

May the Governor Make Recommendations to the Department on Grant Applications? (§ 641.480)

Proposed § 641.480 clarifies the Governor's statutory authority under section 503(a)(5) of the OAA to make recommendations to the Department on grant applications before funds are awarded. The Governor's recommendations must relate to the distribution of positions in the State. Any comments received relating to the quality of a particular application will not be considered. Under non-competitive conditions, the Governor may make recommendations on all submitted applications. Under competitive conditions, the Governor has the option of either making recommendations on every proposal that will be submitted to the Department or providing recommendations on the applications of successful applicants. It is incumbent on each Governor to inform the Department whether he or she wishes to review all applications or only successful applications. As stated in § 641.410, organizations applying to serve older American Indian participants are exempt, but are encouraged to submit applications to the Governor in the State(s) they are proposing to serve.

When May SCSEP Grants Be Awarded Competitively? (§ 641.490)

Proposed § 641.490 outlines the circumstances under which the Department may compete SCSEP funds. Section 514 of the OAA requires a competition for national grantee, national grantee in a State, or State funds if the organization fails to meet its performance measures or fails to meet the eligibility or responsibility tests of section 514(c) and (d) of the OAA.

The Department may also compete national grant funds through a full and open competition. The details of such competition will be issued through a Solicitation for Grant Application and published in the **Federal Register**. The Department favors full and open competition because it provides the Department with an opportunity to ensure that the best applicants are awarded grants and the program is administered to its full potential. It also allows new and different entities, including faith-based and community-based organizations, to become a part of the grantee community.

Subpart E—Services to Participants

This subpart covers services to SCSEP participants. More specifically, it covers who is eligible to receive services, priorities in enrollment of participants,

the types of services and benefits that participants may receive, termination from the program, and the grantee's responsibility to participants.

Who Is Eligible To Participate in the SCSEP? (§ 641.500)

Proposed § 641.500 establishes the statutorily defined eligibility criteria. According to section 516(2) of the OAA, only those individuals who are at least 55 years of age and a member of a family with an income 125 percent or less of the poverty guidelines are eligible to receive SCSEP services. Participant income eligibility criteria was the area that received the most attention in Town Hall Meetings and recommendations submitted in response to **Federal Register** notices. Individuals offered various suggestions, all directed at providing greater flexibility in the income eligibility criteria. More specifically, some individuals suggested a higher income threshold to serve those individuals who may be just above the 125 percent income threshold issued by the Department of Health and Human Services and approved by the Office of Management and Budget. The Department has decided not to increase the income eligibility threshold because SCSEP currently serves only a small percentage of individuals who are within the 125 percent income threshold. Individuals who are in need of the services provided under the SCSEP but who do not meet the income eligibility requirement, should be referred to or enrolled in WIA.

When Is Eligibility Determined? (§ 641.505)

This section discusses when the eligibility of a participant is determined. Clearly, the first time eligibility is determined is when an individual applies to participate in SCSEP. Once an individual becomes a SCSEP participant, however, grantees are responsible for verifying the individual's income eligibility at least once every 12 months. Grantees are encouraged to verify a participant's income more frequently, however, when circumstances dictate.

What Types of Income Are Included and Excluded for Participant Eligibility Determinations? (§ 641.507)

The Department is seeking comments on the types of income that grantees must consider when determining a participant's eligibility. Older Worker Bulletin 95–5 lists the current inclusions and exclusions for determining a participant's income. The Department is specifically seeking comments on whether certain

provisions should be consolidated or eliminated, or if other new categories should apply. The Department is considering eliminating the exclusion of the first \$500.00 of a participant's income for re-certification purposes because this provision is not consistent with the income eligibility requirements under the 2000 Amendments. See OW Bulletin 95–5, section 2(g) under the Exclusions. Further, in order to serve the populations that the program is intended to serve, (*i.e.*, those most in need), the Department is also considering placing limitations on the amount of assets a participant may have to be eligible for the program. See OW Bulletin 95–5, section 2(h) under the Exclusions. Similarly, the Department is considering placing limitations on the amount of one-time unearned income that may be excluded. See OW Bulletin 95–5, section 2(j) under the Exclusions. The Department intends to provide additional guidance on the calculations through an administrative issuance.

What Happens if a Grantee/Subgrantee Determines That a Participant Is No Longer Eligible for the SCSEP Due to an Increase in Family Income? (§ 641.510)

Grantees are required to terminate participants who are no longer income eligible for the program according to § 641.580. Participants who are no longer income eligible for SCSEP must receive a written notification of termination within 30 days of the termination date. Grantees must assist these individuals by referring them to the WIA One-Stop or to another appropriate partner program. (See § 641.255). Any participant who disagrees with a termination on the basis of income may grieve the decision according to the grantee's grievance procedures in accordance with Subpart I of this regulation.

How Must Grantees/Subgrantees Recruit and Select Eligible Individuals for Participation in the SCSEP? (§ 641.515)

Proposed § 641.515 outlines the general statutorily required means for recruiting and selecting eligible individuals for participation in SCSEP. Generally, grantees are required to develop a method for recruiting and selecting eligible individuals. To the extent possible, grantees must meet the statutory requirement at section 502(b)(1)(M) to develop methods of recruitment and selection that offer services to minorities, limited English-speaking, and Indian eligible individuals, and eligible individuals who have the greatest economic need, in proportion to their numbers in the State