

amended Pub. L. 114-144, §6(d), Apr. 19, 2016, 130 Stat. 343.)

Editorial Notes

REFERENCES IN TEXT

Section 3141 of title 29, referred to in subsec. (a)(2)(D)(ii), was in the original a reference to section 116 of the Workforce Investment and Opportunity Act and was translated as meaning section 116 of the Workforce Innovation and Opportunity Act, to reflect the probable intent of Congress.

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.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-144, §6(d)(1)(A), struck out “and indicators” after “Measures” in heading.

Subsec. (a)(1). Pub. L. 114-144, §6(d)(1)(B), struck out “and indicators” after “measures” in heading and “and additional indicators of performance” after “measures of performance” in two places in text.

Subsec. (a)(2)(A). Pub. L. 114-144, §6(d)(1)(C)(i), substituted “Composition of measures” for “Composition of measures and indicators” in heading, struck out cl. (i) designation and heading, and struck out cl. (ii). Prior to amendment, text of cl. (ii) read as follows: “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).”

Subsec. (a)(2)(B). Pub. L. 114-144, §6(d)(1)(C)(iii), redesignated subpar. (C) as (B), substituted “subparagraph (A)” for “subparagraph (A)(i)”, and struck out “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).” before “Funds may”. Former subpar. (B) struck out.

Pub. L. 114-144, §6(d)(1)(C)(ii), struck out subpar. (B). Text read as follows: “The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance.”

Subsec. (a)(2)(C) to (E). Pub. L. 114-144, §6(d)(1)(C)(iv), added subpars. (C) to (E) and struck out former subpars. (D) and (E) which related to adjustment of expected levels of performance and placement into unsubsidized employment, respectively. Former subpar. (C) redesignated (B).

Subsec. (a)(3). Pub. L. 114-144, §6(d)(1)(D), struck out “and to report information on the additional indicators of performance” after “measures of performance”.

Subsec. (b)(1). Pub. L. 114-144, §6(d)(2)(A)(i), substituted “subsection (a)(2)(A)” for “subsection (a)(2)(A)(i)” in introductory provisions.

Subsec. (b)(1)(B) to (F). Pub. L. 114-144, §6(d)(2)(A)(ii), added subpars. (B) to (F) and struck out former subpars. (B) to (E) which read as follows:

“(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.”

Subsec. (b)(2), (3). Pub. L. 114-144, §6(d)(2)(B)–(D), redesignated par. (3) as (2), substituted “paragraph (1)” for “paragraphs (1) and (2)”, and struck out former par. (2) which related to additional indicators of performance.

Subsec. (c). Pub. L. 114-144, §6(d)(3), substituted “shall” for “shall—”, struck out par. (1) designation

before “annually evaluate”, substituted “subsection (a)(2)(B)” for “subsection (a)(2)(C)” and “subsection (a)(2)(E).” for “subsection (a)(2)(D); and”, and struck out par. (2) which read as follows: “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.”

Subsec. (d)(1)(A). Pub. L. 114-144, §6(d)(4)(A)(i), substituted “July 1, 2016” for “July 1, 2007” and “year 2016,” for “year 2006—”; struck out cl. (i) designation before “met”; substituted “subsection (a)(2)(B)” for “subsection (a)(2)(C)”, “subsection (a)(2)(E)” for “subsection (a)(2)(D)”, and “indicators of performance.” for “indicators of performance described in subparagraphs (A), (C), (D), and (E) of subsection (b)(1); and”; and struck out cl. (ii) which read as follows: “achieved the applicable percentage specified in subsection (a)(2)(E)(ii) for the core indicator of performance described in subsection (b)(1)(B).”

Subsec. (d)(1)(B). Pub. L. 114-144, §6(d)(4)(A)(ii), substituted “year 2016,” for “year 2006—” and “subparagraph (A),” for “subparagraph (A)(i); or” and struck out cl. (i) designation before “failed”, “and achieve the applicable percentage” before period at end, and “(ii) failed to achieve the applicable percentage described in subparagraph (A)(ii),” before “the Secretary shall provide”.

Subsec. (d)(2)(A). Pub. L. 114-144, §6(d)(4)(B)(i), substituted “(a)(2)(B)” for “(a)(2)(C)” and “(a)(2)(E)” for “(a)(2)(D)”.

Subsec. (d)(2)(B)(iii). Pub. L. 114-144, §6(d)(4)(B)(ii)(I), struck out “(beginning with program year 2007)” after “4 consecutive years”.

Subsec. (d)(2)(B)(iv). Pub. L. 114-144, §6(d)(4)(B)(ii)(II), added cl. (iv).

Subsec. (d)(3)(A). Pub. L. 114-144, §6(d)(4)(C)(i), substituted “(a)(2)(B)” for “(a)(2)(C)” and “(a)(2)(E)” for “(a)(2)(D)”.

Subsec. (d)(3)(B)(iii). Pub. L. 114-144, §6(d)(4)(C)(ii), struck out “(beginning with program year 2007)” after “3 consecutive program years”.

Subsec. (d)(4). Pub. L. 114-144, §6(d)(4)(D), amended par. (4) generally. Prior to amendment, text read as follows: “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.”

