

(Pub. L. 89-73, title V, §512, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2580.)

PRIOR PROVISIONS

A prior section 3056j, Pub. L. 89-73, title V, §512, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2280, related to coordination with the Workforce Investment Act of 1998, prior to the general amendment of this subchapter by Pub. L. 109-365. See section 3056i of this title.

**§ 3056k. Performance**

**(a) Measures and indicators**

**(1) Establishment and implementation of measures and indicators**

The Secretary shall establish and implement, after consultation with grantees, subgrantees, and host agencies under this subchapter, States, older individuals, area agencies on aging, and other organizations serving older individuals, core measures of performance and additional indicators of performance for each grantee for projects and services carried out under this subchapter. The core measures of performance and additional indicators of performance shall be applicable to each grantee under this subchapter without regard to whether such grantee operates the program directly or through subcontracts, subgrants, or agreements with other entities.

**(2) Content**

**(A) Composition of measures and indicators**

**(i) Measures**

The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subsection (b)(1) and the expected levels of performance applicable to each core indicator of performance.

**(ii) Additional indicators**

The additional indicators of performance established by the Secretary in accordance with paragraph (1) shall be the additional indicators of performance specified in subsection (b)(2).

**(B) Continuous improvement**

The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance.

**(C) Expected levels of performance**

The Secretary and each grantee shall reach agreement on the expected levels of performance for each program year for each of the core indicators of performance specified in subparagraph (A)(i). The agreement shall take into account the requirement of subparagraph (B) and the factors described in subparagraph (D), and other appropriate factors as determined by the Secretary, and shall be consistent with the requirements of subparagraph (E). Funds may not be awarded under the grant until such agreement is reached. At the conclusion of negotiations concerning the levels with all grantees, the Secretary shall make available for public review the final negotiated expected levels of

performance for each grantee, including any comments submitted by the grantee regarding the grantee's satisfaction with the negotiated levels.

**(D) Adjustment**

The expected levels of performance described in subparagraph (C) applicable to a grantee shall be adjusted after the agreement under subparagraph (C) has been reached only with respect to the following factors:

(i) High rates of unemployment or of poverty or participation in the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), in the areas served by a grantee, relative to other areas of the State involved or Nation.

(ii) Significant downturns in the areas served by the grantee or in the national economy.

(iii) Significant numbers or proportions of participants with 1 or more barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title, served by a grantee relative to such numbers or proportions for grantees serving other areas of the State or Nation.

(iv) Changes in Federal, State, or local minimum wage requirements.

(v) Limited economies of scale for the provision of community service employment and other authorized activities in the areas served by the grantee.

**(E) Placement**

**(i) Level of performance**

For all grantees, the Secretary shall establish an expected level of performance of not less than the percentage specified in clause (ii) (adjusted in accordance with subparagraph (D)) for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B).

**(ii) Required placement percentages**

The minimum percentage for the expected level of performance for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B) is—

- (I) 21 percent for fiscal year 2007;
- (II) 22 percent for fiscal year 2008;
- (III) 23 percent for fiscal year 2009;
- (IV) 24 percent for fiscal year 2010; and
- (V) 25 percent for fiscal year 2011.

**(3) Limitation**

An agreement to be evaluated on the core measures of performance and to report information on the additional indicators of performance shall be a requirement for application for, and a condition of, all grants authorized by this subchapter.

**(b) Indicators of performance**

**(1) Core indicators**

The core indicators of performance described in subsection (a)(2)(A)(i) shall consist of—

- (A) hours (in the aggregate) of community service employment;
- (B) entry into unsubsidized employment;
- (C) retention in unsubsidized employment for 6 months;
- (D) earnings; and
- (E) the number of eligible individuals served, including the number of participating individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of the title.

**(2) Additional indicators**

The additional indicators of performance described in subsection (a)(2)(A)(ii) shall consist of—

- (A) retention in unsubsidized employment for 1 year;
- (B) satisfaction of the participants, employers, and their host agencies with their experiences and the services provided;
- (C) any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

**(3) Definitions of indicators**

The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance described in paragraphs (1) and (2).

**(c) Evaluation**

The Secretary shall—

(1) annually evaluate, and publish and make available for public review information on, the actual performance of each grantee with respect to the levels achieved for each of the core indicators of performance, compared to the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)); and

(2) annually publish and make available for public review information on the actual performance of each grantee with respect to the levels achieved for each of the additional indicators of performance.

**(d) Technical assistance and corrective efforts**

**(1) Initial determinations**

**(A) In general**

As soon as practicable after July 1, 2007, the Secretary shall determine if a grantee under this subchapter has, for program year 2006—

(i) met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subparagraphs (A), (C), (D), and (E) of subsection (b)(1); and

(ii) achieved the applicable percentage specified in subsection (a)(2)(E)(ii) for the core indicator of performance described in subsection (b)(1)(B).

