

standing established under section 121(c) of the Workforce Innovation and Opportunity Act” for “be signatories of the memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(c))”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

**§ 3056j. Treatment of assistance**

Assistance provided under this subchapter shall not be considered to be financial assistance described in section 1255a(h)(1)(A) of title 8.

(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**

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

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 for each grantee for projects and services carried out under this subchapter. The core measures 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**

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.

**(B) 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). 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.

**(C) Agreement on expected levels of performance**

**(i) First 2 years**

Each grantee shall reach agreement with the Secretary on levels of performance for each measure described in subparagraph (A)(i),<sup>1</sup> for each of the first 2 program years covered by the grant agreement. In reaching the agreement, the grantee and the Secretary shall take into account the expected levels proposed by the grantee and the factors described in subparagraph (D). The levels agreed to shall be considered to be the expected levels of performance for the grantee for such program years.

**(ii) Third and fourth year**

Each grantee shall reach agreement with the Secretary, prior to the third program year covered by the grant agreement, on levels of performance for each measure described in subparagraph (A), for each of the third and fourth program years so covered. In reaching the agreement, the grantee and the Secretary shall take into account the expected levels proposed by the grantee and the factors described in subparagraph (D). The levels agreed to shall be considered to be the expected levels of performance for the grantee for such program years.

**(D) Factors**

In reaching the agreements described in subparagraph (B), each grantee and the Secretary shall—

(i) take into account how the levels involved compare with the expected levels of performance established for other grantees;

(ii) ensure that the levels involved are adjusted, using an objective statistical model based on the model established by the Secretary in accordance with section 3141(a)(3)(A)(viii)<sup>2</sup> of title 29;<sup>3</sup> and

(iii) take into account the extent to which the levels involved promote continuous improvement in performance accountability on the core measures and ensure optimal return on the investment of Federal funds.

**(E) Adjustments based on economic conditions and individuals served during the program year**

The Secretary shall, in accordance with the objective statistical model developed pursuant to subparagraph (D)(ii), adjust the expected levels of performance for a program year for grantees, to reflect the actual economic conditions and characteristics of participants in the corresponding projects during such program year.

**(3) Limitation**

An agreement to be evaluated on the core measures of performance shall be a require-

<sup>1</sup> So in original. Subparagraph (A) does not contain clauses.

<sup>2</sup> So in original. Probably should be “3141(b)(3)(A)(viii)”.

<sup>3</sup> See References in Text note below.