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PART IV



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## **DEPARTMENT OF LABOR**

Office of the Secretary

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### **COMPREHENSIVE EMPLOYMENT AND TRAINING ACT**

Programs under Title VI

## Title 29—Labor

## SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

## PART 99—PROGRAMS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

The Emergency Jobs and Unemployment Assistance Act of 1974 (hereinafter referred to as the "Emergency Jobs Act"), Pub. L. 93-567, 88 Stat. 1845, was signed into law by President Ford on December 31, 1974, and became effective immediately.

Title I of the Emergency Jobs Act amends the Comprehensive Employment and Training Act of 1973 (hereinafter referred to as CETA), Pub. L. 93-203, 87 Stat. 839, by inserting a new Title VI and redesignating the existing Title VI as Title VII.

The purpose of the new Title VI of CETA is to provide, through grants to local prime sponsors and Indian tribes, for additional public service jobs and training programs for unemployed persons. Special provisions are also provided for areas of excessively high unemployment. Grants under Title VI are generally limited to a thirteen month period except where the ARDM determines that exceptional circumstances exist.

In order to implement Title VI in the most expeditious manner possible, the following regulations are hereby promulgated, pursuant to section 702(a) of CETA, to be effective January 9, 1975, without regard to 29 CFR 2.7.

Pursuant to the legislative intent of CETA, permission for the immediate effective date of these regulations has been obtained from the appropriate committees of Congress.

Although these regulations are being published in final form and are made effective immediately, it is the policy of the Department of Labor to solicit and consider comments on its regulations. Accordingly, comments will be received, just as though this document were a proposal until February 14, 1975, after which the comments received will be evaluated and, if warranted, the regulations will be appropriately amended. Meanwhile, however, in the interest of expediting the program, these regulations shall remain in force until amended.

Interested persons are invited to submit comments, data or arguments to: Assistant Secretary for Manpower, United States Department of Labor, 6th and D Streets NW., Washington, D.C. 20213. Attention: Pierce A. Quinlan, Associate Manpower Administrator for Manpower Development Programs.

The regulations set forth below, which become effective January 10, 1975, amend Title 29 by adding the following new Part 99:

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- 99.83 Assessment and evaluation.
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## Subpart F—Special Conditions for Grants to Indian Tribes on Federal or State Reservations

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- 99.90 General.
  - 99.91 Grant responsibility.
  - 99.92 Distribution of funds.
  - 99.93 Eligibility for funds.
  - 99.94 Funding of prime sponsors.
  - 99.95 Participant eligibility.
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  - 99.97 Planning process; advisory councils.
  - 99.98 Travel requirements.
  - 99.99 Nepotism.
  - 99.100 Nondiscrimination.
  - 99.101 Subgrants.

AUTHORITY: Comprehensive Employment Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845), sec. 702(a), unless otherwise noted.

## Subpart A—General

## § 99.1 Scope and purpose of Part 99.

(a) This Part 99 contains the Department of Labor's regulations providing for the establishment and operation of a public service employment and manpower training program under Title VI of the Act, as amended by the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845.

(b) This program, which is necessitated by the current increase in unemployment rates, is designed to have an immediate impact at the local level. By making funds available for a specific, limited period of time, and allowing local governments increased flexibility in the use of these funds, it will be possible to quickly provide a maximum number of individuals with employment opportunities.

(c) To accomplish the objectives of this employment program, eligible applicants are encouraged to develop large, labor intensive employment projects which provide immediate jobs for a maximum number of participants.

(d) An eligible applicant may establish on an area basis for participants in programs funded under Title VI of the Act jobs and wage structures, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nationwide federally supported annual average wage rate equivalent to \$7,800 per full-time position within the overall \$10,000 federally supported salary limitation provided to public service job holders. To assist in achieving this goal, eligible applicants should give consideration to the development of projects utilizing public service jobs, work experience, on-the-job training, and institutional training structures and should establish wage structures considering such factors as the average wages in the area or areas served by an eligible applicant and the cost of living in such areas. However, this in no way is intended to impair an eligible applicant's right to pay the maximum wage rate allowable.

(e) In order to assure that selection criteria and time requirements of local Civil Service laws do not prevent the prompt

hiring of individuals under this program, eligible applicants may wish to redefine job classifications and take other necessary action to facilitate the prompt and effective hiring of participants.

(f) To assure the establishment of the most beneficial employment possible, eligible applicants are encouraged to place participants in employment with all available public service employing agencies within the community, including local public employers, private-non-profit agencies, and State, and where possible on an "outstanding basis," Federal agencies. Local communities should also give consideration to placing participants in State Employment and Unemployment Insurance Service offices to assist in handling the increased workload caused by current unemployment rates and special unemployment assistance legislation.

(g) In order to provide for the most effective utilization of employment programs, eligible applicants shall attempt to place participants in unsubsidized employment as soon as is feasible. It is understood, however, that economic conditions in many areas will make it impossible to meet established placement goals. Although these are goals and not requirements, waivers will be provided to local areas experiencing severe economic slow-downs.

(h) It is recognized that some local governments are experiencing severe revenue reductions and, in revising their budgets, are deciding to lay-off employees. Those employees legitimately laid-off under these conditions, to the extent they meet the other eligibility requirements under the Act (30 days unemployment, etc.), may be enrolled in this program: *Provided*, That such employees were not laid-off with the purpose of calling them back into jobs funded under this program. Eligible applicants shall continue to meet the "maintenance of effort" requirements of the Act and these regulations and shall provide substantive documentation in their grants for legitimate lay-offs and call backs which are expected during the period of a grant.

(i) To achieve the objectives of this employment program, special provisions are available for eligible applicants of areas of excessively high unemployment. These special provisions include a 15 day unemployment eligibility period for unemployed persons, rather than the 30 day period otherwise required, and several special program designs which will enable eligible applicants to create employment projects for community improvement and beautification.

(j) To provide a maximum impact on the current economic situation, the use of funds under this employment program is limited to a specific period, not to exceed 13 months. Eligible applicants shall plan to hire individuals during this period on a basis which will provide the most effective services to the unemployed. Accordingly, the ARDM's will review the monthly performance of eligible applicants in terms of their ability to hire the

planned number of individuals. To the extent that eligible applicants are not able to perform effectively, funds may be deobligated and redistributed to alternative deliverers within the State.

(k) Definitions not found in this part for abbreviations and major terms may be found in Part 94 of this chapter.

(l) Statutory authority for the regulations contained in this Part 99 is found in section 702(a) of the Act. Other relevant sections of the Act are generally noted at the end of each substantive provision of these regulations.

(m) Conforming changes to existing language in Parts 94 through 98 of this Title 29 shall be promulgated at an early date.

§ 99.2 Allocation of funds.

(a) Funds appropriated under Title VI shall be allocated only to eligible applicants as defined in § 99.3 (sec. 602(e)).

(b) Not less than 90 percent of the amount appropriated under Title VI shall be allocated among eligible applicants according to the following basic formula (sec. 603(a)(1)):

(1) Fifty percent of the funds shall be allocated among eligible applicants in proportion to the relative number of unemployed persons who reside in areas within the jurisdiction of each such applicant as compared to the number of unemployed persons who reside in all such areas in all the States (sec. 603(a)(2)(A)).