**(B) Technical assistance**

If the Secretary determines that the grantee, for program year 2006—

(i) failed to meet the expected levels of performance described in subparagraph (A)(i); or

(ii) failed to achieve the applicable percentage described in subparagraph (A)(ii),

the Secretary shall provide technical assistance to assist the grantee to meet the expected levels of performance and achieve the applicable percentage.

**(2) National grantees**

**(A) In general**

Not later than 120 days after the end of each program year, the Secretary shall determine if a national grantee awarded a grant under section 3056(b) of this title in accordance with section 3056l of this title has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

**(B) Technical assistance and corrective action plan**

**(i) In general**

If the Secretary determines that a national grantee fails to meet the expected levels of performance described in subparagraph (A), the Secretary after each year of such failure, shall provide technical assistance and require such grantee to submit a corrective action plan not later than 160 days after the end of the program year.

**(ii) Content**

The plan submitted under clause (i) shall detail the steps the grantee will take to meet the expected levels of performance in the next program year.

**(iii) Recompetition**

Any grantee who has failed to meet the expected levels of performance for 4 consecutive years (beginning with program year 2007) shall not be allowed to compete in the subsequent grant competition under section 3056l of this title following the fourth consecutive year of failure but may compete in the next such grant competition after that subsequent competition.

**(3) State grantees**

**(A) In general**

Not later than 120 days after the end of each program year, the Secretary shall determine if a State grantee allotted funds under section 3056d(e) of this title has met the expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1).

**(B) Technical assistance and corrective action plan**

**(i) In general**

If the Secretary determines that a State fails to meet the expected levels of per-

formance described in subparagraph (A), the Secretary, after each year of such failure, shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

**(ii) Content**

The plan submitted under clause (i) shall detail the steps the State will take to meet the expected levels of performance in the next program year.

**(iii) Competition**

If the Secretary determines that the State fails to meet the expected levels of performance described in subparagraph (A) for 3 consecutive program years (beginning with program year 2007), the Secretary shall provide for the conduct by the State of a competition to award the funds allotted to the State under section 3056d(e) of this title for the first full program year following the Secretary's determination.

**(4) Special rule for establishment and implementation**

The Secretary shall establish and implement the core measures of performance and additional indicators of performance described in this section, including all required indicators described in subsection (b), not later than July 1, 2007.

**(e) Impact on grant competition**

The Secretary may not publish a notice announcing a grant competition under this subchapter, and solicit proposals for grants, until the day that is the later of—

- (1) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and
- (2) January 1, 2010.

(Pub. L. 89-73, title V, §513, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2580.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2)(D)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 3056k, Pub. L. 89-73, title V, §513, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2281, related to performance measures, prior to the general amendment of this subchapter by Pub. L. 109-365.

**§ 3056l. Competitive requirements relating to grant awards**

**(a) Program authorized**

**(1) Initial approval of grant applications**

From the funds available for national grants under section 3056d(d) of this title, the Secretary shall award grants under section 3056(b) of this title to eligible applicants, through a competitive process that emphasizes meeting performance requirements, to carry out

projects under this subchapter for a period of 4 years, except as provided in paragraph (2). The Secretary may not conduct a grant competition under this subchapter until the day described in section 3056k(e) of this title.

**(2) Continuation of approval based on performance**

If the recipient of a grant made under paragraph (1) meets the expected levels of performance described in section 3056k(d)(2)(A) of this title for each year of such 4-year period with respect to a project, the Secretary may award a grant under section 3056(b) of this title to such recipient to continue such project beyond such 4-year period for 1 additional year without regard to such process.

**(b) Eligible applicants**

An applicant shall be eligible to receive a grant under section 3056(b) of this title in accordance with subsections (a), (c), and (d).

**(c) Criteria**

For purposes of subsection (a)(1), the Secretary shall select the eligible applicants to receive grants based on the following:

(1) The applicant's ability to administer a project that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, individuals with greatest social need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title.

(2) The applicant's ability to administer a project that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the communities involved.

(3) The applicant's ability to administer a project that moves eligible individuals into unsubsidized employment.

(4) The applicant's prior performance, if any, in meeting core measures of performance and addressing additional indicators of performance under this subchapter and the applicant's ability to address core indicators of performance and additional indicators of performance under this subchapter and under other Federal or State programs in the case of an applicant that has not previously received a grant under this subchapter.

(5) The applicant's ability to move individuals with multiple barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title, into unsubsidized employment.

(6) The applicant's ability to coordinate activities with other organizations at the State and local level.

(7) The applicant's plan for fiscal management of the project to be administered with funds received in accordance with this section.

(8) The applicant's ability to administer a project that provides community service.

(9) The applicant's ability to minimize disruption in services for participants and in community services provided.

(10) Any additional criteria that the Secretary considers to be appropriate in order to