

§ 601.3

the law of which the Secretary has previously approved. (See also § 601.5.)

(Approved by the Office of Management and Budget under control number 1205-0222)

[15 FR 5886, Aug. 31, 1950; 23 FR 1267, Mar. 1, 1958, as amended at 49 FR 18295, Apr. 30, 1984; 50 FR 51241, Dec. 16, 1985; 71 FR 35513, June 21, 2006]

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

For purposes of grants, findings are made regarding the inclusion in State unemployment compensation laws, approved under section 3304(a) of the Internal Revenue Code of 1986, of provisions required by section 303(a) of the Social Security Act (see § 601.2); findings are also made whether a State has accepted the provisions of the Wagner-Peyser Act and whether its plan of operation for public employment offices complies with the provisions of said act. For purposes of additional tax credit, findings are made regarding reduced rates of contributions permitted by the State law (section 3303(a) (1) of the Internal Revenue Code of 1986).

So that the Secretary of Labor may be enabled to determine the status of State laws and plans of operation, all relevant State materials, such as statutes, executive and administrative orders, legal opinions, rules, regulations, interpretations, court decisions, etc., are required to be submitted currently.

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

(b) [Reserved]

(c) *Findings.* The Secretary makes findings as provided in the cited sections of the Federal law. In the event that the Secretary is unable to make the findings required for certification for payment or for certification of the law for purposes of additional tax credit, further discussions with State officials are undertaken.

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§ 601.4 Certification for tax credit.

(a) Within 30 days after submittal of a State unemployment compensation law for such purpose, the Secretary certifies to the State agency, in accordance with the provisions of section 3303(b)(3) of the Internal Revenue Code of 1986, the Secretary's findings regarding reduced rates of contributions allowable under such law. On October 31 of each taxable year the Secretary certifies to the Secretary of the Treasury the law of each State, certified with respect to such year under section 3304 of the Internal Revenue Code of 1986 (see § 601.2), which the Secretary finds allows reduced rates with respect to such taxable year only in accordance with the provisions of section 3303(a) of the Internal Revenue Code of 1986.

(b) With regard to certification for payment, see § 601.6.

[15 FR 5886, Aug. 31, 1950; 23 FR 1267, Mar. 1, 1958, as amended at 71 FR 35513, June 21, 2006]

§ 601.5 Withholding payments and certifications.

(a) *When withheld.* Payment of funds to States or yearend certification of State laws, or both, are withheld when the Secretary finds, after reasonable notice and opportunity for hearing:

(1) That any provision required by section 303(a) of the Social Security Act is no longer included in the State unemployment compensation law; or

(2) That the State unemployment compensation law has been so changed as no longer to meet the conditions required by section 3303(a) of the Internal Revenue Code of 1986 (section 3303(b)(3) of the Internal Revenue Code); or

(3) That the State unemployment compensation law has been so amended as no longer to contain the provisions specified in section 3304(a) or has failed to comply substantially with any such provision and such finding has become effective (section 3304(c) of the Internal Revenue Code of 1986); or

(4) That in the administration of the State unemployment compensation law there has been a failure to comply substantially with required provisions of such law (section 303(b)(2) of the Social Security Act and section 3303(b)(3) of the Internal Revenue Code of 1986); or

(5) That in the administration of the State unemployment compensation law there has been a denial, in a substantial number of cases, of benefits due under such law, except that there may be no such finding until the question of entitlement has been decided by the highest judicial authority given jurisdiction under such State law (section 303(b)(1) of the Social Security Act); or

(6) That a State fails to make its unemployment compensation records available to the Railroad Retirement Board or fails to cooperate with Federal agencies charged with the administration of unemployment compensation laws (section 303(c) of the Social Security Act); or

(7) That a State no longer has a plan of operation for public employment offices complying with the provisions of the Wagner-Peyser Act; or

(8) That a State agency has not properly expended, in accordance with an approved plan of operation, the Federal monies paid it for administration of its public employment service.

(b) *Informal discussion.* Such hearings are generally not called, however, until after every reasonable effort has been made by ETA representatives to resolve the question involved by conference and discussion with State officials. Formal notification of the date and place of a hearing does not foreclose further negotiations with State officials.

(c) *Notice of noncertification.* If, at any time during the taxable year, the Secretary of Labor has reason to believe that a State whose unemployment compensation law he/she has previously approved may not be certified, the Secretary promptly notifies the Governor of the State to that effect (section 3304(d) of the Internal Revenue Code of 1986).

(d) *Notice of hearing.* Notice of hearing is sent by the Secretary of Labor to the State unemployment compensation agency. The notice sets forth the purpose of the hearing, the time, date, and place at which the hearing will be held, and the rules of procedure which will be followed. At a hearing the State is given an opportunity to present arguments and all relevant evidence, written or oral. The Secretary makes the

necessary determination or findings, on the basis of the record of such hearings. A notice of the Secretary's determination or finding is sent to the State unemployment compensation agency.

(e) *Civil Rights Act issues.* To the extent that any proposed withholding of funds involves circumstances within the scope of title VI of the Civil Rights Act of 1964 and the regulations promulgated thereunder, the procedure set forth in 29 CFR part 31 shall be applicable.

[30 FR 6942, May 22, 1965, as amended at 43 FR 13828, Mar. 31, 1978; 71 FR 35513, June 21, 2006]

Subpart B—Grants, Advances and Audits

§ 601.6 Grants for administration of unemployment compensation laws and employment service.

Grants of funds for administration of State unemployment compensation laws and public employment service programs are made to States under section 302(a) of the Social Security Act, the Wagner-Peyser Act, and the Appropriation Acts.

(a) *Requests for funds.* The forms and instructions used by State agencies in requesting funds are available on the ETA Web site (<http://www.ows.doleta.gov/rjm>). The forms and instructions call for detailed information for each budgetary period concerning the specific amounts requested for personal services and other current expenses of State agencies, supported by workload and unit-cost estimates. Supplementary budget requests are processed in the same manner as regular requests. The Administration's representatives in the regional offices furnish assistance to the State agencies in preparing requests for funds.

(b) *Processing of requests.* (1) State agencies send their requests for funds to the Regional Administrator who reviews the requests and forwards them to the ETA National Office with his/her recommendation as to the amounts necessary for proper and efficient administration of the State unemployment compensation law and employment service program.

(2) The ETA National Office appraises the requests and the recommendations