

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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