

**DEPARTMENT OF LABOR****Employment and Training Administration****Senior Community Service Employment Program; Request for Comments on the 2000 Amendments to the Older Americans Act**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice; request for comments.

**SUMMARY:** The purpose of this notice is to encourage comments on the Department of Labor's approach to the implementation of changes to the Senior Community Service Employment Program (SCSEP) occasioned by the revisions to Title V of the Older Americans Act (OAA) by the Older Americans Act Amendments 2000 (Pub. L. 106-501) (dated November 13, 2000). Comments are welcome on a variety of subjects, including: (1) Issues and concerns that should be addressed in regulations; (2) issues and concerns that should be addressed in policy guidance; (3) suggestions and comments on the overall implementation plan, such as consultation strategies; (4) specific suggestions on the approach that should be taken in implementing any or all of the new title V provisions; and (5) suggestions on revisions that should be made to the existing title V regulations which were published in the **Federal Register** on Wednesday, May 17, 1995 (20 CFR part 641). This notice is not a proposed rule. The Department will consider comments on regulations through the rulemaking process.

**DATES:** The Department invites written comments on title V of OAA in response to this notice. Comments received on or before May 18, 2001 will be considered in the development of regulations and policy guidance, as well as in the overall implementation strategy. The Department has already begun consultation with various individuals within the older worker employment system and will continue these consultations throughout the implementation process.

**ADDRESSES:** Submit written comments to the Employment and Training Administration, Division of Older Worker Programs, 200 Constitution Avenue, NW., Room N4644, Washington, DC 20210, Attention: Mr. Erich W. ("Ric") Larisch.

All comments will be available for public inspection and copying during normal business hours at the address listed above. Copies of title V of the OAA are available at the address above, as well as on the SCSEP website at

<http://www.wdsc.org/owprog>.

Comments may be submitted electronically to that website address. Commenters wishing acknowledgment of receipt of their comments must submit them by certified mail, return receipt requested.

**FOR FURTHER INFORMATION CONTACT:** Mr. Erich W. ("Ric") Larisch, Division of Older Worker Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N4644, Washington, D.C. 20210, Telephone: (202) 693-3742 (voice), TTY (202) 693-2871 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Overview of the Older Americans Act Amendments of 2000 (OAA Amendments)**

This paper provides an overview of changes to the Senior Community Service Employment Program (SCSEP) due to the reauthorization of the Older Americans Act (OAA), signed into law on November 13, 2000. The Older Americans Act is the major vehicle for the organization and delivery of supportive and nutrition services to older persons, authorizing funding for programs including SCSEP, Meals on Wheels, elder abuse prevention activities, and a new National Family Caregiver Support Program.

SCSEP, administered by the U.S. Department of Labor under Title V of the OAA, is the only Federally sponsored job creation program targeted to low-income older Americans. The program subsidizes part-time community service jobs for low-income persons age 55 years and older who have poor employment prospects. Approximately 100,000 program enrollees annually work in a wide variety of community service jobs, including nurse's aides, teacher aides, librarians, clerical workers and day care assistants. Clearly, SCSEP benefits not only its program participants, but also the communities in which they serve. The Department of Labor allocates funds to operate the program to State agencies on aging and 10 national organizations. SCSEP grantees are represented on State and local business-led boards (Workforce Investment Boards) that provide strategic planning and oversight of workforce development activities, established under the bipartisan Workforce Investment Act of 1998 (WIA).

As the baby boom generation ages, the demand for employment and training services and income support for low-income older persons will substantially increase. The Urban Institute projects that there will be 1.4 million more

disadvantaged adults over the age of 55 in the year 2005 than in 1995. Low-income seniors generally must continue working, which will put added strain on workforce investment resources and the One-Stop system, which provides a single point of contact for job seekers and employers seeking information about local workforce development activities. The OAA Amendments require improved integration with WIA, which will not only support SCSEP reforms, but will also help the workforce investment system prepare for the greater number of older workers it will serve outside of SCSEP. One-Stops can benefit from the experience SCSEP has gained in serving this population.

