501.000 State Older Worker Community Service Employment Program 11-1-16

This policy is to establish and govern the administration and operations of the State Older Worker Community Service Employment Program and related funding.

501.010 Purpose 11-1-16

The Older Worker Community Service Employment Program was established in order to foster individual economic self-sufficiency and promote useful part-time employment opportunities in community service activities for economically needy persons who are age 55 or older and who have poor employment prospects.

501.011 Scope 9-1-10

This policy applies to all grant recipients of the program and to any sub-grantee or contractor that receives program funds and/or participates in the program.

501.012 General Authority 9-1-10

Older Worker Community Service Employment Act 1031

Older Americans Act of 1965 (As Amended)

501.013 Definitions 11-1-16

Act - The Older Worker Community Service Employment Act (Act 1031 of 1985).

Eligible Individual or Participant - An individual who is age 55 or older. Priority will be given to individuals with the greatest economic need based on criteria included in Section 501.050, Subsection B.

Family - Two or more persons related by blood, marriage, or decree of court, and who are living together at a single residence including:

A. Husband, wife and dependent children;

B. Parent or guardian and dependent children;

C. Husband and wife; and

D. Individuals living together under common law and filing joint tax returns.

Participant - An individual who is eligible, receives services, and is paid wages for engaging in community service employment.

Program - The Older Worker Community Service Employment Program as created by the Act and, given the context in which program is used, shall mean either the statewide program or an individual program administered in a planning and service area (PSA).

Community Service - Social; health; welfare; educational; recreational development; maintenance or restoration of natural resources; community betterment or beautification; environmental protection and such other services which are or might be essential and necessary to the community.

Department - The Arkansas Department of Human Services.

Division - The Arkansas Division of Aging and Adult Services.

Community-Based Agency – A public or not-for-profit organization whose primary purposes and experiences are in the development and implementation of programs for the elderly.

501.020 Allocation of Program Funds 9-1-10

A. Allocation of program funds shall be made for each State Fiscal Year (SFY) and at no time shall the total allocation exceed the Arkansas General Assembly's appropriation to the program for the specific SFY.

B. Prior to the beginning of each SFY, the Division shall determine the total funds to be allocated for the program based on anticipated availability of funds as prescribed by the Revenue Stabilization Act and/or other administrative, regulatory and statutory requirements.

C. After the base has been distributed, the remaining program funds shall be allocated to each of the Public Service Areas (PSAs) based on the same funding formula utilized to allocate Title III funds. The most current listing of the Title III PSAs and allocation formula shall be utilized.

D. Prior to the beginning of a SFY, the Division shall notify each PSA's designated program grant recipient of its allocation of program funds for the new SFY.

In the event of an increase or decrease in availability of total program funds during a SFY, the Division shall proportionately revise the allocations to each PSA, based on the allocation formula.

501.021 Designation of Program Grant Recipients 9-1-10

A. The Area Agency on Aging (AAA), as designated under Title III, in each of the PSAs shall be the community-based agency to receive and administer the program grant in its PSA.

B. The most current designation of AAAs shall be utilized.

501.022 Award of Program Funds 9-1-10

The Division shall provide each designated program grant recipient area plan instructions prior to the beginning of the grant period.

A. Review and approval of area plan submissions.

1. The Division will review and consider for approval each area plan submission.

2. In reviewing each area plan, the Division will determine whether:

a. Funds are available to the proposed program.

b. The area plan is complete and has been prepared in accordance with the instructions of the Division.

501.030 Program Operations 9-1-10

This section states the basic standards that shall be followed by all AAAs receiving and administering funds under the Act.

At a minimum the program and each area plan funded will:

A. Provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals.

B. Employ eligible individuals in community service programs or agencies sponsored by organizations exempt from taxation under the provisions of the Internal Revenue Code (other than political parties), except projects involving the construction, operation or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

C. Contribute to the general welfare of the community.

D. Provide employment for eligible individuals whose opportunities for other suitable public or private paid employment are poor.

