

may be individuals who are not economically disadvantaged but have serious barriers to employment as identified by the Governor and have been determined within the last 12 months to meet the income eligibility requirements for title V of the Older Americans Act of 1965 (section 204(d)(5)(B)(i)).

(2) The following criteria shall apply to joint programs for older workers.

(i) In order to carry out a joint program with operators of programs under title V of the Older Americans Act, there shall be a written financial or non-financial agreement, or written joint program description when the entity which operates the JTPA and title V program are the same.

(ii) Joint programs under this paragraph (d)(2) may include referrals between programs, co-enrollment and provision of services.

(iii) Under agreements pursuant to this paragraph (d)(2), individuals eligible under title V of the Older Americans Act shall be deemed to satisfy the requirements of section 203(a)(2) of the Act (Older Americans Act, Pub. L. 103-171, section 510).

(e) *Applicable requirements.* Except as provided in the Act, the provisions of title II-A shall apply to programs conducted under section 204(d) (section 204(d)(6)).

(f) The Governor shall make efforts to coordinate the delivery of services under section 204(d) with the delivery of services under title V of the Older Americans Act of 1965. Such coordination may include coenrollment, coordination of a continuum of services between this section and title V of the Older Americans Act and other appropriate linkages.

(g) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills (section 204(d)(3)).

**§ 628.325 Incentive grants, capacity building, and technical assistance.**

(a) Funds available to the Governor under sections 202(c)(1)(B) and 262(c)(1)(B) of the Act shall be used to provide incentive grants to SDA's and for capacity building and technical assistance.

(b) *Incentive grants.* (1) Not less than 67 percent of the funds available under sections 202(c)(1)(B) and 262(c)(1)(B) of the Act shall be used by the Governor to provide incentive grants for programs, except programs under section 204(d) of the Act, exceeding title II performance standards (section 106(b)(7)).

(2) Incentive grant funds under this section shall be distributed by the Governor among SDA's within the State pursuant to section 106(b)(7) of the Act.

(3) The Governor shall, as part of the annual statement of goals and objectives required by section 121(a)(1) of the Act, provide SDA's with the specific policies and procedures to implement section 106(b)(7) of the Act.

(4) In a State which is the service delivery area, incentive grant funds shall be distributed in a manner determined by the Governor and described in the GCSSP. The Governor shall give consideration to recognizing the performance of service providers within the State.

(5) SDA's should use incentive grant funds for capacity building and technical assistance activities and/or for the conduct of allowable Title II activities for eligible youth, eligible adults, or both, at the discretion of the SDA.

(c) *Capacity building and technical assistance.* (1) Up to 33 percent of the funds available under sections 202(c)(1)(B) and 262(c)(1)(B) of the Act may be used by the Governor to provide capacity building and technical assistance efforts aimed at improving the competencies of the personnel who staff and administer JTPA including SDA's, service providers, State staff, private industry councils, other job training councils and related human service systems provided for in section 205(a) of the Act.

(2) In providing capacity building and technical assistance activities, the Governor shall:

(i) Consult with SDA's concerning capacity building and technical assistance activities consistent with the process specified in the GCSSP;

(ii) Ensure that the use of funds will assist front line staff providing services to participants by directing resources to SDA and service provider staff for capacity building efforts, building a statewide capacity building strategy

based on an assessment of local capacity building needs developed in cooperation with the SDA's, and/or delivering training and technical assistance directly to the local level;

(iii) Ensure that expenditures for the purchase of hardware/software are only for the development of Statewide communications and training mechanisms involving computer-based communication technologies that directly facilitate interaction with the National Capacity Building and Information Dissemination Network (National Network) described in section 453 of the Act and that facilitate the use of computer-based training techniques in capacity building and technical assistance activities;

(iv) Ensure that State and local capacity building efforts are coordinated and integrated with the National Network, pursuant to sections 202(c)(3)(B) and 262(c)(3)(B) of the Act, and that materials developed with funds under this section are made available to be shared with other States, SDA's and the National Network. States and SDA's retain the flexibility to tailor Network products to their own needs and/or to produce and train on similar or related products when local circumstances so dictate and;

(v) Provide technical assistance to service delivery areas failing to meet performance standards pursuant to section 106(j)(2) of the Act.

(d) *Cost sharing.* (1) Cost sharing approaches are encouraged among States, SDA's and/or among other Federal, State, and local human service programs, including those listed in section 205(a) of the Act, in developing electronic communications, training mechanisms and/or contributing to the National Network.

(2) All shared costs shall be allocated among the contributing funding sources on the basis of benefits received.

#### **Subpart D—Local Service Delivery System**

##### **§ 628.400 Scope and purpose.**

This subpart sets forth requirements for the selection of service delivery areas, the establishment and responsibilities of the private industry coun-

cil, and the selection of the SDA grant recipient and administrative entity. This subpart also contains the requirements for the local job training plan as well as the procedures for its review and approval by the State.

##### **§ 628.405 Service delivery areas.**

(a)(1) The Governor, after receiving recommendations from the SJTCC, shall designate SDA's within the State in accordance with the provisions of section 101 of the Act.

(2) SDA's may not be designated by the Governor more frequently than once every two years, and such designations shall be made to coincide with the two-year plan cycle for the GCSSP and local job training plans (*i.e.*, the designation cannot be made for an off-year in this cycle).

(3) Each request for designation as an SDA shall be submitted in a form and by a date established by the Governor. The procedures established by the Governor shall provide for the treatment of existing SDA's for the purposes of submitting SDA designation requests.

(b)(1) The Governor shall approve SDA designation requests from entities with a population of 200,000 or more that satisfy the criteria specified in section 101(a)(4)(A) of the Act.

(2) When there are competing applications under paragraph (b)(1) of this section for the same geographic area, the Governor shall designate the entity with the population closest to 200,000, if the remaining reduced area also continues to satisfy the criteria specified in section 101(a)(4)(A) of the Act. The Governor shall offer to designate the remaining reduced area as an SDA as well.

(3) When there are competing applications under paragraph (b)(1) of this section for the same geographic area and the designation of the entity with the population closest to 200,000 would have the effect of reducing the population of the competing entity to below a population of 200,000, the Governor has the discretion to determine which request to honor.

(d) The Governor may, in accordance with section 101(a)(4)(B) of the Act, approve a request to be a SDA from any unit, or contiguous units, of general local government, without regard to