(2) Twenty-five percent of the funds shall be allocated among eligible applicants on the basis of the relative excess number of unemployed persons, as defined below, who reside within the jurisdiction of the eligible applicant as compared to the total excess number of unemployed persons who reside within the jurisdiction of all eligible applicants.

(i) For the purpose of allocating funds to an eligible applicant which is not a State, the term "excess number" means the number of unemployed persons in excess of 4.5 percent of the labor force in the jurisdiction of the eligible applicant in whose jurisdiction such persons reside.

(ii) For the purpose of allocating funds to an eligible applicant which is a State, the term "excess number" means such number as defined in paragraph (b)(2)

(i) of this section, or the number of unemployed persons in excess of 4.5 percent of the labor force in areas eligible for assistance under Title II located in the geographic area served by such State prime sponsors under Title I or Title II, whichever is greater (sec. 603(a)(2)(C)).

(3) Twenty-five percent of the funds shall be allocated for use in areas of substantial unemployment. An area of substantial unemployment, other than in relation to an Indian tribe, is any area which has a population of at least 10,000 persons, qualifies for a minimum allocation of \$25,000 under Title II of the Act, and has a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. In relation to an Indian tribe,

an area of substantial unemployment is an Indian reservation, as a whole, with a rate of unemployment of at least 6.5 percent for a period of three consecutive months as determined by the Secretary of Labor at least once each fiscal year. These funds shall be allocated among eligible applicants in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the eligible applicant as compared to the total number of unemployed persons residing in all such areas of substantial unemployment (sec. 603(a)(2)(B)).

(4) For the purpose of determining the allocations under paragraph (b) of this section, the term "jurisdiction" includes the jurisdiction of each unit of general local government as described in section 102(a)(2) of the Act, whether or not such unit has entered into a combination of units of general local government for the purposes of sections 102(a)(3) and 102(a)(4) of the Act. In determining the amount to be allocated to eligible applicants which are consortia under sections 102(a)(3) and (4), the formula set out in paragraph (b) of this section shall be applied to each such unit of such eligible applicant (sec. 603(c)).

(c) The remaining 10 percent not allocated as provided in paragraph (b) of this section may be distributed by the Secretary as he deems appropriate to carry out the purpose of Title VI, taking into account changes in rates of unemployment (sec. 603(b)).

(d) (1) An eligible applicant shall distribute to a program agent, as defined in paragraph (d)(3) of this section, those funds that are allocated to the eligible applicant under the formula set forth in paragraph (b) of this section due to the level of unemployment within the program agent's jurisdiction, unless the program agent declines to operate a program under Title VI of the Act, in which case, the eligible applicant will make other arrangements to serve that jurisdiction (sec. 204(d)(1)).

(2) To the extent that the Secretary does not specify an amount to be distributed to the program agent the eligible applicant shall, to the best of its ability, determine the amount to be so distributed through the application of the allocation formula set forth in paragraph (b) of this section. Such allocation shall be computed by comparing the number of unemployed persons who reside in the program agent's jurisdiction with the number of unemployed persons who reside in the eligible applicant's jurisdiction, the excess number of unemployed persons who reside within the program agent's jurisdiction with the excess number of unemployed persons with the eligible applicant's jurisdiction; and, in the event that the program agent's jurisdiction is, or contains, an area of substantial unemployment, the number of unemployed persons who reside within the area or areas of substantial unemployment within the program agent's jurisdiction with the number of unemployed persons who reside within all areas of substantial unem-

ployment within the eligible applicant's jurisdiction. For the purpose of determining the amount to be distributed to the program agent, the eligible applicant shall utilize unemployment information provided by the State Employment Security Agency (SESA), or when the SESA cannot provide such information, the best unemployment information available subject to review by the ARDM. The eligible applicant shall describe in its grant application, the basis used for making such determinations (secs. 204(d)(1)).

(3) For the purpose of Title VI, the term "program agent" means any unit of general local government (or combination of such units) located within the eligible applicant's jurisdiction which has a population of 50,000 or more persons (sec. 204(d)(1)).

(4) Notwithstanding paragraph (d)(1) above, a program agent who is a member of a consortium may make such agreements as may be mutually agreeable to the program agent and the eligible applicant (the consortium) with regard to the administration of Title VI funds for the benefit of the residents of the eligible Title VI program agent area.

#### § 99.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. For the purpose of this Part 99 the term "eligible applicant" means prime sponsors qualified for Fiscal Year 1975 under Title I and Indian tribes on Federal or State reservations (sec. 602(e)).

(b) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant within the State unless the non-State eligible applicant has not submitted an approvable application for Title VI funds, or has stated to the ARDM, in writing, its desire to be served by the State (sec. 204(a)).

(c) A unit of general local government shall not qualify as an eligible applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable application for such areas, or states its desire to the ARDM, in writing, to be served by such larger unit (sec. 204(a)).

(d) (1) An eligible applicant shall distribute funds to program agents as provided in § 99.2(d) of this Part 99 (sec. 204(d)(2)).

(2) No program agent shall receive or continue to receive funds for any area within the jurisdiction of another program agent unless the ARDM determines that the smaller program agent has not carried out its administrative responsibility consistent with the application for financial assistance developed by the eligible applicant for developing, funding, overseeing, and monitoring programs within its area (sec. 204(d)(3)).

(e) An eligible applicant or program agent, as appropriate, shall to the maximum extent feasible make available for services to eligible residents of identifiable subareas within the eligible appli-

cant's or program agent's jurisdiction, including units of local government, those funds allotted to the eligible applicant under the provisions of §§ 99.2(b)(1) and 99.2(b)(2) due to the level of unemployment within those identifiable subareas, utilizing the principles contained in these two sections.

(f) *Funds for areas of substantial unemployment.* (1) An eligible applicant or program agent which contains areas of substantial unemployment shall make available for services to residents of each such area those funds under § 99.2(b)(3) allocated to the eligible applicant due to the level of unemployment within the area of substantial unemployment (sec. 603(a)(2)(B)).

(2) An eligible applicant, other than a State, or a program agent, whose entire jurisdiction qualifies as an area of substantial unemployment shall, to the extent feasible, allocate funds under § 99.2(b)(3) for services to residents of identifiable subareas which meet the unemployment rate requirements of areas of substantial unemployment according to the procedure set forth in § 96.3(f)(1) of this subtitle.

(3) Where the eligible applicant is a State that has an unemployment rate for its entire jurisdiction of at least 6.5 percent, the State shall, to the extent feasible, allocate its funds under § 99.2(b)(3) for residents of individual areas of substantial unemployment within its jurisdiction according to the procedure set forth in § 96.3(f)(2) of this subtitle.

(4) If an eligible applicant finds that there is an area of substantial unemployment within its jurisdiction that has not been designated by the Secretary to receive assistance, it may recommend that such area be considered for assistance by the Secretary. In making any such recommendation the eligible applicant must include a precise geographical definition of the area to be served and population data. Such recommendation shall be submitted to the ARDM prior to the submission of the modification for full funding. The Secretary shall, within a reasonable time, make a determination on the recommendation and inform the eligible applicant of his decision and the reasons therefore.

#### Subpart B—Grant Application

##### § 99.10 General.

(a) This Subpart B provides the procedures for program planning and for obtaining grants to operate programs under Title VI of the Act (sec. 602(a)).

