

### *b. Exigent Circumstances*

Funding will be made available for exigencies, including but not limited to, needs based on sharp or unanticipated fluctuations in State unemployment levels and services to transitioning servicemembers as required by the Act. Economic and unemployment conditions at the time of the grant application may not reflect actual conditions. In such cases, program needs may warrant additional funding. These funds will be made available to States based on need and as supported by an approved modified plan.

### **Regulatory Flexibility and Regulatory Impact Analysis**

The Regulatory Flexibility Act of 1980, as amended in 1996 (5 U.S.C. chapter 6), requires the Federal government to anticipate and minimize the impact of rules and paperwork requirements on small entities. "Small entities" are defined as small businesses (those with fewer than 500 employees, except where otherwise provided), small non-profit organizations (those with fewer than 500 employees, except where otherwise provided), and small governmental entities (those in areas with fewer than 50,000 residents). We have assessed the potential impact of this interim final rule by consulting with a wide range of small entities, in order to identify and address any areas of concern. Based on that assessment, we certify that the interim final rule, as promulgated, will not have a significant impact on a substantial number of small entities. We are transmitting a copy of our certification to the Chief Counsel for Advocacy of the Small Business Administration.

This interim final rule implements reforms to the nation's job training system. The Act will provide resources to States to assist veterans in preparing for, obtaining and retaining employment. This rule sets forth the conditions under which State governments receive funding. This rule does not directly impact small governmental entities.

### *Paperwork Reduction Act*

This rule does not contain information collection that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

### *Executive Order 12866, Regulatory Planning and Review*

The Department of Labor has determined that this rule is not a "significant regulatory action" under Executive Order 12866 because this action will not: (1) Have an annual

effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency, or otherwise interfere, with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis is required.

### *Unfunded Mandates*

Executive Order 12875—This rule will not create an unfunded Federal Mandate upon any State, local, or tribal government.

Unfunded Mandate Reform Act of 1995—This rule will not include any Federal mandate that may result in increased expenditures by State, local and tribal governments in the aggregate of \$100 million or more, or increased expenditures by the private sector of \$100 million or more.

### *Executive Order 13132, Federalism*

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, the requirements of section 6 of Executive Order 13132 do not apply to this rule.

### *Executive Order 12988*

This rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The rule has been written so as to minimize litigation and provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities.

■ For the reasons set forth in the preamble, 20 CFR chapter IX is amended as set forth below.

## **PART 1001—SERVICES FOR VETERANS**

■ 1. The authority citation continues to read as follows:

**Authority:** Sec. 4(a), Pub. L. 107-288; 38 U.S.C. 4102A.

■ 2. Part 1001 is amended by adding a new Subpart F to read as follows:

### **Subpart F—Formula for the Allocation of Grant Funds to State Agencies**

Sec.

1001.150 Method of calculating State base grant awards.

1001.151 Other funding criteria.

1001.152 Hold harmless criteria and minimum funding level.

### **Subpart F—Formula for the Allocation of Grant Funds to State Agencies**

#### **§ 1001.150 Method of calculating State base grant awards.**

(a) In determining the amount of funds available to each state, the ratio of the number of veterans seeking employment in the state to the number of veterans seeking employment in all states will be used.

(b) The number of veterans seeking employment will be determined based on the number of veterans in the civilian labor force and the unemployment rate. The civilian labor force data will be obtained from the Current Population Survey (CPS) and the unemployment rate will be obtained from the Local Area Unemployment Statistics (LAUS).

(c) Each state's allocation will be determined by dividing the sum of the corresponding figures across all states for the number of unemployed veterans in each state (LAUS for the individual states ÷ LAUS for all sStates) and the number of veterans in the civilian labor force in each state compared to the total number of veterans in the civilian labor force across all states (CPS for the individual states ÷ CPS for all states). The result of these two ratios will be averaged and converted to a percentage of veterans seeking employment in the state compared to the percentage of veterans seeking employment in all states. Three-year averages of the CPS and LAUS data will be used in calculating the funding formula to stabilize the effect of annual fluctuations in the data in order to avoid undue fluctuations in the annual amounts allocated to states.

#### **§ 1001.151 Other funding criteria.**

(a) Four percent of the total amount available at the national level for allocation to the states will be distributed to the states based on Transition Assistance Program (TAP) workload and other exigencies.

(b) Funding for TAP workshops will be provided on a per workshop basis as described in the approved state plan submitted by the state.

(c) Funds for exigent circumstances, such as unusually high levels of unemployment, surges in the demand for transitioning services, including the