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42 U.S. Code § 3056 - Older American community service employment program

U.S. Code Notes

(a) IN GENERAL

(1) ESTABLISHMENT OF PROGRAM

To foster individual economic self-sufficiency and promote useful opportunities in community service activities (which shall include community service employment) for unemployed low-income persons who are age 55 or older, particularly persons who have poor employment prospects, and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors, the Secretary of Labor (referred to in this subchapter as the "Secretary") may establish an older American community service employment program.

(2) USE OF APPROPRIATED AMOUNTS

Amounts appropriated to carry out this subchapter shall be used only to carry out the provisions contained in this subchapter.

(b) GRANT AUTHORITY

(1) PROJECTS

To carry out this subchapter, the Secretary may make grants to public and nonprofit private agencies and organizations, agencies of a State, and tribal organizations to carry out the program established under subsection (a). Such grants may provide for the

payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make such program effective or to supplement such program. The Secretary shall make the grants from allotments made under section 3056d of this title, and in accordance with section 3056f of this title. No payment shall be made by the Secretary toward the cost of any project established or administered by such an organization or agency unless the Secretary determines that such project—

(A) will provide community service employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, and such personnel will, to the fullest extent possible, be recruited from among eligible individuals;

(B)

(i) will provide community service employment and other authorized activities for eligible individuals in the community in which such individuals reside, or in nearby communities; or

(ii) if such project is carried out by a tribal organization that receives a grant under this subsection or receives assistance from a State that receives a grant under this subsection, will provide community service employment and other authorized activities for such individuals, including those who are Indians residing on an Indian reservation, as defined in section 3501 of title 25;

(C) will comply with an average participation cap for eligible individuals (in the aggregate) of—

(i) 27 months; or

(ii) pursuant to the request of a grantee, an extended period of participation established by the Secretary for a specific project area for such grantee, up to a period of not more than 36 months, if the Secretary determines that extenuating circumstances exist relating to the factors identified in section 3056k(a)(2)(E) of this title that justify such an extended period for the program year involved;

(D) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by

nonprofit organizations (excluding political parties exempt from taxation under section 501(c)(3) of title 26), but excluding projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(E) will contribute to the general welfare of the community, which may include support for children, youth, and families;

(F) will provide community service employment and other authorized activities for eligible individuals;

(G)

(i) will not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals not participating in the program;

(ii) will not displace currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits);

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

(iv) will not employ or continue to employ any eligible individual to perform the same work or substantially the same work as that performed by any other individual who is on layoff;

(H) will coordinate activities with training and other services provided under title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], including utilizing the one-stop delivery system of the local workforce development areas involved to recruit eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training (such as work experience, on-the-job training, and classroom training) as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance equivalent to the wage described in subparagraph (J);

(J) will ensure that safe and healthy employment conditions will be provided, and will ensure that participants employed in community service and other jobs assisted under this subchapter will be paid wages that shall not be lower than whichever is the highest of—

(i) the minimum wage that would be applicable to such a participant under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 206(a)(1)) applied to the participant and if the participant were not exempt under section 13 of such Act (29 U.S.C. 213);

(ii) the State or local minimum wage for the most nearly comparable covered employment; or

(iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which community service employment or other authorized activities are being provided, and of persons who are knowledgeable about the needs of older individuals;

(L) will authorize payment for necessary supportive services costs (including transportation costs) of eligible individuals that may be incurred in training in any project funded under this subchapter, in accordance with rules issued by the Secretary;

(M) will ensure that, to the extent feasible, such project will serve the needs of minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greatest economic need, at least in proportion to their numbers in the area served and take into consideration their rates of poverty and unemployment;

(N)

(i) will prepare an assessment of the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), the Carl D. Perkins Career and Technical Education

Act of 2006 (20 U.S.C. 2301 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

(ii) will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i), and provide other appropriate information regarding such project; and

(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

(O) will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce development areas involved as established under section 121(e) of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151(e)], and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce development board in accordance with section 121(c) of such Act [29 U.S.C. 3151(c)];

(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation—

(i) clarifying the law with respect to political activities allowable and unallowable under chapter 15 of title 5 applicable to the project and to each category of individuals associated with such project; and

(ii) containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

(Q) will provide to the Secretary the description and information described in—

(i) clauses (ii) and (viii) of paragraph (2)(B), relating to coordination with other Federal programs, of section 102(b) of

the Workforce Innovation and Opportunity Act [29 U.S.C. 3112(b)]; and

(ii) paragraph (2)(C)(i), relating to implementation of one-stop delivery systems, of section 102(b) of the Workforce Innovation and Opportunity Act; and

(R) will ensure that entities that carry out activities under the project (including State agencies, local entities, subgrantees, and subcontractors) and affiliates of such entities receive an amount of the administrative cost allocation determined by the Secretary, in consultation with grantees, to be sufficient.

(2) REGULATIONS

The Secretary may establish, issue, and amend such regulations as may be necessary to effectively carry out this subchapter.