(b) Grants under Title VI of the Act shall be executed in a two stage process to assure rapid implementation of Title VI programs. Grants shall not exceed a 13-month period except as provided in § 99.74(a)(6). The first stage will be the execution of an initial funding grant. The initial grant will be superseded by a modification for full funding. The modification for full funding will be submitted within 30 days of the submission of the initial application or within a

greater period of time as determined to be necessary by the ARDM.

(c) Applications for initial funding and modifications for full funding will be reviewed by the ARDM and approved to the extent the ARDM determines that a plan meets the requirements of law and regulations, including the provision of appropriate manpower services to meet the needs of the community and impact upon the local unemployment situation. Such services shall include the provision of job opportunities to the maximum number of people.

##### § 99.11 Program planning; planning councils.

Eligible applicants shall within the time constraints imposed by these regulations utilize appropriate prime sponsor planning councils established pursuant to § 95.13 in the planning and review of the programs operated under Title VI of the Act.

##### § 99.12 Initial funding.

(a) *General.* (1) The initial funding of programs under Title VI of the Act shall consist of a portion of each eligible applicant's allocation under § 99.2. In order to receive initial funding an eligible applicant shall submit an application to the appropriate ARDM not later than the date set by the Secretary. The approval of the application for initial funding shall commence the 13-month grant period except as provided for in § 99.74(a)(6).

(2) The forms for the application for initial funding shall be sent to eligible applicants by the respective ARDM's.

(b) *Initial grant application forms—*  
(1) *Application Sheet.* The application sheet explains the conditions for initial funding. All statements and information contained on the application sheet become binding on the eligible applicant upon execution of the grant. Such statements and information shall include:

(i) An agreement by the applicant to submit a modification for full funding within 30 days of submission of the initial application or within a greater period of time as determined to be necessary by the ARDM;

(ii) A statement that the grant period will be for a maximum of 13 months from the date of approval of the initial application;

(iii) The assurance that subgrants and contracts will not extend beyond the grant period;

(iv) A commitment to commence hiring immediately;

(v) The first month hiring level;

(vi) The authority of the eligible applicant to receive, expend, distribute, and grant funds for the described purpose; and

(vii) The authority of the eligible applicant to require compliance of subgrantees and contractors.

(2) *Assurances and certification sheet.* The assurances and certification sheet contains those assurances referenced in § 95.14(b)(3) of this subtitle and additional assurances established for Title VI programs under the Act. These assur-

ances and certifications are specified in the "Initial Funding Grant for Title VI CETA", and are binding upon the eligible applicant, upon execution of the grant.

(3) *Initial program narrative.* (i) The initial program narrative provides for a brief statement of certain essential information in the proposed 13-month program.

(ii) The narrative shall describe the planned use of the total estimated allocation.

(iii) The narrative shall also provide:

(A) A brief description of the economic conditions and unemployment situation in the eligible applicant's jurisdiction, including identification of the groups as described in § 99.36(b), to be given preferred consideration, and other significant segments to be served by the eligible applicant (i.e. § 99.37);

(B) A list and description of projects and activities to be funded including a statement of first month hiring goal;

(C) An explanation of the program design of paragraph (b) (3) (ii) of this section.

(D) Information on the geographic distribution of funds;

(E) A certification as described in § 99.15(b) (1) (i) (D) (2) if applicable.

(F) A certification as described in § 99.15(b) (1) (i) (D) (1) if applicable.

(G) A statement on waiver of placement goals pursuant to section 211(b) of the Act, if such a waiver is sought by the eligible applicant.

(4) *Consortia.* Only an approved consortium formed to operate programs under Title I or Title II of the Act may operate a program under Title VI of the Act. Such a consortium desiring funds to operate a program under Title VI of the Act shall submit, with its application for initial funding, an attestation that the consortium agreement covers or has been amended to cover activities under Title VI. The attestation shall be signed in accordance with the consortium agreement.

(5) *Initial funding signature sheet.* The initial grant will contain a grant signature sheet for funds provided under Title VI.

**§ 99.13 Comments and publication procedures relating to submission of application for initial funding.**

(a) As provided in paragraphs (b) and (c) of this section, each eligible applicant shall, no later than the date of its submission of the initial application to the ARDM, provide an opportunity for comment on the application. The initial grant application may, however, be reviewed, negotiated and approved or disapproved immediately upon its receipt. Any comments received by the prime sponsor after the initial application approval will be considered before the grant is modified for full funding.

(b) (1) Each eligible applicant shall publish a summary of the initial application, in a newspaper(s) (including minority newspapers where feasible) which will provide for a general circulation

throughout the area to be served by the eligible applicant's plan. Such publication shall be for one issue. A copy of the newspaper article shall be transmitted to the ARDM. For Fiscal Year 1975, the publication shall be no later than the date of submission of the application to the ARDM.

(2) The information published shall include:

(i) The total estimated numbers of individuals to be served, including a specification of the first month's hiring goal;

(ii) The projects and activities to be provided by the program in each geographic area, and the funds planned for each project and activity;

(iii) If applicable, a certification that the eligible applicant seeks to qualify as an area of excessively high unemployment as described in § 99.15(b) (1) (i) (D) (1);

(iv) The location and hours that the complete grant application can be reviewed and the address and phone numbers where comments may be directed; and

(v) The proposed sub-allocation of funds.

(c) (1) In addition to publication in a newspaper of general circulation, each eligible applicant shall provide a copy of its application, for the purpose of commenting thereon, to the Governor and the appropriate State and sub-State A-95 clearinghouse(s). It shall provide a summary to appropriate units of general local government with a population of at least 10,000 persons, to Indian prime sponsors, and to labor organizations representing employees engaged in similar work in the same area as that for which participants will receive subsidized training or employment.

(2) For grants for Fiscal Year 1975, an eligible applicant shall submit a copy of its application to the appropriate State and sub-State A-95 clearinghouse(s) at the same time it submits its application to the ARDM. The copy of the application sent to the clearinghouse(s) shall be accompanied by the following statement: "Due to the time constraints on implementation of Title VI of the Comprehensive Employment and Training Act, the program plan required by this Part 99 is being submitted to the clearinghouse(s) and the Department of Labor simultaneously. Clearinghouses are requested to forward any comments directly to the eligible applicant and the ARDM."

(d) Comments pursuant to paragraphs (b) and (c) of this section shall be made to the eligible applicant and the ARDM within 30 days of publication. Notwithstanding this provision, the ARDM shall take appropriate action on the application, including, if warranted, approval of the application immediately upon its receipt.

(e) An eligible applicant shall, within a reasonable period of time, acknowledge any comment made pursuant to this section. It shall inform any party submitting a substantive comment of whether any plan revision will be made in response to the comment and the reasons

for the eligible applicant's determination. All substantive comments and responses will be transmitted to the ARDM.

**§ 99.14 Review and approval of application for initial funding.**

(a) An application for initial funding will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law, including whether the application meets the needs of the unemployed population of the community and institutes immediate hiring procedures consistent with the first month's goal.

(b) The application will be reviewed by the ARDM. Any revisions will be discussed with the eligible applicant. The ARDM will approve the application when it meets the requirements of paragraph (a) of this section.

**§ 99.15 Full funding.**

(a) *General.* No later than 30 days after the submission of the application for initial funding, an eligible applicant shall submit a modification for full funding as provided in § 99.74(a) (6). Approval of the modification will incorporate into the grant the balance of the eligible applicant's allocation under § 99.2 of these regulations.

