

## EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-13 effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111-13, set out as a note under section 4950 of this title.

## EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 392 of Pub. L. 103-82, set out as a note under section 4951 of this title.

## PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

**§ 5001. Grants and contracts for volunteer service projects****(a) Approval of projects; rules and regulations**

In order to help retired individuals and working older individuals to share their experiences, abilities, and skills to improve their communities and themselves through service in their communities, the Director is authorized to make grants to State agencies (established or designated pursuant to section 3025(a)(1) of this title) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service projects under this section, if the Director determines, in accordance with regulations the Director shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals 55 years of age or older will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the project includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the project is being designed and implemented with the advice of persons competent in the field of service to be provided, as well as persons who have expertise in the management of volunteers and the needs of older individuals.

**(b) Proportion of required local contribution; exceptions**

In no event shall the required proportion of the local contribution (including in-kind contributions) for a grant or contract made under this section be more than 10 per centum in the first year of assistance under this section, 20 per centum in the second such year, and 30 per centum in any subsequent such years: *Provided*,

*however*, That the Director may make exceptions in cases of demonstrated need, determined (in accordance with regulations which the Director shall prescribe) on the basis of the financial capability of a particular recipient of assistance under this section, to permit a lesser local contribution proportion than any required contribution proportion established by the Director in generally applicable regulations.

**(c) Conditions upon award of grant or contract**

The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 3025(a)(1) of this title, such agency itself is the recipient of the award or such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

**(d) Volunteer service as employment**

Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with the provisions and in furtherance of the purpose of this part.

**(e) Duration of grant or contract; competitive process**

(1) Beginning with fiscal year 2013 and for each fiscal year thereafter, each grant or contract awarded under this section, for such a year, shall be—

(A) awarded for a period of 3 years, with an option for a grant renewal of 3 years if the grantee meets the performances<sup>1</sup> measures established under subsection (g); and

(B) awarded through a competitive process described in paragraph (2).

(2)(A) The Corporation shall promulgate regulations establishing the competitive process required under paragraph (1)(B), and make such regulations available to the public, not later than 18 months after April 21, 2009. The Corporation shall consult with the directors of programs receiving grants under this section during the development and implementation of the competitive process.

(B) The competitive process required by subparagraph (A) shall—

(i) include the use of a peer review panel, including members with expertise in senior service and aging, to review applications;

(ii) include site inspections of programs assisted under this section, as appropriate;

(iii) in the case of an applicant who has previously received a grant or contract for a program under this section, include an evaluation of the program conducted by a review team, as described in subsection (f);

(iv) ensure that—

(I) the grants or contracts awarded under this section through the competitive process for a grant or contract cycle support an aggregate number of volunteer service years for a given geographic service area that is

<sup>1</sup> So in original. Probably should be "performance".

not less than the aggregate number of volunteer service years supported under this section for such service area for the previous grant or contract cycle;

(II) the grants or contracts awarded under this section through the competitive process for a grant or contract cycle maintain a similar program distribution, as compared to the program distribution for the previous grant or contract cycle; and

(III) every effort is made to minimize the disruption to volunteers; and

(v) include the use of performance measures, outcomes, and other criteria established under subsection (g).

**(f) Evaluation process**

(1) Notwithstanding section 5052 of this title, and effective beginning 180 days after April 21, 2009, each grant or contract under this section that expires in fiscal year 2011, 2012, or 2013 shall be subject to an evaluation process conducted by a review team described in paragraph (4). The evaluation process shall be carried out, to the maximum extent practicable, in fiscal year 2010, 2011, and 2012, respectively.

(2) The Corporation shall promulgate regulations establishing the evaluation process required under paragraph (1), and make such regulations available to the public, not later than 18 months after April 21, 2009. The Corporation shall consult with the directors of programs receiving grants under this section during the development and implementation of the evaluation process.

