

time to consider the requests for rehearing. Pursuant to Rule 713(d) of the Commission's Procedural Rules, no answer to this order, or to the requests for rehearing, will be entertained.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-29673 Filed 12-13-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 601

Federal-State Employment Security Programs; Administrative Procedure

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is revising the regulations for administrative procedures for the approval, certification and findings with respect to State laws and plans of operation for standard and additional tax credit and grant purposes. The change will require two rather than four copies of documents submitted to reduce paperwork burden. This will conform with the guideline requirement of 5 CFR 1320.6(c).

This regulation change is submitted without notice and without comment because it is a nonsubstantive change.

EFFECTIVE DATE: December 16, 1985.

FOR FURTHER INFORMATION CONTACT:

Carolyn Golding, Director, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213; telephone: (202) 376-6636 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: 5 CFR 1320.6(c) provides that no more than three copies may be required of a collection burden unless otherwise justified.

The changes made in this document are:

1. Section 601.2(a) will now require the States to submit two copies of their unemployment compensation law to the Regional Administrator, Employment and Training Administration (RAETA), instead of four.

2. Section 601.2(b) will require the RAETA to send one copy of the State unemployment compensation law submitted according to § 601.2(a) to the central office of the Employment and

Training Administration instead of three.

3. Section 601.3(a) will require the States to submit two copies of relevant State materials as discussed in that section to the RAETA instead of four.

4. Section 601.3(b) will require the RAETA to send one copy of the relevant State materials to the central office instead of three.

Drafting Information

This document was prepared under the direction and control of the Director of the Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213; telephone: (202) 376-6636 (this is not a toll-free number).

Classification—Executive Order 12291

The rule in this document is not classified as a "major rule" under Executive Order 12291 of Federal Regulations, because it will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Department believes that this rule will have no "significant economic impact on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule merely reduces the number of copies of State laws and other relevant materials required to be submitted by the States to the RAETA, and by the RAETA to the ETA central office, and has no economic impact on any small entities. The Secretary has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Accordingly, no regulatory flexibility analysis is required.

List of Subjects in 20 CFR Part 601

Administrative procedures, Reporting requirements, State employment security agencies, Unemployment compensation.

Words of Issuance

For reasons set out in the preamble, Part 601 of Chapter V of Title 20 of the Code of Federal Regulations is amended as set forth below.

Signed at Washington, D.C., on November 19, 1985.

Roger D. Semerad,

Assistant Secretary of Labor.

20 CFR Part 601 is amended as follows:

PART 601—[AMENDED]

1. The authority citation for Part 601 is revised to read as follows, and the authority citations following all the sections in Part 601 are removed:

Authority: 5 U.S.C. 301; 26 U.S.C. Chapter 23; 29 U.S.C. 49k; 38 U.S.C. Chapters 41 and 42; 39 U.S.C. 3202(a)(1)(E) and 3202 note; 42 U.S.C. 1302; and Secretary of Labor's Order No. 4-75, 40 FR 18515.

2. Section 601.2 is amended by revising the introductory paragraph and paragraphs (a) and (b) to read as follows:

§ 601.2 Approval of State unemployment compensation laws.

States may at their option submit their unemployment compensation laws for approval (section 3304(a) of the Internal Revenue Code of 1954).

(a) *Submission.* The States submit to the Regional Administrator, Employment and Training Administration (RAETA) two copies of the State unemployment compensation law properly certified by an authorized State official to be true and complete, together with a written request for approval.

(b) *Review of State law.* The RAETA reviews the State law and forwards one copy to the central office of the Employment and Training Administration with his comments. The central office reviews the RAETA's comments and analyzes the State law from the standpoint of the requirements of section 3304(a) of the Internal Revenue Code of 1954.

3. Section 601.3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 601.3 Findings with respect to State laws and plans of operation.

(a) *Submission.* The States submit currently to the RAETA two copies of relevant State material, properly certified by an authorized State official to be true and complete.

(b) *Review.* The RAETA reviews the State material and forwards one copy to the central office with his comments. The central office reviews the material from the standpoint of its conformity with section 303(a) of the Social Security Act, section 3303(a) of the Internal

Revenue Code of 1954, or the Wagner-Peyser Act, as the case may be.

[FR Doc. 85-29590 Filed 12-13-85; 8:45 am]
BILLING CODE 4510-30-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 230

[FHWA Docket No. 85-32]

Supportive Services for Minority, Disadvantaged, and Women Business Enterprises

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: By this final rule, the FHWA is establishing a supportive service program to provide training and assistance to minority business enterprises (MBEs) in Federal-aid highway contracting activities pursuant to section 119(b) of the Surface Transportation Assistance Act of 1982 (STAA of 1982) (Pub. L. 97-424) and as authorized by the Secretary of Transportation. This document provides guidance to implement supportive services activities that will increase the proficiency of minority business enterprises, disadvantaged business enterprises, and women business enterprises to compete on an equal basis with other companies for contracts and subcontracts. The FHWA comments on the procedures adopted in this document for program implementation.

