except for temporary illness).

“WDB” means the workforce development board.

11.2(2) Job Training Partnership Act (JTPA) terms. The definition of JTPA terms such as private industry council (PIC), local elected official (LEO), service delivery area (SDA), administrative entity and Job Training Partnership Act (JTPA) can be found in the Job Training Partnership Act (P.L. 97-300) and its implementing regulations at 20 CFR Part 626 et al. (September 22, 1989).

877—11.3(84A) Request for proposal process. Funds will be made available through a request for proposal process and grants will be awarded on a competitive basis.

11.3(1) Time frame for submittal. Proposals must be submitted by the deadline established in the request for proposal.

11.3(2) Length of projects. A proposed project may be designed for up to 12 months in duration, but must have an ending date no later than June 30 of the state fiscal year for which funding was awarded.

11.3(3) Required inclusions in the proposal. The regional advisory board will determine the required elements of the proposal which will be published in the request for proposal. Required inclusions may include, but are not limited to: identification of the target group(s) to be served, statement of financial need, signatures of project collaborators verifying coordination and collaboration efforts, proposed budget, description of the program design, goals and expected outcomes, evaluation of performance methods, past performance information, and signature of authorized official.

11.3(4) Review criteria. Proposals will be reviewed as set forth in subrule 11.3(5) based upon the following review criteria.

a. Statement of need. The proposal must contain a statement of need including an explanation of such things as: the need for service to the target group(s) that will be served, the financial need in the area, and why the target group(s) is not being served with current resources. Up to 20 points may be awarded for this category.

b. Budget. A detailed budget as prescribed in the request for proposal must be included in the proposal. Up to 10 points may be awarded for this category.

c. Program design. The proposal must include a detailed description of the project including: the types of activities and services that will be provided; the coordination and collaboration that will take place among the entities involved in the project; a description of which entities will be performing the various functions of the project such as administration, training, and services; and which entities will be providing, for example, the space, utilities, materials, supplies. Up to 30 points may be awarded for this category.

d. Experience of program operator. The proposal must include a description of the experience of the program operator and any other service providers involved in the project. If the project has previously been funded with work force investment funds, the proposal must provide an evaluation of past performance of the project. Up to 5 points may be awarded for this category.

e. Goals and expected outcomes. The proposal must indicate the goals of the project and the outcomes that are expected as a result of the activities and services that will be provided. Up to 25 points may be awarded for this category.

f. Performance measurement and evaluation of the project. The proposal must state the process by which the project will be evaluated by the private industry council (PIC) including performance measurement criteria and expected levels of performance that will be achieved. Up to 10 points may be awarded for this category.

11.3(5) Selection process. Selection of projects to be funded will be made by the regional advisory board after the proposals have been scored and recommended by a three-person evaluation team appointed by the regional advisory board.

a. Each reviewer on the evaluation team will evaluate each proposal independently for acceptability and will assign a numerical score to each proposal using the review criteria and point values listed in the request for proposal.

b. All reviewers' scores for each proposal will be averaged to obtain the final average score for the proposal.

c. A project must obtain a final average score of at least 70 out of a maximum of 100 points to be considered for funding.

11.3(6) Continuing projects. The regional advisory board reserves the right to designate the amount of funds available for continuing projects. For fiscal year 1999, regional advisory boards have the option of selecting project operators from the agencies that have operated projects in previous years or a member of the region's coordinating service provider using sole source procurement procedures. Sole source procurement will ensure the timely implementation of the program.

877—11.4(84A) Maximum grant amounts. The regional advisory board will set maximum grant amounts and publish the limitations in the request for proposal.

877—11.5(84A) Eligible recipients. Rescinded IAB 7/15/98, effective 7/1/98.

877—11.6(84A) Allowable costs and limitations.

11.6(1) Allowable training activities and support services. The allowable training activities and support services under this program will be determined by the regional advisory board and published in the request for proposal.

11.6(2) Cost categories. Allowable costs must be consistently charged against the two cost categories of administration and participant support/training.

11.6(3) Cost limitations. Costs of administration must not exceed 20 percent of the budget for any project in its first year of funding and must not exceed 15 percent of the budget for any subsequent years that a project is funded.

877—11.7(84A) Eligible participants. The target groups for this program will be established by the regional advisory board. The list of target groups and the definition of each will be published in the request for proposal.

11.7(1) Priority consideration. Regardless of the target group, no individual will be served with these funds unless, at the time of application, that individual is unemployed, underemployed, or not in the work force and a resident of Iowa. The process for selection of participants for any project using these funds should give priority consideration to individuals who are most in need of assistance and utilize the JTPA economically disadvantaged criteria to determine which individuals are most in need of assistance.

11.7(2) Target groups. Generally, the target groups will coincide with the target groups that are to be served with the JTPA 6 percent special projects and the JTPA state education coordination and grants 8 percent program in order to encourage coordination, collaboration, and joint funding with those programs.

11.7(3) JTPA definition used. The JTPA definitions of the target groups will be used whenever possible. If no JTPA definition exists for a target group, the regional advisory board will develop the definition and publish it in the request for proposal.

11.7(4) Selection procedures. Selection procedures for participants in this program should take into consideration those who are most in need of assistance and use the JTPA economically disadvantaged eligibility criteria as a guideline for selecting participants.

877—11.8(84A) Displaced homemaker set-aside. Funds will be set aside for displaced homemaker projects as prescribed by legislation, or if not prescribed by law, as determined by the regional advisory board.

877—11.9(84A) Administration.

11.9(1) Contracts. Upon selection of a proposal for funding, the DWD will issue a contract to the fiscal agent of the appropriate coordinating service provider. These rules and applicable federal and state laws and regulations become a part of the contract by reference.

11.9(2) Record keeping and retention. Financial records, supporting documents, statistical records, and all other records pertinent to the program shall be retained by the grant recipient in accordance with the following:

a. Records for any project shall be retained for three years after final closeout and audit procedures are completed and accepted by DWD;

b. Representatives of the state auditor's office and DWD shall have access to all books, accounts, documents, records and other property belonging to or in use by a grant recipient pertaining to the receipt of funds under these rules.

11.9(3) Data collection and reporting requirements. Grants recipients shall collect, maintain and report to DWD participant characteristic information, activity and service levels, participant status at termination, program outcomes and expenditures as prescribed in the contract. The reports will assess the use of funds in accordance with program objectives, the progress of program activities, and compliance with program requirements.

11.9(4) Monitoring. DWD may perform any review or field inspections it deems necessary to ensure program compliance.

a. The grant recipient must make available all of its records pertaining to all matters related to this program and shall permit DWD to utilize, monitor, examine, make excerpts or transcripts from such records, contracts, invoices, payrolls, personnel records, conditions of employment, the management information system, and other data and records related to all other matters covered by this program.

b. When problems of compliance are noted, DWD may require corrective action to be taken. Failure to respond to corrective action notifications may result in the implementation of 11.9(5).

11.9(5) Remedies for noncompliance. At any time before project closeout, DWD may, for cause, find that a grant recipient is not in compliance with the requirements under this program. At DWD's discretion, remedies for noncompliance may include the following:

a. Issue a warning letter that further failure to comply with program requirements within a stated period of time will result in a more serious sanction.

b. Condition a future grant.

c. Direct the grant recipient to stop the incurring of costs with grant amounts.

d. Require that some or all of the grant amounts be remitted to the state.

e. Reduce the level of funds the recipient would otherwise be entitled to receive.

f. Elect not to provide future WFIP funds to the recipient until appropriate actions are taken to ensure compliance.

Reasons for a finding of noncompliance include, but are not limited to: the grant recipient's use of program funds for activities not described in its application, the grant recipient's failure to complete approved activities in a timely manner, the grant recipient's failure to comply with the contract or any applicable state or federal rules or regulations, or the lack of continuing capacity by the grant recipient to carry out the approved project in a timely manner.

877—11.10(84A) Redistribution of funds. The regional advisory board reserves the right to recapture and redistribute funds based upon projected expenditures, if it appears that funds will not be expended in accordance with the proposed budget for a project.

These rules are intended to implement Iowa Code section 84A.8.

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CHAPTER 12
IOWA JOB TRAINING PARTNERSHIP PROGRAM

[Prior to 1/14/87, Planning and Programming 630—Chapter 19]

[Prior to 7/17/96, see Iowa Department of Economic Development, 261—Chapter 19]

[Prior to 2/25/98, see Job Service Division[345] Ch 14]

877—12.1(7B,PL97-300,PL102-367) Assumption of responsibility. Effective July 1, 1996, the department of workforce development was designated the department responsible for activities and services under the Job Training Partnership Act (PL 97-300, as amended by PL 102-367). The JTPA administrative functions previously performed by the department of economic development were transferred to the department of workforce development by Iowa Code chapter 84A.

877—12.2(7B,PL97-300,PL102-367) Purpose. The purpose of the Iowa Job Training Partnership Act program is to establish programs to prepare youth and unskilled adults for entry into the labor force and afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of and will benefit from the training to obtain productive employment.

877—12.3(7B,PL97-300,PL102-367) Definitions. The following definitions apply to this chapter and the Iowa Job Training Partnership Act program unless the context otherwise requires:

“*Act*” means the Job Training Partnership Act, P.L. 97-300, as amended by P.L. 102-367.

“*Administrative capacity*” means the positions that have overall administrative responsibility for selection, hiring, placement, or supervisory responsibilities regarding participants served or staff hired under a grant agreement.

“*Administrative entity*” means the organization, corporation, agency or unit of government designated under an agreement between a private industry council and representative(s) of the parties to an Iowa Code chapter 28E agreement to manage and execute a job training plan in a service delivery area of the state.

“*Chief elected official (CEO)*” means the local elected official who is selected from the participating units of government in the service delivery area (SDA) to act as their authorized representative. In the case of a service delivery area, this would be the chairperson of the local elected officials’ JTPA board. For the state, the CEO is the governor.

“*Community-based organizations (CBO)*” means private, nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services. Examples include United Way of America, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in Section 7(10) of the Rehabilitation Act of 1973), tribal governments, and agencies serving youth, persons with disabilities, displaced homemakers, or on-reservation Indians.

“*Department*” or “*DWD*” means the department of workforce development, which has been designated as the state administrative entity to administer the Job Training Partnership Act on behalf of the governor.

“*Grant recipient*” means the organization, corporation, agency or unit of government designated under an agreement between a private industry council and representative(s) of the parties to a 28E agreement to receive Job Training Partnership Act funds on behalf of a service delivery area of the state.

“*Local elected officials (LEO)*” means county supervisors, except with respect to contiguous municipal corporations with a population of 200,000 or more that serve a substantial part of a labor market, in which case the mayor of that municipality(ies) is also a “local elected official.” LEOs must approve the local service delivery area’s local training plans and modifications before they are submitted to the governor.

“*Local training plan*” means a written program of action approved by the governor which delineates the method of operation and proposed budget for a JTPA program in a service delivery area. The two types of local training plans are:

1. The Job Training Plan (JTP) is the designation given to the plan for the Title IIA and IIB programs.

2. The Title III Dislocated Workers Plan is the designation given to the plan which describes the Dislocated Worker Center program.

“*Private industry council (PIC)*” means the group of persons in a service delivery area appointed to oversee (review, monitor, and evaluate) the programs conducted pursuant to that service delivery area’s local training plans. The PIC must also approve the local service delivery area’s local training plans and modifications before they are submitted to the governor.

“*Service delivery area (SDA)*” means those regions in which the state is divided and through which job training services are delivered. Each SDA must have a PIC, a LEO 28E agreement, a LEO/PIC agreement, a job training plan, a grant recipient, an administrative entity, and service providers.

“*Service provider*” means any person, organization, or other entity which receives a contract (financial or nonfinancial) under JTPA through an SDA grant recipient or JTPA grantees or contractors to carry out substantive work (e.g., employment, training, support services, purchases of supplies or equipment).

“*Subrecipient*” means any person, organization or other entity which receives financial assistance under JTPA through an SDA grant recipient. In a service delivery area where the grant recipient and administrative entity are separate entities, the term “subrecipient” includes the administrative entity.

“*Workforce development board*” or “*WDB*” means the board appointed by the governor pursuant to Iowa Code chapter 84A.

877—12.4(7B,PL97-300,PL102-367) Service delivery area designations.

12.4(1) *Governor’s proposed service delivery areas.* After receiving the recommendations of the workforce development board, the department of workforce development shall publish in a daily newspaper of general circulation in the state the governor’s proposed designation of service delivery areas.

12.4(2) *Public comment.* Units of local government, business organizations, and other affected persons or organizations may make written comments on the proposed service delivery areas to the Policy Office, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, within 30 days from the date of publication or a date designated by the department which allows at least 30 days for comment.

12.4(3) *Petitions for alternative service delivery area designation.* Within 30 days from the date of publication of the governor’s proposed designation of service delivery areas or a date designated by the department which provides at least 30 days for response, any unit of general local government or consortium of contiguous units of general local government which serves a substantial portion of a labor market area may petition for alternative service delivery area designation. Petitions under this subrule shall be submitted to the Policy Office, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309, and shall include:

a. The name or names of the unit or units of general local government in the proposed alternative service delivery area.

b. The aggregate population of that unit or units according to the 1990 U.S. Census data.

c. In the case where the proposed alternative service delivery area contains more than one unit of general local government or less than 200,000 aggregate population, a statement describing how the proposed alternative service delivery area serves a substantial portion of a labor market area.

d. A statement indicating how the proposed alternative service delivery area will promote effective delivery of job training services.

e. In the case where the proposed alternative service delivery area represents a consortium of units of general local government, a letter of intent must be executed by each unit of general local government in the proposed alternative service delivery area, which indicates that each unit endorses the petition and will amend its consortium agreement to conform to Iowa Code chapter 28E and these rules.

12.4(4) *Appeal of petition for alternative service delivery area designation.* When the governor denies a petition for alternative service delivery area designation, which alleges the petitioning unit

of general local government has a population of 200,000 or more, or the petitioning consortium of contiguous units of general local government has an aggregate population of 200,000 or more and serves a substantial part of a labor market area, the petitioning entity may appeal the denial to the Secretary, U.S. Department of Labor, Washington, D.C. 20210. To be heard, the appeal must be filed within 30 days of receipt of such denial.

12.4(5) *Publication of final service delivery area designations.* After the governor makes a final designation of service delivery areas in the state, the department of workforce development shall publish a notice of the final designations in a daily newspaper of general circulation in the state.

877—12.5(7B,PL97-300,PL102-367) Service delivery area redesignation.

12.5(1) An SDA will be redesignated by merging its counties into one or more other SDAs if the PIC and the appropriate chief elected official or officials fail to reach an agreement on the PIC/LEO agreement or the job training plan, or if all units of local government choose not to participate in an SDA, or if they are unable to find a grant recipient.