SCSEP provisions of the OAA Amendments are designed to:

- Enhance employment and training opportunities for seniors by reinforcing connections with the broader workforce investment system;
- Establish an enhanced performance accountability system to hold each grantee accountable for attaining quality levels of performance with respect to core measures, such as customer satisfaction and placement in unsubsidized employment;
  - Improve the ability of States to coordinate services, by providing for the broad participation of stakeholders in the development of an annual plan to ensure an equitable distribution of projects within the State;
  - Strengthen administrative procedures by incorporating fiscal accountability provisions similar to the Workforce Investment Act, including definitions of administrative and programmatic costs and the application of uniform cost principles; and
  - Revise the distribution of funding.

**Enhancing Employment and Training Opportunities for Seniors**

The OAA Amendments strengthen connections between SCSEP and WIA in order to provide older individuals with easier access to appropriate services while minimizing duplication of services. In 1998, WIA included SCSEP as a required partner in the One-Stop delivery system to ensure that older workers have access to information about the range of employment-related services available to them. The OAA Amendments build on that partnership by requiring that all SCSEP grantees in an area coordinate their activities through the One-Stop delivery system. The legislation also clarifies that service strategies or participant assessments of skills, interests, and circumstances provided under WIA should be accepted by SCSEP programs (and vice versa).

Additionally, all projects to promote unsubsidized employment in the private sector must coordinate with WIA programs.

WIA provides for three levels of services—core, intensive, and training—with service at one level a prerequisite for moving to the next level. Localities establish gateway activities that lead from participation in core to intensive and training services. The OAA Amendments allow Local Workforce Investment Boards (Local Boards) to deem SCSEP participants eligible for WIA-funded intensive and training services without first accessing core services.

Other OAA provisions parallel requirements in WIA that link SCSEP to the new workforce investment system, such as the requirement that SCSEP programs participate as a One-Stop partner. As a One-Stop partner, SCSEP programs must: (1) provide core services through the One-Stop system; (2) use a portion of funds to create and maintain the One-Stop system; (3) enter into a memorandum of understanding with the Local Board relating to the operation of the One-Stop system; and (4) participate in the operation of the One-Stop system. A representative of Title V grantees must also be a member of the Local Board.

The OAA Amendments formally recognize unsubsidized employment as a program goal, while maintaining the community service nature of the program. By moving able participants into unsubsidized employment, SCSEP can increase the number of eligible individuals who have access to the program's broad array of employment services and opportunities.

#### **Establishing an Enhanced Performance Accountability System**

The OAA Amendments create an accountability system for all SCSEP projects to promote continuous improvement in performance with respect to required measures and consequences for grantee inability to meet performance expectations. The Department will establish performance measures for grantees in order to assess their performance. Required measures include:

- The placement and retention of participants in unsubsidized employment;
- Customer satisfaction of enrollees, employers, and host agencies;
- The number of persons served, particularly those with the greatest economic or social need, poor employment history or prospects, and those more than 60 years old; and
- Community services provided.

Should grantees prove unable to meet performance expectations, their funding may be subject to competition. The Department of Labor will evaluate each grantee within 120 days after the end of the Program Year that ends June 30. It will provide technical assistance and require a corrective action plan for those grantees that are unable to meet their performance levels. Grantees that do not reach their performance levels after a second consecutive program year will have 25 percent of their funds awarded to another entity through competition. After a third consecutive year of underperformance the Department will oversee a competition for the grantee's entire grant award.

Governors are responsible for overseeing all aspects of performance in their State programs. In addition, Governors may request the Department of Labor to review the performance of any national grantee in the State.

#### **Improving Coordination**

The Governor of each State plays an important role in the planning and development of SCSEP services in the State. The Governor must submit an annual Senior Employment Services Coordination Plan (the "State Plan") to ensure greater coordination of SCSEP activities within a State among State and national grantees, and to provide for an equitable allocation of program resources. In its State Plan each State must identify the number and distribution of eligible persons in the State (including those with greatest economic and social need, and minorities), their employment situations and skills, and the localities and populations where community service projects are most needed. States must also describe their plans to coordinate SCSEP with WIA activities.

In developing the State Plan, Governors must select and work with representatives from aging and other organizations, including:

- State and Area Agencies on Aging;
- State and Local Workforce Investment Boards, formed under the Workforce Investment Act;
- Public and private nonprofit providers of employment services, including all SCSEP grantees in the State; and
- Social service organizations.

#### **Strengthening Administrative Procedures**

The OAA Amendments contain provisions to strengthen the administration of SCSEP. Under the legislation, the Department will determine the initial eligibility of grantees through 14 responsibility tests.