DATES: This rule is effective December 16, 1985.

Comments must be received on or before March 17, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 85-32, Federal Highway Administration, Room 4205, HHC-10, 400 Seventh Street SW., Washington DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. B.B. Myers, Chief, Construction and Maintenance Division, (202) 426-0392, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590.

Office Hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: Until 1980, the Federal Highway Administration (FHWA) promoted MBE participation in Federal-aid highway programs under provisions of 23 CFR Part 230, Subpart B. That regulation required the States to take certain affirmative actions to increase participation of MBE firms in highway construction programs. On March 31, 1980, the Department of Transportation (DOT) published a comprehensive set of regulations (45 FR 21172) designed to promote MBE participation in all financial assistance programs of the Department. These regulations were codified in 49 CFR Part 23, which superseded MBE regulations previously issued by DOT agencies, and contained administrative requirements for implementing DOT's policy of supporting the fullest possible participation in DOT programs of firms owned and controlled by minorities and women. Under 49 CFR Part 23, each recipient of Federal transportation assistance funds is required to adopt an MBE participation program which shall include, among other things, procedures for setting goals for MBE participation in Federal-aid contracts and provisions for assisting MBEs throughout the life of contracts in which they participate.

On January 6, 1983, in section 105(f) of the Surface Transportation Assistance Act of 1982 (STAA of 1982), Congress issued a new mandate for minority participation in DOT programs by requiring that "not less than 10 percent of the funds to be appropriated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals." To implement this provision, DOT issued a revision to 49 CFR Part 23 which continues the existing MBE program but adds a new Subpart D containing additional requirements relating to the attainment of 10 percent participation by disadvantaged business enterprises (DBE) (July 21, 1983, 48 FR 33442). The implementation of section 105(f) in effect replaced the term "MBE" with the term "DBE" for FHWA purposes.

Section 119(b) of the STAA of 1982 amended section 140 of Title 23, U.S.C., to provide that up to \$10,000,000 per year may be deducted from funds apportioned under 23 U.S.C. 104(a) to conduct and finance training and assistance programs in connection with any program under Title 23 "in order that minority business may achieve

proficiency to compete, on an equal basis, for contracts and subcontracts." This final rule implements section 119(b). The FHWA has determined that the supportive services programs should benefit MBEs, women business enterprises (WBEs), and DBEs, all as defined in 49 CFR Part 23. The term "MBE supportive services" will be used throughout this regulation to include coverage of all these groups. It is the policy of FHWA to promote the MBE program goals of increased levels of participation of MBEs in Federal-aid highway contracts. These goals are achieved by (1) increasing the total number of minority firms active in the highway program, and (2) supporting the growth and eventual self-sufficiency of individual firms.

The MBE supportive services regulation (23 CFR Part 230, Subpart B) is being issued to prescribe policies and procedures to be followed in developing, conducting, and administering minority business enterprise supportive services programs. To ensure that the congressional intent expressed in 23 U.S.C. 140(c) is carried out, the new regulation includes provisions which: (1) Define explicit program objectives to increase the participation of minority business in Federal-aid highway program contract work, with an emphasis on assistance that will enable firms to become self-sufficient; (2) provide guidance regarding the types of services allowable to assist the State Highway Agencies (SHAs) in determining the types of Supportive services to develop, conduct, and administer; (3) establish procedures for obligating funds allocated under the authority of 23 U.S.C. 140(C) for MBE supportive services programs; and (4) prescribe the role of the SHAs in monitoring, administering, and evaluating the MBE supportive services program.

In § 230.204(b)(5) of this regulation, the services relating to verification procedures should be undertaken to ensure that only eligible MBEs, meeting the criteria established in 49 CFR Part 23, participate in Federal-aid highway programs and receive the benefits of supportive services. Effective verification procedures contribute to the elimination of "frauds" and "fronts" from participation in the MBE program and enhance opportunities for legitimate MBEs to compete for contracts and subcontracts. The FHWA has determined that services relating to verification procedures are clearly within the intent of section 140 of Title 23, U.S.C.

The Form FHWA-1273 referenced in § 230.204(g)(4) of this regulation is the new designation for Form PR-1273, Required Contract Provisions, Federal-Aid Construction Contracts, which is undergoing revisions and pending publication.

