

1992—Pub. L. 102-375, §904(a)(9), substituted “objectives” for “purposes” in last sentence.

Pub. L. 102-375, §102(b)(9)(A), struck out “designated under section 3025(a)(1) of this title” after “in consultation with State agencies”.

Pub. L. 102-375, §102(b)(1)(A), substituted “Administration” for “Administration on Aging”.

1984—Pub. L. 98-459 inserted provision requiring the Commissioner, in gathering information, to make use of uniform service definitions to the extent that such definitions are available.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§ 3020c. Contracting and grant authority; private pay relationships; appropriate use of funds

(a) In general

Subject to subsection (b), this chapter shall not be construed to prevent a recipient of a grant or a contract under this chapter (other than subchapter IX) from entering into an agreement with a profitmaking organization for the recipient to provide services to individuals or entities not otherwise receiving services under this chapter, provided that—

(1) if funds provided under this chapter to such recipient are initially used by the recipient to pay part or all of a cost incurred by the recipient in developing and carrying out such agreement, such agreement guarantees that the cost is reimbursed to the recipient;

(2) if such agreement provides for the provision of 1 or more services, of the type provided under this chapter by or on behalf of such recipient, to an individual or entity seeking to receive such services—

(A) the individuals and entities may only purchase such services at their fair market rate;

(B) all costs incurred by the recipient in providing such services (and not otherwise reimbursed under paragraph (1)), are reimbursed to such recipient; and

(C) the recipient reports the rates for providing such services under such agreement in accordance with subsection (c) and the rates are consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by the State agency or area agency on aging (as applicable); and

(3) any amount of payment to the recipient under the agreement that exceeds reimbursement under this subsection of the recipient's costs is used to provide, or support the provision of, services under this chapter.

(b) Ensuring appropriate use of funds

An agreement described in subsection (a) may not—

(1) be made without the prior approval of the State agency (or, in the case of a grantee under subchapter X, without the prior recommendation of the Director of the Office for

American Indian, Alaska Native, and Native Hawaiian Aging and the prior approval of the Assistant Secretary), after timely submission of all relevant documents related to the agreement including information on all costs incurred;

(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, subsidizing, or otherwise compensating an individual or entity in an amount that exceeds the fair market value of the services subject to such agreement;

(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual who is at risk for institutional placement; or

(4) in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of older individuals, as determined by the Assistant Secretary.

(c) Monitoring and reporting

To ensure that any agreement described in subsection (a) complies with the requirements of this section and other applicable provisions of this chapter, the Assistant Secretary shall develop and implement uniform monitoring procedures and reporting requirements consistent with the provisions of subparagraphs (A) through (E) of section 3026(a)(13) of this title in consultation with the State agencies and area agencies on aging. The Assistant Secretary shall annually prepare and submit to the chairpersons and ranking members of the appropriate committees of Congress a report analyzing all such agreements, and the costs incurred and services provided under the agreements. This report shall contain information on the number of the agreements per State, summaries of all the agreements, and information on the type of organizations participating in the agreements, types of services provided under the agreements, and the net proceeds from, and documentation of funds spent and reimbursed, under the agreements.

(d) Timely reimbursement

All reimbursements made under this section shall be made in a timely manner, according to standards specified by the Assistant Secretary.

(e) Cost

In this section, the term “cost” means an expense, including an administrative expense, incurred by a recipient in developing or carrying out an agreement described in subsection (a), whether the recipient contributed funds, staff time, or other plant, equipment, or services to meet the expense.

(Pub. L. 89-73, title II, §212, formerly §213, as added Pub. L. 95-478, title I, §102(i), Oct. 18, 1978, 92 Stat. 1516; amended Pub. L. 97-35, title VI, §606(c), Aug. 13, 1981, 95 Stat. 486; renumbered §212, Pub. L. 97-115, §2(e)(2), Dec. 29, 1981, 95 Stat. 1596; Pub. L. 100-175, title I, §107(c), Nov. 29, 1987, 101 Stat. 931; Pub. L. 103-171, §3(a)(4), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 109-365, title II, §207, Oct. 17, 2006, 120 Stat. 2536.)

