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National Service - Volume 1 - 42 USC, Chapter 66, VISTA [Volunteers in Service to America]  
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## Clinton Presidential Records Digital Records Marker

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### PART A—VOLUNTEERS IN SERVICE TO AMERICA

## Cross References

- Period of service of full-time volunteer in one-year program under this part as creditable period of civil service employment, see section 8332 of Title 5, Government Organization and Employees.

## § 4951. Congressional statement of purpose

This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

(Pub.L. 93-113, Title I, § 101, Oct. 1, 1973, 87 Stat. 396.)

## Historical Note

**Short Title of 1979 Amendment.** Pub.L. 96-143, § 1, Dec. 13, 1979, 93 Stat. 1074, provided: "That this Act [which enacted sections 5063 and 5064 of this title, amended sections 4953, 4955, 4958, 4973, 4974, 4992, 5021, 5043, 5044, 5050, 5055, 5057, 5058, 5060, 5081, and 5084 of this title, enacted provisions set out as notes under sections

4992 and 5084 of this title, and amended provisions set out as a note under section 4955 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1979'."

**Short Title of 1976 Amendment.** Pub.L. 94-293, § 1, May 27, 1976, 90 Stat. 525, provided: "That this Act [enacting sections 4958 and 4993 of this title, amending sections 4974, 4992, 5011, 5042, 5045, 5081, 5083, and 5084 of this title, repealing section 5053 of this title, and enacting provision set out as a note under section 4958 of this title] may be cited as the 'Domestic Volunteer Service Act Amendments of 1976'."

**Short Title.** Section 1 of Pub.L. 93-113 provided: "That this Act [which enacted this chapter, amended former section 3067 of this title and section 8332(b)(7) of Title 5, Government Organization and Employees, and repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under this section and section 5041 of this title] may be cited as the 'Domestic Volunteer Service Act of 1973'."

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## Library References

Social Security and Public Welfare ◊5.  
United States ◊82(4).

C.J.S. Social Security and Public Welfare  
§§ 6, 7.  
C.J.S. United States § 122.

## § 4952. Authority to operate Vista program

The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part.

(Pub.L. 93-113, Title I, § 102, Oct. 1, 1973, 87 Stat. 396.)

## Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 4953. Assignment of volunteers

- (a) Programs or projects for Indians, migratory and seasonal farmworkers and their families, residents of certain areas, mentally ill, developmentally disabled, and other handicapped individuals, and persons eligible for assistance under this chapter or for economic opportunity assistance

The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this chapter or the Eco-



conomic Opportunity Act of 1964, as amended [42 U.S.C.A. § 2701 et seq.] in furtherance of the purpose of this subchapter.

**(b) Home community services of teams of low-income community volunteers and nationally recruited specialist volunteers; individual plans for low-income community volunteers; updating and review of individual plans**

The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Not later than 30 days after the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer. The Director shall offer to provide each volunteer enrolled for a period of full-time service of not less than one year under this subchapter, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences.

**(c) Terms and conditions; restrictions on political activities; place of service**

Except as provided in subsection (d) of this section, the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

**(d) Program or project submittal to Governor; commencement and termination of service**

Volunteers under this part shall not be assigned to duties or work in a program or project in any State unless such program or project has been submitted to the Governor or other chief executive officer of the State concerned, and such Governor or other chief executive officer has not, within 45 days of the date of such submission, notified the Director in writing, supported by a statement of reasons, that such Governor or other chief executive officer disapproves such program or project. In the event of a timely request in writing, supported by a statement of reasons, by the Governor or other chief executive officer of the State concerned, the Director shall terminate a program or project or the assignment of a volunteer to a program or project not later than 30 days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer.

(Pub.L. 93-113, Title I, § 103, Oct. 1, 1973, 87 Stat. 396; Pub.L. 96-143, § 2, Dec. 13, 1979, 93 Stat. 1074.)

### Historical Note

**References in Text.** This chapter, referred to in subsec. (a)(3), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Economic Opportunity Act of 1964, referred to in subsec. (a)(3), is Pub.L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (section 2701 et seq.) of this title prior to repeal, except for Titles VIII and X, by Pub.L. 97-35, Title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (section 2991 et seq.) and X (section 2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Tables volume.

**1979 Amendment.** Subsec. (b). Pub.L. 96-143, § 2(a), substituted "Not later than 30 days after" for "Prior to" and added pro-

visions that the Director offer to provide each volunteer enrolled for a period of full-time service of not less than one year under this subchapter, and, upon the request of such volunteer, provide such volunteer with an individual and updated plan as described in the preceding two sentences.

Subsec. (d). Pub.L. 96-143, § 2(b), inserted "in a program or project" following "work" and "or project" following "program" and added provisions requiring notification by a Governor or other chief executive officer to the Director that such Governor or other chief executive officer has disapproved a program or project under this section and requiring the Director to terminate a program or project under this section in the event of a timely request by the Governor or other chief executive officer not later than 30 days after the date such request is received or at such date agreed upon by the Director and such Governor or other chief executive officer.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183.