(b) *Modification for full funding.* The modification for full funding will consist of the employment plan and grant signature sheet. To apply for a modification for full funding, eligible applicants will submit the following forms:

(1) *The employment plan.* The employment plan is a statement of how the eligible applicant intends to use Title VI funds. The employment plan will propose the use of the total Title VI allocation during the grant period. The employment plan as described below consists of the full funding narrative description of the program, the project operating plan, the occupational summary, and the program summary.

(i) *Narrative description of the program.* The narrative description of the program supersedes the initial narrative. It provides a detailed statement of the eligible applicant's program under Title VI of the Act. This narrative covers the entire grant period starting at the date of initial funding. The following information shall be provided in the narrative description of the program.

(A) *Objectives and need for this assistance.* (1) This item describes the general economic conditions in the area to be served and projects general economic indicators for the grant period. It includes information on the current and projected hiring situation of major employers in the area served.

(2) This item describes the demographic characteristics of the labor force in the area to be served. To the extent the information is available, the program narrative shall include information on the number of unemployed persons who have exhausted their unemployment compensation benefits, those not eligible for unemployment compensation benefits (except those lacking work experience),

and those who have been unemployed longer than 15 weeks.

(3) This item describes any unmet need for services in the jurisdiction.

(4) This item briefly states the intended use of funds, indicating how the plan addresses the conditions in the community as described in paragraphs (b) (1) (i) (A) (1), (2), and (3) of this section.

(B) *Results and benefits.* This item explains how the quantified results in section I of the Project Operating Plan impact on the needs of the labor force and are consistent with the economic projections described in paragraph (b) (1) (i) (A) of this section. For each project, it explains the community services which will be provided, their effect on the labor force, and the economic conditions in the area.

(C) *Approach.* (1) This item describes the methods which will be used to give preferred consideration, to the maximum extent feasible, in providing employment to unemployed persons who either have exhausted their unemployment insurance benefits, are not eligible to receive such benefits (except those lacking work experience), or have been unemployed for 15 weeks or longer (sec. 602(d)). In addition, this item describes the eligible applicant's plans for providing service to those individuals who will exhaust benefits under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974. It further describes the recruitment and selection of otherwise eligible participants and it estimates a percent of those to be served who will not come from the above categories.

(2) This item describes the design of each project and activity. Locally designed projects should include labor intensive functions of limited duration which will utilize participants to meet additional community needs. For each project, this item shall explain the types of activity(s) the participants will engage in, and the organization of each activity.

(3) This item explains the steps to be taken to comply with applicable provisions of collective bargaining agreements, comparability of wage rates and working conditions for participants.

(4) This item provides an explanation of the arrangements and efforts which may be initiated by the eligible applicant to establish on an area basis for participants in programs funded under Title VI of the Act jobs and wage structures, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nation-wide federally supported annual average rate equivalent to \$7,800 per full-time position within the overall \$10,000 federally supported salary limitation provided to public service job holders. However, this in no way is intended to impair an eligible applicant's right to pay the maximum wage rate allowable. Such efforts may include special projects and activities such as public service employment, work experience, or institutional and on-the-job training,

designed to take into consideration the average wages in the eligible applicant's area and the cost of living in such areas. The narrative description of these efforts should describe the program designs selected by the eligible applicant and the wage rates for each job, as indicated on the occupational summary. The ARDM in fulfilling this responsibility shall make general recommendations to eligible applicants on an area basis, as may be deemed appropriate, to accomplish a nation-wide average wage rate equivalent to \$7,800 per full-time employment opportunity funded under Title II of the Act.

(5) For those eligible applicants not certifying as areas of excessively high unemployment, this item explains how activities and projects will, to the extent possible:

(i) Be linked to upgrading and other manpower activities and services,

(ii) Provide employment of a transitional nature, and

(iii) Contribute to the career advancement and upward mobility of participants.

(D) *Certifications.* (1) If an eligible applicant wishing to qualify as an area of excessively high unemployment has not provided certification in its initial application for funding, as specified in § 99.12(b) (3) (iii) (F), it shall certify to the ARDM that there is a necessity to operate public service employment programs under the waived provisions of career advancement, upward mobility, linkages to other manpower programs, or jobs in expanding occupational fields, in order to provide sufficient job opportunities and that:

(i) It has an average unemployment rate in excess of 7 percent for the most recent three consecutive months, or

(ii) It is either a rural CEP prime sponsor as described in section 102(a) (5) of the Act, an exceptional circumstance prime sponsor as described in section 102(a) (4) of the Act, or State prime sponsor serving a Title II area of substantial unemployment.

(2) If a consortium has an unemployment rate of 7 percent or less, and a member of that consortium which qualifies as an eligible applicant has an unemployment rate in excess of 7 percent or is a Title II area within a balance of State, that individual member may so certify under (D) (1) (i) of this subdivision to the ARDM. Such member certifies, along with the consortium's initial grant application or modification for full funding, that activities permitted to areas of excessively high unemployment are necessary in order to provide sufficient job opportunities within its jurisdiction.

(3) An eligible applicant may upon proper certification to the ARDM make payments to public employers to expand the provision of job opportunities to additional programs, such as:

(i) Jobs during the summer months for economically disadvantaged youth otherwise eligible for participation,

(ii) Community work activities for the chronically unemployed poor,

(iii) Special programs which provide unemployed or low-income persons with jobs leading to career opportunities,

(iv) Special work-related services and part-time or temporary employment for middle aged and older unemployed persons.

*NOTE.* The eligible applicant shall explain why any such programs under paragraphs (b) (1) (1) (D) (a), (b), (c), and (d) above are necessary to provide sufficient job opportunities. The explanation shall be specific for each of the programs listed and shall include a justification of how each such program will meet the needs of the community.

(4) Any eligible applicant which wishes to request a waiver of the placement goals under section 211(b) of the Act shall explain why such a waiver is warranted by local conditions. The eligible applicant shall also request that such a waiver be granted.

(E) *Maintenance of effort data.* An eligible applicant shall estimate the number of jobs that will be filled by recalling former employees who have been terminated or laid-off. The eligible applicant shall, in addition, provide data (including fiscal and budgetary documents) and explanatory materials which establish that no termination or lay-off of employees was done to utilize Federal funds in lieu of local funds, but was the result of local budgetary conditions and would have occurred even if no Federal funds were available, under the Act, to provide for the employment of local or State governmental employees. This data shall include relevant materials related to the eligible applicant's local budget situation, including any relevant materials relating to special purpose local governments such as, but not limited to, transportation authorities. Other maintenance of effort requirements are found at §§ 96.24 and 99.35.

(i) *Project Operating Plan.—(A) General.* The project operating plan requires an eligible applicant to provide a quantitative statement of planned expenditures, enrollment levels, and outcomes for program participants. It also requires an eligible applicant to indicate planned expenditures by cost category and by program activity. For the purposes of providing a plan for the use of funds under Title VI of the Act, section III(C) of the project operating plan will not be completed.

(b) *Monthly Plan.* In addition to the project operating plan under Title VI, a monthly estimate of total individuals on board and total expenditures will be provided. This monthly schedule will be used in reviewing the monthly progress report as described in § 99.72(c). The monthly schedule will be used in the monthly review of performance as described in § 99.32. Such monthly plans must reflect the activity for each month during the grant period under Title VI and indicate efforts to hire immediately.