The OAA Amendments also establish uniform definitions of program and administrative costs and strengthen current Departmental regulations that stipulate that not less than 75 percent of Federal funds go directly to program participants in the form of wages and fringe benefits.

Through the OAA Amendments, Congress sought to ensure that grantees and subgrantees received sufficient administrative resources to cover their costs. Therefore, the legislation requires grantees to pass through a sufficient amount of their administrative cost allocation to the subgrantee. The OAA Amendments also specify that grantees must comply with OMB Circulars on cost allocation, cost principles, and administrative requirements, and that they must maintain records and submit reports about their SCSEP activities to the Department of Labor.

#### **Funding**

The legislation continues to authorize at least 70,000 part-time employment positions. The overwhelming majority of funds will be distributed so that grantees receive at least the amount necessary to maintain their fiscal year 2000 level of activities. Any remaining funds will be distributed to each State on the basis of its relative population aged 55 and over, and by the State's relative per capita income. Currently, national grantees receive 78 percent of the SCSEP appropriation and States receive 22 percent.

The legislation specifies that the first \$35 million in funding appropriated above the amount that is necessary to maintain the current level of activities must be allocated such that 75 percent of the funding is reserved for State agency grantees, and the remaining 25 percent is allotted to national grantees. Any funds appropriated above this \$35 million increase are to be allotted on an equal basis, with 50 percent reserved to State agency grantees and 50 percent reserved to private or public nonprofit agencies and organizations.

#### **Implementation**

The OAA Amendments became effective upon enactment. Nevertheless, the implementation of some provisions will be required once regulations have been finalized, and the Department will issue further guidance and regulations on these requirements in the early summer of 2001. States must submit their first State Plans early in 2001, however. The Department will provide additional information on the required State Plan submission in the near future.

**Attachment**

Attached is a table that compares current law with revisions effected by

the Older Americans Act Amendments of 2000 (Pub. L. 106-501).

Signed at Washington DC, this 27th day of February, 2001.

**Raymond J. Uhalde,**  
*Deputy Assistant Secretary of Labor.*

**BILLING CODE 4510-30-P**

<b>Older Americans Act (OAA)</b>	
<b>Title V—Community Service Employment for Older Americans</b>	
<b>Current Law—Prior to the OAA Amendments of 2000</b>	<b>Major changes due to the OAA Amendments of 2000</b>
<b>Program Purpose</b>	
The Senior Community Service Employment Program (SCSEP) seeks to foster and promote useful part-time opportunities in community service for unemployed low-income persons who are 55 years or older and who have poor employment prospects.	Revised purpose statement added the following: to foster individual economic self-sufficiency and to increase the number of participants placed in unsubsidized employment in the public and private sectors, while maintaining the community service focus of the program. [SEC. 502]
<b>Planning and Coordination</b>	
<p>Requires the Secretary of Labor to consult with State and area agencies on aging to identify:</p> <ul style="list-style-type: none"> <li>• Where community service projects are most needed;</li> <li>• The employment skills of eligible individuals; and</li> <li>• The potential projects and the number and percentage of eligible individuals in the local population.</li> </ul>	<p>Establishes a new planning process for SCSEP programs to be carried out in each State.</p> <p>Governors must submit an annual State Senior Employment Services Coordination Plan to the Secretary for approval, created with the participation of aging organizations, area agencies on aging, workforce boards, SCSEP grantees, and other providers of employment services. Plans must identify:</p> <ul style="list-style-type: none"> <li>• The proportion of eligible individuals in each area;</li> <li>• The relative distribution of individuals residing in rural and urban areas within the State;</li> <li>• The number and distribution of eligible persons in the State (including those with the greatest economic and social need, and minorities);</li> <li>• Their employment situations and skills;</li> <li>• The localities and populations where community service projects are most needed; and</li> <li>• Plans for facilitating the coordination of SCSEP and WIA activities.</li> </ul> <p>Governors may comment on SCSEP grant proposals prior to their submission by the applicant, and may make recommendations to the Secretary to improve the distribution of SCSEP services.</p> <p>National grantees serving older American Indians need not participate in developing the State Plan, but must collaborate with the Secretary to develop a plan for services to all older American Indians. [SEC. 503]</p>