## § 4954. Terms and periods of service

### (a) Personal commitment; scope of commitment

Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related human, social, and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

### (b) Minimum period of service; critical scarce-skill needs exception; reenrollment; limitation

Volunteers serving under this part may be enrolled for periods of service not exceeding two years, but for not less than one-year periods of service, except that volunteers serving under this part may be enrolled for periods of service of less than one year when the Director determines, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce-skill need. Volunteers serving under this part may be reenrolled for periods of service totaling not more than two years. No volunteer shall serve for more than a total of five years under this part.



**(c) Oath or affirmation**

Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 2504(j) of Title 22, except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

**(d) Grievance and personal view presentation procedure; notice and hearing; information**

The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on October 1, 1973, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

(Pub.L. 93-113, Title I, § 104, Oct. 1, 1973, 87 Stat. 397.)

**Historical Note**

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

**Code of Federal Regulations**

VISTA volunteers, procedures applicable, see 45 CFR 1218.1 et seq.  
Volunteer grievance procedure, see 45 CFR 1211.1-1 et seq.

**§ 4955. Support services****(a) Stipend; limitation; volunteer leaders; payment upon completion of term; advancement of accrued stipend; beneficiary of deceased volunteer**

(1) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year. Such stipend shall not exceed \$75 per month during the volunteer's service, except that the Director may provide a stipend not to exceed \$75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued

stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of Title 5.

**(b) Description of allowances and support services**

The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

(Pub.L. 93-113, Title I, § 105, Oct. 1, 1973, 87 Stat. 398; Pub.L. 94-130, § 5(a), Nov. 14, 1975, 89 Stat. 684; Pub.L. 96-143, § 3, Dec. 13, 1979, 93 Stat. 1074.)

**Historical Note**

**1979 Amendment.** Subsec. (a)(2). Pub.L. 96-143 substituted "under such circumstances as the Director shall determine, in accordance with regulations which the director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service" for "in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer".

**1975 Amendment.** Subsec. (a)(1). Pub.L. 94-130 substituted "shall not exceed \$75" for "shall not exceed \$50".

**Additional Appropriations Authorization.** Section 5(b) of Pub.L. 94-130, as amended by

Pub.L. 96-143, § 17, Dec. 13, 1979, 93 Stat. 1082, provided that: "There are authorized to be appropriated, in addition to the sums authorized to be appropriated pursuant to section 501 of such Act [section 5081 of this title], such additional sums as may be necessary to carry out the amendments made by subsection (a) of this section [to subsec. (a)(1) of this section]."

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 94-130, 1975 U.S. Code Cong. and Adm. News, p. 1214; Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183.

**Code of Federal Regulations**

VISTA volunteer leaders, qualifications, etc., see 45 CFR 1217.1 et seq.

**§ 4956. Participation of program beneficiaries**

To the maximum extent practicable, the people of the communities to be served by volunteers under this subchapter shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

(Pub.L. 93-113, Title I, § 106, Oct. 1, 1973, 87 Stat. 398.)



**Historical Note**

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

**Code of Federal Regulations**

Participation requirements, see 45 CFR 1222.1 et seq.

**§ 4957. Participation of older persons**

In carrying out this part and part C of this subchapter, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

(Pub.L. 93-113, Title I, § 107, Oct. 1, 1973, 87 Stat. 399.)

**Historical Note**

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

**§ 4958. Limitation on funds appropriated for grants and contracts for direct cost of supporting volunteers in programs or projects**

(a) Of funds appropriated for the purpose of this part under section 5081 of this title, not more than 16 per centum for the fiscal year ending September 30, 1977, and for each fiscal year thereafter, may be obligated for the direct cost of supporting volunteers in programs or projects carried out pursuant to grants and contracts made under section 5042(12) of this title. During the fiscal year ending September 30, 1980—

(1) in no event may in excess of \$5,800,000 be used pursuant to grants and contracts under this part for the direct cost of supporting such volunteers; and

(2) funds obligated pursuant to such grants and contracts for such cost may be used to support no greater number of years of volunteer service than the number of such years supported during the fiscal year ending September 30, 1979, pursuant to grants and contracts for such cost.

(b) No funds shall be obligated under this part pursuant to grants or contracts made after December 13, 1979, for new projects for the direct cost of

supporting volunteers unless the recipient of each such grant or contract has been selected through a competitive process which includes—

(1) public announcements of the availability of funds for such grants or contracts, general criteria for the selection of new recipients, and a description of the application process and the application review process; and

(2) a requirement that each applicant for any such grant or contract identify, with sufficient particularity to assure that the assignments of volunteers under such grants and contracts will carry out the purpose of this part, the particular poverty or poverty-related human, social, or environmental problems on which the grant or contract will focus, and any such grant or contract shall specifically so identify such problems.

(Pub.L. 93-113, Title I, § 108, as added Pub.L. 94-293, § 4(a)(1), May 27, 1976, 90 Stat. 525, and amended Pub.L. 96-143, § 4, Dec. 13, 1979, 93 Stat. 1075.)