(ii) *Occupational summary.* For the purpose of Title VI of the Act the occupational summary requires an eligible applicant operating a Title VI program to provide a description of projects, reg-

ular public service employment jobs, training and other opportunities, including a comparison of wages paid to participants with wages for similar nonsubsidized jobs in the community.

(iv) *Program summary.* The Program Summary presents a distribution of jobs and funds to be provided to eligible applicants and subgrantees; it designates the areas to be served and the population of each area.

(2) *Grant Signature Sheet.* The grant signature sheet for the modification for full funding will reflect the eligible applicants entire allocation under Title VI of the Act.

**§ 99.16 Comments and publication procedures on modification for full funding.**

No later than the date of submission of the modification for full funding the eligible applicant shall provide an opportunity for comment on the modification as specified in § 99.13, including review by appropriate labor organizations, and State and sub-State A-95 clearinghouses.

**§ 99.17 Standards for reviewing grant application.**

(a) An application for modification for full funding will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law.

(b) In reviewing a grant application as provided in paragraph (a) of this section, the ARDM shall determine whether the application demonstrates that funds will be fully utilized in the grant period to provide manpower services that meet the needs of the community, including the immediate employment opportunities for the maximum number of individuals. Any extension of the 13 month grant period will be made as provided in § 99.74 (a) (6).

**§ 99.18 Application approval and disapproval.**

For the approval of an application for initial funding and the modification for full funding, the requirements of § 96.15 of this subtitle apply. Disapproval of either application will follow the requirements of § 96.16(a), (b) (1), and (b) (2) of this subtitle. Discussion concerning any defect or disapproval of the application will be completed within 30 days of its submission.

**§ 99.19 Use of alternative eligible applicants.**

The provisions of § 96.17 shall apply to grant applications submitted under Title VI of the Act.

**§ 99.20 Modification of grant agreements.**

Subsequent to the modification for full funding, any modification to the grant agreement shall be made in accordance with § 96.18 (a), (b), and (d) of this subtitle. The comment procedure provided in § 99.13 will apply.

**§ 99.21 Modification of an employment plan.**

Modifications to the plan shall be made in accordance with § 96.19 of this subtitle, except that the comment procedures of § 99.13 will apply, excluding submission to clearinghouses.

**Subpart C—Program Operation Requirements for Eligible Applicants**

**§ 99.30 General.**

This Subpart C provides the program operation requirements for eligible applicants in creating and expanding public service job opportunities for unemployed and underemployed persons (sec. 205, 602(a)).

**§ 99.31 Basic responsibilities of eligible applicants.**

(a) An eligible applicant is responsible for administering its projects and programs funded under Title VI of the Act consistent with the provisions described in § 96.21 of this subtitle.

(b) Each eligible applicant shall allocate job opportunities among State and local public agencies within its area, considering such factors as opportunities for transition, early hiring opportunities, and number of job opportunities available within each agency.

**§ 99.32 Program performance requirements for eligible applicants.**

(a) An eligible applicant is responsible for utilizing funds allocated under Title VI of the Act in accordance with the expenditure levels and enrollment levels described in the approved employment plan and within the monthly goals of the grant period.

(b) The ARDM shall review the program performance of each eligible applicant on a monthly basis and determine the adequacy of the eligible applicant's performance with respect to the expenditure and enrollment levels provided for in the project operating plan. Acceptable performance levels shall be as follows:

(1) Eligible applicants whose expenditure or enrollment levels are less than 100 percent but at least 80 percent of the levels described in the approved plan may be subject to corrective action and technical assistance prescribed by the ARDM. Such efforts shall be undertaken to assist the eligible applicant to comply with the program performance levels described in the approved plan.

(2) Eligible applicants whose expenditure or enrollment levels are less than 80 percent of the levels described in the approved plan may be subject to the corrective actions initiated by the ARDM and the reallocation provisions of Subpart E of this Part 99. Such efforts shall be undertaken to assist the eligible applicant to comply with the program performance levels described in the approved plan.

(c) The ARDM shall on a monthly basis make a general review of the eligi-

ble applicant's performance and goals to determine the responsiveness of the eligible applicant's operation to the unemployment rates of its area and the employment needs of the persons within its jurisdiction.

**§ 99.33 Basic responsibilities of program agents; relationship with eligible applicant.**

(a) The responsibilities of program agents, as defined in § 99.2(d) (3), shall be those provided in § 96.22 of this subtitle.

(b) Irreconcilable differences between an eligible applicant and a program agent shall be submitted to the ARDM. The ARDM shall make the final decision on differences. Irreconcilable differences include, but are not limited to, disputes in reference to the method and data used to allocate funds to the program agents, disputes resulting from project and program designs, and disputes resulting from program performance in response to the employment plan.

**§ 99.34 Public service job activities that may be funded under Title VI.**

Funds allocated to eligible applicants for programs under this Subpart C shall only be used for manpower program activities and services consistent with the purposes of Title VI of the Act and these regulations. Such program activities and services are:

(a) Public service jobs in employment projects which provide maximum employment opportunities for unemployed and underemployed persons (sec. 602(a));

(b) Public service employment programs which meet the requirements of § 96.23 (sec. 602(a));

(c) Basic manpower activities and services described in § 95.33(d) (sec. 210);

(d) Job opportunities with public employers, as described in paragraphs (3), (4), (5), and (6) of section 304(a) of the Act, when the eligible applicant certifies to the Secretary in the grant application that such activities are necessary to provide sufficient job opportunities in the area served by the eligible applicant. (sec. 604(a)).

**§ 99.35 Maintenance of effort; responsibility for selecting participants; special limitation on programs and participant selection.**

(a) Public service jobs funded under Title VI of the Act shall only be in addition to employment which would otherwise be financed by the eligible applicant without assistance under this title. (secs. 602(c), 205(c) (25)).

(b) To assure maintenance of effort, a public service employment program under Title VI of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, in-

cluding partial displacement such as a reduction in hours of non-overtime work, wages or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs (secs. 602(c), 208(a)(1)).

(c) Eligible applicants and grantees of funds under this Act may not terminate or lay-off an employee for the purpose of hiring an individual under a Title VI program (secs. 602(c), 205(c)(8)). However, the hiring of former employees who lost their jobs due to a bona fide lay-off is not prohibited if it does not constitute a violation of the maintenance of effort provisions of the Act and these regulations.

(d) Eligible applicants shall, at the direction of the ARDM, submit budgetary expenditure documentation, revenue statements, and other information relevant to determination under this section.

(e) The selection of participants for public service jobs funded under Title VI of the Act shall be made in accordance with the provisions of § 96.25 of this subtitle.

(f) The provisions of § 96.26 on special limitations on programs and participant selection shall apply to public service jobs funded under Title VI of the Act.

#### § 99.36 Eligibility for participation in a Title VI program.

(a) (1) A person who has been unemployed for at least 30 days, as defined in § 94.4(xx), prior to application or who is underemployed, as defined in § 94.4(vv), and resides in the area of the eligible applicant is eligible to participate in programs funded under Title VI of the Act. The provisions of residency, citizenship and hiring of persons on lay-off, described in § 96.27 (d), (e), and (f) shall apply to persons eligible to participate in programs funded under Title VI of the Act.

(2) In the case where the Title VI eligible applicant is a consortium, residents within the boundaries of the consortium, who meet the eligibility criteria of paragraph (a) (1) of this section, may be employed at any site within such boundaries: *Provided*, That the total amount of funds available for residents of each participating eligible applicant equals the amount of funds that the area would have received if the consortium had not been formed.