Current Law—Prior to the OAA Amendments of 2000	Major changes due to the OAA Amendments of 2000
<b>Performance</b>	
<p>No comparable statutory provision. However, the Department requires that grantees meet goals for placement in unsubsidized employment and the number of participants served.</p>	<p>For each grantee, the Secretary is authorized to establish performance measures designed to promote continuous improvement in performance. Performance measures consist of indicators of performance and levels of performance applicable to each indicator.</p> <p>Required performance indicators include:</p> <ul style="list-style-type: none"> <li>• The number of persons served, particularly those with the greatest economic and social need, poor employment history or prospects; and those over 60 years old;</li> <li>• Community services provided;</li> <li>• The placement and retention of participants in unsubsidized employment (with a minimum placement rate of 20 percent for each grantee);</li> <li>• Customer satisfaction of enrollees, employers, and host agencies that provide community service jobs on their experiences and on the services provided; and</li> <li>• Any other indicators that the Secretary requires.</li> </ul> <p>Levels of performance may be adjusted only due to:</p> <ul style="list-style-type: none"> <li>• high rates of unemployment, poverty, or welfare reciprocity in the areas served;</li> <li>• significant downturns in the local or national economy; or</li> <li>• a significant number of a grantee's enrollees having one or more barriers to employment relative to the enrollees of other grantees.</li> </ul> <p>Each program year the Department will determine if grantees have met the established level of performance. It will evaluate national grantees on their performance both nationally and in every State in which they operate. [SEC. 513]</p>
<b>Consequences for Poor Performance for State Grantees</b>	
<p>No comparable provision. However, the Department requires grantees to submit a corrective action plan when they do not meet their goals.</p>	<p>The Department will evaluate all grantees within 120 days of the end of the program year.</p> <p>After one year of poor performance by a State grantee the Department will provide technical assistance and require the grantee to prepare a corrective action plan within 160 days of the end of the program year.</p> <p>After a second consecutive program year of poor performance by a State grantee, the Governor must conduct a competition for 25 percent of its grant award.</p> <p>After a third consecutive year of underperformance, the Governor must conduct a competition for the remaining grant award [SEC. 514]</p>

Current Law—Prior to the OAA Amendments of 2000	Major changes due to the OAA Amendments of 2000
<b>Consequences for Poor Performance by National Grantees</b>	
<p>No comparable provision. However, the Department requires grantees to submit a corrective action plan when they do not meet their goals.</p>	<p>After one year of poor performance by a national grantee the Department will provide technical assistance and require the grantee to prepare a corrective action plan within 160 days of the end of the program year.</p> <p>After a second consecutive program year of poor performance, the Department must conduct a competition for 25 percent of the grantee's funds.</p> <p>After a third consecutive year of underperformance by national grantees, the Department will conduct a national competition to award the entire grant to a new entity, which will provide services in the areas formerly served by the original grantee. [SEC. 514]</p>
<p>No comparable provision.</p>	<p><b>Performance of National Grantees in a State.</b> In addition to evaluating overall national grantee performance, the Department will evaluate national grantee performance in each State in which they operate.</p> <p>The Secretary must take corrective action if national grantees attain levels of performance in a State that is 20 percent or more below the grantee's national performance measures <u>and</u> below the performance measures for the State grantee in that State. These measures can be adjusted if there are factors, such as small project size, that justify lower performance by the grantee.</p> <p>If the national grantee does not meet performance measures in a State for one program year, the Secretary must require a corrective action plan, and may require the transfer of responsibility for the project to other grantees, provide technical assistance, and take other appropriate actions.</p> <p>After two consecutive years of underperformance by a national grantee in a State the Secretary may transfer responsibility for part or all of the project to other grantees or conduct a competition for part or all of the funds of that grantee.</p> <p>After three consecutive years of underperformance by a national grantee in a State the Secretary must conduct a competition for the funds to carry out the project.</p> <p>Governors may request that the Department review the performance of any national grantees in the State. If the Department finds that the grantee's performance does not meet expectations, it must take action as described above in this section. [SEC. 514]</p>