(3) ASSESSMENT AND SERVICE STRATEGIES

(A) Prepared under this chapter

An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151 et seq.], in order to determine whether such eligible individual also qualifies for career or training services described in section 134(c) of such Act [29 U.S.C. 3174(c)].

(B) Prepared under Workforce Innovation and Opportunity Act

An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151 et seq.] for an eligible individual may be used to comply with the requirement specified in subparagraph (A).

(C) FEDERAL SHARE AND USE OF FUNDS

(1) FEDERAL SHARE

The Secretary may pay a Federal share not to exceed 90 percent of the cost of any project for which a grant is made under subsection

(b), except that the Secretary may pay all of such cost if such project is—

(A) an emergency or disaster project; or

(B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

(2) NON-FEDERAL SHARE

The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(3) USE OF FUNDS FOR ADMINISTRATIVE COSTS

Of the grant amount to be paid under this subsection by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the administrative costs of such project, except that—

(A) the Secretary may increase the amount available to pay the administrative costs to an amount not to exceed 15 percent of the grant amount if the Secretary determines, based on information submitted by the grantee under subsection (b), that such increase is necessary to carry out such project; and

(B) if the grantee under subsection (b) demonstrates to the Secretary that—

(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and costs associated with other operation requirements imposed by the Secretary;

(ii) the number of community service employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available to pay the administrative costs is not increased; or

(iii) the size of the project is so small that the amount of administrative costs incurred to carry out the project necessarily exceeds 13.5 percent of the grant amount;

the Secretary shall increase the amount available for such fiscal year to pay the administrative costs to an amount not to exceed 15 percent of the grant amount.

(4) ADMINISTRATIVE COSTS

For purposes of this subchapter, administrative costs are the costs, both personnel-related and nonpersonnel-related and both direct and indirect, associated with the following:

(A) The costs of performing general administrative functions and of providing for the coordination of functions, such as the costs of—

(i) accounting, budgeting, and financial and cash management;

(ii) procurement and purchasing;

(iii) property management;

(iv) personnel management;

(v) payroll functions;

(vi) coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;

(vii) audits;

(viii) general legal services;

(ix) developing systems and procedures, including information systems, required for administrative functions;

(x) preparing administrative reports; and

(xi) other activities necessary for the general administration of government funds and associated programs.

(B) The costs of performing oversight and monitoring responsibilities related to administrative functions.

(C) The costs of goods and services required for administrative functions of the project involved, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space.

(D) The travel costs incurred for official business in carrying out administrative activities or overall management.

(E) The costs of information systems related to administrative functions (such as personnel, procurement, purchasing, property management, accounting, and payroll systems), including the purchase, systems development, and operating costs of such systems.

(F) The costs of technical assistance, professional organization membership dues, and evaluating results obtained by the project involved against stated objectives.

(5) NON-FEDERAL SHARE OF ADMINISTRATIVE COSTS

To the extent practicable, an entity that carries out a project under this subchapter shall provide for the payment of the expenses described in paragraph (4) from non-Federal sources.

(6) USE OF FUNDS FOR WAGES AND BENEFITS AND PROGRAMMATIC ACTIVITY COSTS

(A) In general

Amounts made available for a project under this subchapter that are not used to pay for the administrative costs shall be used to pay for the costs of programmatic activities, including the costs of—

(i) participant wages, such benefits as are required by law (such as workers' compensation or unemployment compensation), the costs of physical examinations, compensation for scheduled work hours during which an employer's business is closed for a Federal holiday, and necessary sick leave that is not part of an accumulated sick leave program, except that no amounts provided under this subchapter may be used to pay the cost of pension benefits, annual leave, accumulated sick leave, or bonuses;

(ii) participant training (including the payment of reasonable costs of instructors, classroom rental, training supplies, materials, equipment, and tuition), which may be provided prior to or subsequent to placement and which may be provided on the job, in a classroom setting, or pursuant to other appropriate arrangements;

(iii) job placement assistance, including job development and job search assistance;

(iv) participant supportive services to enable a participant to successfully participate in a project under this subchapter, which may include the payment of reasonable costs of transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services; and

(v) outreach, recruitment and selection, intake, orientation, and assessments.

(B) Use of funds for wages and benefits

From the funds made available through a grant made under subsection (b), a grantee under this subchapter—

(i) except as provided in clause (ii), shall use not less than 75 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i) for eligible individuals who are employed under projects carried out under this subchapter; or

(ii) that obtains approval for a request described in subparagraph (C) may use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

(C) Request to use additional funds for programmatic activity costs

(i) In general

A grantee may submit to the Secretary a request for approval—

(I) to use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i);

(II) to use the percentage of grant funds described in paragraph (3) to pay for administrative costs, as specified in that paragraph;

(III) to use not more than 10 percent of the grant funds for individual participants to provide activities described in clauses (ii) and (iv) of subparagraph (A), in which case the grantee shall provide (from the funds described in this subclause) the subsistence allowance described in subsection (b)(1)(I) for those individual participants who are receiving training described in that subsection from the funds described in this subclause, but may not use the funds described in this subclause to pay for any administrative costs; and

(IV) to use the remaining grant funds to provide activities described in clauses (ii) through (v) of subparagraph (A).