(3) Funds allocated under Title VI of the Act to an eligible applicant for an area of substantial unemployment shall only be used to provide project and program opportunities to persons residing in that area of substantial unemployment, as defined in section 204(c). (sec. 603(a)(2)).

(b) Eligible applicants in selecting persons to participate in programs funded under Title VI of the Act shall to the maximum extent feasible give preferred consideration to unemployed

persons who have exhausted their unemployment insurance benefits, to unemployed persons who are not eligible for unemployment insurance benefits (except for persons lacking work experience), and to unemployed persons who have been unemployed for 15 or more weeks. A person who is lacking work experience is a person who is a new entrant into the labor force.

(c) Eligible applicants shall inform persons applying for participation of their rights for unemployment compensation benefits under regular unemployment insurance laws, extended benefits, and special and emergency benefits. This would include benefits provided under the Special Unemployment Assistance Program for workers who could not otherwise receive unemployment payments under any other law and the Emergency Unemployment Compensation Program which provides extended benefit coverage for workers.

(d) Notwithstanding the provisions of paragraph (b) of this section, persons who meet the eligibility requirements of § 99.36 may be enrolled to participate in programs funded under Title VI of the Act under the conditions described in the approved employment plan.

#### § 99.37 Eligibility considerations for special groups.

(a) The provisions of § 96.28 and § 96.30 shall apply in giving special consideration to the most severely disadvantaged persons, veterans, welfare recipients, and former manpower trainees in public service jobs funded under Title VI of the Act.

(b) Each eligible applicant in selecting participants for programs under Title VI of the Act, shall take into consideration the extent that unemployed special veterans and individuals who served in the Armed Forces and were discharged within 4 years before the date of their application for the program are available in the area. Specific effort should be made to develop appropriate full or part-time job opportunities for such veterans. The eligible applicant should utilize the assistance of the local Veterans Employment Service representative in formulating its program objectives.

(c) Each eligible applicant shall, on a continuing and timely basis, provide information on job vacancies and training opportunities funded under Title VI of the Act to the local Veterans Employment Service representative for the purpose of disseminating information to eligible veterans (sec. 104(b) of Emergency Jobs and Unemployment Assistance Act of 1974).

#### § 99.38 Serving significant segments of the population.

The significant segments of an eligible applicant's population shall be served in public service jobs on an equitable basis as provided in § 96.29 of this subtitle.

#### § 99.39 Linkages with other manpower programs.

An eligible applicant, where appropriate, shall maintain and provide linkages

with other manpower programs as provided under the provisions of § 96.32 of this subtitle.

#### § 99.40 Placement goals.

(a) Public service employment programs funded under Title VI of the Act shall, to the extent feasible, meet placement goals as described in and under the provisions of § 96.33 of this subtitle. (sec. 211(b)).

(b) Placement goals established consistent with the provisions of § 96.33 of this subtitle are to be understood as goals and are not prescribed as placement requirements. (sec. 211(b)).

(c) Any eligible applicant shall have the right to request a waiver of such placement goals. The request for a waiver may be submitted at any time, and may be granted by the ARDM when in the ARDM's judgment local economic conditions and budgetary constraints warrant such a waiver. (sec. 211(b)).

(d) Whenever such a waiver has been granted by the ARDM, failure to meet the placement goals shall not be cited in any official review or evaluation of that eligible applicant's program. (sec. 211(b)).

#### § 99.41 Compensation and working conditions for participants.

(a) The rate of compensation and the working conditions for Title VI participants in public service jobs, including part-time public service jobs for persons who are unable because of age, handicap or other factors to work full-time, shall be as specified in §§ 96.34 and 96.35 of this subtitle. Compensation to any participant from Title VI funds is limited to a maximum full-time rate of \$10,000 per year, plus the cost of fringe benefits. These wages may be supplemented by local funds to exceed the Federal limit of \$10,000.

(b) An eligible applicant may establish on an area basis for participants in programs funded under Title VI of the Act jobs and wage structures, taking into account the average wages in the area served and the cost of living in such areas, with the aim of effecting a nationwide federally supported annual average wage rate equivalent to \$7,800 per full-time position within the overall \$10,000 federally supported salary limitation provided to public service job holders. However, this in no way is intended to impair an eligible applicant's right to pay the maximum wage rate allowable. The ARDM is authorized to make recommendations, on an area basis, to eligible applicants pertaining to the policies set forth in this paragraph.

(c) Participants in classroom training programs funded under Title VI of the Act shall be compensated according to § 95.34.

(d) Participants in on-the-job training shall be compensated according to § 95.35.

(e) Participants in work experience may be compensated according to either § 95.34 or § 95.35.



**§ 99.42 Worksite standards for public service jobs funded under Title VI.**

(a) Public service job opportunities may be developed by eligible applicants with public agencies and private non-profit organizations which provide public services.

(b) Participants in public service jobs may be placed at workstations hosted by Federal agencies, when such agencies agree to accept the stationing of such participants.

(c) Participants in public service jobs funded under Title VI of the Act shall not be deemed Federal employees.

(d) Eligible applicants may develop job opportunities with the local State Employment Service and Unemployment Insurance Service to assist these agencies in meeting increased workload occurring through the implementation of the Special Unemployment Assistance Program.

**§ 99.43 Retirement benefits for public service job participants.**

The provisions of § 96.36 of this subtitle shall apply to the retirement benefits. The payment of retirement benefits is not required by the Act. However, the Act does not prohibit payments into a retirement fund on behalf of Title VI participants.

**Subpart D—Special Provisions for Areas of Excessively High Unemployment**

**§ 99.50 General.**

(a) This Subpart D provides special provisions for eligible applicants of areas of excessively high unemployment. In addition to the provisions of this Subpart D, the program operation requirements described in Subpart C of this Part 99 shall also apply to programs in areas of excessively high unemployment unless such provisions have been specifically excepted in this subpart.

(b) An eligible applicant whose jurisdiction is an area of excessively high unemployment shall be:

(1) An eligible applicant having an average unemployment rate in excess of 7 percent for the most recent three consecutive months based upon the best available information and subject to review by the ARDM and certifies in the grant application to the ARDM that the application of the provisions of this Subpart D is necessary in order to provide sufficient job opportunities in the area;

(2) An eligible applicant which is an "exceptional circumstance" prime sponsor under section 102(a)(4) of the Act and certifies in the grant application to the ARDM that application of the provisions of this Subpart D is necessary in order to provide sufficient job opportunities in the area;

(3) An eligible applicant which is a "concentrated employment program" prime sponsor under section 102(a)(5) of the Act and certifies in the grant application to the ARDM that the application of the provisions of this Subpart D is necessary in order to provide sufficient job opportunities in the area; or

(4) An eligible applicant which is a State prime sponsor serving an area

which is eligible for assistance under the Title II of the Act and certifies in the grant application to the ARDM that the application of the provision of this Subpart D is necessary in order to provide sufficient job opportunities in the Title II area.

**§ 99.51 Basic responsibilities of eligible applicants.**

An eligible applicant is responsible for administering its projects and program funded under Title VI of the Act consistent with the requirements of § 99.31 and the provisions of § 96.21 of this subtitle except that the provisions of § 96.21 (c), (d), and (e) of this subtitle shall not apply.