12.5(2) The governor may act as the chief elected official in an SDA that is to be redesignated until redesignation occurs.

12.5(3) Redesignation will occur no later than March 1 prior to the program year in which the redesignations will be effective.

877—12.6(7B,PL97-300,PL102-367) Consortium agreements.

12.6(1) *Submission date.* Subject to subrules 12.6(2) and 12.6(3), units of general local government in a service delivery area shall jointly submit a consortium agreement which satisfies Iowa Code chapter 28E within 30 days from the date of publication of the service delivery area designation.

12.6(2) *Extension.* Where the units of general local government provide evidence of just cause, the governor may, at the governor's discretion, extend the 30-day consortium agreement submission date.

12.6(3) *Election not to participate.* Where a unit of general local government in a service delivery area does not wish to participate in the Iowa Job Training Partnership Act program by entering a consortium agreement, the unit shall by board resolution or other appropriate legal action indicate its election not to participate. Proof of adoption of a resolution electing not to participate shall be submitted within 30 days of the publication of the final service delivery area designation to the governor. Such election shall be effective for one year.

12.6(4) *Elements of LEO agreements.* In addition to conforming to Iowa Code chapter 28E, each JTPA 28E LEO agreement must contain the following elements:

a. Designation of the person or persons who will serve as the chief elected official(s) who will be responsible for making appointments to the PIC, developing an agreement with the PIC, approving and signing local training plans, and negotiating with the PIC.

b. Apportionment of responsibility and liability among the participating units of government for any losses, expenses, and burdens which may result from the consortium involvement in the JTPA program.

12.6(5) *Consortium agreement approval.* Before a consortium agreement shall be operational, it shall be submitted to and approved by the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

877—12.7(7B,PL97-300,PL102-367) Private industry council. Within each service delivery area there shall be established a private industry council. Appointees to public and nonprofit sector positions on a private industry council shall exclusively represent one and only one organization or agency. Appointees to private sector positions on a private industry council shall exclusively represent the private sector.

12.7(1) *Composition of the PIC.*

a. There must be a minimum of 17 members on each PIC and the private sector representatives must constitute a majority of the membership. The required members include 9 members from the private sector, 3 members from community-based organizations and organized labor, and 1 representative from

each of the following public agencies: education, vocational rehabilitation, public assistance, public employment service and economic development.

b. In order to maintain the partnership between the PIC and LEOs, the following LEOs may not serve on the PIC.

- (1) A member of a unit of government which is a party to a JTPA 28E LEO agreement and
- (2) Designated as a chief elected official or
- (3) A member who serves in an executive capacity for the LEOs. Executive capacity is defined as:
 1. A member of a LEO executive board,
 2. A member of a LEO executive committee, or
 3. A member of another LEO executive body which has the authority to negotiate with the PIC, approve the PIC/LEO agreement, vote to approve/disapprove the SDA's job training plan developed by the PIC, or act on behalf of the LEOs in the partnership with the PIC.

c. It is permissible for a local elected official to serve on the PIC if:

(1) The individual represents one of the eight groups designated in the Act, is nominated and appointed in a manner consistent with the Act and is not serving on a LEO board in an executive capacity as defined in 12.7(1)“b”(3) above, or

(2) The individual is serving in an executive capacity, but is serving on the PIC as a nonvoting member.

12.7(2) *Selecting PIC members.*

a. Whenever a new position is created or a vacancy occurs on a PIC for any reason, the division administrator of the division of workforce development center administration must be notified in writing of the vacancy within seven days of vacancy. This notification must come from the chief elected official (CEO) or someone designated by the CEO to notify the department.

b. The chief elected officials must appoint a new member to fill the position and submit a “Request for Private Industry Council Certification” to the department within 45 days of the position’s becoming open.

c. Printed copies of “Request for Private Industry Council Certification” forms shall be available from the Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309. This form shall be used by the official(s) who appointed the private industry council in each service delivery area when applying for private industry council certification. All information requested by the form must be completed. When requested, the official(s) submitting the request for certification shall also submit copies of letters of nomination for all nominees to the private industry council.

12.7(3) *PIC nomination process.*

a. Nominations to the nonprofit or public PIC positions must come from the interested organizations. For example, nominations to education positions must come from educational agencies and institutions, and labor representative position nominees must come from recognized state and local labor organizations.

b. Nominations are good for 90 days. After the 90-day period, nominations expire and must be resubmitted.

12.7(4) *Appointment and certification.*

a. After selecting PIC members from the nominees submitted, local elected officials must submit those names to the department for certification.

b. Whenever a PIC is not composed of the required representatives as specified in 12.7(1), the PIC is out of compliance with the Act.

c. If the appointment and request for certification are not completed within the 45-day time period, the PIC will be found in nonconformance and the procedure for PIC decertification will be initiated, unless the vacant position is not one of the required 17 positions listed in 12.7(1).

d. A newly appointed PIC member may not vote on issues before the PIC until the department certifies the appointment of that member.

e. No change in the size, membership, chair or composition of a PIC shall be valid and effective until approved in writing by the department.

12.7(5) PIC decertification. If at any time the department determines that a PIC does not conform, it shall give that PIC a written notice of nonconformance which states the deficiency and allows a period of time in which to correct the deficiency. Failure to satisfy the notice of nonconformance within the time period allowed is grounds for the decertification of the PIC.

877—12.8(7B,PL97-300,PL102-367) Private industry council/local elected official agreement. The local JTPA program is operated as a partnership between the PIC and LEOs. This partnership is formed by an agreement between the PIC and LEOs which outlines procedures for developing the local job training plans for all JTPA titles and programs in the SDA and which provides for the selection of the grant recipient, administrative entity and Title III grantee.

12.8(1) Elements. The PIC/LEO agreement must include, at a minimum, the following elements:

a. *Local training plan development procedure.* The agreement must include a determination as to who (e.g., PIC members, elected officials, grant recipient staff, administrative entity staff, consultants) will be involved in the preparation of the various job training plans.

b. *Selection of Title III grantee.* The agreement must describe the required request for proposal procedure that will be used to select the Title III grantee.

c. *Selection of the grant recipient and administrative entity for Title II.* The agreement must specify which entity or entities will act as the grant recipient and administrative entity for the Title II programs or how they will be chosen.

d. *Policy guidance.* The PIC and LEOs must agree on how policy guidance will be provided for the SDA's JTPA program. This effort could entail periodic meetings between representatives of each group to coordinate their policy recommendations for the administrative entity. Alternatively, either group could be designated to take the lead in guiding policy and establishing a systematic method to keep the other group informed and provide for its input.

e. *Oversight.* Both the PIC and the LEOs are responsible for oversight of the program. The agreement must state who will conduct oversight, how and when it will occur. Oversight is defined as reviewing, monitoring, and evaluating the JTPA program within the SDA. The PIC and LEOs may perform the oversight function jointly or the PIC may take the lead and keep the LEOs informed.

f. *Lines of communication.* Regardless of how the LEOs and the PIC decide to coordinate individual responsibilities, the agreement must contain the method used by the PIC and the LEOs to keep each other informed. These procedures could include an indication of who is responsible for initiating communication, at what intervals, by what means (for example, personal meetings and written reports), and issues needing review on a regular basis.

g. *Development of the local workforce development plan.* The Act requires the local workforce development plan to be developed jointly with the LEOs and the PIC in each SDA. The agreement must indicate the procedure for participating in the development of the workforce development plan.

h. *Period of agreement.* The period of time covered by the agreement must be defined.

12.8(2) Revisions or modifications.

a. The LEO/PIC agreement should be reviewed and modified, as necessary, prior to the planning cycle each program year.

b. If the LEO/PIC agreement is rewritten or modified, a copy of the agreement must be sent within 30 days of its execution to: Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

12.8(3) Certifications. All grantees must certify, as a condition to receive funding, compliance with the following laws and implementing regulations:

a. Job Training Partnership Act (PL 97-300) and amendments contained in P.L. 102-367.

b. U.S. Department of Labor (DOL) implementing regulations as described in 29 CFR 626 et al.

c. Age Discrimination Act of 1964 (PL 88-352) and DOL implementing regulations.

d. Civil Rights Act of 1964 (PL 88-352) and DOL implementing regulations.

e. Equal Employment Opportunity Commission Policy Statement (2/26/87) and 29 CFR Part 34.

- f.* Education Amendments of 1972 (PL 92-318) and DHEW implementing regulations.
- g.* Rehabilitation Act of 1973 (PL 93-112) and DOL implementing regulations.
- h.* Americans With Disabilities Act of 1990 (PL 101-336) and Department of Justice implementing regulations (8 CFR 274a).
- i.* Immigration Reform and Control Act of 1986 (PL 99-603) and Department of Justice implementing regulations (8 CFR 274a).
- j.* Military Selective Service Act, Section 3, and Selective Service registration information and forms.
- k.* DOL Nonprocurement, Debarment, and Suspension regulations (49 CFR Part 29).
- l.* Iowa Code chapter 7B.
- m.* Iowa Administrative Code 877—Chapter 12.
- n.* Iowa Civil Rights Act of 1965, as amended.
- o.* Federal Executive Order Number Fifteen - Code of Fair Practices (4/2/73).
- p.* Federal Executive Order Number Eleven - Amendments to Executive Order Number Fifteen (3/30/84).
- q.* Other relevant regulations as noted in the JTPA handbook for grantees.

877—12.9(7B,PL97-300,PL102-367) Plan requirements.

12.9(1) *Job training plan.* Pursuant to rule 12.8(7B,PL97-300,PL102-367), each service delivery area shall develop a job training plan signed by the chairperson of the PIC and the chief elected official(s). Plan development instructions will be issued to the SDAs prior to the effective date of the local training plan submission. The instructions will include guidelines for and explanations of the planning information requested. Plan development must be conducted in coordination with the other SDAs, regional advisory boards, the department, local school districts, and other local agencies, including at a minimum, the department of human services, vocational rehabilitation, area agency on aging, and the community action agency.

a. Where submitted. The job training plan and all modifications shall be submitted to the Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

b. Submittal date. The job training plan shall be submitted no later than May 1 of each program year. An original and four copies of the final plan must be submitted.

c. Failure to submit or gain approval.

(1) The human resource investment council committee of the WDB will approve or disapprove the job training plan within 30 days of submittal.

(2) If a plan is disapproved, the disapproval will be provided to the PIC and LEOs in writing, detailing the reasons for the disapproval and revisions required to approve the plan. Any required revisions shall include only pages that need changes. The entire plan does not need to be resubmitted. The revision must be clearly marked and resubmitted within 20 days from the date of disapproval.

(3) Revisions must be signed by the PIC chairperson and chief elected official. After revisions are submitted, the final determination approving or disapproving the plan will be made within 15 days.

d. Local documentation. Each party to the job training plan shall adhere to the job training plan public review and comment process, shall document adherence and retain copies of all written comments received. Proof of publication of the availability of the proposed and final job training plan for public review shall accompany each job training plan submitted.

e. Modifications. Modifications to a job training plan may be made when:

- (1) Agreed to and signed by the PIC and the local elected official(s);
- (2) Published no later than 80 days before it is effective; and
- (3) Approved by WDB prior to implementation.

12.9(2) *Title III dislocated workers plan.*

a. Funds are allocated under Title III for the statewide operation of programs providing activities and services to dislocated workers. Programs will be operated in each service delivery area through a dislocated worker center which will be selected by the PIC and LEOs through a request for proposal (RFP) process that meets state procurement standards.

b. By March 3 of each program year, each SDA must publish a notification that the Title III plan is being drafted in at least one newspaper of general circulation. The notification must solicit comments from appropriate local educational and other public agencies and labor organizations in the area representing employees having the skills for which training is proposed.

12.9(3) Workforce development plan. The Wagner-Peyser Act, which establishes the national public employment service system, requires the department to develop a workforce development plan for each SDA in cooperation with the PIC and chief elected official(s). The LEO/PIC agreement establishes procedures for the cooperative development of the plan.

Each program year the department will issue a technical assistance guide (TAG) explaining the procedures for completing the local workforce development plan. For planning purposes, the amount of the Wagner-Peyser allocation for each SDA will be provided to the PIC's workforce development representative within 30 days of notification to the governor. The state will also publish the substate resource distributions in a newspaper of general circulation.

a. *Cooperative efforts.* Each local workforce development plan must be developed taking into consideration proposals developed jointly by the PIC and LEOs. The workforce development representative on the PIC serves as the department coordinator in this effort.

b. *Plan submittal, review and approval process.*

(1) The workforce development plan must be submitted by the date established in the workforce development TAG. An original and two copies must be sent to:

Department of Workforce Development
150 Des Moines Street
Des Moines, IA 50309

(2) Workforce development board review. After approval by the PIC and LEOs, each workforce development plan will be reviewed by the human resources investment council committee of the workforce development board. The human resource investment council committee will determine if the components of the plan have been jointly agreed to by the department, the PIC, and LEOs and if the plan is consistent with the 5- and 20-year state plans for workforce development.

If the WDB determines the above provisions have not been met, the plan will be returned to the department with the WDB's recommendations for it to consider jointly with the PIC and LEOs. Thirty days from the date of written notification that the plan cannot be approved are permitted to modify and resubmit the plan.

c. *Failure to agree.* If agreement cannot be reached between the department, the PIC and LEOs, the plan may be submitted to the WDB and Secretary of Labor and must be accompanied by the proposed modifications as recommended by the disagreeing parties. In such cases, the WDB must inform the Secretary of Labor of its recommendations for resolution of the disagreement.

d. *Governor's review.* The governor is permitted to review and transmit to the Secretary of Labor proposed modifications of any workforce development plans.

877—12.10(7B,PL97-300,PL102-367) Grant agreements. Upon department approval of a plan, the department will issue a grant agreement. The grant agreement shall be between the department and the designated grant recipient. The grant recipient shall retain responsibility for ensuring that the administration of the program meets all applicable federal and state requirements even when subcontracting or designation of other entities to perform JTPA activities and services. These rules and applicable federal and state laws and regulations and the provisions of the Iowa JTPA handbook and handbook updates must be incorporated by reference in each grant agreement. The department shall hold grantees, including SDA grant recipients, responsible for JTPA funds received through the grant. The grantees shall hold subgrantees and subrecipients responsible for JTPA funds received through the grant.

877—12.11(7B,PL97-300,PL102-367) Incentive grant award system. Exceptional performance in the Title IIA and Title IIC programs is recognized and rewarded through an incentive grant system. Section 202(b)(3) of the Act reserves 5 percent of each state's Title IIA funds to provide incentive grants to SDAs

which demonstrate superior performance and to provide technical assistance to those SDAs which do not qualify for incentive grants.