(3) The evaluation process required under paragraph (1) shall—

(A) include performance measures, outcomes, and other criteria established under subsection (g); and

(B) evaluate the extent to which the recipient of the grant or contract meets or exceeds such performance measures, outcomes, and other criteria through a review of the recipient.

(4) To the maximum extent practicable, the Corporation shall provide that each evaluation required by this subsection is conducted by a review team that—

(A) includes individuals who are knowledgeable about programs assisted under this section;

(B) includes current or former employees of the Corporation who are knowledgeable about programs assisted under this section;

(C) includes representatives of communities served by volunteers of programs assisted under this section; and

(D) shall receive periodic training to ensure quality and consistency across evaluations.

(5) The findings of an evaluation described in this subsection of a program described in paragraph (1) shall—

(A) be presented to the recipient of the grant or contract for such program in a timely, transparent, and uniform manner that conveys information of program strengths and weaknesses and assists with program improvement; and

(B) be used as the basis for program improvement, and for the provision of training and technical assistance.

**(g) Performance measures, outcomes, and other criteria**

(1) The Corporation shall, with particular attention to the different needs of rural and urban programs assisted under this section, develop performance measures, outcomes, and other criteria for programs assisted under this section that—

(A) include an assessment of the strengths and areas in need of improvement of a program assisted under this section;

(B) include an assessment of whether such program has adequately addressed population and community-wide needs;

(C) include an assessment of the efforts of such program to collaborate with other community-based organizations, units of government, and entities providing services to seniors, taking into account barriers to such collaboration that such program may encounter;

(D) include a protocol for fiscal management that shall be used to assess such program's compliance with the program requirements for the appropriate use of Federal funds;

(E) include an assessment of whether the program is in conformity with the eligibility, outreach, enrollment, and other requirements for programs assisted under this section; and

(F) contain other measures of performance developed by the Corporation, in consultation with the review teams described in subsection (f)(4).

(2)(A) The performance measures, outcomes, and other criteria established under this subsection may be updated or modified as necessary, in consultation with directors of programs under this section, but not earlier than fiscal year 2014.

(B) For each fiscal year preceding fiscal year 2014, the Corporation may, after consulting with directors of the programs under this section, determine that a performance measure, outcome, or criterion established under this subsection is operationally problematic, and may, in consultation with such directors and after notifying the authorizing committees—

(i) eliminate the use of that performance measure, outcome or criterion; or

(ii) modify that performance measure, outcome, or criterion as necessary to render it no longer operationally problematic.

(3) In the event that a program does not meet one or more of the performance measures, outcome, or criteria established under this subsection, the Corporation shall initiate procedures to terminate the program in accordance with section 5052 of this title.

**(h) Training and technical assistance**

The Chief Executive Officer shall develop procedures by which programs assisted under this section may receive training and technical assistance, which may include regular monitoring visits to assist programs in meeting the performance measures, outcomes, and criteria.

**(i) Temporary continuation of programs that fail to meet performance measures**

(1) Notwithstanding subsection (g)(3) or section 5052 of this title, the Corporation shall con-

tinue to fund a program assisted under this section that has failed to meet or exceed the performance measures, outcomes, and other criteria established under this subsection for not more than 12 months if the competitive process established under subsection (e) does not result in a successor grant or contract for such program, in order to minimize the disruption to volunteers and the disruption of services.

(2) In the case where a program is continued under paragraph (1), the Corporation shall conduct outreach regarding the availability of a grant under this section for the area served by such program and establish a new competition for awarding the successor program to the continued program. The recipient operating the continued program shall remain eligible for the new competition.

(3) The Corporation may monitor the recipient of a grant or contract supporting a program continued under paragraph (1) during this period and may provide training and technical assistance to assist such recipient in meeting the performance measures for such program.

