

million will be divided 50 percent to States and 50 percent to the national grantees.

The 2000 Amendments require Governors to submit an annual plan that discusses the number and distribution of eligible individuals in the State, the employment opportunities, the skills of the local eligible population, the locations and populations for which community service projects are most needed and plans for coordinating with WIA. As part of the planning process, the legislation requires the Governor to obtain the advice of title V stakeholders in developing a plan that addresses the equitable distribution of positions in each State. The legislation also allows the Governor to make recommendations on grant proposals to the Department related to the proposed distribution of positions within the State.

Another new provision of the legislation is the establishment of performance measures. The performance measures are designed to monitor the performance of each grantee and provide a mechanism to assist those grantees that need technical assistance to perform better. The performance measures are based on the required indicators listed in section 513(b) of the OAA. For grantees that do not meet the established performance measures, section 514 of the OAA provides for corrective action and sanctions. Section 514 of the OAA also codifies prior regulatory eligibility and responsibility criteria that grantees must meet before receiving SCSEP funds. Finally, section 514 authorizes the Department to fund grants for up to 3 years after the establishment of the regulations and performance measures.

### III. Summary and Explanation of the Proposed Rule

This section discusses and explains the specific provisions of the proposed rule. As this legislation has many new provisions, the Department has drafted regulations that respond both to the SCSEP community's concerns and to the Department's interpretation of the statute. The Department obtained viewpoints of the public, including individuals and members of the grantee community, on the new provisions and any other SCSEP provision (regulatory or statutory) or policy. Five work groups were established that included representatives from the national grantee organizations and several States. The work groups addressed the following areas: Performance accountability; operational and policy issues; grant and administrative issues; the State Senior Employment Services Coordination Plan; and technical

assistance and consultation. These work groups provided the Department with issue papers and recommendations. Further, the Department held a series of Town Hall Meetings and requested comments through **Federal Register** notices to ensure that the regulations reflect the ideas of interested individuals. The Department has received a number of suggestions through this process. Every effort has been made to incorporate these suggestions to the extent practicable and consistent with applicable statutory requirements.

#### *Subpart A—Purpose and Definitions*

This subpart provides a section-by-section overview of the regulations. This subpart also includes a number of definitions that are intended to familiarize the reader with basic elements of the One-Stop Delivery System established under WIA, such as "core services," "individual employment plan," "local workforce investment area." Other definitions such as "recipient," "subrecipient," and "vendor" are provided to clarify the use of terminology in Subpart H of these regulations, which is based on uniform administrative requirements, audit requirements, and allowable cost requirements generally applicable to Federal financial assistance programs, including SCSEP. A number of definitions that are well known to those familiar with SCSEP are provided for the benefit of readers who may be less familiar with the program. These include such terms as "authorized position level" and "host agency."

The Department added a definition of "national grantee" for the first time by regulation, although it is supported by a long-standing Department practice. This definition clarifies the list of those entities eligible to receive SCSEP national grant funds. For this purpose, the regulation defines "public agencies" as meaning Federal agencies in order to maintain the statutory distinction between national grants and grants to States. Thus, under this definition, State and local public agencies are not permitted to serve as national grantees.

The definition of national grantee in § 641.140, also contains a requirement that the organization must be capable of administering multi-State programs. An organization does not have to operate in more than one State, but must be structured to have the capacity to administer multi-State programs. This requirement provides the Department with the flexibility to negotiate with grantees to ensure that all SCSEP participant slots are covered with no disruptions to the participants. It is the

Department's experience that such organizations will be able to run a successful SCSEP program and also meet the statutory administrative cost limitations. Further, it aligns with the current practice of awarding SCSEP funds to organizations that are "national" in scope and further distinguishes these grants from grants to States.

Finally, the term "State grantee" has been defined for purposes of this regulation to include not only the 50 States, Puerto Rico, and the District of Columbia, but also to include the following territories: Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. "State" is defined in section 506(g)(6) of the OAA to specifically exclude the territories. The Department interprets this definition as applying only to section 506 of the OAA, which governs the distribution of funds. In section 506, where the OAA discusses "State," it does so in terms of a State receiving its portion of SCSEP funds. Under section 506, the territories receive a reservation of funds and therefore, do not receive funds as part of the formula distribution among the States. The Department distinguishes this use of the word "State" in the funding context from its use in the regulations. Therefore, to ensure that the title V provisions are administered equitably, the Department has defined "State grantee" as including the territories. Thus, territories will be held to the same requirements regarding State plans, coordination with the Workforce Investment Act, services to participants, section 502(e), eligibility review, responsibility review, performance measures, sanctions, administrative costs, and appeal procedures as the States.

#### *Subpart B—Coordination With the Workforce Investment Act*

This subpart incorporates those provisions of the 2000 Amendments to the Older Americans Act that require coordination with the Workforce Investment Act of 1998 (WIA). This subpart does not cover every WIA provision relevant to SCSEP.

**What Is the Relationship Between SCSEP and the Workforce Investment Act? (§ 641.200)**

SCSEP is a required partner under the Workforce Investment Act. As such, SCSEP grantees and subgrantees must ensure that they are familiar with the WIA statutory and regulatory provisions. WIA is due to be reauthorized by September 30, 2003. Reauthorization may bring changes in