E. Result in an increase in employment opportunities for eligible individuals and will not result in the displacement of employed workers or impair existing contracts.

F. Utilize methods of recruitment and selection which will assure that the maximum number of eligible individuals will have an opportunity to participate in the program.

G. Ensure that, to the extent feasible, the program will serve the needs of minority eligible individuals in proportion to their number in the State.

H. Ensure that safe and healthy conditions of work will be provided and that persons employed in community services jobs assisted under this Act shall be paid at least the minimum wage as established by the Fair Labor Standards Act.

I. Ensure that program employers provide personnel fringe benefits for participants. Such coverage shall include Worker's Compensation, Unemployment Insurance, FICA, and other coverage as may be required by regulation or policy.

501.031 Basic Responsibilities of the AAAs 9-1-10

The Division will hold the AAAs responsible for:

A. Following and enforcing the requirements set forth in the Act and this regulatory policy.

B. Implementing and carrying out the program in accordance with provisions of its approved area plan.

C. Ensuring that the program is in compliance with all Federal, State and local laws and regulations related to employment practices, civil rights, and non-discrimination.

501.032 Cooperative Relationships 9-1-10

A. Each AAA shall, to the maximum extent feasible, coordinate and maintain cooperative relationships and working linkages with employment and training agencies, e.g., local workforce centers and sponsors of Title V of the Older Americans Act.

B. Further, each AAA is encouraged to cooperate with other agencies whose cooperation would enhance the program's success.

501.033 Recruitment and Selection of Eligible Individuals 9-1-10

Each AAA shall develop and utilize a plan for recruitment and selection of eligible participants which will:

A. Utilize methods of recruitment and selection which will ensure that the maximum number of eligible individuals will have an opportunity to participate in the program.

B. Result in an increase in employment opportunities for eligible individuals whose education, job skills, experiences and other limiting factors reduce the individual likelihood of obtaining suitable public or private paid employment.

C. Ensure that, to the extent feasible, the program will serve the needs of the eligible minority individuals in proportion to their number in the PSA.

501.040 Eligibility for Participation in the Program 11-1-16

A. The eligibility criteria set forth in this subsection apply to all program applicants and participants. Each AAA is responsible for ensuring and documenting the eligibility of each participant.

B. To be eligible for initial enrollment, re-enrollment or certification for continued enrollment, each individual shall meet the criteria for age and place of residence.

1. Age - Each individual must be no less than 55 years of age. No person shall be determined ineligible solely because of advanced age, and no upper age limit shall be imposed for continued participation.

2. Place of Residence - Each individual must be a resident of the State of Arkansas.

501.043 Eligibility Determinations of the AAAs **11-1-16**

A. AAAs shall obtain the information necessary for proper determination of eligibility for each individual. Documentation of the initial eligibility determination, re-eligibility determination and continued eligibility determination should be kept in each participant's file (i.e., copies of proof of age and proof of residence, etc.)

1. The information shall be obtained primarily through personal interviews and shall be recorded on an intake or application form. The information shall be obtained in the beginning phase of the orientation and assessment to the program.

2. The information shall be verified by the dated signature of the individual on the intake or application form. AAAs are responsible for assuring that the required personal information reported by individuals appear reasonably reliable and consistent.

B. Each determination of eligibility shall be recorded on the AAA's intake or application form. The participant's name, and the name, title and signature of the AAA official who made the determination and the grounds for any unfavorable determination shall also be noted.

C. Each AAA shall recertify the proof of residence of each participant at least once during each SFY. A participant found to be ineligible for continued participation in the program because of residency shall be given immediate written notification that their participation in the program will be terminated 30 days after the notice. AAAs shall be responsible for ensuring that ineligible participants are terminated at the end of the 30 day period.

D. If at any time an AAA discovers that an individual was incorrectly determined to be eligible as a direct result of false information provided by that individual, the individual's participation shall be terminated immediately and the participant shall be notified in writing.