12.11(1) Division of funds.

a. If there are any incentive funds from previous program years which must be awarded due to a redetermination, the amount of those funds will be subtracted from the available funds for the current year.

b. Incentive grant funds are divided into two categories:

(1) Thirty-three percent of the funds are reserved by the department to provide technical assistance;
(2) Sixty-seven percent of the funds available are apportioned into formula shares for each SDA using the regular Title IIA formula. These SDA formula shares are further subdivided into specific dollar amounts corresponding to the eight Title IIA performance measures. The department will assign percentage weights to each of the eight performance measures.

12.11(2) Data requirements and time line for incentive awards.

a. The determination of actual performance achievement on the eight performance standards and subsequent incentive awards will be based upon data contained in the management information system (MIS). All final program year data must be entered in the MIS and a final JTPA annual status report generated no later than August 15 following the end of the program year. The information contained on this report will be used for incentive award determinations. No updates to this data will be permitted unless authorized by the department.

b. The initial determination of incentive awards will be made no later than September 1 following the end of the program year. By that time each grantee will be notified of its initial performance and incentive award determination. The grantee will be allowed 15 days to respond to the initial determination. The grantee's response is to be limited to the calculation of the awards. A final determination and the awarding of incentive funds will occur no later than October 1 following the end of the program year.

c. The department reserves the authority to adjust the time lines to award incentive funds if exceptional circumstances warrant an adjustment.

12.11(3) Qualification for incentive awards. To be eligible for an incentive award for any performance measure, a grantee must exceed the base performance standard.

12.11(4) Determination of incentive award amounts.

a. If an SDA qualifies for incentive funds for a given performance measure, its share of the dollars for that measure is combined with the shares of all qualifying SDAs to establish the total incentive funds available for that performance measure. These funds are then divided as described in paragraph "c."

b. If an SDA does not qualify for incentive funds for a given performance measure, its share of those dollars reverts to the department to provide technical assistance to the SDAs that do not qualify for incentive grants. These funds will be pooled and the department will determine how these funds are to be expended for technical assistance. If any of these funds are not expended during the program year, the funds will be carried forward and added to incentive awards in the following program year.

c. The amount awarded to an SDA for each performance measure exceeded will be determined as follows:

(1) The percent each SDA exceeded the performance standard is calculated. These figures are converted into a percent of the total for each of the qualifying SDAs. This percent represents the portion of the total funds for that performance measure each SDA would be entitled to without reductions. This calculation is performed for each of the eight performance measures. An SDA's total incentive award will be the sum of its share of the funds in each of these measures.

(2) An SDA's incentive award may be reduced for any of the following reasons: low expenditure rates; failure to meet service level requirements for dropouts; failure to meet service level requirements for WIN registrants; or late submittal of a required report. An SDA's incentive award will not be reduced to less than 10 percent of its incentive award.

12.11(5) Redistribution of reduced awards. The department will redistribute those funds which are reduced from an SDA's incentive awards. The procedure for redistributing these funds will be developed

by the department and priority will be given to those SDAs whose incentive awards were not reduced. The department will provide a written description of the redistribution calculation to each SDA.

12.11(6) *Distribution of funds.*

a. Incentive awards, including incentive funds which are redistributed, may not exceed an amount equal to 50 percent of an SDA's formula allocation of new program year funds for Title IIA.

b. Actual distribution of the funds will occur after the end of each program year when final performance standards are calculated. At that time, each SDA's Title IIA performance will be compared against its standards to determine eligibility for, and the amount of, incentive awards.

c. Incentive awards granted during any program year will be distributed based upon performance from the previous program year.

877—12.12(7B,PL97-300,PL102-367) Reallocation process. In order to avoid the loss of JTPA funds to the state, the department will reallocate Title IIA, IIB and III funds. The department will redistribute carryover funds in accordance with the formula and procedures developed by the department. The department's reallocation formula and procedures will be distributed to the SDAs in writing.

877—12.13(7B,PL97-300,PL102-367) Financial management. Each JTPA grantee must provide fiscal controls and accounting procedures sufficient to prepare required reports, demonstrate compliance with matching requirements, and trace funds to ensure compliance with the Act, state and federal regulations, and general grant agreement provisions.

12.13(1) A financial management system must include:

a. Adequate administrative and internal controls to safeguard funds;

b. Procedures to ensure that expenditures are planned, controlled, recorded, and reported against the following: training, participant support, and administrative cost categories; the total of each Title or program; and adult and youth for Title IIA and 6 percent funds;

c. Procedures to ensure that expenditures are reported by the following: each funding source listed in the budget summary; program year; cost category; and adult and youth for Title IIA and 6 percent funds;

d. Financial records that accurately and properly reflect program costs by allowable cost categories;

e. Procedures to ensure timely and accurate reporting;

f. Procedures to ensure compliance with cost provisions of the Act, state and federal regulations, and grant agreement general provisions;

g. Procedures to determine that costs incurred are necessary, reasonable, and allocable to the program;

h. Procedures for determining allowable costs;

i. Procedures that ensure that cash on hand is kept to a minimum;

j. Procedures to identify program income including controls to ensure the proper reporting, use, and accountability of those funds;

k. Procedures for determining allowable match including documenting and reporting match;

l. Information needed to evaluate the effectiveness of the program; and

m. Procedures for maintaining time and attendance records.

12.13(2) An accounting system must use generally accepted accounting principles to control and account for JTPA funds to ensure JTPA moneys are used in accordance with the Act, state and federal regulations, and grant agreement provisions. An accounting system must include procedures for:

a. Coding of expenses to the following: grants; total of each Title and program; cost categories within each Title and program; and adult and youth for Title IIA and 6 percent funds;

b. Reviewing, editing, and approving expenditures for accuracy, allowability and allocability;

c. Reconciling books of account with bank statements;

d. Posting transactions to books of account;

e. Preparing trial balances;

- f.* Preparing financial reports by grant, funding source as listed in the budget summary, program year, cost category, and adult and youth for Title IIA and 6 percent funds;
- g.* Maintaining a petty cash system if one is used;
- h.* Maintaining a cash receipt and disbursement system;
- i.* Distributing joint costs;
- j.* Safeguarding unsigned and signed checks; and
- k.* Maintaining a payroll system.

12.13(3) Program income. Any JTPA program income generated must be reported monthly to the department. Each grantee will be notified regarding action that must be taken with income generated.

12.13(4) Administrative cost pool. Administrative funds received under all JTPA titles may be used to form an administrative cost pool. However, the actual reporting of administrative costs must be by title or program. A cost allocation plan may be used to distribute the joint costs to titles and programs for reporting purposes. The plan must be in place prior to the pooling of administrative costs.

12.13(5) Bonding. An individual who is authorized to act on behalf of a grantee for the purpose of receiving or depositing JTPA funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs must be covered, at a minimum, by a fidelity bond equal to the lower of \$100,000 or the highest advance or reimbursement received through check or drawdown during the term of a grant agreement.

12.13(6) Indirect cost rates. Indirect costs may be charged to a JTPA grant if the grantee has an approved indirect cost agreement with a federal cognizant agency and the agreement covers the term of the grant. Up to 10 percent of salaries and fringe benefits, excluding participant salaries and fringe benefits, or the approved rate, whichever is less, may be charged to a JTPA grant.

12.13(7) Time and attendance records. Time and attendance records must be maintained for any individuals who receive any part of their wage from JTPA funds, including participants, and for all participants who receive tryout employment compensation, needs-based payments, or support service payments which are made directly to the participant. Time coding or allocation plans must be used for all personnel receiving payment from more than one fund or JTPA Title or program.

12.13(8) Matching. The state education coordination and grants program (8 percent) and the Title III employment and training assistance for dislocated workers require matching funds be identified by a total amount equal to the amount provided pursuant to Sections 123(b) and 304 of the Act. Local grantees and contractors must assist the state in meeting these matching requirements. The Title III match must be made from nonfederal sources, whereas the 8 percent match may use both nonfederal and federal (non-JTPA) fund sources.

Matching requirements may be satisfied by cash contributions or by in-kind contributions identified and are used to provide services to JTPA participants. In-kind matching contributions for the state education coordination and grants program may be used in support of participants enrolled in the 8 percent program only. In-kind matching for the Title III program must be linked to participants enrolled in Title III.

12.13(9) Close-out. Each grantee must complete and submit the following documents as provided by the department within 45 days of the end date of the grant agreement:

- a.* A grantee/contractor submittal of close-out documents form;
- b.* A request for reimbursement form;
- c.* A periodic financial status report form;
- d.* A grantee/contractor release form; and
- e.* An inventory of JTPA-related property.

12.13(10) Monitoring. These monitoring requirements are intended to promote effective use of public funds and to provide procedures to ensure the objectives of the program are met.

- a.* The grantee must perform financial and program compliance monitoring at reasonable intervals.
- b.* The monitoring system must be designed to determine if the program and financial operations comply with all applicable laws and regulations. The monitoring system must include provisions for checking:

- (1) Financial management;

- (2) Participant eligibility determination;
- (3) Program and plan compliance;
- (4) Equal opportunity compliance; and
- (5) Participant files.

c. A monitoring report on each entity must be prepared and maintained along with documentation of corrective action.

877—12.14(7B,PL97-300,PL102-367) Auditing. Each grantee must submit to the department an annual list of all subrecipient contracts including the name of the subrecipient, the dollar amount of the contract, the contract number, and a description of the contract.

12.14(1) Annual audit. Each grantee must perform an annual independent financial and compliance audit of funds received by the grantee and its subrecipients. All costs incurred with the audit are the responsibility of the grantee. The grantee must ensure that the following are audited:

- a. The grantee;
- b. For Title II grants, the administrative entity, if different from the grantee;
- c. All subrecipient contracts of \$25,000 or more;
- d. Five percent of all remaining subrecipient financial contracts;
- e. Five percent of all remaining participant files for eligibility and financial transactions.

12.14(2) Audit procedures.

a. Grantees must provide the information contained in the auditing section of the Iowa JTPA handbook to the auditor selected to do the JTPA audit.

b. The auditor must determine whether the financial statements of the audited entity accurately represent the financial position and the results of financial operations in accordance with generally accepted accounting principles applicable to governmental agencies.

c. Each audit must determine whether the audited entity has complied with the JTPA, applicable DOL regulations and state administrative rules.

d. All audits must be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities and Functions.

12.14(3) Audit tests. At a minimum, each audit must include a test for compliance with applicable federal and state laws and regulations in the following areas:

- a. Allowability of costs;
- b. Classification of costs;
- c. Cost limitations by category;
- d. Expenditure requirements for the state education and coordination and grants programs and the Title IIA adult and youth program funds;
- e. Participant record keeping and documentation;
- f. Grantee monitoring procedures;
- g. Reporting requirements;
- h. Program income;
- i. Matching requirements for Title III and state education coordination and grants programs.

12.14(4) Audit resolution procedures. The department shall hold grantees liable for JTPA funds received through the grant. Grantees are responsible for audit resolution involving their subgrantees. This procedure shall be used by the department to resolve audit findings contained in grantee audits.

a. *Grantee audit resolution.*

(1) Grantees are liable to the state for any misexpenditure of JTPA funds received through the grant.

(2) Grantees are responsible for audit resolution involving their subgrantees including affording the subgrantee an opportunity for a hearing under the local grantee complaint procedure.

(3) Prompt, appropriate, and aggressive debt collection action by the grantee to recover any funds misspent by subgrantees shall be considered a part of the corrective action.

(4) If a grantee requests a waiver under 12.14(4) "f," the grantee shall not be released from liability for misspent funds of their subgrantees until DOL accepts the state's audit resolution and corrective

action report concerning the waiver by the state. If DOL rejects the state's waiver, the grantee remains liable to the state for the misspent funds.

b. Initial determination.

(1) For each final audit report received from each grantee, an initial determination allowing or disallowing costs questioned in the audit report and proposing corrective action(s) to be taken by the grantee will be sent to the grantee.

(2) Each initial determination will include:

1. Citations to relevant statutory, regulatory, or grant agreement provisions supporting the findings and determinations;
2. Necessary corrective action required by the department for the grantee to achieve compliance;
3. Request for additional documentation, if needed, to satisfactorily respond to findings; and
4. Notice of the opportunity for an audit resolution conference with the department.

c. Response period. Each grantee will be allowed a 30-day period from the date of notification in which to respond to the initial determination and, if requested, meet with the department to discuss informal resolution. If further clarification or information is requested by the department to assist in the preparation of the final determination, additional time will be allowed for the grantee to respond to the request.

d. Final determination.

(1) After receipt of the grantee's response to the initial determination, a final determination will be issued and sent by certified mail, return receipt requested, to the grantee within 30 days. A final determination will be issued whether or not a response to the initial determination has been made.

(2) A final determination will include:

1. Identification of those costs questioned in the audit report which will be allowed and an explanation of why those costs are allowed;
2. Identification of disallowed costs, listing each disallowed cost and describing reasons for each disallowance; and
3. Information on the grantee's right to appeal through the department's appeal process as provided in 12.14(4) "g."

(3) A copy of each final determination will be used to establish a debt account in the amount of costs disallowed. An audit resolution report will be forwarded to the DOL in the manner prescribed by the Secretary of Labor.

e. Disallowance of costs. The following criteria will be applied to questioned costs in determining whether those costs will be disallowed:

(1) Costs not expended in accordance with the Act, regulations, grant agreement, plan, or administrative rules shall be disallowed;

(2) If the misexpenditure was due to willful disregard of the requirements of the Act, regulations, grant agreement, plan, or administrative rules, gross negligence, or failure to observe accepted standards of administration, the costs will be disallowed and repayment must be from non-JTPA funds;

(3) Costs may be disallowed if the funds were not expended in accordance with generally accepted accounting practices;

(4) Ignorance of the requirements of the Act, regulations, rules or grant provisions is not sufficient justification to allow a questioned cost;

(5) The grantee's inability to pay the debt will not be a consideration in the determination of allowing a cost.

f. Waiver.

(1) If an established debt has been determined to have resulted from a fraudulent action or from willful disregard of the Act or applicable rules and regulations, no waiver will be granted. The department will initiate immediate debt collection action against the grantee and may notify the DOL Office of the Inspector General. This action will be taken regardless of whether the fraud or willful disregard occurred at the grantee or any other subrecipient level.

(2) A grantee may request a waiver of debt collection from the department. The request must be in writing and include supporting documentation. In determining whether to impose any sanction on a

grantee, including the disallowance of questioned costs for violations by a subrecipient, the department will first determine whether the grantee has adequately demonstrated that it has:

1. Established and adhered to an appropriate system for the enrollment of participants and the award of contracts with subrecipients which contain acceptable standards for ensuring accountability, clear goals, and obligations in unambiguous terms;

2. Acted with due diligence to monitor the implementation of the subrecipient contracts and participant files, including the performance of the appropriate monitoring, auditing and verification activities at reasonable intervals; and

3. Taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this Act or the regulations by the subrecipient.

(3) If the department determines that the grantee has demonstrated substantial compliance with the requirements of paragraph "a," the department may waive the imposition of sanctions against the grantee and include the waiver in the state's audit resolution and corrective action report to DOL. The grantee will not be released from liability for misspent funds until DOL accepts the state's audit resolution and corrective action report and approves the state's resolution activities. Any waiver by the department for the benefit of the grantee shall be considered a waiver proposal which is subject to final disposition by the DOL.