**(j) Online resource guide**

The Corporation shall develop and disseminate an online resource guide for programs under this section not later than 180 days after April 21, 2009, which shall include—

- (1) examples of high-performing programs assisted under this section;
- (2) corrective actions for underperforming programs; and
- (3) examples of meaningful outcome-based performance measures, outcomes, and criteria that capture a program's mission and priorities.

(Pub. L. 93-113, title II, §201, Oct. 1, 1973, 87 Stat. 401; Pub. L. 93-351, §4, July 12, 1974, 88 Stat. 357; Pub. L. 95-478, title IV, §402(a), Oct. 18, 1978, 92 Stat. 1556; Pub. L. 98-288, §14(a), (b), May 21, 1984, 98 Stat. 192; Pub. L. 101-204, title IX, §902(2), Dec. 7, 1989, 103 Stat. 1826; Pub. L. 103-82, title III, §343, Sept. 21, 1993, 107 Stat. 904; Pub. L. 111-13, title II, §2143, Apr. 21, 2009, 123 Stat. 1584.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-13, §2143(1)(A), substituted “share their experiences, abilities, and skills to improve their communities and themselves through service in their communities,” for “avail themselves of opportunities for volunteer service in their community,” in introductory provisions.

Subsec. (a)(2). Pub. L. 111-13, §2143(1)(B), struck out “, and individuals 60 years of age or older will be given priority for enrollment,” before “as volunteers”.

Subsec. (a)(4). Pub. L. 111-13, §2143(1)(C), substituted “designed and implemented” for “established and will be carried out” and “field of service to be provided, as well as persons who have expertise in the management of volunteers and the needs of older individuals.” for “field of service involved, and of persons with interest in and knowledge of the needs of older persons.”

Subsecs. (e) to (j). Pub. L. 111-13, §2143(2), added subsecs. (e) to (j).

1993—Subsec. (a). Pub. L. 103-82, §343(1), substituted “retired individuals and working older individuals” for “retired persons” in introductory provisions.

Subsec. (a)(2). Pub. L. 103-82, §343(2), substituted “55 years of age or older” for “aged sixty or over” and inserted “, and individuals 60 years of age or older will be given priority for enrollment,” after “will be enrolled”.

1989—Subsec. (a). Pub. L. 101-204, §902(2)(A), substituted “projects” for “programs” in introductory provisions.

Subsec. (a)(3), (4). Pub. L. 101-204, §902(2)(B), substituted “project” for “program”.

1984—Subsec. (a). Pub. L. 98-288, §14(a), substituted “the Director” for “he” in two places in provisions before par. (1).

Subsec. (b). Pub. L. 98-288, §14(b), substituted “and 30 per centum in any subsequent such years” for “30 per centum in the third such year, 40 per centum in the fourth such year, and 50 per centum in any subsequent such years”.

1978—Subsec. (a). Pub. L. 95-478, §402(a)(1), substituted reference to section “3025(a)(1)” for “3024(a)(1)” of this title.

Subsec. (c). Pub. L. 95-478, §402(a)(1), (2), substituted reference to section “3025(a)(1)” for “3024(a)(1)” of this title and decreased period for review to “forty-five” from “sixty” days.

Subsec. (d). Pub. L. 95-478, §402(a)(3), added subsec. (d).

1974—Subsecs. (b), (c). Pub. L. 93-351 added subsec. (b) and redesignated former subsec. (b) as (c).

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EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Oct. 1, 1993, see section 392 of Pub. L. 103-82, set out as a note under section 4951 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

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

AGING RESOURCE SPECIALISTS FOR COORDINATION OF NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS WITH STATE AND COMMUNITY PROGRAMS ON AGING AND NUTRITION PROGRAMS FOR ELDERLY; DESIGNATION; DUTIES; DEFINITIONS

Pub. L. 94-135, title II, §205(c), Nov. 28, 1975, 89 Stat. 727, as amended by Pub. L. 103-82, title III, §341(b)(4), title IV, §405(i), Sept. 21, 1993, 107 Stat. 904, 921, provided that:

“(1) In order to provide maximum coordination between programs carried out under title III and title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.; 42 U.S.C. 3045 et seq.) and National Senior Volunteer Corps [now National Senior Service Corps] programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) [42 U.S.C. 5000 et seq.], in order to enhance the effectiveness of the support provided to such National Senior Volunteer Corps programs by the Corporation for National and Community Service, the Chief Executive Officer of the Corporation shall designate an aging resource specialist with respect to programs carried out in each State under title II of the Domestic Volunteer Service Act of 1973 [this subchapter].