E. If at any time an AAA determines that an individual was incorrectly determined to be eligible through no fault of the individual, the AAA shall give the participant immediate written notice that their participation will be terminated 30 days after the notice. The AAAs shall be responsible for

ensuring that ineligible participants are terminated at the end of the 30-day period.

F. When an AAA makes an unfavorable determination on eligibility or continued eligibility, the AAA shall explain, in writing, to the applicant or participant the reason(s) for the determination. The AAA shall inform each individual affected by an unfavorable determination that the determination may be appealed pursuant to the AAA's appeals process.

G. When an AAA makes a determination of ineligibility pursuant to Items C and E above, the AAA should ensure that, to the extent feasible, the individual is referred to other sources of assistance, such as potential employment training programs, or other agencies which may be capable of assisting the individual.

501.050 Employment Priorities for Eligible Individuals 11-1-16

A. AAAs shall develop and utilize policies and procedures related to the actual employment of eligible individuals, including criteria for prioritization and selection of eligible individuals, and the use of any waiting list for actual participation (employment) due to limitations in financial resources and/or available employment positions.

B. In selecting eligible individuals for participation (employment), the AAAs will strive to give priority to those most in need. Criteria for determining the most economically needy individual may include the amount of financial assistance available to the individual from other sources, and the urgency of the individual's immediate economic needs, including but not limited to income for subsistence, housing, and medical expenses.

501.051 Duration of Participation 9-1-10

A. No time limitation on participation may be established or used within the program. This requirement does not apply to time limited employment assignments or to positions and/or duties that are appropriately discontinued by the AAAs or host agency, but rather to any maximum time period that an eligible participant may continue to be employed or be considered for employment.

B. The provisions of Item A above do not prohibit the AAAs from terminating an individual's participation in the program for cause as provided in Section 501.053, Subsection M.

501.052 Orientation and Assessment of Eligible Individuals **9-1-10**

A. Each AAA/Host Agency shall, when practicable and preferably during the eligibility determination phase, provide eligible individuals a formal orientation to the project. The orientation shall provide the individual with information related to:

1. Older Worker Community Service Employment Program;
2. Available community service employment assignments;
3. Available supportive services;
4. The rights and responsibilities of the participant;
5. Available training through the program;
6. Allowable and prohibited political activities;
7. Goal of transition to unsubsidized employment;
8. Information regarding safe working conditions at the host agencies;
9. Responsibility of the host agency to transition the participant into unsubsidized employment; and
10. Hours of work.

B. The AAA/Host Agency shall determine the most suitable employment assignment for that individual. The determination shall be made in consultation with the individual and should consider the individual's:

1. Preference for type of employment assignments;
2. Work history;
3. Skills and aptitudes;
4. Capacity to perform proposed community service employment;
5. Initial and long-range employment goals;
6. Barriers to employment;

7. Needed supportive services; and

8. Needed training.

C. The AAAs, when possible, will develop a community service employment assignment that will be both personally rewarding and permit the most effective use of the participant's individual skills and aptitudes. Participants should be assigned to community service employment positions that contribute to the general welfare of the community.

D. The AAAs shall make periodic assessments, no less frequently than once each year, to evaluate the participant's satisfaction with the employment assignment, determine any need for supportive services and assess the participant's job performance.

E. The assessment required by this section shall be documented and be a part of the participant's permanent record which will be maintained by the AAAs.

501.053 Community Service Employment **11-1-16**

A. Participants who are employed and paid wages from funds under the Act shall be considered AAA employees. Participants who are employed in any program funded under the Act are not State or Federal employees.

B. As soon as possible after the completion of eligibility determination and orientation, AAAs shall assign the individual to useful part-time community service employment. A community service employment assignment may be:

1. Created and supervised by the AAAs or

2. Developed by or in consultation with a qualified host agency and supervised by the host agency.

C. Hours of Community Service Employment

1. Employment provided by an AAA's program under the Act shall not exceed 1,300 hours, including paid holidays and sick leave, during the SFY.