**§ 99.52 Public service job activities that may be funded in areas of excessively high unemployment.**

(a) Funds allocated to eligible applicants for programs under this Subpart D may be used for manpower program activities and services described in § 99.34.

(b) Funds allocated to eligible applicants may also be used for special program activities and services (sec. 604). Such activities and services are:

(1) The funding of jobs in areas of public service which meet the requirements of § 96.23 of this subtitle, except that § 96.23(b) (2), (3), and (5) shall not apply;

(2) The funding of jobs with public employers on community capital improvement projects, which would not be otherwise carried out. Such projects may include the rehabilitation, alteration, or improvement of public buildings, roads and other public transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the project is or will be located. Funds shall not be used however, for employment in new building and highway construction work and other work which inures primarily to the benefit of a private profit-making organization. (sec. 604(b)); and

(3) The funding of jobs, in projects, which would not otherwise be carried out. Such projects may include construction, rehabilitation, alteration, or improvement of water and waste disposal facilities in communities having populations of 10,000 individuals or less which are outside the boundaries of a standard metropolitan statistical area.

**§ 99.53 Eligibility for participation in a project or program in a Title VI area of excessively high unemployment.**

(a) A person who has been unemployed, as defined in § 94.4(xx), (except for the provisions of § 94.4(xx)(3)), for at least 15 days shall be eligible to participate in a program or project in a Title VI area of excessively high unemployment. Provided, however; that no funds received under Title VI of the Act will be used to hire any person to fill a job opening created by the action of an employer in laying-off or terminating the employment of any regular employee not supported under Title VI in anticipation of filling the vacancy so created by hir-

ing a participant to be supported by funds provided under Title VI to areas of excessively high unemployment.

(b) Participants on construction projects shall be paid wages and rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276-5).

**Subpart E—Administrative Provisions**

**§ 99.70 General.**

This Subpart E describes Federal requirements relating to the administration of grants by a grantee for programs under Title VI of the Act with references to the sections of Part 98 of this subtitle which apply and set forth requirements where they differ from Part 98 of this subtitle.

**§ 99.71 Payments, financial management systems and audit.**

Sections 98.2 through 98.6 of this subtitle relating to payments, financial management systems and audits apply (secs. 702(b), and 713).

**§ 99.72 Reporting requirements.**

(a) Section 98.7 shall apply (secs. 702(12), and 713).

(b) *Quarterly progress report.* Section 98.8 which provides for submission of a Quarterly Progress Report shall apply and in addition a monthly report is required as set forth in paragraph (c) of this section.

(c) *Monthly report.* The Quarterly Progress Report form shall be used to submit a monthly report to be received by the ARDM no later than 10 working days after the end of each month. For this report Part I, Part III and Part VIII shall be completed. The planned information for this monthly report will be from the monthly schedule provided by the applicant as part of its Project Operating Plan.

(d) Section 98.9 of this subtitle requiring submission of a Quarterly Summary of Client Characteristics shall apply.

(e) Section 98.10 of this subtitle requiring submission of a Report of Federal Cash Transactions shall apply.

**§ 99.73 Reallocation of funds.**

(a) Irrespective of requirements under § 98.11 the ARDM may make such reallocation as he deems appropriate of any amount of any allocation under this title to the extent that he determines that an eligible applicant will not be able to use such amount within a reasonable period of time.

(b) When the ARDM determines that a reallocation is appropriate, he will give the grantee and the appropriate Governor 30-days notice of the proposed action to remove funds from the grant.

(c) The grantee and the Governor will be invited to submit comments on a proposed reallocation of funds. These comments shall be submitted to the ARDM within 30 days of the notice. After reviewing any comments submitted during the 30 days, the ARDM shall notify the Governor and affected prime sponsors on any decision to reallocate funds

and shall have any such decision published in the **FEDERAL REGISTER**.

(d) The procedures set out in this section are in lieu of any other procedures which might otherwise be applicable under § 98.40, et seq. of this subtitle.

(e) Any reallocation of funds shall be to an alternate eligible applicant to serve the area or to other eligible applicants within the same State (sec. 606)).

**§ 99.74 Allowable Federal costs.**

(a) Section 98.12 of this subtitle concerning allowable Federal costs shall apply to Title VI, except for § 98.12(a) (1) of this subtitle. The following requirements shall also apply to Title VI funds in regard to allowable costs.

(1) Not less than 90 percent of the funds appropriated pursuant to Title VI of the Act which are used by the eligible applicant for public service employment programs shall be expended only for wages and fringe benefits. (sec. 602(b)).

(2) Allowable costs chargeable to fringe benefits include training materials, work tools, uniforms and other equipment ordinarily provided by the employer to his regular employees and for the ownership of the participants.

(3) (i) The 10 percent of funds used by an eligible applicant for public service employment programs under Title VI, after the 90 percent requirement of § 99.74(b) is met, may be used for administration, training, and supportive services, including equipment and materials used in the training of participants, as defined in § 98.12(e) (3) of this subtitle. In addition, the provisions of § 96.38(c) of this subtitle shall apply.

(ii) None of the 10 percent may be used for acquisition, rental, or leasing of supplies, equipment, material or real property for administration of the program whether these expenses are budgeted as a direct cost, indirect cost or overhead cost.

(4) If the eligible applicant operates programs other than public service employment programs under the authorization contained in section 210 of the Act, the requirements set forth in paragraphs (a) (1), (2), and (3) of this section do not apply. For these programs, § 98.12 of this title applies. Specifically, a fixed percentage of wages and benefits is not required, but a goal of 20 percent for administrative cost, is established in § 98.12(e) (1), instead of the 10 percent maximum for public service employment programs under Title VI, and the purchase or rental of supplies, equipment, materials and real property for administrative purposes is allowed.

(5) The cost of participants salaries or allowances and fringe benefits in areas of excessively high unemployment may include jobs on community capital improvement projects, which would not otherwise be carried out, including the rehabilitation, alteration, or improvement of public building, roads, and other transportation facilities, health, and education facilities, and other facilities for the improvement of the community in which the program or project is to be

located, but such funds shall not be used for employment in new building and highway construction work and other work which inures primarily to the benefits of a private profit-making organization. (sec. 604(b) (3)). Also, the costs of participants salaries or allowances and fringe benefits in areas of excessively high unemployment is allowable for construction, rehabilitation, alteration, or improvement of water and waste disposal facilities which would not otherwise be carried out, in communities having populations of 10,000 individuals or less which are outside the boundaries of a standard metropolitan statistical area (sec. 604(a) (3)).

(6) Under Title VI of the Act, funds are allowable for expenditure for 13 months from the date of approval of initial funding with no funds other than close out costs available for expenditure after the termination at the end of 13 months provided that this period shall be extended for any period of time exceeding 7 calendar days which elapse between a timely submission of the modification for full funding (as provided under § 99.10(6)) and the approval of such modification by the ARDM; Whenever an eligible applicant fails to submit his modification for full funding by the date prescribed by the ARDM such extension of its grant period shall be reduced by one day for each day that the submission of its modification is delayed.

**§ 99.75 Eligible applicant contracts and subgrants.**

Section 95.41 of this title shall apply with the following exceptions:

(a) Contracts may be entered into between the eligible applicant and any party, public or private, for purposes set forth in an approved plan, except § 95.41 (f) of this subtitle shall not apply. The procurement of these contracts shall be in conformance with the standards set forth in § 98.20 of this subtitle.