(4) Unless waived, each recipient shall repay to the state amounts found not expended in accordance with the Act, regulations, administrative rules, or grant agreement provisions.

(5) Each recipient shall repay from non-JTPA funds misexpenditures due to willful disregard of the requirements of the Act, regulations, administrative rules, or grant agreement provisions; gross negligence; or failure to observe accepted standards of administration.

g. Request for hearing.

(1) Requests for hearing on provisions of a final report or final determination shall be filed within 15 days of receipt of the final determination. The request for hearing shall specify those provisions of the report or determination upon which a hearing is requested. Those provisions of the report or determination not specified for hearing, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to review.

(2) The party requesting the hearing shall have the burden of establishing, by a preponderance of the evidence, the facts and the entitlement to the relief requested.

(3) The grantee will receive written notice of the date, time and place of the hearing, an opportunity to present evidence, and a written decision.

877—12.15(7B,PL97-300,PL102-367) Debt collection procedures.

12.15(1) Establishment of debt.

a. Audits. A debt is established by the release of a final determination on an audit report. The amount of the debt is determined by the amount of costs disallowed in the final determination.

b. Compliance review reports. A debt is established upon the release of a final report disallowing costs resulting from a compliance review report. The final compliance review report includes a review of the corrective action taken by the grantee and any disallowed costs.

c. Postponement of debt collection. If a grantee requests and the department recommends, a waiver under debt collection procedures will not be initiated unless DOL rejects the department's audit resolution and corrective action report concerning the waiver request. If a hearing is requested on a final determination or final report, debt collection will be delayed pending the outcome of the hearing.

12.15(2) Notification of debt.

a. Within ten days of the establishment of the debt, an initial demand letter will be sent by certified mail, return receipt requested, to the grantee from the department requesting repayment of the misspent funds.

b. If no response or payment is received within 15 days of the date of the initial demand letter, a final demand letter will be sent by certified mail, return receipt requested.

c. Letters not claimed and signed for by the grantee shall be treated as “no response” for purposes of calculation of time periods.

12.15(3) *Payment methods.*

a. Grantees shall pay debts in a one-time cash payment except in cases of documented financial hardship or as allowed by the department.

b. The department may charge interest on the debt when established.

c. The following repayment methods may be used by the department:

(1) Repayment agreement. A repayment agreement may be negotiated for a time period not to exceed one year. The agreement shall be in writing and signed by the department and the grantee. The agreement shall include a schedule of payments which includes exact payment dates, amount of the debt, interest, date of agreement and a requirement for payment in full for breach of the agreement by the grantee.

(2) Allocation reduction. Title IIA and IIB allocations to a grantee may be reduced when DOL offsets a debt against funds allotted to the state and the state debt resulted from a misexpenditure by the grantee or its subrecipients. This method may not be used for any other title or subpart of the JTPA.

(3) If the misexpenditure of funds was due to a grantee’s willful disregard for the requirements of the Act, regulations, administrative rules, or grant agreement provisions, gross negligence, or failure to observe accepted standards of administration, the grantee shall repay those amounts from non-JTPA funds.

12.15(4) *Legal actions.* The state will take necessary and appropriate legal actions to recover misspent grant funds in the event a grantee refuses to satisfy a debt owed to the state.

877—12.16(7B,PL97-300,PL102-367) Grantee report requirements.

12.16(1) *State reports.* There are three reports which are required to be filed by each grantee with the department: the monthly progress report, file merge report, and the annual report. Instructions for completion and any necessary data or forms will be provided in writing to the grantee by the department.

12.16(2) *Monthly reports.* The information entered into the department’s management information system (MIS) is the official database of the Iowa JTPA program. All reports must be consistent with the data contained in the MIS. To ensure consistency, reports must be completed at the same time and use the same reporting period as the file merge reports which are prepared and submitted by the fifteenth of each month using the last day of the previous month as an end date for the reporting period. After a file merge report is submitted, any other reports submitted for the same reporting period must agree. No additional data should be included for that reporting period which would change a subsequent report for the same reporting period.

a. *Monthly progress reports.*

(1) This report contains data on enrollments, participant characteristics, terminations, activities and services, budgets, expenditures, participant service levels, and performance measures. Information from these standardized reports will be distributed quarterly via JTPA issuance and will also be disseminated at meetings of the WDB, PIC chairpersons, chief LEOs and to other interested parties as requested. The information contained in these reports will be used to identify specific areas where technical assistance is needed.

(2) A report must be generated for the Title IIA adult and youth program, the Title IIB summer youth employment and training program, the dislocated worker center program, the state education coordination and grants program, and the older individual training program in each SDA each month. A report must also be generated for any special project or program such as: the state education coordination and grants offender projects, the Title IVC veterans programs, and the Title III discretionary grants. These reports must be completed as designated in the appropriate grant agreement.

(3) These reports must be signed by the grantee certifying the accuracy of the information and must be received by the division administrator with a copy to the appropriate field administrator by the fifteenth of each month for the preceding month except that the final monthly progress report for each program year must be received by July 31. All data for the program year must be entered into the system prior to completing the final monthly progress reports. A copy of the monthly progress report for the

state education coordination and grants program must also be sent to the department of education. For Title IIB, reports are due on July 15, August 15, September 15, and October 15 with the final report due on November 15.

b. File merge report.

(1) The file merge report contains data on all titles and programs and is compiled by merging files in the management information system (MIS) as instructed by the department in the JTP information system user news. This merged data is then transmitted electronically to the department.

(2) The file merge reports from all SDAs are entered into the department's database, where the data is used to compile aggregate reports and analyze data at the state and SDA levels.

(3) The file merge reports must be submitted for each month by the fifteenth of the following month, except for the end-of-program-year file merge report which must be received by July 31. All data for the program year must be entered into the system prior to running the end-of-the-year file merge report.

12.16(3) Annual report.

a. Several narrative reports are required in connection with JTPA activities. Section 104(b)(10) requires the PIC and LEOs in each SDA to submit an annual report to the governor; state legislation requires the department to submit an annual report to the Iowa general assembly. The WDB is required to submit an annual report to the governor concerning all JTPA activities.

b. To coordinate all requirements, a report must be submitted annually for the following JTPA titles and programs:

- (1) Title IIA adult and youth program;
- (2) Title IIB summer youth employment and training program; and
- (3) Title III dislocated worker center program; and, if applicable,
- (4) State education coordination and grants programs;
- (5) Older individual training program;
- (6) Title III discretionary dislocated worker program; and
- (7) Title IVC veterans employment program.

c. The annual report for each title or program must include the cumulative information from the final monthly progress report for the program year plus a description of programs conducted during the program year. The narrative description should be no longer than five typewritten pages. Other elements may be included at local option.

d. Financial information contained in the annual report must agree with the grantee's close-out information which is submitted to the department.

e. All annual reports must be signed by the PIC chairperson and chief elected official, except for 8 percent projects and Title IVC.

f. All annual reports must be received by the division administrator no later than September 15 following each program year end. A copy of the state education coordination and grants program report must be submitted to the department of education (DOE) based on the agreement between the administrative entity and DOE. Since the Title IIB summer youth employment and training program is on a different program year cycle, the annual report for Title IIB will be for the previously completed summer program year.

877—12.17(7B,PL97-300,PL102-367) Compliance review system. The department is responsible for reviewing program operations of all its grantees and subrecipients. The components of the review system are based upon policies, objectives and procedures prescribed in federal, state, or local documents. The review system is intended to comply with the state's oversight and monitoring responsibilities while minimizing the degree of interference with local decision making and control of JTPA programs.

Federal and state documents used to conduct reviews are listed in 12.8(3).

12.17(1) Method of review. There are two methods of review: statistical and procedural.

a. Statistical method. The statistical aspect of the reviews examines three areas: participant service levels, fiscal data, and performance measures.

(1) The review of service levels includes the items identified on the planning summaries in the local training plan which vary between JTPA titles or programs.

(2) The fiscal review may vary from JTPA title and program. The fiscal evaluation may include, but is not limited to, a review of expenditure levels in accordance with program requirements including cost category limitations, allowable costs, matching requirements, planned expenditure rates compared to actual expenditure levels, youth expenditures and the noneconomically disadvantaged expenditure requirements.

(3) The program performance review will include, but may not be limited to, a calculation of actual performance in each title and program and an evaluation against performance standards.

b. Procedural method. The procedural aspect of the reviews includes the examination of procedures used to organize and operate JTPA programs in the SDAs. Local procedures will be reviewed to determine compliance with federal and state requirements governing the program. Items in this review include, but are not limited to, the following: applicant and participant process, activities and services; auditing; cash management; complaint procedures; debt collection; equal opportunity; federal and state reports; financial management; fiscal accountability; general program provisions; grant agreement provisions; LEO/PIC agreement; local job training plan; management information system; monitoring; monthly progress reports; participant service levels; participant and service provider record; PICs and LEOs; procurement procedures; property; record retention and verification.

12.17(2) Procedures and time lines. There are two procedures used to implement the methods of review described above: the monthly performance review and the annual financial and program compliance review.

a. Monthly performance review.

(1) Monthly performance reviews of the operation of JTPA programs will be conducted for each grantee by the department. These reviews will provide a continuous process of program examination and identification of technical assistance needs.

(2) Monthly performance reviews will use the statistical method relying upon several reports including the JTPA financial status report (FSR), the MIS computer-generated monthly progress report and a monthly JTPA annual status report (JASR).

(3) The summary and details of the analysis will be provided to each local JTPA director by the end of each month. If significant findings are found in the analysis, corrective actions will be required or recommended and in some cases modification to the technical assistance plan may be necessary. If corrective action is required, the JTPA director must provide a written response along with the monthly reports submitted for the subsequent month. Follow-up determinations on findings and corrective actions will usually be carried out by examining the monthly reports. If a significant finding continues over a period of several months, an on-site review may be required.

b. Annual financial and program compliance reviews.

(1) Annual financial and program compliance reviews provide for a comprehensive, in-depth evaluation of all JTPA programs and a system of technical assistance to correct program deficiencies.

(2) Formal program compliance and financial management reviews will be conducted with each grantee by the department annually using a compliance guide and applicable documents. The formats of these reviews will be included in the Iowa JTPA handbook made available to each grantee.

(3) With the exception of Title IIB, both a financial management and program compliance review will be conducted during the first six months of the program year.

(4) A Title IIB program compliance review will be completed with each grantee during July of each summer program year. A program compliance review of 5 percent of the Title IIB work sites in each SDA will be conducted during June and July of each summer program year.

(5) The guides and documents used in conducting both program compliance and financial management reviews will include both statistical and procedural methods of review. The comprehensive review is designed to examine the statistical success or failure of the program operation and to evaluate the procedures, policies and methods of operation.

12.17(3) Compliance review reports.

a. A report will be completed on each financial and program compliance review and on each work site visit. This report shall include: a description of findings including any questioned costs;

recommended corrective action to be implemented by the grantee; and time frames for completing any corrective action and responding to the report.

b. Because these reviews examine both program achievement and program efficiency, technical assistance is provided on both a required and recommended basis. Required corrective actions are necessary for any program performance levels or procedures which are deficient or in conflict with required standards of operation. Recommended corrective actions are suggested which may result in improved program efficiency or effectiveness.

c. Initial reports that include corrective action will be sent to the grantee only. The initial report may also be sent to the PIC chairperson and the chief elected official if the review identifies substantial problems.

d. The grantee must respond in writing to each report that includes required corrective action. The response must include a description and documentation of any corrective action taken. If the grantee disagrees with the findings of the report, the grantee must include in the response the reasons for the disagreement and any appropriate documentation.

e. The grantee shall have 20 days from the date of the report to respond to program compliance review reports. A maximum of 15 days shall be allowed to respond to financial management reports. For worksite visits, findings requiring corrective action must be initiated immediately upon verbal notification of the findings. A written response to worksite findings must be made within 10 days of the date a written report is issued.

f. A second report will be sent to the grantee within 20 days of receiving the grantee's response, if further corrective action is required. The grantee shall have 15 days to respond to the second report.

g. The department will issue a final report within 20 days of receipt of the grantee's response and corrective action. Copies of the final report, along with copies of the initial report and any responses from the grantee, will be sent to the PIC chairperson and the chief elected official.

h. Except for Title IIB, follow-up reviews will be conducted during the third quarter of the program year to review corrective actions taken in response to findings identified during the initial reviews. Title IIB follow-up will be conducted during the summer program year. Any follow-up visit will be documented via a letter to the grantee describing the findings and directing further corrective actions as necessary. If further corrective action is required, the grantee will have 15 days to respond.

12.17(4) *Questioned costs.* If the department questions costs in a compliance review or audit report, debt collection procedures will be initiated as provided in 12.15(7B,PL97-300,PL102-367). Grantees will be afforded an opportunity to request a hearing in accordance with 12.14(4) "g." Waiver requests by the grantee for subgrantee misexpenditures will follow the requirements of 12.14(4) "f."

877—12.18(7B,PL97-300,PL102-367) Sanctions for violations of the Act. The state may impose appropriate sanctions and corrective actions for violations of the Act, regulations, grant terms or conditions and other applicable laws and regulations.

12.18(1) *Findings warranting sanctions.*

a. In determining whether to impose a sanction, the department will consider the frequency, quantity, flagrancy, severity and willfulness of the finding and whether it was the result of willful disregard of the Act or other applicable laws and regulations. The findings may fall into four major categories: administrative, fiscal, program operation and performance standards.

b. Administrative findings. Sanctions may be imposed for failure to establish a 28E agreement to implement JTPA programs; maintain private industry council membership in accordance with Section 102 of the JTPA; establish a LEO/PIC agreement; meet publication and distribution requirements for local training plans; agree on a local training plan; obtain or maintain supporting documentation for grant activities; maintain accurate and current required data in the MIS; submit revised planning summaries to maintain an up-to-date local training plan; make procurements according to required policies and procedures including prior approval where necessary; implement required corrective actions; submit accurate required reports on time; implement the technical assistance plan; perform required audits; and meet monitoring requirements. This list is not intended to be all-inclusive.

c. Fiscal findings. Sanctions may be imposed for failure to operate within the minimum cash balance requirements; comply with program cost limitations; maintain adequate expenditure rates in accordance with the local training plan; properly allocate expenditures to JTPA and between titles and programs; properly disburse funds; obtain and document required match; maintain adequate systems of fiscal control; and submit accurate required fiscal reports on time. This list is not intended to be all-inclusive.

d. Program operation findings. Sanctions may be imposed for failure to obtain proper information for eligibility determination resulting in ineligible participants receiving benefits from the program; meet required enrollment levels for dropouts and WIN recipients; enroll substantial segments of the eligible population in proportion to their existence in that population; and meet required expenditure rates for Title IIA youth. This list is not intended to be all-inclusive.

e. Program performance findings (Title IIA only). Sanctions may be imposed for failure to meet performance standards for one year; two consecutive years; and more than two consecutive years.