2. Each participant shall be offered an average of no fewer than 20 hours of paid employment per week, unless otherwise agreed to in writing between the participant and the AAA.

D. Participants shall be employed at worksites in or near the communities where they live.

E. Work Assignments

1. Participants may be employed and/or receive employment assignments in host agencies, projects or facilities that involve community services as provided in the Act.

2. AAAs shall, to the extent feasible, give eligible individuals first consideration for work assignments involving the operation of the programs consistent with the individual's stated preferences and based on their skills and aptitudes.

3. The AAAs shall give emphasis to work assignments that involve activities designed to directly or indirectly benefit the elderly and particularly the economically needy elderly.

4. Participants shall not be placed in work assignments involving activities that will result in the displacement of employed workers.

F. Supervision

1. The AAAs shall ensure that participants are provided adequate orientation and instruction regarding assigned job responsibilities and job safety.

2. The AAAs shall ensure that participants receive at least the same level of supervision as regular employees performing similar jobs for the AAA or host agency.

3. When a participant is in a work assignment with a host agency, the host agency shall provide supervision. In such cases, the AAA shall make periodic visits to the job site to determine that the host agency's supervision is adequate, that the participant's job duties and hours are consistent with established requirements and that the participant's work performance is satisfactory.

4. The AAAs and/or the host agency supervising the participant shall maintain supervisory and other personnel records as prescribed by their policies and/or any written agreements between the AAAs and host agency.

G. No participant shall be assigned or permitted to work in buildings, surroundings or under conditions which are unsanitary, hazardous or dangerous to the participant's health or safety.

H. Non-Discrimination

1. No person shall, on the grounds of race, color, religion, sex, national origin, disability or age (except where age is a valid consideration under the Act and Section 501.040, Subsection B Item 1), be excluded from participation in, be denied the benefits of or be subjected to discrimination in connection with any program or activity funded (directly or indirectly) in whole or in part with funds made available through the Act.

2. The AAAs shall be responsible for ensuring that no discrimination prohibited by this Item occurs in its program or employment assignments with host agencies, and shall establish an effective mechanism for this purpose.

3. No participant may be placed in an employment assignment involving political activities in the offices of elected officials. Where positions are technically located in such offices, but are actually direct community service activities not in any way involved in political function, employment assignment is permissible. In such cases, the AAAs shall develop safeguards to ensure that participants in those positions are not involved in the political nature of the position.

I. Nepotism

1. No AAA or host agency may hire, place or utilize a person in an administrative capacity, staff position or program participation resulting in employment under the Act if a member of that person's immediate family is engaged in an administrative capacity for that AAA or host agency.

2. For the purposes of this Item:

a. The term "immediate family" means wife, husband, son, daughter, mother, father, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, stepparent and stepchild.

b. The term "person in administrative capacity" includes those persons who in the administration of the program or host agencies have responsibility for or authority over those responsible for the selection of participants from among eligible individuals.

J. Eligible Participant Wages and Fringe Benefits

1. Participants, whether working directly for the AAA or placed with a host agency, shall be considered employees of the AAA. As such, the AAA shall be responsible for payment of wages to the participants, payments for fringe benefits, maintenance and reporting of all required payroll and related records, maintenance of participants' personnel records in compliance with Federal and State laws and regulations, and established AAA policies and procedures.

2. While engaged in part-time community service employment under the Act, participants shall receive no less than the minimum wage of the Fair Labor Standards Act.

3. A participant performing in the same or similar position as a regular employee of the AAA or host agency shall be paid the prevailing rate of pay for that regular position provided the rate is no less than minimum wage.

4. AAAs shall ensure that participants receive all fringe benefits required by law, including Social Security, Federal Insurance Contribution Act (FICA), Workman's Compensation and Unemployment Insurance.

5. Fringe benefits for participants shall be allowable provided they are administered uniformly to all participants within the AAA and conform to established AAA policy. Such benefits may include paid holiday, vacation and sick leave, and health insurance.