**Historical Note**

**1979 Amendment.** Subsec. (a). Pub.L. 96-143, § 4, designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted "16" for "20", inserted "During the fiscal year ending September 30, 1980", and added pars. (1) and (2).

Subsec. (b). Pub.L. 96-143, § 4(b), added subsec. (b).

**Effective Date.** Section 4(c) of Pub.L. 94-293 provided that: "The amendments made by subsection (a) and subsection (b) of

this section [enacting this section and amending section 5042 of this title, respectively] shall be effective on October 1, 1976, and shall not apply to any agreement for the assignment of volunteers entered into before such date during the period of any such agreement."

**Legislative History.** For legislative history and purpose of Pub.L. 96-143, see 1979 U.S. Code Cong. and Adm. News, p. 2183.

**PART B—SERVICE-LEARNING PROGRAMS****Cross References**

Period of service of full-time volunteer in one-year program under this part as creditable period of civil service employment, see section 8332 of Title 5, Government Organization and Employees.

**§ 4971. Congressional statement of purpose**

This part provides for the University Year for ACTION (UYA) program of full-time volunteer service by students enrolled in institutions of higher education, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time,



self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service—learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems.

(Pub.L. 93-113, Title I, § 111, Oct. 1, 1973, 87 Stat. 399.)

#### Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

#### Library References

Social Security and Public Welfare Ⓔ5. C.J.S. Social Security and Public Welfare  
United States Ⓔ82(4). §§ 6, 7.  
C.J.S. United States § 122.

### § 4972. Authority to operate University Year for ACTION program; institutional benefits affecting stipend for volunteers

Except as otherwise provided in this part, the Director is authorized to conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this subchapter, except for the provisions of sections 4953(d) and 4954(d) of this title, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

(Pub.L. 93-113, Title I, § 112, Oct. 1, 1973, 87 Stat. 399.)

#### Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

### § 4973. Special conditions

#### (a) Academic credit

Volunteers serving under this part shall be enrolled for periods of service as provided for in subsection (b) of section 4954 of this title, except that volunteers serving in the University Year for ACTION program may be enrolled for periods of service of not less than the duration of an academic year, but volunteers enrolled for less than 12 months shall not receive stipends under section 4955(a)(1) of this title. Volunteers serving under this

part may receive academic credit for such service in accordance with the regulations of the sponsoring institution of higher education.

#### (b) Participation of student volunteers and educational institutions

Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

#### (c) Financial assistance limitation; commitment stipulations; monitoring of compliance with commitment; compliance information to Secretary

(1) In making grants or contracts for the administration of UYA programs under this part, the Director shall insure that financial assistance under this chapter to programs carried out pursuant to section 4972 of this title shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director, in consultation with the institution, may determine for not more than four additional years, including years in which support was received under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d). Each such grant or contract shall stipulate that the institution will make every effort to (A) assume an increasing proportion of the cost of continuing a program carrying out the purpose of this part while the institution receives support under this part; (B) waive or otherwise reduce tuition for participants in such program, where such waiver is not prohibited by law; (C) utilize students and faculty at such institution to carry out, on a self-supporting basis, appropriate planning for such programs; and (D) maintain similar service-learning programs after such institution no longer receives support under this part.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health and Human Services of the extent of each such institution's compliance.

(Pub.L. 93-113, Title I, § 113, Oct. 1, 1973, 87 Stat. 399; Pub.L. 96-143, § 5, Dec. 13, 1979, 93 Stat. 1075; Pub.L. 97-35, Title VI, § 608(f)(1), Aug. 13, 1981, 95 Stat. 488.)

#### Historical Note

**References in Text.** This chapter, referred to in subsec. (c)(1), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Economic Opportunity Act of 1964, as amended, referred to in subsec. (c)(1), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title VIII of such Act probably means Title VIII of Pub.L. 88-452 as added by Pub.L. 89-794, Title VIII, § 801, Nov. 8, 1966, 80 Stat. 1472, and generally revised and amended by Pub.L. 90-222, Title I, § 110, Dec. 23, 1967, 81 Stat. 722, which was classified generally to subchapter VIII (section 2991 et seq.) of chapter 34 of this title. Title VIII of the Economic Opportunity Act of



1964 as so added and amended was repealed by Pub.L. 93-113, Title VI, § 603, and its provisions are now covered by this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

**1981 Amendment.** Subsec. (c)(2). Pub.L. 97-35 substituted reference to Secretary of Health and Human Services, for reference to Secretary of Health, Education, and Welfare.

**1979 Amendment.** Subsec. (a). Pub.L. 96-143 substituted "except that volunteers serving in the University Year for ACTION

program may be enrolled for periods of service of not less than the duration of an academic year, but volunteers enrolled for less than 12 months shall not receive stipends under section 4955(a)(1) of this title. Volunteers serving under this part" for "and".

