

costs” or “program costs” categories. The proposed rule is based on the same principles used in the WIA and Welfare-to-Work programs for determining how to allocate particular types of cost and how to classify costs incurred by particular types of organizations. However, when participants are assigned to functions normally classified as administrative costs, recipient charges to the “administrative cost” category are reduced from levels that would exist if such functions were performed by regular staff members since all participant wage and fringe benefit costs must be charged to the “program costs” cost category.

#### Must SCSEP Recipients Provide Funding for the Administrative Costs of Subrecipients? (§ 641.861)

Section 502(b)(1)(R) of the OAA requires that each project ensure that sufficient funding is provided for the administrative costs of entities below the recipient level. The Department has determined to implement this requirement by requiring each SCSEP recipient to indicate in its grant application how it will achieve compliance. The Department has chosen this course in order to avoid prescribing needlessly detailed requirements while enabling recipients and subrecipients to achieve the objectives of the law by establishing arrangements consistent with their own unique funding and organizational structures.

#### What Functions and Activities Constitute Program Costs? (§ 641.864)

The OAA also includes a description of programmatic functions and activities that may be performed with SCSEP funds and charged to the program cost category in section 502(c)(6)(A). Except for participant wages and fringe benefits provided in connection with community service assignments, the services comprising all of the described functions and activities are available through the One-Stop Delivery System for WIA participants. The Department believes that SCSEP participants will have easier access to these services through the One-Stop Delivery System than they had before its development.

#### What Are the Limitations on the Amount of SCSEP Administrative Costs? (§ 641.867)

The proposed rule outlines the administrative cost limitations found in section 502(c)(3) of the OAA. Under this provision, SCSEP administrative costs are limited to 13.5 percent. The Department is authorized to increase the limit, but only up to 15 percent.

#### Under What Circumstances Can the Administrative Cost Limitation Be Increased? (§ 641.870)

This section continues the Department’s previous regulations concerning administrative cost limitations. The Department will continue to allow increases in administrative cost limits as permitted under section 502(c)(3) of the OAA, if the recipient demonstrates that such an increase is necessary to carry out the project and if the recipient demonstrates that major administrative cost increases are being incurred in necessary program components, such as liability insurance, workers’ compensation, *etc.*; that the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of the administration is not increased; or that the size of the project is so small that the amount of administrative expenses incurred to carry out the project exceeds 13.5 percent of the amount for such project. The burden of justification is on the recipient requesting an increase in administrative costs. A request for an increase in administrative costs may be submitted at any time.

#### What Minimum Expenditure Levels Are Required for Participant Wages and Fringe Benefits? (§ 641.873)

Section 502(c)(6)(B) of the OAA provides that participant wages and fringe benefit costs must comprise not less than 75 percent of the funds made available for community service projects under title V. The proposed regulation clarifies that the statute applies to community service projects conducted by a recipient in the aggregate and not to each such project or subproject. Funds used for programs and activities under section 502(e) are also covered by this requirement. (*See* proposed § 641.650). If a recipient receives a regular title V SCSEP grant as well as a section 502(e) grant, the 75 percent requirement applies to the total of both grants.

#### When Will Compliance With Cost Limitations and Minimum Expenditure Levels Be Determined? (§ 641.876)

This proposed rule establishes that a recipient’s compliance with cost limitations and minimum expenditures levels will be determined under the standard used in other Department-funded financial assistance programs. Thus, the Department will assess a recipient’s compliance with cost limitations on the earlier of the date

when all funds are expended or the end of the availability period.

#### What Are the Fiscal and Performance Reporting Requirements for Recipients? (§ 641.879)

Section 503(f)(3) of the OAA establishes reporting requirements that were required by the previous regulation. The proposed regulation requires electronic submission to the Department via the Internet of a quarterly financial status report, a final financial status report, a non-financial progress report, and a final progress report. Final financial status reports and progress reports are due 90 days after the end of the Program Year. The Department will issue reporting instructions indicating whether progress reports must be submitted quarterly or semiannually. Quarterly financial status reports are due 30 days after the end of each quarter. Progress reports, other than the final progress report, will be due 30 days after the end of each reporting period. The proposed rule requires recipients to develop their financial status reports on an accrual basis. The proposed rule also requires submission of an annual equitable distribution report, a report on section 502(e) activities, reports for the common performance measures, and reports from Federal agencies operating SCSEP programs and activities. The Department will hold grantees accountable for accurate reporting. Any report that cannot be validated or verified as accurate may be considered a failure to submit reports, which is a factor to be considered in applying the responsibility test at section 514(d) of the OAA.

#### What Are the SCSEP Recipient’s Responsibilities Relating to Awards to Subrecipients? (§ 641.881)

The proposed rule clarifies that the recipient is responsible for all SCSEP activities performed with SCSEP funds and for ensuring that subrecipients comply with SCSEP requirements. Any recipient that fails to recover debts to the Federal government, including all debts owed to the recipient by a subrecipient, will be in violation of the responsibility tests in section 514(d) of the OAA. Also, recipients must follow the organization or State procedures for allocating funds to other entities. At no time, however, will the Department grant funds to another entity on the recipient’s behalf. Each entity must follow its own procedures for subgranting/subcontracting with other entities to administer its SCSEP projects. (*See also* 29 CFR 95.21 and 29 CFR 95.41).