K. Participant Travel and Incidentals

1. AAAs, prior to expending program funds for participant travel, must first seek transportation or travel reimbursement from other sources at no cost to the program. In general, travel expenses related to the participant's direct performance of their job duties should be provided by the host agency when such expenses are provided for regular employees performing the same or similar duties as the participant.

2. When travel is an essential part of the participant's job duties and there is no other source of funds for travel expenditures for such, costs shall be in keeping with the AAA's policy regarding travel expenses and reimbursement.

3. If not available from other sources and when essential to the performance of the participant's job duties, AAAs may utilize program funds to provide incidentals for the participants. Examples of items that may be provided include, but are not limited to: work shoes, uniforms, safety glasses and hand tools. As in the case of travel expenses, when the AAA or host agency provides such incidentals to its regular employees, it should also provide the incidentals to the participant at no cost to the program.

L. Termination of Employment Assignment

1. A participant may resign his or her position in a specific employment assignment at any time.

2. The participant shall provide the host agency and the AAA with adequate notice according to the AAA's procedures.

3. The AAA and/or host agency may terminate an employment assignment provided:

   a. The termination of the assignment is due to a programmatic and administrative decision to discontinue or reduce the related service and/or as a result of limitation in available resources.

   b. The affected participant is provided written notice according to the AAA's written procedure.

   c. The AAA or host agency takes such action in accordance with its established policies.

   d. Participants so terminated shall be given preference over other eligible individuals in employment assignment.

M. Termination of a Participant For Cause

1. The AAA or host agency may terminate, for cause, a participant's employment in a specific position assignment. Such action shall be in accordance with the agency's established policies for regular employees and the terminated individual shall have the same right of appeal as a regular employee of the agency.

2. The participant shall be given written notice of termination that shall include the reason(s) for the action and the participant's right of appeal. When the termination action is taken by a host agency, that agency shall

also provide the AAA with a copy of the termination notice.

501.060 Host Agency Agreements **9-1-10**

A. AAAs may enter into agreements with other public and private community service programs or agencies, as provided in the Act, in order to develop and provide community service employment assignments for program participants.

B. The AAA/Host Agency Agreement shall be a formal written document and shall detail the duties and responsibilities of each party. Such agreement shall comply with the provisions of the Act and this regulatory policy.

C. The AAAs shall be responsible for ensuring that such agreements comply with established standards and for the performance and manner of performance of all activities under such agreements.

501.061 Participant Records **9-1-10**

A. The AAAs shall develop and maintain an individual record for each program applicant and eligible participant. The record shall contain all application or intake forms and information, eligibility documents and eligibility reassessment documentation, documents normally maintained in regular employee personnel records and any other information that may be required by the Division.

B. The AAAs shall maintain the participant records in such a way as to ensure that no information about a participant or obtained from a participant by the AAAs, host agency or the Division is disclosed in a form that identifies the participant without the informed consent of the participant or of their legal representative, unless the disclosure is required by court order or for program monitoring by the Division or the AAAs.

C. Medical information regarding the participant shall be kept in a separate file.

D. A participant shall have the right to review their personnel record upon request and in accordance with the AAA's established policies.

E. A host agency shall develop and maintain a personnel record for each participant they employ. This record shall be maintained in accordance with the agency's policy for personnel records of its regular employees and according to any requirements set forth in the AAA/Host Agency Agreement. The provision of Items A and B above shall apply to host agency records.

501.062 Supportive Services and Training

9-1-10

A. AAAs shall provide job related counseling to participants to assist them in successfully participating in community service employment. This assistance shall be available to participants and, at a minimum, shall provide a referral to local public or private service agencies.

B. Important consumer related information or training in areas such as Social Security benefits, income tax requirements, nutrition and personal health may be provided for participants by the AAAs.