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

## § 4974. Special service-learning programs

### (a) Authority of Director to grant and contract

The Director is authorized to make grants and contracts for projects and programs which encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in-school or out-of-school basis in assignments of a character and on such terms and conditions as are described in subsections (a) and (c) of section 4953 of this title.

### (b) Federal employee status prohibition

Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

### (c) Living and other support or allowances

The Director may provide volunteers serving under this section a living allowance and only such other support or allowances as he determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

(Pub.L. 93-113, Title I, § 114, Oct. 1, 1973, 87 Stat. 400; Pub.L. 94-293, § 2, May 27, 1976, 90 Stat. 525; Pub.L. 96-143, § 6, Dec. 13, 1979, 93 Stat. 1075; Pub.L. 97-35, Title VI, § 608(a), Aug. 13, 1981, 95 Stat. 487.)

### Historical Note

**1981 Amendment.** Subsec. (a). Pub.L. 97-35 substituted provisions relating to authority of Director to make grants and contracts, for provisions relating to limitation on financial assistance for programs and projects under section 4953(a) and (c) of this title.

**1979 Amendment.** Subsec. (a). Pub.L. 96-143 substituted "22" for "10" and "\$4,000,000" for "\$6,700,000".

**1976 Amendment.** Subsec. (a). Pub.L. 94-293 added provisions relating to funds ap-

propriated in any fiscal year for the purposes of the University Year for ACTION exceeding \$6,700,000.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

## PART C—SPECIAL VOLUNTEER PROGRAMS

### Cross References

Period of service of full-time volunteer in one-year program under this part as creditable period of civil service employment, see section 8332 of Title 5, Government Organization and Employees.

## § 4991. Congressional statement of purpose

This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

(Pub.L. 93-113, Title I, § 121, Oct. 1, 1973, 87 Stat. 400.)

### Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

### Library References

Social Security and Public Welfare Ⓒ5.  
United States Ⓒ82(4).

C.J.S. Social Security and Public Welfare  
§§ 6, 7.  
C.J.S. United States § 122.

## § 4992. Authority to establish and operate special volunteer programs or demonstration programs

(a) Youthful offender incarceration alternatives; veterans educational opportunities; drug abusers counseling; assistance to victims of domestic violence; periods of service; identification of segments of poverty community which could benefit from volunteer and other antipoverty efforts

(1) The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs in urban and rural areas or demonstration programs (such as but not limited to a program to provide alternatives to the incarceration of youthful offenders; a program to promote educational opportunities for veterans; a program to provide community-based peer group outreach and counseling for drug abusers, a program of assistance to victims of domestic violence, a program to provide technical and management assistance to distressed communities, a program designed to provide personal and group financial counseling to low-income and fixed-income individuals (utilizing volunteers with specialized or technical expertise), and a Helping Hand program) designed to stimulate and initiate improved methods of providing volunteer services, to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of



this part, and to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts. In carrying out programs authorized by this part, the Director is authorized to provide for the recruitment, selection, and training of volunteers.

(2) For purposes of this subsection, the term "Helping Hand" program means a program utilizing person-to-person services to reduce the necessity for institutionalization (in hospitals, mental institutions, nursing homes, other extended-care settings, and other facilities) and to ameliorate residential isolation (through senior centers, half-way house facilities, and other residential settings) of older persons, handicapped persons, and other affected persons, stressing interactions between persons from various age groups, particularly young and old, and carried out in coordination with the appropriate State system for the protection and advocacy of the rights of persons with developmental disabilities established pursuant to section 6012 of this title.

**(b) Assignment of volunteers; terms and conditions**

Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

**(c) Allowances, supports, services, and stipends for part-time and full-time volunteers**

(1) The Director, in accordance with regulations which the Director shall prescribe, may provide to volunteers enrolled for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks under this part such allowances, support, and services as are described in section 4955(b) of this title and as the Director determines are necessary to carry out the purpose of this part, and shall apply the provisions of sections 4954(c) and 4955(b) of this title to the service of volunteers enrolled for full-time service under this part.

(2) The Director, in accordance with regulations which the Director shall prescribe with respect to volunteers enrolled for periods of full-time service of not less than one year under this part—

(A) may provide to such volunteers such stipends, in total amounts not in excess of stipends provided under section 4955(a) of this title to volunteers serving under part A of this subchapter, as the Director determines are necessary to carry out the purpose of this part; and

(B) to the extent that the terms and conditions of the service of such volunteers are of similar character to the terms and conditions of the service of volunteers enrolled under part A of this subchapter, shall apply to the service of such volunteers enrolled under this part the provisions of sections 4953(b) relating to low-income community volunteers, 4953(d), 4954(d), and 4955(a) of this title to the extent such pro-

visions are applied to the service of volunteers enrolled under such part A.

(Pub.L. 93-113, Title I, § 122, Oct. 1, 1973, 87 Stat. 401; Pub.L. 94-293, § 3(a), May 27, 1976, 90 Stat. 525; Pub.L. 96-143, § 7(a)-(c), Dec. 13, 1979, 93 Stat. 1075, 1076.)

