

family. The Department's goal is to decrease the opportunities for a recipient to show "favoritism" to a relative. "Immediate family" is defined as a wife, husband, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild. The Department may waive this provision, however, for worksites on Indian reservations and in rural areas if it can be documented that no other persons are eligible and available for participation in the program. If a State or local nepotism rule is stricter, it must be followed.

What Maintenance of Effort Requirements Apply to the Use of SCSEP Funds? (§ 641.844)

The proposed rule outlines the responsibilities of recipients when they accept SCSEP funds. For instance, recipients that receive SCSEP funds have a duty to ensure that: Currently employed workers are not displaced, existing contracts are not impaired or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed, positions are not filled that were occupied by a person who is on layoff, and SCSEP funded positions are not substituted for existing federally assisted jobs, as required by sections 502(b)(1)(F) and 502(b)(1)(G) of the OAA. The purpose of this requirement is to ensure that there will be an increase in employment opportunities over those opportunities that would otherwise be available, as discussed in section 502(b)(1)(F) of the OAA.

What Uniform Allowable Cost Requirements Apply to the Use of SCSEP Funds? (§ 641.847)

As previously mentioned, section 503(f)(2) of the OAA requires grantees to comply with the applicable uniform allowable cost principles under the OMB Circulars, according to the type of organization that incurs SCSEP costs (e.g., governmental units, nonprofit organizations). This section codifies the previous regulations on administrative cost principles. The allowable cost principles establish requirements for the treatment of costs generally, rules as to what types of costs are allowable, unallowable, or allowable under certain circumstances, and acceptable methodologies for allocating costs among Federal grant programs. An example of a general cost principle is the requirement to treat refunds and rebates as reductions in previously charged costs whenever possible, rather

than treating them as program income or as revenue for which the recipient is not accountable under Federal financial management principles. An example of a cost allowable under certain circumstances is the cost of claims against the Federal government. Such costs are generally unallowable (*see*, for example, OMB Circular A-122, Attachment B, item 7.g.), but Federal agencies differ on whether they consider an appeal from a Grant Officer's determination to be a claim against the Government. Proposed § 641.850(b) indicates that costs incurred in connection with appeals to Administrative Law Judges are unallowable costs.

The Department received several suggestions relating to allowable cost issues in response to the March 19, 2001, **Federal Register** notice and Town Hall Meetings. The principal issue involved the distribution of costs among the participating programs in One-Stop centers. The uniform cost principles that apply to SCSEP activities require costs to be allocated to Federal programs in proportion to the benefits received from goods and services for which the costs were incurred. This requirement aligns with the WIA statutory and regulatory requirements for required partners to the One-Stop, which includes SCSEP. Thus, SCSEP recipients and subrecipients are responsible for their fair share of the costs of operating One-Stop centers.

Cost allocation, however, is only one of the issues involved in providing SCSEP financial support to a One-Stop center. Another issue is resource allocation. Several of the responses supported the idea of SCSEP recipients making in-kind contributions in payment of their fair share of One-Stop center costs. In-kind contributions are acceptable forms of payment if the other partners are agreeable. A local One-Stop MOU may include a resource allocation arrangement that permits some of the partners to make cash contributions toward center costs, permit others to donate paid office space, and allow still others to contribute volunteer services, and so on. The resource allocation arrangement should indicate what costs and non-cash charges need to be allocated, what resources are available to pay for or otherwise absorb the costs and charges, and describe each partner's fair share based on the benefits-received principle.

Are There Other Specific Allowable and Unallowable Cost Requirements for SCSEP? (§ 641.850)

The proposed rule supplements the generally applicable allowable cost

provisions with requirements relating to costs of claims against the Government, lobbying, premises, and participants' fringe benefits to reflect provisions of applicable legislation and Departmental policies. The lobbying costs provision is based on a requirement included in Department of Labor Appropriation Acts for many years. The limitation on costs of purchasing or constructing buildings reflects the Department's policy of discouraging the use of grant funds for major capital expenditures in order to conserve scarce resources for other costs. If the limitations did not exist, each such expenditure would require prior approval by the Department.

How Are Costs Classified? (§ 641.853)

The proposed rule discusses whether costs are classified as administrative costs or program costs, and how grantees must categorize participant wages and fringe benefit costs within that framework. For instance, program costs may include participant wages and fringe benefits and other enrollee costs, such as training and supportive services. Administrative costs, such as salaries, equipment, *etc.*, expended for administrative functions continue to be attributed to administrative costs. (*See* §§ 641.856 and 641.864). When participants perform an administrative function for a grantee or subgrantee, the cost of the function is charged to the administrative cost category. The cost of the participant's wages and fringe benefits, however, are charged to the program cost category.

What Functions and Activities Constitute Costs of Administration? (§ 641.856)

The proposed rule discusses the functions and activities that constitute the costs of administration. It provides a detailed list of those costs that are administrative as permitted under section 502(c)(4) of the OAA. This section of the OAA aligns the WIA administrative cost provisions.

What Other Special Rules Govern the Classification of Costs as Administrative Costs or Program Costs? (§ 641.859)

The OAA imports the WIA cost classification scheme into the SCSEP program. This includes the division of costs into administrative costs and program costs, and the WIA definitions of administrative cost components. This has the effect of making it easier to operate title V activities within the One-Stop Delivery System established under WIA. In addition to the material on cost classification, the proposed rule contains additional requirements for allocating costs to the "administrative