The FHWA has determined that this action does not contain a major rule under the Executive Order 12291 or a significant regulation under the regulatory policies of the Department of Transportation. The compliance costs associated with the regulation are not expected to be significant while the supportive services program will provide important benefits to minority and women-owned businesses and to others. This regulation attempts to provide a reasonable administrative framework for supportive services programs and is not expected to have a major economic impact nor have a significant economic impact on a substantial number of small entities. A regulatory evaluation and regulatory flexibility analysis, prepared pursuant to the Regulatory Flexibility Act, have been prepared and are available for inspection in the public docket.

The FHWA recognizes that this program when implemented will serve an important role in developing a larger more diversified and self-sufficient minority business enterprise community. Since this rulemaking action is primarily concerned with implementing a congressional mandate and since it is important for the program to be initiated, the FHWA finds good cause to make this regulation effective without prior notice and without a 30-day delay in effective date. Neither a general notice of proposed rulemaking nor a 30-day delay in effective date is required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2). Accordingly, the regulation is effective upon publication. However, the FHWA gives notice that comments on the procedures promulgated to administer the program will be accepted and evaluated in determining the need for future procedural revisions to the final rule.

While the FHWA does not anticipate that there will be any useful public comment on the general issue of the grant program itself, there may be procedural comments on some provisions of the final rule. For this reason, publication of this final rule without an opportunity for prior comment, but with a request for comments following publication, is consistent with the Department of Transportation's regulatory policies.

In consideration of the foregoing and under the authority of 23 U.S.C. 101, 140, 304, and 315 and 49 CFR 1.48(b), FHWA is amending Chapter 1, Part 230, Subpart B of Title 23, Code of Federal Regulations, as set forth below.

(Catalog of Federal Domestic Assistance Programs Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 230

Grant programs—Transportation, Highways and roads, Minority business.

Issued on: December 9, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

PART 230—[AMENDED]

Subpart B is revised to read as set forth below:

Subpart B—Supportive Services for Minority, Disadvantaged, and Women Business Enterprises

Sec.

- 230.201 Purpose.
- 230.202 Definitions.
- 230.203 Policy.
- 230.204 Implementation of supportive services.
- 230.205 Supportive services funds obligation.
- 230.206 Monitoring supportive services.
- 230.207 Sources of assistance.

Authority: 23 U.S.C. 101, 140(c), 304, 315; 49 CFR 1.48(b).

Subpart B—Supportive Services for Minority, Disadvantaged, and Women Business Enterprises

§ 230.201 Purpose.

To prescribe the policies, procedures, and guidance to develop, conduct, and administer supportive services assistance programs for minority, disadvantaged, and women business enterprises.

§ 230.202 Definitions.

(a) "Minority Business Enterprise," as used in this subpart, refers to all small businesses which participate in the Federal-aid highway program as a minority business enterprise (MBE), women business enterprise (WBE), or disadvantaged business enterprise (DBE), all defined under 49 CFR Part 23. This expanded definition is used only in this subpart as a simplified way of defining the firms eligible to benefit from this supportive services program.

(b) "Supportive Services" means those services and activities provided in connection with minority business

enterprise programs which are designed to increase the total number of minority businesses active in the highway program and contribute to the growth and eventual self-sufficiency of individual minority businesses so that such businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts.

(c) "State highway agency" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" is considered equivalent to "State highway agency" if the context so implies.

§ 230.203 Policy.

Based on the provisions of Pub. L. 97-424, dated January 6, 1983, it is the policy of the Federal Highway Administration (FHWA) to promote increased participation of minority business enterprises in Federal-aid highway contracts in part through the development and implementation of cost effective supportive services programs through the State highway agencies.

§ 230.204 Implementation of supportive services.

(a) Subject to the availability of funds under 23 U.S.C. 140(c), the State highway agency shall establish procedures to develop, conduct, and administer minority business enterprise training and assistance programs specifically for the benefit of women and minority businesses. Supportive services funds allocated to the States shall not be used to finance the training of State highway agency employees or to provide services in support of such training. State highway agencies are not required to match funds allocated to them under this section. Individual States are encouraged to be actively involved in the provision of supportive services. Such involvement can take the form of staff, funding, and/or direct assistance to augment the supportive services efforts financed by Federal-aid funds.

(b) State highway agencies shall give preference to the following types of services:

(1) Services relating to identification, prequalification, and certification assistance, with emphasis on increasing the total number of legitimate minority business enterprises participating in the Federal-aid highway program;

(2) Services in connection with estimating, bidding, and technical assistance designed to develop and improve the capabilities of minority businesses and assist them in achieving

proficiency in the technical skills involved in highway construction;

(3) Services designed to develop and improve the immediate and long-term business management, recordkeeping, and financial accounting capabilities;

(4) Services to assist minority business enterprises to become eligible for and to obtain bonding and financial assistance;

(5) Services relating to verification procedures to ensure that only *bona fide* minority business enterprises are certified as eligible for participation in the Federal-aid highway program;

(6) Follow-up services to ascertain the outcome of training and assistance being provided; and

(7) Other services which contribute to long-term development, increased opportunities, and eventual self-sufficiency of minority business enterprises.