**Historical Note**

**1979 Amendment.** Subsec. (a). Pub.L. 96-143, 7(a), (b), designated existing provisions as par. (1) and, in par. (1) as so designated, inserted "in urban and rural areas" following "volunteer programs" and ", a program of assistance to victims of domestic violence, a program to provide technical and management assistance to distressed communities, a program designed to provide personal and group financial counseling to low-income and fixed-income individuals (utilizing volunteers with specialized or technical expertise), and a Helping Hand program" following "drug abusers", added provisions authorizing the Director to provide for the recruitment, selection, and training of volunteers in carrying out programs authorized by this part, and added par. (2).

Subsec. (c). Pub.L. 96-143, § 7(c), added provisions permitting support payments to part-time volunteers enrolled for at least 20 hours of service per week for at least 26 consecutive weeks and provisions applying sections 4953(b), (d), 4954(d), and 4955(a) of this title to full-time full-year volunteers whose service is similar in character to that of VISTA volunteers.

**1976 Amendment.** Subsec. (c). Pub.L. 94-293 added provision authorizing the Di-

rector to undertake and support volunteer service programs, and recruit, etc., volunteers to carry out this part.

**Report on Programs, Activities, Grants, and Contracts Resulting from Amendment by Section 7 of Pub.L. 96-143.** Section 7(d) of Pub.L. 96-143 provided that: "Not later than 18 months after funds are first made available to carry out activities under the amendments to part C of title I of the Act [this part] made by this section, the Director of the ACTION Agency shall submit to the appropriate committees of the Congress a report on programs, activities, grants, and contracts so carried out, including a description of all programs established and contracts and grants made under such amended provisions, the amounts of funds obligated for such programs, activities, grants, and contracts under such amended provisions, and the specific arrangements for the conduct of evaluations of such programs, activities, grants, and contracts pursuant to section 417 of the Act [section 5057 of this title]."

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183.

**EXECUTIVE ORDER NO. 12034**

Jan. 10, 1978, 43 F.R. 1917

**APPOINTMENT OF FORMER ACTION COOPERATIVE VOLUNTEERS TO THE CIVILIAN CAREER SERVICE**

By virtue of the authority vested in me by Sections 3301 and 3302 of Title 5 of the United States Code [Sections 3301 and 3302 of Title 5, Government Organization and Employees], and as President of the United States of America, it is hereby ordered as follows:

**Section 1.** Any person who is certified by the Director of ACTION as having served satisfactorily as a full-time ACTION Community Volunteer (including Criminal Justice Volunteers, Volunteers in Justice, and VETREACH Volunteers) for a period of service of at least one year under Part C of Title I of the Domestic Volunteer Service Act of 1973 (Public Law 93-113) [Part C of subchapter I of this chapter], and who was en-

rolled as a Volunteer in such program prior to October 1, 1976, shall be eligible for non-competitive appointment to the Civilian Career Service in the same manner as that provided for Peace Corps Volunteers by Executive Order No. 11103 of April 10, 1963 [set out as a note under section 2504 of Title 22, Foreign Relations and Intercourse].

**Sec. 2.** This Order shall be effective 60 days after the date of signature and its applicability to persons who have completed their volunteer service on or before that date shall begin on such effective date.

JIMMY CARTER



## Code of Federal Regulations

ACTION Cooperative Volunteer Program, policies, etc., see 45 CFR 1213.1-1 et seq.

### § 4993. Technical and financial assistance to Federal agencies, etc., for improvement of volunteer programs; purposes and methods of assistance

The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, and private nonprofit organizations, which utilize or desire to utilize volunteers in connection with carrying out the purpose of this part. Such assistance may be used to facilitate and improve (1) methods of recruiting, training, or utilizing volunteers, or (2) the administration of volunteer programs. In providing such technical and financial assistance, the Director shall utilize, to the maximum extent feasible, existing programs, and shall seek to avoid duplication of existing programs in the public or private sectors.

(Pub.L. 93-113, Title I, § 123, as added Pub.L. 94-293, § 3(b)(1), May 27, 1976, 90 Stat. 525.)

## SUBCHAPTER II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

### Cross References

Cooperation between Commissioner of Administration on Aging under Older Americans Act of 1965 and Director of ACTION agency, see section 3013 of this title.

### PART A—RETIRED SENIOR VOLUNTEER PROGRAM

### § 5001. Grants and contracts for volunteer service projects

#### (a) Approval of programs; rules and regulations

In order to help retired persons to avail themselves of opportunities for volunteer service in their community, 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 programs under this section, if he determines, in accordance with regulations he 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 aged sixty or over 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 program 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 program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons.

#### (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, 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: *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.

(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.)

### Historical Note

**1978 Amendment.** 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 the period for review to "forty-five" from "sixty" days.

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



1974 Amendment. Subsec. (b). Pub.L. 93-351 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub.L. 93-351 redesignated former subsec. (b) as (c).