“(2)(A) Each aging resource specialist designated under paragraph (1) shall be qualified to serve in such capacity by appropriate experience and training, and shall be stationed in a State office of the Corporation.

“(B) The primary responsibility of each aging resource specialist shall be—

“(i) to support programs carried out under title II of the Domestic Volunteer Service Act of 1973 [this subchapter] in any State or other jurisdiction served by the State office involved; and

“(ii) to seek to coordinate such programs with programs carried out under title III and title VII of the Older Americans Act of 1965 [sections 3021 et seq. and 3045 et seq. of this title] in any such State or other jurisdiction.

“(3) For purposes of this subsection—

“(A) the term ‘Corporation’ means the Corporation for National and Community Service established by

section 191 of the National and Community Service Act of 1990 [42 U.S.C. 12651].[:]

“(B) the term ‘primary responsibility’ means the devotion of more than one-half of regular working hours to the performance of duties described in paragraph (2)(B); and

“(C) the term ‘State’ means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.”

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

#### PART B—FOSTER GRANDPARENT PROGRAM

### § 5011. Grants and contracts for individual service projects

#### (a) Foster Grandparent projects; amount

The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons age 55 or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development. Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.), Head Start agencies under the Head Start Act [42 U.S.C. 9831 et seq.], or other programs, establishments, and institutions providing services for children having special or exceptional needs or circumstances identified as limiting their academic, social, or emotional development. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if the Director determines, in accordance with regulations the Director shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 3044b(a)<sup>1</sup> of this title or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

<sup>1</sup> See References in Text note below.

#### (b) Person-to-person services to children in an individual service project by public or private nonprofit agency; authority and criteria for determinations; mutual agreements between parties

(1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section may determine—

(A) which children may receive supportive person-to-person services under such project;

(B) the period of time during which such services shall be continued in the case of each individual child; and

(C) whether it is in the best interest of the child receiving, and the particular foster grandparent providing, services in such a project, to continue the relationship between the child and the grandparent under this part after the child reaches the age of 21, if such child is an individual with a disability who was receiving such services prior to attaining the age of 21.

(2) If an assignment of a foster grandparent under this part is suspended or discontinued, the replacement of that foster grandparent shall be determined in a manner consistent with paragraph (3).

(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

#### (c) “Child” and “children” defined

For the purposes of this section, the terms “child” and “children” mean any individual or individuals who are less than 21 years of age.

#### (d) Domestic Volunteer Service; allowances, stipends, and other support

The Director, in accordance with regulations the Director shall prescribe, may provide to low-income persons serving as volunteers under this part, such allowances, stipends, and other support as the Director determines are necessary to carry out the purpose of this part. Any stipend or allowance provided under this section shall not be less than \$3.00 per hour, except that (1) such stipend or allowance shall not be increased as a result of an amendment made to this sentence unless the funds appropriated for carrying out this part are sufficient to maintain for the fiscal year in question a number of participants to serve under this part at least equal to the number of such participants serving during the preceding fiscal year, and (2) in the event that sufficient appropriations for any fiscal year are not available to increase any such stipend or allowance provided to the minimum hourly rate specified in this sentence, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception. In establishing the amount of, and the effective date for, such adjustment, the Director, in consultation with the State Commissions on National and Community Service (as established under section 12638 of this title) and the heads of the