(c) A detailed work statement of the supportive services which the State highway agency considers to meet the guidance under this regulation and a program plan for meeting the requirements of paragraph (b) of this section and accomplishing other objectives shall be submitted to the FHWA for approval.

(d) State highway agencies which desire to provide or obtain services other than those listed in paragraph (b) of this section shall submit their proposals to the FHWA for approval.

(e) When the State highway agency provides supportive services by contract, formal advertising is not required by FHWA; however, the State highway agency shall solicit proposals from such qualified sources as will assure the competitive nature of the procurement. The evaluation of proposals by the State highway agency must include consideration of the proposer's ability to effect a productive relationship with majority and minority contractors, contractors' associations, minority groups, and other persons or organizations whose cooperation and assistance will increase the opportunities for minority business enterprises to compete for and perform contracts and subcontracts.

(f) In the selection of contractors to perform supportive services, State highway agencies shall make conscientious efforts to search out, and utilize the services of qualified minority or women organizations, or minority or women enterprises.

(g) As a minimum, State highway agency contracts to obtain supportive services shall include the following provisions:

(1) A statement that a primary purpose of the supportive services is to

increase the total number of minority firms participating in the Federal-aid highway program and to contribute to the growth and eventual self-sufficiency of minority firms;

(2) A statement that supportive services shall be provided only to those minority business enterprises determined to be eligible for participation in the Federal-aid highway program in accordance with 49 CFR Part 23 and have a work specialty related to the highway construction industry;

(3) A clear and complete statement of the services to be provided under the contract, such as technical assistance, managerial assistance, counseling, certification assistance, and follow-up procedures as set forth in § 230.204(b) of this part;

(4) The nondiscrimination provisions required by Title VI of the Civil Rights Act of 1964 as set forth in Form FHWA-1273, Required Contract Provisions, Federal-Aid Construction Contracts,¹ and a statement of nondiscrimination in employment because of race, color, religion, sex, or national origin;

(5) The establishment of a definite period of contract performance together with, if appropriate, a schedule stating when specific supportive services are to be provided;

(6) Monthly or quarterly reports to the State highway agency containing sufficient data and narrative content to enable evaluation of both progress and problems;

(7) The basis of payment;

(8) An estimated schedule for expenditures;

(9) The right of access to records and the right to audit shall be granted to authorize State highway agency and FHWA officials;

(10) Noncollusion certification;

(11) A requirement that the contractor provide all information necessary to support progress payments if such are provided for in the contract; and

(12) A termination clause.

(h) The State highway agency is to furnish copies of the reports received under paragraph(g)(6) of this section to the FHWA division office.

§ 230.205 Supportive services funds obligation.

Supportive services funds shall be obligated in accordance with the procedures set forth in § 230.117(b) of this part. The point of obligation is defined as that time when the FHWA has approved a detailed work statement for the supportive services.

¹ Form FHWA-1273 is set forth at 23 CFR Part 633, Subpart A, Appendix A.

§ 230.206 Monitoring supportive services.

Supportive services programs shall be continually monitored and evaluated by the State highway agency so that needed improvements can be identified and instituted. This requires the documentation of valid effectiveness measures by which the results of program efforts may be accurately assessed.

§ 230.207 Sources of assistance.

It is the policy of the FHWA that all potential sources of assistance to minority business enterprises be utilized. The State highway agency shall take actions to ensure that supportive services contracts reflect the availability of all sources of assistance in order to maximize resource utilization and avoid unnecessary duplication.

[FR Doc. 85-29731 Filed 12-13-85; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 23

Indian Child Welfare Act; Revision of Grant Application Procedures

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule that amends the regulations necessary to implement the Indian Child Welfare Act of 1978. The amended regulations change the procedures for grant application under Title II of Pub. L. 95-608, and enable the Assistant Secretary of Indian Affairs to award multi-year developmental projects to Indian tribes or organizations for three years.

The Bureau published these amendments as a proposed rule on January 11, 1984, and intends to implement them immediately in order to authorize multi-year development grants prior to publication of the announcement for the FY 86 grant application period. Therefore, for administrative purposes, good cause is found under 5 U.S.C. (d) (2) and (3) for these regulations to become effective upon publication in the Federal Register.

EFFECTIVE DATE: December 16, 1985.

FOR FURTHER INFORMATION CONTACT: Eddie F. Brown, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, telephone number (202) 343-6434.