**Effective Date of 1978 Amendment.** Amendment by Pub.L. 95-478 effective at the close of Sept. 30, 1978, see section 504 of Pub.L. 95-478, set out as an Effective Date of 1978 Amendment 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, 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.) [section 3021 et seq. and 3045 et seq. of this title] and national older American volunteer programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) [this subchapter], and in order to enhance the effectiveness of the support provided to such national older American volunteer programs by the ACTION Agency, the Director of the ACTION Agency 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 ACTION Agency.

"(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 [section 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 'ACTION Agency' means the ACTION Agency established by section 401 of the Act (42 U.S.C. 5041) [section 5041 of this title];

"(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."

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 93-351, 1974 U.S. Code Cong. and Adm. News, p. 3708; Pub.L. 95-478, 1978 U.S. Code Cong. and Adm. News, p. 3388.

#### Code of Federal Regulations

Retired Senior Volunteer Program, policies, etc., see 45 CFR 1209.1-1 et seq.

#### Library References

Social Security and Public Welfare Ⓔ5.  
United States Ⓔ82(2, 4).

C.J.S. Social Security and Public Welfare  
§§ 6, 7.  
C.J.S. United States § 122.

### 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 oppor-

tunities for low-income persons aged sixty or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services by individuals serving as "foster grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if he determines, in accordance with regulations he 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) 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.

### (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 shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—

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

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

(2) In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided*, That such child was receiving such services prior to attaining the chronological age of 21.

(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) Definitions

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 he shall prescribe, may provide to persons serving as volunteers under this part, such allowances, stipends, and other support as he determines are necessary to carry out the



purpose of this part. Any stipend or allowance provided under this subsection shall not be less than \$2 per hour, except that (1) no increase in the stipend or allowance shall be made pursuant 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 \$2 per hour, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception.

(e) **Additional definitions**

For the purposes of this part, the terms "low-income person" and "person of low income" mean (1) any person whose income is not more than 125 percent of the poverty line set forth in section 2971d of this title; and (2) any person considered a poor or low-income person under section 5061(4) of this title, with special consideration for participation in projects under this part provided to persons described in clause (2).

(Pub.L. 93-113, Title II, § 211, Oct. 1, 1973, 87 Stat. 402; Pub.L. 94-135, Title II, § 205(b)(1), (2), Nov. 28, 1975, 89 Stat. 727; Pub.L. 94-293, § 7, May 27, 1976, 90 Stat. 526; Pub.L. 95-478, Title IV, § 402(b), Oct. 18, 1978, 92 Stat. 1557; Pub.L. 97-35, Title VI, § 608(b), Aug. 13, 1981, 95 Stat. 487.)

**Historical Note**

**References in Text.** Section 3044b of this title, referred to in subsec. (a), related to grants and contracts for Foster Grandparent projects and for services as senior health aides and senior companions, amount of award, method of payment, and exclusion as income of compensation to individual volunteers, was repealed by section 604(a) of Pub.L. 93-113, and is now covered by this section and sections 5022 and 5058 of this title.

Section 2971d of this title, referred to in subsec. (e), was repealed by Pub.L. 97-35, Title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519.

**1981 Amendment.** Subsec. (b). Pub.L. 97-35, § 608(b), redesignated former subsec. (c) as (b). Former subsec. (b), which related to service as senior health aides and senior companions was struck out.

Subsecs. (c) to (f). Pub.L. 97-35, § 608(b)(2), redesignated former subsecs. (c) to (f) as (b) to (e), respectively.

**1978 Amendment.** Subsecs. (e), (f). Pub.L. 95-478 added subsecs. (e) and (f).

**1976 Amendment.** Subsecs. (c), (d). Pub.L. 94-293 added subsecs. (c) and (d).

**1975 Amendment.** Subsec. (a). Pub.L. 94-135, § 205(b)(1), substituted "individuals" for "volunteers" where appearing the first and third places and struck out "serve as volunteers to" preceding "provide supportive person-to-person services".

Subsec. (b). Pub.L. 94-135, § 205(b)(2), substituted "individuals" for "volunteers".

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

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 94-135, 1975 U.S. Code Cong. and Adm. News, p. 1252; Pub.L. 95-478, 1978 U.S. Code Cong. and Adm. News, p. 3388; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

**Code of Federal Regulations**

Foster Grandparent Program, policies, etc., see 45 CFR 1208.1-1 et seq.  
Senior Companions Program, policies, etc., see 45 CFR 1207.1-1 et seq.

**Library References**

Social Security and Public Welfare Ⓔ5.  
United States Ⓔ82(2, 4).

C.J.S. Social Security and Public Welfare  
§§ 6, 7.  
C.J.S. United States § 122.

§ **5012.** **Conditions of grants and contracts; "community action agency" defined**

(a)(1) In carrying out this part, the Director shall insure that individuals receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2)(A) The Director shall award a grant or contract under this part for a project to be carried out over an area in a State more comprehensive than one community, to the State agency established or designated pursuant to section 3025(a)(1) of this title, unless (i) the State has not established or designated such an agency; or (ii) such agency has been afforded at least 45 days to (I) review the project application made by a prospective grantee or contractor other than such agency for a project to be carried out in such State; and (II) make recommendations thereon. In the event that such an established or designated State agency is not awarded the grant or contract, any application approved for a project in such State shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such agency.