501.063 Participant Appeal and Adverse Action

9-1-10

A. Each AAA shall establish written program policies and procedures for the hearing and resolution of individuals' complaints and appeals related to:

1. Unfavorable eligibility determination;
2. Unfavorable continued eligibility determination;
3. Termination for cause of an eligible participant from the program; and
4. Other grievances related to adverse actions or lack of actions by the AAAs, except those actions as included in Item B below.

B. For the purposes of appealing or grieving an action or lack of action that directly relates to a participant's work assignment, the AAA or host agency shall make available and utilize the same appeal and/or grievance policy and procedures that are applicable to its regular employees.

C. Each AAA ensures that the host agencies have written program policies and procedures for the hearing and resolution of individuals' complaints and appeals.

D. Participant complaints alleging discrimination on the basis of race, color, religion, sex, national origin, disability or age (except when age is a valid consideration under Section 501.040, Subsection B, Item 1), which are not resolved as a result of the AAA's procedures, may be filed with the Equal Employment Opportunity Commission.

501.064 Administration Standards and Procedures

9-1-10

A. Allowable Program Cost

1. The Division shall pay 100 percent of the allowable program cost of the program grant award to an AAA. The actual payment shall not exceed the total of the grant award or the pro-rated share of the total available program grant funds.

2. No more than 8.5 percent of the AAA's grant award may be expended for administrative costs. Administrative cost include, but are not limited to

   a. Salaries, wages and fringe benefits for program administrators and staff;

   b. Consumable office supplies used by program staff;

   c. Costs incurred in the development, preparation, presentation, management and evaluation of the program;

   d. Costs of establishing and maintaining accounting and management information systems;

   e. Costs incurred in the establishment and maintenance of advisory councils, travel of program administrators and staff;

   f. Rent, utilities, custodial services and indirect cost allowable to the program;

   g. Training of staff and technical assistance to host agencies; and

   h. Cost of equipment and materials for use by staff and participants performing staff functions and audit services. An AAA may lower these costs by assigning participants in the administration of the project provided that the other provisions of this policy are met. In such events, participant wage and fringe benefit costs shall be charged to the cost category of participant wages and fringe benefits. However, the cost of travel, supplies or related costs incurred by participants, if incurred as a program staff member, would be charged to the cost category of administration.

3. No less than 80 percent of the program grant funds may be expended for participant wages and fringe benefits. Participants' wages are wages paid to participants for their hours of community service employment as defined in this policy.

4. Program funds provided to the AAAs under the Act that are not budgeted and expended for the cost category of administration or participant wages and fringe benefits may be budgeted and expended for the cost category of other participant costs including, but not limited to:

   a. Providing participant travel and incidentals and

   b. Providing supportive materials and training.

5. Any request for or approval of an AAA's program budget shall be in accordance with this policy and the Division's established procedures for all grants and area plans.

B. Financial Management Standards

Each AAA shall establish and maintain a financial management system that meets the standards set forth by the Division for all grant funds and audit standards.

C. Financial Reporting Requirements

Each AAA shall submit to the Division those financial reports that are required by the Division for all grants and area plans according to established procedures and deadlines.

D. Other Financial Standards and Procedures

1. Each AAA shall be subject to the same standards and procedures established by the Division for all grants and area plans. These include, but are not limited to:

   a. Bonding and insurance;

   b. Project income;

   c. Property management; and

   d. Procurement.

2. The Division shall disburse grant funds based on the AAA's request for funds as provided in the Division's established procedures related to all grants and area plans.

E. Retention of Records

Each AAA shall be responsible for all records, documents and files required under this regulatory policy. Retention of and access to those records, reports, documents and files shall be in accordance with the Division's established policies and procedures for all grants and area plans.

F. Monitoring and Reporting Program Performance Requirements

1. Each AAA shall monitor and report program performance as required by the Division.

2. Each AAA shall submit an Older Worker Community Service Program Quarterly Report. This report shall be prepared for each quarter and shall be submitted to the Division no later than the 15th of the first month of the following quarter. The Division will provide the report form.

3. Each AAA shall submit, upon request by the Division, any special reports, records or documents as may be required from time to time.