Current Law—Prior to the OAA Amendments of 2000	Major changes due to the OAA Amendments of 2000
<b>JTPA/Workforce Investment Act Provisions</b>	
<p>SCSEP participants are automatically eligible for all Job Training Partnership Act (JTPA) services for adults.</p> <p>The Workforce Investment Act of 1998 requires grantees to be partners in the local One-Stop systems and to enter into a Memorandum of Understanding with the Local Workforce Investment Board.</p> <p>No comparable provision.</p>	<p>Local Workforce Investment Boards may deem enrollees eligible for WIA-funded intensive services and training. [SEC. 510]</p> <p>Incorporates parallel requirements in SCSEP by requiring SCSEP grantees to be partners in their local One-Stop and must sign a Memorandum of Understanding with the Local Workforce Investment Board on how services will be provided. [SEC. 512]</p> <p>Multiple SCSEP grantees in a workforce investment area must coordinate their one-stop activities. [SEC. 512]</p> <p>Service strategies/participant assessments of skills, interests, and circumstances provided under WIA should be accepted by SCSEP programs (and vice versa). [SEC. 502]</p>
<b>Administrative Provisions</b>	
<p>Grantees may pay for their share of a project, which must be a minimum of 10%, in cash or in kind.</p> <p>No comparable statutory provision. However, Departmental regulations require that grantees meet responsibility tests in order to be selected for a grant award.</p> <p>No comparable provision.</p> <p>No comparable statutory provision. However, Departmental regulations require that grantees spend at least 75 percent of Federal funds on wages and fringe benefits for program participants.</p> <p>Departmental regulations require grantees to comply with uniform cost principles, circulars and rules issued by the Office of Management and Budget and to keep records and submit reports.</p> <p>Administrative costs to grantees are capped at 13.5% in a fiscal year, but the Secretary may increase that amount to 15% if the grantee demonstrates the additional funds are necessary to carry out the award.</p>	<p>Retains past provisions; establishes uniform definitions of program and administrative costs. [SEC. 502]</p> <p>Incorporates regulatory provisions in the statute. The Secretary must determine the initial eligibility of grant applicants through 14 responsibility tests. Applicants may not be selected for grant awards if they fail two specified tests, or if failure to meet any of the other tests is substantial or persists for 2 or more years in a row. The two specified tests are:</p> <ul style="list-style-type: none"> <li>• An inability to recover debts that are established by final agency action, or failure by the organization to comply with an approved repayment plan; or</li> <li>• Established fraud or criminal activity of a significant nature within the organization. [SEC. 514]</li> </ul> <p>Grantees must make sufficient administrative funds available to subgrantees to cover the subgrantees' administrative costs. [SEC. 502]</p> <p>Grantees must spend at least 75 percent of Federal funds on wages and fringe benefits for program participants. [SEC. 502]</p> <p>All grantees must comply with uniform cost principles and circulars issued by the Office of Management and Budget, and keep records and submit reports to DOL. [SEC. 503]</p>

Current Law—Prior to the OAA Amendments of 2000	Major changes due to the OAA Amendments of 2000
<b>Funding</b>	
<p>Authorizes appropriations to support at least 70,000 part-time SCSEP employment positions.</p> <p>Specifies how the Department shall allot SCSEP funding to States through a hold harmless provision based on their level of activity in 1978. Any funding remaining after the hold harmless is to be distributed to each State on the basis of its relative population aged 55 and over, and by the State's relative per capita income. The total of these two sums is the State total, which is divided between the State and national grantees operating in the State. In appropriations act the funds were allotted 78 percent to national grantees and 22 percent to the States.</p> <p>Authorizes the Secretary to reallocate funds between States from projects that will not use them to projects where funds are most needed.</p>	<p>Continues the authorization for at least 70,000 part-time employment positions.</p> <p>Allots funding to States through a hold harmless provision based on their level of activity in FY 2000. Level of Activity is defined as the number of authorized positions multiplied by the cost per authorized position. Any remaining funding is distributed to States based on their relative population aged 55 and over, and by the State's relative per capita income.</p> <p>The first \$35 million appropriated above the amount necessary to maintain the current level of activities must be allocated so that State grantees receive 75 percent of the funds and national grantees receive 25 percent. Any funds appropriated above the \$35 million increase are to be split 50/50 between State and national grantees.</p> <p>Authorizes the Secretary to recapture unexpended funds at the end of a program year and reobligate them within the 2 succeeding program years for incentive grants, technical assistance, or additional SCSEP grants. [SEC. 515]</p>