Findings under this category are distinct from other types of sanctionable findings in that these deficiencies relate to performance criteria and sanctions as described in Section 106(h) of the Act. Sanctions to be taken under this Section are solely in response to an SDA's failure to meet performance standards. For purposes of Section 106(h) of the Act, "failure to meet performance standards" means achieving the standard in fewer than five of the seven DOL performance measures in Title IIA.

12.18(2) *Types of sanctions.* Sanctions which may be imposed, as listed below, are intentionally progressive in their severity to reflect the willfulness, severity or flagrancy of the finding. The severity of the sanction imposed may also increase with repeated findings. Sanctions include, but are not limited to, the following:

- a.* Disallowing costs associated with the particular violation or deficiency and seeking repayment;
- b.* Stopping the drawdown of funds until the violation or deficiency is corrected;
- c.* Reallocating unexpended or unobligated funds;
- d.* Prohibiting the use of certain service providers;
- e.* Revoking all or any part of the grant agreement affected;
- f.* Disapproving the local training plan or requiring modifications until conditions, violations or deficiencies are corrected;
- g.* Requiring the restructuring of the JTPA organization within the grantee or administrative entity;
- h.* Requiring the selection of an alternate grantee or administrative entity;
- i.* Requiring the restructuring of the PIC;
- j.* Decertifying the PIC;
- k.* Redesignating the SDA.

12.18(3) *Determination and notification of sanctions.*

a. All findings and questioned costs which may warrant sanction will be referred to a committee appointed by the division administrator. The committee may request and receive additional information and documentation concerning the findings and questioned costs. It is the responsibility of the committee to determine whether or not a sanction will be imposed.

b. The decision to impose the disallowed cost sanction will take into consideration the criteria stated in 12.14(4) "e."

c. If the sanction committee recommends imposing any of the sanctions in 12.18(2) "f" to "k," this recommendation will be taken to the WDB or a committee empowered to act on the WDB's behalf for review and recommendation. The sanction committee will then take the WDB's recommendation into consideration in its determination of whether or not to impose any of the referenced sanctions.

d. The initial notification of sanction will be communicated to the grantee, the PIC, and the LEOs within 30 days of the establishment of the findings. The grantee, the PIC and the LEOs will be allowed 15 days to respond to this initial notification of sanction. A final notification of sanction will be made no later than 60 days after the establishment of the findings.

e. Sanctions taken to prevent the misexpenditure of funds (e.g., in cases of fraud, illegal expenditures) will be imposed on an immediate basis along with notification to the grantee, the PIC and the LEOs.

f. Prior to imposing any sanction, except those sanctions taken to avoid misexpenditure of funds, the grantee, the PIC and the LEOs will be notified of their appeal rights. The grantee, the PIC and the LEOs may also appeal, within 15 days of the sanction imposition, sanctions imposed on an immediate basis to protect the misexpenditure of funds.

12.18(4) *Process for appealing proposed sanctions to be applied for failure to meet performance standards.*

a. For sanctions imposed for failure to meet performance standards, the grantee, the PIC and LEOs will be provided with the opportunity to request a hearing. A request for hearing must be filed within 15 days of receipt of the final notification of sanction.

b. The division administrator, or the division administrator's designee, will conduct the hearing and make a proposed decision to the department's director within 30 days of the receipt of the request for a hearing. The grantee, the PIC and the LEOs will be provided the opportunity to present evidence, both written and oral. The parties will receive written notice of the date, time and place of the hearing.

c. The department director will provide the grantee, PIC and LEOs written notification of the determination of the hearing within 60 days of the receipt of the request for a hearing.

d. If the determination upholds the imposition of the sanction, the PIC and LEOs may jointly submit an appeal to DOL as provided in JTPA Section 164(b) and 29 CFR 628.5 (March 15, 1983).

12.18(5) *Process for appealing the proposed sanction of revoking all or part of the local training plan.* Within 30 days of receipt of notification of intent to revoke all or part of the local training plan, the PIC and LEOs may jointly appeal to the DOL as provided in 29 CFR 628.5 (March 15, 1983).

12.18(6) *Process for appealing the proposed sanctions of PIC decertification and SDA redesignation.* Reserved.

12.18(7) *Process for appealing all other sanctions including disallowed costs.* For all other sanctions, the grantee, the PIC and the LEOs will be provided the opportunity to file a request for a hearing.

877—12.19(7B,PL97-300,PL102-367) Equal opportunity compliance. The Directorate of Civil Rights (DCR) has adopted regulations, 29 CFR Part 34 (January 15, 1993), to implement the equal opportunity and nondiscrimination provisions of the Act. These regulations require the department of workforce development to establish and adhere to a method of administration (MOA) designed to give reasonable guarantee of compliance with equal opportunity and nondiscrimination provisions. The department's MOA requires each SDA to develop a local MOA which includes required elements as outlined in the JTPA handbook to ensure compliance with the Act and regulations. Those requirements include, but are not limited to:

12.19(1) *Designation of equal opportunity officer.* Each grantee shall designate an individual or committee to coordinate equal opportunity and affirmative action responsibilities.

a. The name, title of position, address, telephone and TDD (or relay) number of the equal opportunity (EO) officer should be made public.

b. An adequate level of resources (i.e., nonpersonnel, such as travel budget, and training funds) must be provided to the EO officer to enable the officer to accomplish the responsibilities assigned. The EO officer must report directly, on EO matters, to the grantee's director.

c. The equal opportunity officer should have a background relative to EO laws, regulations, theories of discrimination, and understanding of how to conduct EO investigations and reviews or be given the opportunity to receive training and appropriate technical assistance to develop such a background.

12.19(2) *Notification.* Procedures must be established to inform applicants, participants, program beneficiaries and employees that the program does not discriminate in admission, access, treatment or, where applicable, employment in JTPA programs.

a. A system should be maintained for periodic distribution of EO-related policies, guidelines, and information.

b. Publication in languages other than in English must be provided to ensure all individuals are informed of JTPA programs and activities. In determining the language(s) used to provide the

information, the grantee shall consider the scope of the program and the size and concentration of the population.

c. Advertisements, recruitment materials, program brochures, and other similar publications regarding JTPA programs must contain the initial and continuing notice or alternative tagline as required by 29 CFR 34.23.

12.19(3) Posters. Equal opportunity and affirmative action posters must be displayed prominently and in reasonable numbers. Posters should explain briefly the procedures for filing a complaint and identify a local contact person who can provide assistance.

12.19(4) Monitoring. A system for periodic monitoring of the compliance status of subcontractors and subrecipients must be established and implemented.

a. The system should provide for periodic on-site reviews to assess their EO compliance.

b. Findings should be documented and retained.

c. The system should identify EO training and technical assistance needs and identify methods to meet these needs.

12.19(5) Discrimination complaint procedures. The equal opportunity officer for the grantee, administrative entity or subrecipient is responsible for adopting and publishing the complaint procedures. The complaint procedure must include the following minimum elements:

a. Who may file. Any persons may file who believe they have been subjected to discrimination on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief and, for beneficiaries only, citizenship or participation in JTPA.

b. Where to file. The complainant may file with grantee, administrative entity, subrecipient or the director of the Directorate of Civil Rights (DCR) at the following address: Director, Directorate of Civil Rights, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, D.C. 20210.

c. When to file. A complaint must be filed within 180 days of the alleged discrimination. Only the director of DCR may, for good cause shown, extend the filing deadline.

d. Contents of complaint. Each complaint should be in writing and shall:

(1) Be signed by the complainant or representative;

(2) Contain the complainant's name and address (or specify another means of contacting the complainant);

(3) Identify the respondent;

(4) Describe the complainant's allegations in sufficient detail to allow the grantee, administrative entity or subrecipient to determine whether the complaint falls under the jurisdiction of the grantee, administrative entity or subrecipient jurisdiction, was timely filed, and has apparent merit. This information may be provided by completing DCR's Complaint Information Form (CIF) and accompanying Privacy Act Consent Form.

e. Due process elements. The complaint handling process and responses to those charges should provide for:

(1) Notice to all parties of the specific charges and responses to those charges;

(2) An impartial decision maker;

(3) The right of both parties to representation;

(4) The right of both parties to present evidence;

(5) The right of both parties to question others who present evidence; and

(6) A decision made strictly on the presented evidence.

f. Processing time frames. The complaint procedure must provide for notice to the complainant of the following time frames:

(1) If the complainant chooses to file with the recipient, the complainant shall allow the grantee, administrative entity or subrecipient 60 days to process the complaint.

(2) Within 60 days, the grantee, administrative entity or subrecipient shall offer a resolution of the complaint to the complainant and shall notify the complainant of the right to file a complaint with the director of the DCR and inform the complainant that this right must be exercised within 30 days.

(3) If, by the end of 60 days, the grantee, administrative entity or subrecipient has not completed its processing of the complaint or has failed to notify the complainant of the resolution, the complainant or the complainant's representative may, within 30 days of the expiration of the 60-day period, file with the director of DCR.

(4) The director of DCR may extend the 30-day time limit for good cause shown.

(5) The grantee, administrative entity or subrecipient shall notify the complainant immediately in writing upon determining that it does not have jurisdiction over the complaint. The notice shall be in writing, include the reasons for the determination, and state the complainant's right to file with the director of DCR within 30 days' receipt of the notice.

g. Service providers. In the case of service providers, the required complaint procedures must be adopted and published on behalf of the service provider by the grantee.

h. Resolution. The grantee, administrative entity or subrecipient must have a sanction policy to ensure that a resolution can be enforced.

i. Complaint log. The grantee, administrative entity or subrecipient must maintain a log of all discrimination complaints.

12.19(6) Accessibility. JTPA-funded programs must be accessible to persons with disabilities and program information must be available, as necessary, in languages other than English and for the visual and hearing impaired.

a. JTPA grantees should conduct a self-evaluation regarding the accessibility of the facilities where JTPA services are provided and establish alternate methods of providing services where facilities are determined not to be physically accessible to persons with disabilities.

b. Accessibility standards should be consistent with regulations adopted by the DOL, Directorate of Civil Rights to implement JTPA.

12.19(7) Record keeping. Characteristics data (e.g., race, sex, national origin, age, disability status) must be maintained in the records on applicants, participants, program beneficiaries and employees and records must be sufficient to determine whether grantees are in compliance with nondiscrimination and equal opportunity provisions of the applicable civil rights laws, regulations, and executive orders.

12.19(8) Overcoming sex stereotyping. Mechanisms must be developed for the use of recruitment, training, and other program activities and services to overcome sex stereotyping by encouraging entry of men or women into occupations with skill shortages where their representation is less than 25 percent of the labor force in the occupation. A list to assist in identifying those Iowa occupational areas where men or women represent less than 25 percent within the occupational area is available to grantees from the state administrative entity.

12.19(9) Methods of administration (MOA). Each grantee, administrative entity, or subrecipient shall develop and submit to DWD their MOA. The MOA shall be in compliance with 29 CFR Part 34 and the Iowa JTPA handbook. The purpose of the MOA is to give reasonable guarantee that grantees, administrative entities, or subrecipients have established systems to ensure the implementation of nondiscrimination and equal opportunity requirements under JTPA.

12.19(10) Corrective action sanctions. Procedures must be established for taking prompt action to correct or remedy noncompliance or, as necessary, to invoke sanctions where noncompliance cannot be resolved voluntarily. Procedures for corrective action sanctions should provide for:

- a.* Notice to contractor to correct deficiencies;
- b.* Coordination with federal and state civil rights enforcement agencies, when necessary;
- c.* An appeal process with risk of contract suspension, termination, denial, discontinuance, or debarment from future contracting subject to a final appeal utilizing the existing complaint procedure;
- d.* Rights and remedies for suspension, termination, denial or discontinuance of the contract for cause should be stated in the contract;
- e.* Execution, as necessary, of a written assurance or a conciliation agreement which includes documentation that violations have been corrected. A conciliation agreement must be in writing, address each cited violation, specify the corrective or remedial action to be taken within a specified period, provide for periodic reporting on the status of corrective and remedial action, ensure violations will not recur, and provide for enforcement for a breach of the agreement.

f. Contract termination and debarment procedures must be developed. The procedures should take into consideration the history of experience with the contractor, nonperformance, the response to the corrective action required, lack of good faith or a minimal effort taken to indicate remedial action. These procedures should establish the basis for debarment or termination of the grant whether due to civil rights violations or violations of any other contract provision.

12.19(11) *Contracting with small and minority firms and women's business enterprises.* Steps must be taken to ensure small and minority firms and women's business enterprises are used when possible as sources of supplies, equipment, construction and services. Grantees should identify small, minority and women's business enterprises in their SDAs and maintain a list to be contacted.

877—12.20(7B,PL97-300,PL102-367) SDA level complaint procedures.

12.20(1) SDA grantee complaint procedures. Each service delivery area (SDA) grantee shall establish procedures for resolving any complaint by a participant, subgrantee, subcontractor and other interested persons alleging a violation of the JTPA, regulations, grant or other agreements under the JTPA by the SDA grantee, administrative entity, private industry council, subgrantee or subcontractor. At a minimum, the SDA level complaint procedure shall provide for:

- a.* Resolution of any complaint, except discrimination complaints which shall be resolved consistent with 12.19(5) and 12.21(4), alleging a violation of the Act, federal regulations, JTPA administrative rules, grant or other agreements under the Act;
- b.* Resolution of complaints arising from actions such as audit disallowances or the imposition of sanctions taken with respect to audit findings, investigations or monitoring reports;
- c.* Filing of complaints within one year of the alleged violation, except for allegations of fraud or criminal activity and discrimination prohibited under the Act;
- d.* An opportunity for a hearing within 30 days of the date the complaint is filed;
- e.* Written notice of the date, time, and place of the hearing;
- f.* An opportunity to present evidence at the hearing;
- g.* Opportunity to have records or documents relevant to the issues produced by their custodian when the records or documents are kept by or for the SDA grantee or its subgrantees in the ordinary course of business and where prior reasonable notice has been given to the presiding officer;
- h.* A written decision within 60 days of the date a complaint is filed;
- i.* A written explanation to all parties of the right to request a review by the state of the complaint if a party receives an adverse decision or if there is no final decision within the 60-day period. Requests for review by the state must meet the requirements of 12.21(3);
- j.* If the state should fail to issue a decision within 30 days of the filing of the request for state review, a party may request from the Secretary of Labor a determination whether reasonable cause exists to believe that the Act or regulations have been violated. A request to the Secretary of Labor must be filed within 10 days of the date a decision should have been issued by the state and conform to the requirements of 29 CFR 629.52(d) as of October 7, 1980.
- k.* Upon enrollment, all participants must receive a written description of the complaint procedures which they are to follow. The description must include notification of the right to file a complaint and instructions on how to do so;
- l.* If a person is not familiar with English, a written or oral translation into a language understood by the individual must be provided. If a person is illiterate or semiliterate, the person must be advised of such right to the satisfaction of that person's understanding;
- m.* During the complaint process, each complainant and party must be notified in writing of the next step in the complaint procedure;
- n.* A complaint log and a record of each complaint filed must be maintained at the local level.