(ii) Contents

In submitting the request the grantee shall include in the request—

(I) a description of the activities for which the grantee will spend the grant funds described in subclauses (III) and (IV) of clause (i), consistent with those subclauses;

(II) an explanation documenting how the provision of such activities will improve the effectiveness of the project, including an explanation concerning whether any displacement of eligible individuals or elimination of positions for such individuals will occur, information on the number of such individuals to be displaced and of such positions to be eliminated, and an explanation concerning how the activities will improve employment outcomes for individuals served, based on the assessment conducted under subsection (b)(1)(N); and

(III) a proposed budget and work plan for the activities, including a detailed description of the funds to be spent on the activities described in subclauses (III) and (IV) of clause (i).

(iii) Submission

The grantee shall submit a request described in clause (i) not later than 90 days before the proposed date of implementation contained in the request. Not later than 30 days before the

proposed date of implementation, the Secretary shall approve, approve as modified, or reject the request, on the basis of the information included in the request as described in clause (ii).

(D) Report

Each grantee under subsection (b) shall annually prepare and submit to the Secretary a report documenting the grantee's use of funds for activities described in clauses (i) through (v) of subparagraph (A).

(d) PROJECT DESCRIPTION

Whenever a grantee conducts a project within a planning and service area in a State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and the local workforce development board and shall submit to the State agency, the local workforce development board, and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 90 days prior to undertaking the project, for review and public comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of projects under this subchapter.

(e) PILOT, DEMONSTRATION, AND EVALUATION PROJECTS

(1) IN GENERAL

The Secretary, in addition to exercising any other authority contained in this subchapter, shall use funds reserved under section 3056d(a)(1) of this title to carry out demonstration projects, pilot projects, and evaluation projects, for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of the techniques and approaches, in addressing the employment and training needs of eligible individuals. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations, or private business concerns, as may be necessary, to conduct the projects authorized by this subsection. To the extent practicable, the Secretary shall provide an opportunity, prior to the development of a demonstration or pilot project, for the appropriate area agency on aging to submit comments on such a project in order to ensure coordination of activities under this subchapter.

(2) PROJECTS

Such projects may include—

- (A)** activities linking businesses and eligible individuals, including activities providing assistance to participants transitioning from subsidized activities to private sector employment;
- (B)** demonstration projects and pilot projects designed to—
 - (i)** attract more eligible individuals into the labor force;
 - (ii)** improve the provision of services to eligible individuals under one-stop delivery systems established under section 121(e) of the Workforce Innovation and Opportunity Act [29 U.S.C. 3151(e)];
 - (iii)** enhance the technological skills of eligible individuals; and
 - (iv)** provide incentives to grantees under this subchapter for exemplary performance and incentives to businesses to promote their participation in the program under this subchapter;
- (C)** demonstration projects and pilot projects, as described in subparagraph (B), for workers who are older individuals (but targeted to eligible individuals) only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals;
- (D)** provision of training and technical assistance to support any project funded under this subchapter;
- (E)** dissemination of best practices relating to employment of eligible individuals; and
- (F)** evaluation of the activities authorized under this subchapter.

(3) CONSULTATION

To the extent practicable, entities carrying out projects under this subsection shall consult with appropriate area agencies on aging, with the State workforce development board and local workforce development board, and with other appropriate agencies and entities to promote coordination of activities under this subchapter.

(Pub. L. 89–73, title V, § 502, as added Pub. L. 109–365, title V, § 501, Oct. 17, 2006, 120 Stat. 2563; amended Pub. L. 113–128, title V, § 512(w)(3),

July 22, 2014, 128 Stat. 1713; Pub. L. 114-144, § 6(a), Apr. 19, 2016, 130 Stat. 342.)

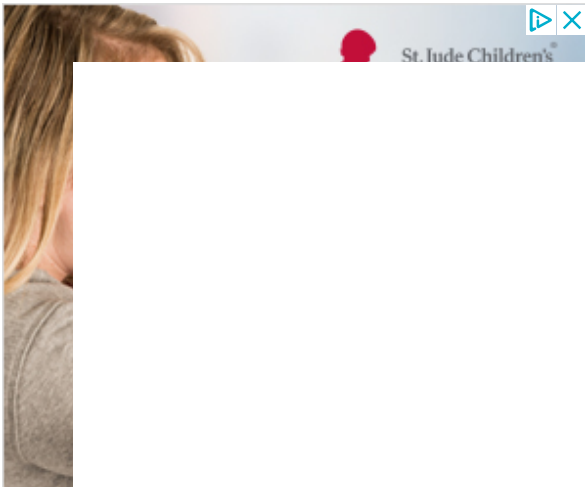
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