PRIOR PROVISIONS

A prior section 212 of Pub. L. 89-73 was renumbered section 211 and is classified to section 3020b of this title.

AMENDMENTS

2006—Pub. L. 109-365 amended section generally. Prior to amendment, text read as follows: “None of the provisions of this chapter shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency (or in the case of a grantee under subchapter X of this chapter, subject to the recommendation of the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Assistant Secretary), with a profitmaking organization to carry out the provisions of this chapter and of the appropriate State plan.”

1993—Pub. L. 103-171 substituted “Director of the Office for” for “Associate Commissioner on” and “Assistant Secretary” for “Commissioner”.

1987—Pub. L. 100-175 inserted “(or in the case of a grantee under subchapter X of this chapter, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner)” after “State agency”.

1981—Pub. L. 97-35 struck out provisions respecting demonstration of superiority by the organization.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100-175, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§ 3020d. Surplus property eligibility

Any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under this chapter, under title IV or title XX of the Social Security Act [42 U.S.C. 601 et seq., 1397 et seq.], or under titles VIII and X of the Economic Opportunity Act of 1964 [42 U.S.C. 2991 et seq., 2996 et seq.] and the Community Services Block Grant Act [42 U.S.C. 9901 et seq.], shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

(Pub. L. 89-73, title II, §213, formerly §214, as added Pub. L. 95-478, title I, §102(i), Oct. 18, 1978, 92 Stat. 1516; renumbered §213 and amended Pub. L. 97-115, §2(e)(2), (k), Dec. 29, 1981, 95 Stat. 1596.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as Titles IV and XX of the Social Security Act are classified generally to subchapters IV (§601 et seq.) and XX (§1397 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in text, is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (§2701 et seq.) of this title prior to repeal, except for titles VIII and X, by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Economic Opportunity Act of 1964 are classified generally to subchapters VIII (§2991 et seq.) and X (§2996 et seq.)

of chapter 34 of this title. For complete classification of this Act to the Code, see Tables.

The Community Services Block Grant Act, referred to in text, is subtitle B (§671 et seq.) of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 511, as amended, which is classified generally to chapter 106 (§9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

PRIOR PROVISIONS

A prior section 213 of Pub. L. 89-73 was renumbered section 212 and is classified to section 3020c of this title.

AMENDMENTS

1981—Pub. L. 97-115, §2(k), substituted “titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act” for “the Economic Opportunity Act of 1964”.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§ 3020e. Nutrition education

The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

- (1) are designed for older individuals; and
- (2) include—

- (A) nutrition education;
- (B) physical activity; and
- (C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, through nutrition education and nutrition assessment and counseling, in accordance with section 3030g-21(2)(J) of this title.

(Pub. L. 89-73, title II, §214, as added Pub. L. 102-375, title II, §209, Sept. 30, 1992, 106 Stat. 1215; amended Pub. L. 103-171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106-501, title VIII, §801(b)(5), Nov. 13, 2000, 114 Stat. 2292; Pub. L. 109-365, title II, §208, Oct. 17, 2006, 120 Stat. 2537.)

AMENDMENTS

2006—Pub. L. 109-365 amended section generally. Prior to amendment, text read as follows: “The Assistant Secretary and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 3030g-21(2)(J) of this title.”

2000—Pub. L. 106-501 substituted “3030g-21(2)(J)” for “3027(a)(13)(J)”.

1993—Pub. L. 103-171 substituted “Assistant Secretary” for “Commissioner”.

§ 3020e-1. Pension counseling and information programs**(a) Definitions**

In this section:

(1) Pension and other retirement benefits

The term “pension and other retirement benefits” means private, civil service, and other public pensions and retirement benefits, including benefits provided under—

- (A) the Social Security program under title II of the Social Security Act (42 U.S.C. 401 et seq.);