12.20(2) Grantees and other subrecipients of JTPA funds must ensure that employers of participants under this Act continue to operate, or establish and maintain, a grievance procedure relating to the terms and conditions of employment. Employers may operate their own grievance procedure or use the grievance procedure established by the grantee. Employers shall inform participants of the grievance procedure they are to follow and of their right to have the employer's decision reviewed by the grantee.

877—12.21(7B,PL97-300,PL102-367) Department complaint procedures.**12.21(1) General information.**

a. These rules indicate and specify the minimum procedural requirements for resolving complaints about the Job Training Partnership Act (JTPA) program administered by the department and operated by grantees within each service delivery area (SDA) alleging a violation of the JTPA, state or federal regulations, grant or other agreements under the Act. For complaints involving audit reports, compliance review reports and the imposition of sanctions on the grantee, refer to the rules applicable to audit resolution, debt collection, compliance reviews and sanctions for filing deadlines and procedures.

b. The JTPA and federal implementing regulations require the establishment of both local and state level complaint procedures. Grievances or complaints about local level actions, decisions, activities, and programs are to be resolved through the SDA level complaint procedure. As provided in subrule 12.21(3) the state may, upon request of a party or upon its own motion, review a final local complaint decision. Complainants may file initially with the state if the requirements of subrule 12.21(4) are met.

c. These rules do not apply to proceedings that determine law or policy of general applicability based on legislative fact nor to automatic grant adjustments for classes of contractors, subcontractors or participants when adjustments are required by state or federal law.

d. Complaints may be brought by participants, subgrantees, subcontractors, and other interested persons. The department may also initiate complaints as required by statute or constitution in order to determine the legal rights, duties, or privileges of a party which are at issue.

e. The identity of any person who has furnished information relating to, or assisting in an investigation of a possible violation of JTPA shall be kept confidential to the extent possible, consistent with due process and a fair determination of the issues.

f. No grantee, administrative entity, private industry council, or subgrantee shall in any manner discriminate against or discharge any individual because the individual has filed a complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any proceeding or investigation under or related to this Act.

12.21(2) Definitions. As used in this complaint procedure the following definitions apply, unless the context otherwise requires.

“Complaint” means an alleged injury, injustice or wrong and includes the term grievance.

“Contested case” means a proceeding in which the legal rights, duties or privileges of a party are required by constitution or statute to be determined by the department, after an opportunity for an evidentiary hearing.

“Director” means the director of the department of workforce development.

“Dismissal” means that a complaint will not be pursued for the following reasons:

1. The alleged violation is not one that arises in connection with JTPA Act, regulations, grant, or other agreements under the Act; or

2. No useful purpose would be derived in pursuing further action on the complaint.

“Final action” means resolution of the complaint by withdrawal, settlement agreement, dismissal, or final decision.

“Interested person” incorporates the legal concept of “standing” and means a person who has some personal and legal interest in the matter which is the subject of the complaint and can demonstrate a specific injurious effect on this interest.

“Settlement agreement” means a written agreement, signed by the parties, that has been executed and which recites the subject of the controversy, the solution mutually agreed upon by the parties, and a statement of the action to be taken, or prohibited in the future, by each of the parties.

“Withdrawal” means the complainant requested, prior to a hearing, that no further action be taken by the state on the complaint.

12.21(3) State review of SDA complaint decisions. If a party does not receive a final decision at the SDA level within 60 days of filing of the complaint or receives an adverse decision, a party may request a review of the complaint by the department.

a. Filing deadline. To be considered, a request must be filed with the department within 10 days of receipt of the adverse decision or 15 days after the decision was mailed.

b. Exhaustion of local procedures. No party may file a request for review by the department until the SDA procedures have been exhausted, unless a decision has not been issued within 60 days of the filing of the complaint.

c. Where to file. The request shall be filed with the JTPA complaint officer at the department.

d. Contents. The request shall be in writing and shall include:

- (1) The date of filing the request for review;
- (2) The names and addresses of all parties involved;
- (3) A clear statement of the facts, relevant dates, and which provision(s) needs review. Provisions not identified for review will be considered resolved, unless the agency desires to review a provision on its own motion;

(4) The date the complaint was filed with the SDA and the date the SDA decision was issued or should have been issued;

(5) Signature of the party requesting the review; and

(6) A copy of the SDA level decision, if issued.

e. Notice. After receipt of the request for review, the JTPA complaint officer will:

- (1) Send written notice of the filing and a description of the review process to each party;
- (2) Request from the SDA complaint officer a copy of the SDA complaint file consisting of all pertinent documents including, but not limited to, the original complaint, evidence, hearing transcript, briefs, pleadings and written decision(s);

(3) Transmit the request to appropriate personnel; and

(4) Establish a deadline for submission of briefs, exceptions or additional evidence.

f. State review process.

(1) Review procedure. The director, or the director's designee, will review the SDA decision, complaint file, all timely filed briefs and exceptions, and any other relevant information. The director, or the director's designee, may request additional information from the parties, investigate any matter, request oral arguments on the complaint, or take any other appropriate action to aid in the review process;

(2) Standard of review. Deference will be given to the findings of fact made at the local level. The agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence and decision. The local decision will be reviewed to determine:

1. Consistency with state, federal and local law, regulation and policy under the JTPA;
2. The lawfulness of the local procedure;
3. Whether the decision is in violation of any statutory or regulatory provision;
4. Whether it is in excess of the authority delegated to the SDA;
5. Whether it is supported by substantial evidence in the record when that record is reviewed as a whole; and
6. Whether it is unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

(3) Final decision.

1. When the director reviews the SDA decision, the decision of the director is final. When an individual designated by the director reviews the SDA decision, the designee will prepare a recommended decision which the director may adopt, modify or reject. The director shall issue a final written agency decision.

2. A final written agency decision will be made within 30 days of the filing of the request for department review. This written decision of the director is final agency action and subject to judicial review as provided in Iowa Code section 17A.19.

12.21(4) State complaint procedure.

a. Who may file. A participant, subgrantee, subcontractor or other interested person may file a complaint.

b. Jurisdiction. A complaint may be filed with the state to adjudicate or otherwise resolve an allegation that the department has violated the JTPA, applicable federal or state regulations, grants, contracts or other agreements under the JTPA. For complaints involving audit reports, compliance review

reports, and the imposition of sanctions on the grantee, refer to the sections on audit resolution, debt collection, compliance reviews and sanctions for special filing deadlines and procedures.

c. Time.

(1) Except for complaints alleging fraud or discrimination prohibited under the Act, complaints shall be filed within one year of the alleged occurrence. For appeals of final audit reports, compliance review reports and the imposition of sanctions refer to the applicable rules for filing deadlines.

(2) Discrimination-based complaints. All complaints alleging discrimination based on race, color, religion, sex, national origin, age, disability, political affiliation, or belief and, for beneficiaries only, citizenship or participation in JTPA must be filed within 180 days of occurrence. Discrimination-based complaints may be filed with the DWD or Directorate of Civil Rights, U.S. Department of Labor at the following address: Director, Directorate of Civil Rights, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, D.C. 20210. The state JTPA complaint officer will provide the charging party with the U.S. Department of Labor complaint information form and assistance in completing and filing the complaint. If the complainant elects to file with DWD, a written decision will be issued within 60 days of the filing date of the complaint. If the complainant is not satisfied with DWD's resolution of the complaint or if no decision is released within the 60 days, the complainant has the right to file a complaint with the Directorate of Civil Rights. This right must be exercised within 30 days after DWD notifies the complainant of the proposed resolution or within 30 days of the expiration of the 60-day period.

d. Contents. Complaints shall:

- (1) Be clearly portrayed as a complaint by the complainant;
- (2) Be legible and signed by the complainant or the complainant's authorized representative;
- (3) Pertain to a single subject, situation or set of facts;
- (4) State the name, address and telephone number (or TTY - Telecommunications Device for the Deaf - number) of the complainant and the name, address and telephone number of an attorney or other representative of the complainant's choice;
- (5) State the name of the party or parties complained against and, if known to the complainant, the address and telephone number of the party or parties complained against;
- (6) Contain a clear and concise statement of the facts, including pertinent dates, constituting the alleged violations;
- (7) Cite the provisions of JTPA regulations, grants or other agreements under JTPA believed to have been violated;
- (8) State the relief or remedial action(s) sought;
- (9) Include copies of documents supporting or referred to in the complaint; and
- (10) State whether or not an oral hearing is requested.

e. Where filed. Complaints shall be filed with the Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.

12.21(5) *Acknowledgment of complaint and notice of opportunity for hearing.*

a. A complaint shall be deemed filed with the state when it has been received by the JTPA complaint officer in a form which satisfies the requirements of paragraph 12.21(4) "d."

b. Upon receipt of a complaint in proper form, the department of workforce development will send by personal service or certified mail, a copy of the complaint and a letter of acknowledgment and notice to the parties. The letter of acknowledgment and notice shall contain the filing date, the docket number, and guidance concerning the following:

- (1) The opportunity for informal resolution of the complaint at any time before a contested case hearing is convened.
- (2) The opportunity for a party to request a hearing by filing a request for hearing with the complaint officer within seven days of receipt of the acknowledgment of the complaint.
- (3) Opportunity for a party to be represented by counsel at the party's own expense.
- (4) Failure to file a written request for a hearing within the time provided constitutes a waiver of the right to a hearing. The presiding officer will rule on the complaint based upon the pleadings, evidence and briefs submitted.

- (5) If a hearing is requested, the hearing shall be held within 30 days of the filing of the complaint.
- (6) The opportunity for a party to submit written evidence, pleadings and briefs in a time and manner prescribed by the presiding officer.
- (7) When an administrative law judge presides, the administrative law judge shall issue a proposed decision within 60 days of the filing date of the complaint and forward a copy to each party, the complaint officer and the director.
- (8) Should the administrative law judge fail to issue a written decision within 60 days or if a party receives an adverse decision, a party may request an independent state review of the complaint. The request must be filed with the director within 10 days of the issuance date of the adverse decision or within 10 days from the date on which the decision should have been issued. If accepted for review, a decision shall be made within 30 days and the director's decision is final.
- (9) Parties may file exceptions to and appeals of the proposed decision for review by the director no later than 10 days from the issuance date of the proposed decision by filing with the complaint officer exceptions, appeals, and appeal briefs or briefs in support of the exceptions. The parties will receive written notice of the acceptance or denial of the request for review. The state reserves the right to review the administrative law judge's decision on its own motion.
- (10) If no exceptions to or appeals of the proposed decision are filed within the time provided or not reviewed upon agency motion, the proposed decision of the administrative law judge shall become the final agency decision.

12.21(6) Settlement. A controversy may, unless precluded by statute, be informally settled by mutual agreement of the parties any time before or after a controversy is formally identified by the filing of a complaint, notice, or petition, and before a contested case hearing is convened. The settlement shall be effected by a written settlement agreement signed by all parties or a written statement from the complainant that the complaint has been withdrawn or resolved to the complainant's satisfaction. The complaint officer shall acknowledge the informal settlement and notify the parties of the final action. With respect to the specific factual situation which is the subject of controversy, the informal settlement shall constitute a waiver, by all parties of the formalities to which they are entitled under the terms of the Iowa administrative procedure Act, Iowa Code chapter 17A, JTPA and the rules and regulations under JTPA.

12.21(7) Waiver of right to a hearing. Failure to request a hearing in a timely fashion constitutes a waiver of a right to a hearing. If no hearing is requested, the presiding officer shall make a record of the written evidence, pleadings and briefs submitted by the parties. These documents shall be considered the complete record and will be the basis for the administrative law judge's proposed decision.

12.21(8) Notice of hearing. Upon receipt of a timely request for a hearing, the JTPA complaint officer will assign the matter to an administrative law judge. The parties shall be notified of this assignment and all future correspondence and filings shall be directed to the administrative law judge and copies of the documents shall be served on all parties and the JTPA complaint officer. All hearings shall be conducted in accordance with the procedures required in Iowa Administrative Code 871—Chapter 26.

These rules are intended to implement Iowa Code chapters 7B and 84A and P.L. 97-300 as amended by P.L. 102-367.

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² See IAB, Economic Development Department.

CHAPTER 13
MENTOR ADVISORY BOARD

[Prior to 7/17/96, see 435—Ch 6]

[Prior to 3/12/97, see 345—Ch 15]

877—13.1(84A) Purpose. The purpose of the mentor advisory board is to serve in an advisory capacity to the volunteer mentor coordinator and the volunteer mentor program administered by the department of workforce development.

877—13.2(84A) Duties. The mentor advisory board's duties include:

1. Promoting the volunteer mentor program throughout state government;
2. Assisting in the development of policies and procedures;
3. Recommending changes in the program model as necessary;
4. Assisting in the recruitment of mentors and participants; and
5. Providing written information on any related programs or state policies and procedures that would impact the volunteer mentor program.

877—13.3(84A) Membership. The mentor advisory board consists of 10 to 15 board members appointed by their respective department director or division administrator. The board members will serve two-year staggered terms and may be reappointed. The volunteer mentor coordinator and the board members or their designees will determine the number of departments represented. Vacancies will be filled through appointment by the appropriate department director or division administrator.

877—13.4(84A) Meetings. The board will meet at least quarterly. Additional board meetings will be held as deemed necessary by the volunteer mentor coordinator. There must be at least one-half of the existing membership plus one present to maintain a quorum for programmatic changes. If a board member cannot be in attendance, then a designee may be sent. If a board member has three unexcused absences from meetings and does not send a designee, the volunteer mentor coordinator will ask for clarification of this board member's participation.

These rules are intended to implement Iowa Code section 84A.6.

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CHAPTER 14
IOWA WELFARE-TO-WORK PROGRAM

877—14.1(84A,PL105-33) Designation of responsibility. The department of workforce development was designated by the governor as the department responsible for activities and services under the Welfare-to-Work Program authorized by the Balanced Budget Act of 1997 (P.L. 105-33).

877—14.2(84A,PL105-33) Purpose. The purpose of the Iowa welfare-to-work program is to provide transitional assistance which moves welfare recipients into unsubsidized employment providing good career potential for achieving economic self-sufficiency. In addition, the program is intended to assist the state and local communities to achieve welfare reform goals and to meet the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104-193).