Subsec. (e). Pub. L. 114-144, §6(d)(5), amended subsec. (e) generally. Prior to amendment, text read as follows: “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.”

§ 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 perform-

ance 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 under this subchapter and the applicant's ability to address core 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 minimize disruption in services for participants.

(d) Responsibility tests

(1) In general

Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant's overall responsibility to administer Federal funds.

(2) Review

As part of the review described in paragraph (1), the Secretary may consider any informa-

tion, including the applicant's history with regard to the management of other grants.

(3) Failure to satisfy test

The failure to satisfy a responsibility test with respect to any 1 factor that is listed in paragraph (4), excluding those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the applicant is not responsible unless such failure is substantial or persists for 2 or more consecutive years.

(4) Test

The responsibility tests include review of the following factors:

(A) Unsuccessful efforts by the applicant to recover debts, after 3 demand letters have been sent, that are established by final agency action, or a failure to comply with an approved repayment plan.

(B) Established fraud or criminal activity of a significant nature within the organization or agency involved.

(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal rules or regulations.

(D) Willful obstruction of the audit process.

(E) Failure to provide services to participants for a current or recent grant or to meet applicable core measures of performance or address applicable indicators of performance.

(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of the closeout package, whichever is later, unless an extension has been requested and granted.

(H) Failure to submit required reports.

(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A-133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

(L) Failure to audit a subrecipient within the required period.

(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious.

(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

(5) Determination

Applicants that are determined to be not responsible shall not be selected as grantees.

(6) Disallowed costs

Interest on disallowed costs shall accrue in accordance with the Debt Collection Improve-

ment Act of 1996, including the amendments made by that Act.

(e) Grantees serving individuals with barriers to employment

(1) Definition

In this subsection, the term “individuals with barriers to employment” means minority individuals, Indian individuals, individuals with greatest economic need, eligible individuals who have been incarcerated or are under supervision following release from prison or jail, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 3056p of this title.

(2) Special consideration

In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant in accordance with this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

(f) Minority-serving grantees

The Secretary may not promulgate rules or regulations affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.

(Pub. L. 89-73, title V, §514, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2584; amended Pub. L. 114-144, §6(e), Apr. 19, 2016, 130 Stat. 346; Pub. L. 116-131, title IV, §401(a)(2), Mar. 25, 2020, 134 Stat. 266.)

Editorial Notes

REFERENCES IN TEXT

The Debt Collection Improvement Act of 1996, referred to in subsec. (d)(6), is section 31001 of title III of Pub. L. 104-134, Apr. 26, 1996, 110 Stat. 1321-358. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 3701 of Title 31, Money and Finance, and Tables.

PRIOR PROVISIONS

A prior section 3056l, Pub. L. 89-73, title V, §514, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2282, related to competitive requirements relating to grant awards, prior to the general amendment of this subchapter by Pub. L. 109-365.

AMENDMENTS

2020—Subsec. (e)(1). Pub. L. 116-131 inserted “eligible individuals who have been incarcerated or are under supervision following release from prison or jail,” after “need.”

2016—Subsec. (c)(4). Pub. L. 114-144 struck out “and addressing additional indicators of performance” after “measures of performance” and “and additional indicators of performance” after “core indicators of performance”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-131 effective 1 year after Mar. 25, 2020, see section 401(b) of Pub. L. 116-131, set out as a note under section 3056a of this title.

§ 3056m. Report on service to minority individuals

(a) In general

The Secretary shall annually prepare a report on the levels of participation and performance outcomes of minority individuals served by the program carried out under this subchapter.

(b) Contents

(1) Organization and data

Such report shall present information on the levels of participation and the outcomes achieved by such minority individuals with respect to each grantee under this subchapter, by service area, and in the aggregate, beginning with data that applies to program year 2005.

(2) Efforts

The report shall also include a description of each grantee’s efforts to serve minority individuals, based on information submitted to the Secretary by each grantee at such time and in such manner as the Secretary determines to be appropriate.

(3) Related matters

The report shall also include—

(A) an assessment of individual grantees based on the criteria established under subsection (c);

(B) an analysis of whether any changes in grantees have affected participation rates of such minority individuals;

(C) information on factors affecting participation rates among such minority individuals; and

(D) recommendations for increasing participation of minority individuals in the program.

(c) Criteria

The Secretary shall establish criteria for determining the effectiveness of grantees in serving minority individuals in accordance with the goals set forth in section 3056(a)(1) of title.

(d) Submission

The Secretary shall annually submit such a report to the appropriate committees of Congress.

(Pub. L. 89-73, title V, §515, as added Pub. L. 109-365, title V, §501, Oct. 17, 2006, 120 Stat. 2587.)

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PRIOR PROVISIONS

A prior section 3056m, Pub. L. 89-73, title V, §515, as added Pub. L. 106-501, title V, §501, Nov. 13, 2000, 114 Stat. 2286, related to authorization of appropriations, prior to the general amendment of this subchapter by Pub. L. 109-365. See section 3056o of this title.

§ 3056n. Sense of Congress

It is the sense of Congress that—

(1) the older American community service employment program described in this subchapter was established with the intent of placing older individuals in community service positions and providing job training; and

(2) placing older individuals in community service positions strengthens the ability of the