§ 846. Substate level activities. 1. (a) Grantees shall use funds allotted to them pursuant to section eight hundred forty-eight of this article to provide to eligible dislocated workers the core functions of the worker adjustment program, which include intake, assessment and counseling, as well as basic readjustment and retraining services as defined in section eight hundred thirty-five of this article, directly or by contract. Provided, however, that such grantees shall not be required by the department to contract with any specific provider for the provision of such services.

(b) Each substate grantee shall provide intake, counseling and assessment directly or by contract on an ongoing basis at a site or sites designated by the substate grantee to which all dislocated workers in the area have access. In addition, the substate grantee may make such services available at the location of a plant closing or substantial layoff.

(c) Substate grantees shall require that all service providers selected by the substate grantee to receive funds allocated pursuant to section eight hundred forty-eight of this article, other than vouchers for training services given to program participants pursuant to subdivision four of this section, shall provide a written plan which includes: (i) the amount and purposes for which funding is requested; (ii) a description of the services to be provided, including the duration of service and the estimated service cost per recipient; (iii) procedures for identifying and selecting participants and for eligibility determination and verification; (iv) evidence that the proposed service program will provide appropriate assistance to recipients seeking available private sector employment; (v) a description of other funding sources which may be used for such programs; (vi) a description of steps the provider will take to avoid duplication of services available through existing resources; (vii) a description of the provider's coordination with programs and activities funded through the job training partnership act or other state resources; (viii) procedures for advising the local private industry council of the provider's proposal, including ways in which the provider intends to cooperate with the local private industry council; and (ix) such other information as may be required by the grantee.

(d) The grantee shall select training providers and determine the

amount of monies available for each program. Selection considerations shall include: the provider's past effectiveness in delivering employment or vocational training programs or other readjustment services based on demonstrated performance; for training providers, ability to provide participants with the skills necessary to fill available jobs in the private sector; cost of the proposed program; the administrative capability to operate such a program; fiscal responsibility; for training providers, a record of job placement for completers which meets standards of acceptability established by the commissioner for this purpose; the degree to which the provider has made provisions for coordination with other services available under the job training partnership act and other state and federal programs; and such other factors as the grantee may determine. Funds provided pursuant to this article shall not be used to duplicate facilities or services available to the substate area from other federal, state or local sources.

(e) Appropriate vocational and educational institutions in the substate area shall be accorded the initial opportunity to provide educational services unless the grantee determines that alternative entities would be more effective or would have greater potential to enhance participants' continued occupational and career growth.

(f) Funds shall be made available to service providers through direct contract between each such service provider and the grantee. The grantee shall notify the department of the award of each contract and shall certify that the requirements of this article have been met.

(g) After March first of each year, the department shall reapportion an amount of unexpended funds from each substate area's allocation that the department has determined cannot be expended as planned. The substate area shall be provided with no less than thirty days advance notice and an opportunity to appeal the reallocation. The department shall reallocate those funds to the substate areas in a manner consistent with the purposes of this section and with applicable federal law and regulations. Funds shall be reallocated to substate areas that have demonstrated an ability to expend funds at a rate in keeping with or exceeding planned levels and where existing resources are insufficient to provide needed services, to be determined in consultation with interested parties. At any time after December

thirty-first, a substate area may volunteer to deobligate funds. Such funds may be reallocated immediately by the department to the substate grantees consistent with the purposes of this article.

2. Opportunities may be offered for on-the-job training with the following conditions:

(a) preference will be given for jobs which exceed the minimum wage and which have the capacity for growth and advancement;

(b) the employer will be responsible for at least fifty percent of the wages and fringe benefits paid to a worker in training.

3. Needs-related payments may be provided under this section pursuant to subparagraph (e) of section three hundred fourteen of the act for eligible participants upon demonstration of need after considering all of the sources of income available to the participant or the participant's family. However, such payment shall not be made unless the participant's unemployment compensation, including any extended benefits, will expire prior to their completion of the program.

4. Alternative methods of providing retraining services may be approved such as:

(a) A substate grantee may defer the delivery of retraining services by providing the program participant with a certificate of continuing eligibility:

(i) such certificates may be effective for periods not to exceed one hundred four weeks;

(ii) certificates will not include references to any specific amounts of funds;

(iii) certificates shall state that they are subject to availability of funds at the time that the services are to be provided; and

(iv) acceptance of a certificate shall not be deemed as enrollment in training.

(b) A substate grantee may provide the program participants with vouchers for training services whereby the participants may seek out and arrange their own retraining with the following limitations:

(i) service providers must be approved by the grantee pursuant to the provisions of subparagraph (ii) of this paragraph;

(ii) the commissioner of education shall prepare a list of programs approved for funding and shall submit such list to the commissioner by July first, nineteen hundred eighty-nine, and shall thereafter from time to time as he or she determines necessary update such list. The commissioner shall include on such list only non-degree programs which are at least three hundred twenty clock hours in length, and which provide skills for employment based on current requirements of business and industry in an occupational field for which favorable employment opportunities are anticipated in the state and which meet standards of instructional quality established in regulations by the commissioner of education. These standards shall include, but are not limited to, qualifications of administrative and instructional personnel, quality of the curricula, quality of facilities and equipment, record keeping, admission, grading, attendance and record of placement of completers which meets standards of acceptability as established by the commissioner of education in conjunction with the commissioner;

(iii) such services shall be conducted under a grant, contract or other arrangement between the grantee and the service provider; and

(iv) substate grantees shall provide vouchers to program participants only upon demonstration that such program participant has been accepted for and is proposing to undertake an occupational retraining program which has been approved by the commissioner of education pursuant to this section.

5. Substate grantees shall establish linkages with all involved state agencies, including local and regional offices of the department of labor, the department of education and the department of economic development.