877—14.3(84A,PL105-33) Definitions.

“*Coordinating service provider*” means an organization formed through a 28E agreement to deliver workforce development products and services within a service delivery area.

“*Department*” means the department of workforce development.

“*Private industry council*” means a council as defined in 877—Chapter 12, Iowa Administrative Code.

“*Program operator*” means an entity designated by the private industry council to directly receive funds and administer a welfare-to-work program in a service delivery area.

“*Service delivery area*” means a region within the state designated by the state workforce development board for the purposes of the Job Training Partnership Act.

“*Subrecipient*” means an entity that receives funds from a program operator to deliver direct client services.

877—14.4(84A,PL105-33) Private industry council. In each region that is to receive funding, the private industry council approves a welfare-to-work proposal which designates a local program operator(s) to serve as the grantee to receive and expend welfare-to-work funds. In addition to proposal approval, the private industry council is responsible for the local oversight of the implementation of the welfare-to-work program.

877—14.5(84A,PL105-33) Certifications. All program operators must certify, as a condition to receive funding, compliance with the following laws and implementing regulations:

1. Title IV, Part A of the Social Security Act, as amended by the Balanced Budget Act of 1997 (P.L. 105-33).
2. U.S. Department of Labor (DOL) implementing regulations as described in 20 CFR Part 645.
3. DOL administrative regulations (20 CFR Parts 31, 32 and 34).
4. Age Discrimination Act of 1975 (P.L. 90-202) and DOL implementing regulations.
5. Civil Rights Act of 1964 (P.L. 88-352) and DOL implementing regulations (29 CFR Part 31).
6. Americans with Disabilities Act of 1990 (P.L. 101-336) and Department of Justice implementing regulations (8 CFR 274a).
7. Section 504 of the Rehabilitation Act of 1975 (P.L. 93-651).
8. DOL nonprocurement, debarment, and suspension regulations (49 CFR Part 29).
9. Iowa civil rights Act of 1965, as amended.
10. OMB Circulars on Uniform Administrative Requirements (29 CFR Parts 95 and 97).
11. Fair Labor Standards Act of 1938 as amended (P.L. 95-151) and DOL implementing regulations (29 CFR 570-580).
12. Other relevant regulations as noted in the Iowa welfare-to-work handbook.

877—14.6(84A,PL105-33) Regional allocation formula. Eighty-five percent of welfare-to-work funds received by the state shall be allocated to the service delivery areas based upon a formula. The remaining 15 percent shall be retained by the department for competitive projects to help long-term recipients of

family investment program (FIP) funds and noncustodial parents enter unsubsidized jobs approved by the state workforce development board; purchases of hardware and software to track program participation; expenditures to integrate the welfare-to-work program into the department's integrated customer service system; and administrative program oversight, including staff training and technical assistance.

The service delivery area formula shall be calculated using the following factors: the percentage of persons in poverty above 7.5 percent in an area; the number of adult recipients of public assistance for 30 months or more in an area; and the number of unemployed persons in an area. The formula must base at least 50 percent of the allocation on the number of persons in poverty.

If an area receives less than \$100,000 under the formula, the state workforce development board has the option to allocate 15 percent of the funds to increase an area's allocation to the \$100,000 threshold or deny funds to the area and use the funds allocated to the area for activities authorized for the 15 percent pool.

877—14.7(84A,PL105-33) Eligible program operators. To be designated as a program operator, an organization must be a member of the region's coordinating service provider or be willing to join the region's coordinating service provider.

877—14.8(84A,PL105-33) Proposal requirements. Each regional welfare-to-work proposal shall contain the following elements:

1. Designation of a program operator(s) to receive and expend the welfare-to-work funds.
2. Identification of how funds may be targeted to serve specific groups within the eligible population.
3. Description of the types of services to be provided.
4. Description of how program services will be coordinated with the PROMISE JOBS program, the Iowa department of human services, and other regional employment and training activities and support services available in the service delivery area.
5. Description of how the welfare-to-work program will be integrated into the regional workforce development center services.

After appropriate approval by the private industry council, the proposal shall be incorporated into the region's workforce development customer service plan.

The approved proposal must be submitted to the department for review and approval of the state workforce development board. The regional proposals will be the basis of the department's submittal of a state plan for welfare-to-work required by the Department of Labor.

877—14.9(84A,PL105-33) Matching requirements. As a condition of receiving welfare-to-work state funds, each program operator must provide an appropriate match in the form of either cash or in-kind services. In-kind services must be necessary expenses related to the program's operation and allowable under state and federal regulations. Specific matching requirements will be issued with the annual planning instructions.

877—14.10(84A,PL105-33) Service requirements. At least 70 percent of the grant funds must be spent on individuals who face two of three specific labor market deficiencies and who are long-term welfare recipients; or who face termination from Temporary Assistance for Needy Families (TANF) within 12 months; or who are noncustodial parents of minors whose custodial parents meet these criteria. Labor market deficiencies include a lack of a high school diploma or graduate equivalency degree and low reading or math skills; substance abuse treatment prior to employment; and a poor work history.

Up to 30 percent of grant funds may be spent on individuals who are "recent" TANF recipients or noncustodial parents who have characteristics associated with long-term welfare dependence (for example, being a high school dropout, having experienced a teenage pregnancy, or having a poor work history).

877—14.11(84A,PL105-33) Eligible activities. Activities conducted with grant funds must be designed with the idea of moving welfare recipients into work first, then providing employment-based activities

to allow them to secure and retain unsubsidized employment. The following activities are allowable services using welfare-to-work grant funds.

14.11(1) Job readiness activities may be provided by the program operator or financed through job vouchers or through contracts with public or private providers, including training for individuals starting their own businesses.

14.11(2) Employment activities include community service programs, work experience programs, job creation through public or private sector employment wage subsidies, on-the-job training, and job placement services. Contracts or vouchers for job placement must include a provision that at least one-half of the payment occurs after the individual has been placed in the workforce for six months.

14.11(3) Postemployment services may be provided by the program operator or financed through job vouchers or contracts with subrecipients. Postemployment services include, but are not limited to, basic educational skills training, occupational skills training, English as a second language, and mentoring. These services are only designed for persons who are placed in employment activities, working in subsidized or unsubsidized jobs, self-employed, or participating in a registered apprenticeship program.

14.11(4) Job retention services and support services can be provided to all participants engaged in job readiness and employment activities or in any subsidized or unsubsidized job. Allowable services include, but are not limited to, transportation, substance abuse treatment (not medical treatment), child care assistance, and emergency or short-term housing. These services may be provided by welfare-to-work funds only if the services are not otherwise available through other funding sources, such as PROMISE JOBS, state child care assistance, substance abuse prevention and treatment block grants, or other state or local funds.

14.11(5) Each participant will receive an orientation, assessment, and service agreement after enrollment in the program.

877—14.12(84A,PL105-33) Grant agreements. Each program operator will receive a financial agreement for the administration of welfare-to-work grant funds. The service delivery area's welfare-to-work proposal will be incorporated into the agreement.

877—14.13(84A,PL105-33) Performance standards. Performance standards for program operators will be issued annually, and progress will be reviewed monthly. At a minimum, the performance standards will include the following:

1. Increase the percentage of family investment program (FIP) participants with earned income.
2. Increase the statewide average wage level of those leaving FIP.
3. Increase the percentage of persons not returning to FIP.
4. Increase the amount of child support paid to children of FIP participants through the participation of noncustodial parents in the welfare-to-work program.

877—14.14(84A,PL105-33) Grant reporting and compliance review. Program operators are required to submit a monthly financial report, quarterly progress reports and a final financial and performance report to the department.

Compliance review will be conducted through three types of review: quarterly performance reviews, program compliance reviews, and financial management compliance reviews.

14.14(1) Quarterly performance review. The review includes a review of enrollment activity and demographics of participants, actual expenditures compared to planned expenditures, required match, allowable cost categories, and performance achievement.

14.14(2) Annual compliance review. The review is conducted on site in each service delivery area by a state welfare-to-work coordinator. The comprehensive review includes a review of participant files to confirm participant eligibility, compliance with policies on program activities and services, a review of the management information system, local monitoring activities, compliance with local plans, and a review of local administrative procedures.

14.14(3) *Financial management compliance review.* The review is conducted on site twice a year by a budget analyst of the department. The review includes all aspects of local financial management, fiscal controls and accountability, adherence to cost limitations and requirements, and appropriateness of local match.

877—14.15(84A,PL105-33) Program operator sanctions. Failure to meet performance or financial management standards may result in sanctions. Sanctions are progressive in severity depending on the willfulness, severity or flagrancy of the violation. If all efforts to correct deficiencies fail, the department may seek an alternative program operator(s) for the service delivery area. Sanctions that may be imposed are listed below.

1. Disallowance of costs associated with the particular violation or deficiency and repayment of the disallowed costs.
2. Discontinuation of fund drawdowns until the violation or deficiency has been corrected.
3. Prohibition of the use of certain subrecipients.
4. Revocation of all or any part of the grant agreement affected.

877—14.16(84A,PL105-33) Financial management. Program operators must comply with the financial management standards outlined in rule 877—12.13(7B,PL97-300, PL102-367), Iowa Administrative Code.

877—14.17(84A,PL105-33) Auditing. Program operators must comply with the auditing standards outlined in rule 877—12.14(7B,PL97-300,PL102-367), Iowa Administrative Code.

877—14.18(84A,PL105-33) Debt collection procedures. Program operators must comply with the debt collection procedures outlined in rule 877—12.15(7B,PL97-300, PL102-367), Iowa Administrative Code.

877—14.19(84A,PL105-33) Complaint procedures. Program operators must comply with the complaint procedures outlined in rules 877—12.19(7B,PL97-300,PL102-367) to 12.21(7B,PL97-300,PL102-367), Iowa Administrative Code.

These rules are intended to implement Iowa Code chapter 84A and P.L. 105-33.

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[Filed 8/19/98, Notice 7/15/98—published 9/9/98, effective 10/14/98]

CHAPTER 15
STRATEGIC WORKFORCE DEVELOPMENT FUND

877—15.1(77GA,SF2296) Purpose. The purpose of the strategic workforce development fund is to provide workforce development regions with funding for the development and maintenance of a workforce sufficient in size and skill to meet occupational demands and for workforce development programs, including the Iowa conservation corps, work force investment program, and statewide mentoring program.

877—15.2(77GA,SF2296) Definitions.

“*Coordinating service provider*” means an organization formed through a 28E agreement to deliver workforce development products and services within a workforce development region.

“*Department*” means the department of workforce development.

“*Regional advisory board*” means an advisory board as defined in 877—Chapter 6, Iowa Administrative Code.

“*Workforce development region*” means a region of the state designated by the state workforce development board as required by Iowa Code section 84B.2.

877—15.3(77GA,SF2296) Regional advisory board. The regional advisory board approves all projects and grants to be funded from the region’s allocation of strategic workforce development funds. Approved projects and grants must relate to the purposes of the strategic workforce development fund and meet a regional workforce development need identified in the regional needs assessment or similar needs assessment conducted by the regional advisory board.

877—15.4(77GA,SF2296) Regional allocation formula. Allocation of funds to each region will be based on the population of each region as compared to the state’s total population. Funds contracted for eligible activities, but not yet expended at the end of a fiscal year, may be carried forward into the next fiscal year, if nonreversion authority has been granted by the Iowa general assembly.

877—15.5(77GA,SF2296) Youth requirements. A portion of the region’s funding allocation must be spent on youth programs. The actual percentage and amount will be provided to each region in writing annually and will be based upon the amount designated for this purpose in the department’s annual appropriations from the Iowa general assembly.

877—15.6(77GA,SF2296) Matching requirements. As a condition of receiving strategic workforce development funds, each region must provide a matching contribution equal to the amount of strategic workforce development funds received.

877—15.7(77GA,SF2296) Eligible activities. Activities conducted with grant funds must be related to the purpose of the fund and meet a need identified through the regional needs assessment or similar needs assessment conducted by the regional advisory board. The following activities are allowable services using strategic workforce development funds:

15.7(1) Youth activities. All youth activities must be conducted according to the administrative rules contained in 877—Chapter 10, Iowa Administrative Code.

15.7(2) Work force investment program. Projects may be conducted which conform to the administrative rules in 877—Chapter 11, Iowa Administrative Code.

15.7(3) State mentoring program. Mentoring activities are allowable that provide participants with assistance in transitioning into the workforce.

15.7(4) Other activities. Additional activities which relate to the purpose of the fund and meet an identified regional need are allowable.

877—15.8(77GA,SF2296) Services plan. All proposed services must be described in the region’s annual customer service plan or submitted as an amendment to the customer service plan. The

description of each project to be funded shall include the purpose of the project; activities to be accomplished; participants to be served, if any; the service providers and how they were selected; time period of the project; and a detailed budget.

877—15.9(77GA,SF2296) Grant agreements. All grant funds will be contracted to each region through the fiscal agent identified by the coordinating service provider. For fiscal year 1999 only, youth grant recipients, approved by the regional advisory boards, will receive a contract for services directly from the department. This will allow for the timely operation of summer programs during the summer of 1998.

877—15.10(77GA,SF2296) Grant reporting and compliance review. Fiscal agents are required to submit a monthly financial report detailing fund expenditures. Coordinating service providers shall submit a quarterly progress report to the department detailing progress in accomplishing the goals and objectives of each activity funded with strategic workforce development funds. At the termination of each activity, a final financial and performance report must be submitted to the department within 45 days of termination.

Compliance reviews of strategic workforce development funds will be conducted by the department in conjunction with compliance and financial reviews of the overall operations of the coordinating service provider.

These rules are intended to implement 1998 Iowa Acts, Senate File 2296, section 9(5).

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CHAPTERS 16 to 23
Reserved

CHAPTER 24
VOTER REGISTRATION
[Prior to 5/21/97, see 345—1.3(96)]

877—24.1(96) Forms availability. Voter registration forms are available at all workforce development centers.

24.1(1) The division of workforce development center administration will permit the use of its offices to register voters subject to the following conditions.

24.1(2) Conditions.

- a. Main waiting rooms.* Registration shall be conducted only in main waiting room areas.
- b. Hours.* Registration shall be conducted only during regular office hours.
- c. Number of persons.* Only two persons may conduct voter registration activity at any given time.
- d. Persons not to be contacted.* Persons seeking assistance from the division shall not be contacted while in the process of being assisted by a division employee.
- e. Furniture, signs, posters.* No furniture, signs or posters shall be placed in division offices without permission of the office manager.
- f. Identification tags.* Persons registering voters may wear identification tags.
- g. Normal operation of office.* Persons registering voters shall not interfere with the normal operation of the office and shall conduct themselves in an orderly manner.
- h. Entering and exiting office.* Entering and exiting of individuals using the office shall not be impeded in any way
- i. Violations.* Office managers shall notify any person or persons violating any conditions to cease the violation.