(b) Contracts or subgrants which propose to expend Federal funds for a public service employment program may be entered into only with other public agencies or with nonprofit agencies. Any contractual arrangement for the procurement of administrative services, training, or supportive services may be entered into with private profit-making organizations, but, must be limited only to such type of service and shall not include direct public service employment program services such as the employment of participants. Contracts and subgrants may not extend beyond the term of the grant (sec. 702(b)).

**§ 99.76 Allocations of allowable costs among program activities.**

Section 98.13 of this subtitle shall apply to Title VI of the Act.

**§ 99.77 Basic personnel standards for eligible applicants.**

(a) Section 98.14 of this title shall apply to Title VI of the Act (sec. 703(14)).

(b) For an eligible applicant's program under Title VI basic personnel standards, as set forth in § 98.14 of this sub-

title shall apply only to its staff and not to program participants. An eligible applicant is encouraged to review Civil Service requirements and restructure its jobs so they may be immediately available to a maximum number of individuals in this time of high unemployment and difficult economic conditions. However, in filling public service jobs funded under Title VI of the Act, eligible applicants shall insure that applicable personnel procedures and collective bargaining agreements have been met (sec. 205(c) (24)).

**§ 99.78 Adjustments in payments.**

Section 98.15 of this subtitle shall apply to Title VI of the Act (sec. 702(b)).

**§ 99.79 Termination of grant and grant closeout procedures.**

Sections 98.16 and 98.17 of this subtitle shall apply to Title VI of the Act (sec. 702(b)).

**§ 99.80 Retention of records.**

Section 98.18 of this subtitle shall apply to Title VI of the Act (secs. 703(12), and

**§ 99.81 Program income and procurement standards.**

Sections 98.19 and 98.20 of this subtitle shall apply to Title VI of the Act.

**§ 99.82 Nondiscrimination, equal employment opportunities, nepotism and restriction on political activities.**

(a) Sections 98.21 and 98.23(a) (2) of this subtitle apply with the following change (secs. 703(1), 710 and 712): In § 98.23(a) (2) "Title II funded program" should be interpreted to read "programs funded by the Act."

(b) Section 98.22 of this subtitle shall not apply to Title VI. Sections 96.26(c) and 96.44 of this subtitle shall apply.

**§ 99.83 Assessment and evaluation.**

Sections 98.30 through 98.34 shall apply to Title VI (sec. 703(14)).

**§ 99.84 Hearings and judicial review.**

Subpart C §§ 98.40 through 98.49 of this subtitle shall apply to Title VI (except as otherwise provided in this Part 99).

**Subpart F—Special Conditions for Grants to Indian Tribes on Federal and State Reservations**

**§ 99.90 General.**

This Subpart F contains special conditions for grants to Indian tribes on Federal or State reservations. To the extent that any provisions of this Subpart F differ from any other provision of this Part 99, the provision of this Subpart F shall govern. In all other matters, the requirements of Part 99 apply to this Subpart F.

**§ 99.91 Grant responsibility.**

The Division of Indian Manpower Programs in the Office of National Programs shall have full responsibility for all matters pertaining to funds allocated to Indian tribes on Federal or State reservations under Title VI of the Act. All refer-

ences to ARDM in Part 99 shall be read as Director, Division of Indian Manpower Programs.

**§ 99.92 Distribution of funds.**

(a) Funds for programs under Title VI of the Act for Indian tribes on Federal or State reservations shall be determined as follows:

(1) Funds for use under this Subpart F shall be determined by treating all eligible reservations as a single unit in determining the total funds to be allocated to such reservations by the application of the statutory formula under § 99.2.

(2) Once such total funds have been determined, they shall be allocated among the reservations on the basis of each reservation unemployment compared to the unemployment on all eligible reservations.

(3) In making such allocations, the Secretary shall utilize the best data available.

**§ 99.93 Eligibility for funds.**

(a) Indian tribes on Federal or State reservations which meet the requirements of the Act shall be eligible to receive Title VI funds.

(b) Prime sponsors shall be eligible applicants that meet the requirements of § 96.42.

**§ 99.94 Funding of prime sponsors.**

(a) In order to be funded, a prime sponsor must update its letter of intent by requesting funding pursuant to Title VI of the Act. An eligible applicant which has not previously submitted a letter of intent shall comply with § 97.111 of this subtitle. Letters of intent shall be post-marked no later than January 31, 1975.

(b) For a consortium to obtain funding, it shall amend its consortium agreement to insure that it covers activities under Title VI of the Act.

(c) All grants executed pursuant to Title VI will operate for a period of 13 months, such period to commence, if feasible, February 1, 1975, and terminate February 29, 1976. No costs may be incurred subsequent to February 29, 1976, nor will subgrants and contracts extend beyond the grant period. All grants will,

if feasible, be fully funded by March 1, 1976. There will be no initial funding period for Indian Title VI grants.

(d) Each eligible applicant will receive a tentative allocation against which it will prepare and submit its grant application.

(e) The grant application will consist of the Employment Plan and Grant Sheet. The Employment Plan shall consist of:

- (1) A full narrative description of the program;
- (2) A project operating plan;
- (3) An occupational summary;
- (4) A program summary;
- (5) A monthly plan; and
- (6) Assurance and certification (§ 99.15).

**§ 99.95 Participant eligibility.**

Unemployed and underemployed Indians may participate in programs funded with all other eligible applicants under Title VI. Non-reservation prime sponsors may subgrant or contract with Indian tribes on Federal or State reservations eligible to receive funds pursuant to this subpart.

**§ 99.96 Comments and publication procedures relating to submission of application for funding.**

For purpose of grants to Indian tribes on Federal or State reservations under Part 99, only § 99.13(a) shall apply.

**§ 99.97 Planning process; advisory councils.**

Eligible applicants shall utilize the services of their planning councils authorized under § 97.113 of this subtitle for Indian Manpower Programs funded under section 302 of the Act.

**§ 99.98 Travel requirements.**

Travel regulations for grantees under this subpart shall be consistent with the travel regulations that will be provided under Subtitle A, Part 97, Subpart B, Indian Manpower Programs, § 97.161 (7) *Travel Regulations*.

**§ 99.99 Nepotism.**

(a) No eligible applicant or subgrantee under this Subpart F shall hire, or

permit the hiring of, any person in a position funded under Title VI of the Act, if a member of the person's immediate family is employed in an administrative capacity by the eligible applicant. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister; the term "administrative capacity" means persons who have selection, hiring, or supervisory responsibilities for participants in a program under this Part 99, or operational responsibility for the program.

(b) If an eligible applicant or subgrantee under this Subpart F has a population of less than 1,000 persons and cannot hire program participants without an immediate family member being included, the Director of the Division of Indian Manpower Programs may waive the requirement of paragraph (a) of this section if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

(c) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the eligible applicant or subgrantee shall follow the tribal rule in lieu of this policy.

**§ 99.100 Non-discrimination.**

Section 99.82 shall be applicable to Indian programs funded pursuant to Title VI of the Act, except to the extent that such provisions conflict with 42 U.S.C. 2000 e(b).

**§ 99.101 Subgrants.**

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire qualified Indians to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000 e-2(1).

Signed in Washington, D.C., this 6th day of January 1975.

PETER J. BRENNAN,  
Secretary of Labor.

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