This rule is intended to implement Iowa Code sections 96.10 and 96.11 and Federal Rule of Civil Procedure 65(b).

[Filed 4/28/97, Notice 2/26/97—published 5/21/97, effective 6/25/97]

CHAPTER 25
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

The division of workforce development center administration of the department of workforce development hereby adopts the rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code with the following exceptions and amendments:

877—25.1(22,96) Definitions.

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “the division of workforce development center administration of the department of workforce development”.

“Person” means an individual, corporation, governmental entity, estate, trust, partnership, association, or any other legal entity.

“Personally identifiable information.” In lieu of the words “an individual in a record which identifies the individual and which is contained in a record system”, insert “a person in a record which identifies the person and which is contained in a record system”.

“Record system.” In lieu of the words “an individual, number, symbol, or other unique retriever assigned to an individual”, insert “a person, number, symbol or other unique retriever assigned to the person”.

877—25.3(22,96) Request for access to records.

25.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “division administrator”. Also, in lieu of the words “(insert agency name and address)”, insert “Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309”.

25.3(2) Office hours. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)”, insert “customary and usual hours, which are 8 a.m. to 4:30 p.m. daily, excluding Saturdays, Sundays, and legal holidays”.

25.3(4) Response to requests. In lieu of the words “X.4”, insert “25.4(22,96)”.

25.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “one-half hour”.

877—25.4(22,96) Access to confidential records. In lieu of the words “rule X.3”, insert “rule 25.3(22,96)”.

877—25.6(22,96) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “the Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309.”

877—25.7(22,96) Consent to disclosure by the subject of a confidential record. Remove the brackets around “(and, where applicable, the time period during which the record may be disclosed)”. Also, in lieu of the words “(Additional requirements may be necessary for special classes of records)”, insert “If the agency is required to obtain from a third party a confidential record about the subject to establish eligibility under a program administered by the agency, the agency has the authority under Iowa Code subsection 96.11(8) to obtain a confidential record deemed necessary for the administration of Iowa Code chapter 96.”

877—25.8(22,96) Notice to suppliers of information. Insert immediately following “or by other appropriate means”, “including: Form 70-5007, Handbook for Private Employers, to employing units; Form 70-6200, Facts for Workers, to individuals claiming unemployment insurance benefits; Form

70-8005, Release of Information Poster, to individuals applying for employment services; and Form 60-0243, Notification of Information Release; or Form 65-5334, Release of Information, when manual or automated, respectively, prior notice to a person of the release of information to an authorized entity is performed”.

877—25.9(22,96) Disclosure without the consent of the subject.

25.9(1) An open record is routinely disclosed without the consent of the subject.

25.9(2) To the extent allowed by law, disclosure of a confidential record may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without consent of the subject:

a. For a routine use as defined in rule 25.10(22,96); however, Iowa Code subsection 96.11(7) requires notification of the subject prior to some routine uses.

b. To another governmental agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such governmental agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

c. To an agency of this or another state or of the federal government which administers or operates a program of public assistance or child support enforcement under either federal law or the law of this or another state, or which is charged with a duty or responsibility under any such program, and if that agency is required by law to impose safeguards for the confidentiality of information at least as effective as required under Iowa Code subsection 96.11(7). The requesting agency shall be provided, with respect to any named individual specified, any of the following:

(1) Whether the individual is receiving, has received, or has made application for unemployment compensation under Iowa Code chapter 96.

(2) The period, if any, for which unemployment compensation was payable and the weekly rate of compensation paid.

(3) The individual’s most recent address.

(4) Whether the individual has refused an offer of employment, and, if so, the date of the refusal and a description of the employment refused, including duties, conditions of employment, and the rate of pay.

(5) Wage information.

d. To the legislative services agency under Iowa Code section 2A.3.

e. Disclosure in the course of employee disciplinary proceedings.

f. In response to a court order or subpoena.

g. To the citizens’ aide under Iowa Code section 601G.9(3).

877—25.10(22,96) Routine use.

25.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

25.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any officer, employee, and agent, or on the custodian’s own initiative, determine what constitutes legitimate need to use a confidential record.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order, including disclosure to the county attorney for the county attorney’s use in the performance of duties under Iowa Code subsection 331.756(5).

c. Disclosure of information to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

d. Direct disclosure of information with an attempt to provide notification to the subject and for a purpose consistent with Iowa Code chapter 96 to any of the following:

(1) An agency of this or any other state or a federal agency responsible for the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

(2) The Bureau of Internal Revenue of the United States Department of the Treasury.

(3) The Iowa department of revenue.

(4) The Social Security Administration of the United States Department of Health and Human Services.

(5) An agency of this or any other state or a federal agency responsible for the administration of public works or the administration of public assistance to unemployed individuals.

(6) Colleges, universities and public agencies of this state for use in connection with research of a public nature, provided the agency does not reveal the identity of the subject.

(7) An employee of the department of workforce development, a member of the general assembly, or a member of the United States Congress in connection with the employee's or member's official duties.

(8) A political subdivision, governmental entity, or nonprofit organization having an interest in the administration of job training programs established pursuant to the federal Job Training Partnership Act.

(9) The United States Department of Housing and Urban Development and representatives of a public housing agency. For the purposes of this subparagraph, public housing agency means any agency described in Section 3(b)(6) of the United States Housing Act of 1937, as amended through January 1, 1989.

877—25.11(22,96) Release to a subject.

25.11(1) The subject of a confidential record may file a written request to review a confidential record about that person as provided in rule 25.6(22,96). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject when the information is authorized to be held confidential pursuant to Iowa Code subsection 22.7(18) or other provision of law.

b. A record need not be disclosed to the subject when it is the work product of an attorney or is otherwise privileged.

c. A peace officer's investigative report may be withheld from the subject, except as required by Iowa Code subsection 22.7(5).

d. As otherwise authorized by law.

25.11(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

877—25.12(22,96) Availability of records.

25.12(1) General. Agency records are open for public inspection and copying unless otherwise provided by law or rule.

25.12(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Unemployment insurance tax records made available to the agency and withheld from public inspection pursuant to Iowa Code subsection 96.11(7).

b. Unemployment insurance benefit records, including an initial determination made by the agency's representative under Iowa Code subsection 96.6(2) as to the benefit rights of an individual, made available to the agency and withheld from public inspection pursuant to Iowa Code subsection 96.11(7).

c. Employment records made available to the agency and withheld from public inspection pursuant to Iowa Code subsection 96.11(7).

d. Sealed bids received prior to the time set for public opening of bids pursuant to Iowa Code section 72.3.

e. Tax records made available to the agency pursuant to Iowa Code sections 422.20 and 422.72.

f. Records which are exempt from disclosure under Iowa Code section 22.7.

g. Minutes of closed meetings of a governmental body pursuant to Iowa Code subsection 21.5(4).

h. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)“*d.*”

i. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, may be withheld from public inspection when disclosure of these statements would, pursuant to Iowa Code sections 17A.2 and 17A.3:

(1) Enable law violators to avoid detection;

(2) Facilitate disregard of requirements imposed by law; or

(3) Give a clearly improper advantage to persons who are in an adverse position to the agency.

j. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code subsection 22.7(4), section 622.10, and section 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

25.12(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 25.4(22,96). If the agency initially determines that it will release such records, the agency may where appropriate notify interested parties and withhold the records from inspection as provided in subrule 25.4(3).

877—25.13(22,96) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in rule 25.1(22,96). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

25.13(1) The record systems maintained by the division are:

a. Employment records. These records are collected from each individual applying for employment and each employing unit offering employment pursuant to Iowa Code subsection 96.11(7) for the purpose of providing employment services to the individual and the employing unit. For a more complete description of the content of these records, see 877—Chapter 8. These records are stored in an automated data processing system and may be retrieved by a personal identifier.

b. Other groups of records routinely available for public inspection. This paragraph describes groups of records maintained by the agency other than in a record system as defined in rule 25.1(22,96):

(1) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

(2) Policy manuals. Manuals containing the policies and procedures for programs administered by the agency are available in the administrative office of the division. Subscriptions to all or part of the manuals are available at the cost of production and handling. Requests for subscription information should be addressed to the Custodian of the Record, Division of Workforce Development Center Administration, Department of Workforce Development, 150 Des Moines Street, Des Moines, Iowa 50309. Policy manuals do not contain information about persons.

(3) All other records that are not exempted from disclosure by law.

25.13(2) All data processing systems used by the agency permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

877—25.14(22,96) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about persons by that person's name or other personal identifier.

2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22 and Iowa Code chapter 96.

3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.

4. Apply to grantees, including local governments or subdivisions thereof, administering state-funded programs, unless otherwise provided by law or agreement.

5. Make available records compiled by the agency in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the agency.

These rules are intended to implement Iowa Code section 22.11 and Iowa Code chapter 96.

[Filed 4/28/97, Notice 2/26/97—published 5/21/97, effective 6/25/97]

CHAPTER 26
PETITIONS

[Prior to 6/10/92, see 345—6.5(96) and 6.8(96)]

[Prior to 5/21/97, see Job Service[345] Ch 9]

877—26.1(17A,96) Petition for rule making. Any person may file a petition for rule making with Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink, and must substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT CENTER ADMINISTRATION

Petition by (Name of Petitioner) for the
(adoption, amendment, or repeal) of rules
relating to (state the subject matter).



PETITION FOR
RULE MAKING

The petition must provide the following information:

1. A statement to the specific rule-making action sought by the petitioner, including the text or a summary of the contents of the proposed rule or amendment to a rule, and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by subrule 26.1(5).

26.1(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

26.1(2) The agency may deny a petition because it does not substantially conform to the required form.

26.1(3) Briefs. The petitioner may attach a brief to the petition in support of the action urged in the petition. The agency may request a brief from the petitioner or from any other person concerning the substance of the petition.

26.1(4) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Director, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.1(5) Agency consideration.

a. Within 14 days after the filing of a petition, the agency must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the agency must schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency to discuss the petition. The agency may request the petitioner to submit additional information or argument concerning the petition. The agency may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the agency by any person.

b. Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency must, in writing, deny the petition and notify petitioner of its action and the

specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the agency mails or delivers the required notification to petitioner.

c. Denial of petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

This rule is intended to implement Iowa Code section 17A.7 and chapter 96.

877—26.2(17A,96) Petition for declaratory order. Any person may file a petition with the department of workforce development for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the department of workforce development at its offices at 1000 East Grand Avenue, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The department of workforce development shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT DIVISION OF WORKFORCE DEVELOPMENT CENTER ADMINISTRATION		
Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by subrule 26.2(6).


The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and the petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

26.2(1) Notice of petition. Within 10 days after receipt of a petition for a declaratory order, the department of workforce development shall give notice of the petition to all persons not served by the petitioner pursuant to subrule 26.2(5) to whom notice is required by any provision of law. The department of workforce development may also give notice to any other persons.

26.2(2) Interventions. Persons who qualify under applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order. Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the department of workforce development. A petition for

intervention shall be filed at 1000 East Grand Avenue, Des Moines, Iowa 50319. Such petition is deemed filed when it is received by that office. The department of workforce development will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT CENTER ADMINISTRATION

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in the original petition).		PETITION FOR INTERVENTION
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The petition for intervention must provide the following information:

1. Facts supporting the intervenor’s standing and qualification for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor’s interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, any governmental entity.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor’s representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor’s representative, and a statement indicating the person to whom communications should be directed.

26.2(3) Briefs. The petitioner or intervenor may file a brief in support of the position urged. The department of workforce development may request a brief from the petitioner, any intervenor or any other person concerning the questions raised.

26.2(4) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Director, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

26.2(5) Service and filing of petitions and other papers.

a. Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested parties.

b. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Director, Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the department of workforce development.

c. Service upon a party represented by an attorney shall be made upon the attorney and a copy will be sent to the petitioner. Service is made by delivery or by mailing a copy to the person’s last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

d. After the notice of hearing, all pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the department of workforce development.

e. Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the department of workforce development, delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

f. Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

26.2(6) Consideration. Upon request by petitioner, the department of workforce development must schedule a brief and informal meeting between the original petitioner, all intervenors, and the department, a member of the department, or a member of the staff of the department, to discuss the questions raised. The department may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the department by any person.

26.2(7) Action on petition. Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the director or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5). The date of issuance of an order or of a refusal to issue an order is the date of mailing of the decision or date of delivery if service by another means unless another date is specified in the order. The administrative rules committee of the workforce development board will be advised of the disposition of all petitions.

26.2(8) Refusal to issue order. The department of workforce development shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all of the questions raised for the following reasons:

- a.* The petition does not substantially comply with the required form.
- b.* The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the department of workforce development to issue an order.
- c.* The department of workforce development does not have jurisdiction over the questions presented in the petition.
- d.* The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
- e.* The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f.* The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
- g.* There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
- h.* The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
- i.* The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
- j.* The petitioner requests the department of workforce development to determine whether a statute is unconstitutional on its face.

A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

26.2(9) *Contents of declaratory order—effective date.* In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion.

A declaratory order is effective on the date of issuance.

26.2(10) *Copies of orders.* A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

26.2(11) *Effect of a declaratory order.* A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the department of workforce development and the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the department of workforce development. The issuance of a declaratory order constitutes final agency action on the petition. The administrative rules committee of the workforce development board will be advised of the disposition of all declaratory orders.

This rule is intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202, and Iowa Code chapter 96.

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CHAPTER 27
Reserved

CHAPTER 28
FORMS AND INFORMATIONAL MATERIALS

[Prior to 9/24/86, Employment Security[370] Ch 10]

[Prior to 5/21/97, see Job Service[345] Ch 10]

877—28.1(96,84A) Forms. Forms listed below in numeric sequence are the forms used by the division of workforce development center administration. The listing includes: claims and benefit forms, job orders and related areas, order filling and related areas, alien employment certification, complaints, work force investment program, mentoring program, Iowa conservation corps, state labor management program, work opportunity tax credit, job training partnership program, and Trade Act of 1974 forms.

Generally, the employer does not have to request the forms used in the claims and benefit procedures since the division sends them automatically after a claim for job insurance has been filed by a former employee or one who is on a laid-off status. The claimant will receive many of these forms in the local workforce development center during or following the filing of an initial claim or within the nonmonetary determination or continued claim process. Similarly the employer does not have to request the forms used in the contribution (tax) and charges procedure or in the employer records and reports procedures since the division sends them automatically. However, if the forms are not received, the employer must obtain them from Department of Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa 50319.

The job order, job application and related forms are forms used by applicants, employer, or division employees when an individual is seeking work through a workforce development center or when an employer uses the workforce development centers to fill job vacancies to obtain job applicants. The forms are either supplied or obtainable from the division at 150 Des Moines Street, Des Moines, Iowa 50309.

This rule is intended to implement Federal Regulation 7 CFR 273.7(d) and Iowa Code chapters 96 and 84A.

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