(B) The Director shall award a grant or contract under this part for a project to be carried out entirely in a community served by a community action agency, to such agency unless such agency and the State agency established or designated pursuant to section 3025(a)(1) of this title have been afforded at least 45 days to (i) review the project application made by a prospective grantee or contractor other than either such agency for a project to be carried out in such community; and (ii) make recommendations thereon. In the event that such a community action agency or such an established or designated State agency is not awarded the grant or contract, any application approved for a project to be carried out entirely in such community shall contain or be supported by satisfactory assurances that the project has been developed, and will, to the extent feasible, be conducted, in consultation with, or with the participation of, such community action agency.

(b) The term "community action agency" as used in this section means a community action agency as defined in Title II of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781-2837).

(Pub.L. 93-113, Title II, § 212, Oct. 1, 1973, 87 Stat. 402; Pub.L. 94-135, Title II, § 205(b)(3), Nov. 28, 1975, 89 Stat. 727; Pub.L. 95-478, Title IV, § 402(c), Oct. 18, 1978, 92 Stat. 1557.)



## Historical Note

**References in Text.** The Economic Opportunity Act of 1964, referred to in subsec. (b), is Pub.L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (section 2781 et seq.) of chapter 34 of this title prior to repeal by Pub.L. 97-35, Title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables volume.

**1978 Amendment.** Subsec. (a)(2). Pub.L. 95-478 incorporated existing text in provisions designated as subpar. (A), deleted provision for carrying out projects throughout the State, and prohibits awards of grants or contracts where there is no State agency either established or designated or the State agency has the application under review before making recommendations concerning the project, and added subpar. (B) covering subject matter of former par. (3).

Subsec. (a)(3). Pub.L. 95-478 struck out par. (3) provisions for the foster grandparent

program and older American community service program for projects to be carried out entirely in a community served by a community action agency, now covered in par. (2) (B).

**1975 Amendment.** Subsec. (a)(1). Pub.L. 94-135 substituted "individuals" for "volunteers".

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

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 94-135, 1975 U.S. Code Cong. and Adm. News, p. 1252; Pub.L. 95-478, 1978 U.S. Code Cong. and Adm. News, p. 3388.

## PART C—SENIOR COMPANIONS PROGRAM

## § 5013. Grants and contracts; applicability of other laws

(a) 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 in the same manner as provided in section 5011(a) of this title) designed for the purpose of providing opportunities for low-income persons aged 60 or over to serve as "senior companions" to persons with exceptional needs. Senior companions may provide services designed to help older persons requiring long-term care, including services to persons receiving home health care, nursing care, home-delivered meals or other nutrition services; services designed to help persons deinstitutionalized from mental hospitals, nursing homes, and other institutions; and services designed to assist persons having developmental disabilities and other special needs for companionship.

(b) The provisions of section 5011(d) of this title and section 5011(e) of this title and such other provisions of part B of this subchapter as the Director determines to be necessary shall apply to the provisions of this part.

(Pub.L. 93-113, Title II, § 213, as added Pub.L. 97-35, Title VI, § 608(c)(2), Aug. 13, 1981, 95 Stat. 487.)

## Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 97-35, see 1981 U.S. Code Cong. and Adm. News, p. 396.

## Library References

Social Security and Public Welfare ☞ 174. C.J.S. Social Security and Public Welfare § 94.

## PART D—GENERAL PROVISIONS

## § 5021. Coordination with other Federal programs

In carrying out this subchapter, the Director shall consult with the Departments of Labor and Health and Human Services, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this subchapter with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this subchapter and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this subchapter.

(Pub.L. 93-113, Title II, § 221, Oct. 1, 1973, 87 Stat. 403; Pub.L. 96-143, § 18(b), Dec. 13, 1979, 93 Stat. 1083; Pub.L. 97-35, Title VI, § 608(f)(2), Aug. 13, 1981, 95 Stat. 488.)

## Historical Note

**1981 Amendment.** Pub.L. 97-35 substituted "Health and Human Services" for "Health, Education, and Welfare" and struck out reference to the Community Services Administration.

**1979 Amendment.** Pub.L. 96-143 substituted "Community Services Administration" for "Office of Economic Opportunity".

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

## Library References

Social Security and Public Welfare ☞ 5. C.J.S. Social Security and Public Welfare §§ 6, 7.  
United States ☞ 82(2, 4). C.J.S. United States § 122.

## § 5022. Payments; adjustments; advances or reimbursement; installments; conditions

Payments under this subchapter pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(Pub.L. 93-113, Title II, § 222, Oct. 1, 1973, 87 Stat. 403.)



## Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 5023. Minority group participation

The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this subchapter.

(Pub.L. 93-113, Title II, § 223, Oct. 1, 1973, 87 Stat. 404.)

## Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

### SUBCHAPTER III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY PERSONS WITH BUSINESS EXPERIENCE

## §§ 5031, 5032. Repealed. Pub.L. 95-510, § 102(a), Oct. 24, 1978, 92 Stat. 1781

## Historical Note

Section 5031, Pub.L. 93-113, Title III, § 301, Oct. 1, 1973, 87 Stat. 404, set out the Congressional statement of purpose in enacting this subchapter.

Section 5032, Pub.L. 93-113, Title III, § 302, Oct. 1, 1973, 87 Stat. 404, related to the authority of the Director to establish, coordinate and operate national volunteer pro-

grams. See section 637 of Title 15, Commerce and Trade.

**Effective Date of Repeal.** Repeal of sections effective Oct. 1, 1979, see section 105 of Pub.L. 95-510, set out as an Effective Date of 1978 Amendment note under section 634 of Title 15, Commerce and Trade.

### SUBCHAPTER IV—ADMINISTRATION AND COORDINATION

## § 5041. ACTION Agency; establishment; officials of ACTION Agency: Director, Deputy Director, Associate Director and Deputy Associate Directors for Domestic and Anti-Poverty Operations, and Assistant Directors; appointment, compensation, and functions

There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of Title 5.

There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of Title 5. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency one Associate Director who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of Title 5. Such Associate Director shall be designated "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this chapter. There shall also be in such agency no more than two Assistant Directors appointed by the President by and with the advice and consent of the Senate, who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of Title 5. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under parts A and B of subchapter I of this chapter and one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under subchapter II of this chapter, each of whom shall be appointed by the Director.

(Pub.L. 93-113, Title IV, § 401, Oct. 1, 1973, 87 Stat. 405; Pub.L. 96-533, Title VI, § 602(a), Dec. 16, 1980, 94 Stat. 3155.)

## Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**1980 Amendment.** Pub.L. 96-533 substituted "one Associate Director" for "two Associate Directors", and "Such Associate Director" for "One such Associate Director" and struck out ", and the other such Associate Director shall be designated 'Associate Director for International Operations' and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (22 U.S.C. 2501 et seq.)."

**Transfer of Functions.** Transfer of functions, powers, and duties vested in ACTION Agency or its Director under this subchapter

relating to SCORE and ACE Programs to Small Business Administration, see Ex. Ord. No. 11871, eff. July 18, 1975, 40 F.R. 30915, set out as a note under section 641 of Title 15, Commerce and Trade.

**Peace Corps Established as Agency within ACTION Agency.** For establishment of the Peace Corps as an agency within ACTION Agency, see section 1-101 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of Title 22, Foreign Relations and Intercourse.

**Coordination between Directors of Peace Corps and ACTION Agency.** For requirement that the Directors of ACTION Agency and Peace Corps consult and coordinate to assure that the functions of the Director of the Peace Corps under the Peace Corps Act, section 2501 et seq. of Title 22, are carried out consistently with the functions of the Director of ACTION Agency under this chapter, see section 1-112 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16,



1979, set out as a note under section 2501 of Title 22, Foreign Relations and Intercourse.

**Superseding of 1971 Reorg. Plan No. 1.** Section 601 of Pub.L. 93-113 provided that:

"(a) [Superseded provisions] Sections 1, 2(a), 3, and 4 of Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

"(b) [Transfer of functions; personnel, property, records, and unexpended funds] The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401 [this section]. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act [this chapter] so that there is no disruption of ongoing activities for which there is continuing authority.

"(c) [Continuing effectiveness of official actions and continuation of volunteer services] All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act [Oct. 1, 1973] and for which there is continuing authority under the provisions of this Act [this chapter], and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of

1964, as amended (42 U.S.C. 2991-2994d) [former sections 2991 to 2994d of this title] on the effective date of this Act [Oct. 1, 1973], shall continue in full force and effect until modified, superseded, or revoked by the Director.

"(d) [References to ACTION or Director of ACTION] All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act [Oct. 1, 1973], be deemed to refer to the ACTION Agency established by section 401 [this section] and the Director thereof.

"(e) [Abatement of actions or proceedings] No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act [this chapter].

"(f) [Continuation of prior appointments] Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate."

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-533, 1980 U.S. Code Cong. and Adm. News, p. 6540.

#### Library References

Social Security and Public Welfare ☞ 5.  
United States ☞ 82(4).

C.J.S. Social Security and Public Welfare  
§§ 6, 7.  
C.J.S. United States § 122.

## § 5042. Authority of Director

In addition to the authority conferred upon him by other sections of this chapter, the Director is authorized to—

### (1) Appointment and compensation of personnel

appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of Title 5;

### (2) Employment and compensation of experts and consultants

(A) employ experts and consultants or organizations thereof as authorized by section 3109 of Title 5, except that no individual may be employed under the authority of this subsection for more than one hundred days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5332 of such Title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

### (3) Reimbursement of other Federal agencies for performance of provisions; delegation of functions

with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this chapter and, as necessary or appropriate, delegate any of his functions under this chapter and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

### (4) Utilization of services and facilities of Federal and State agencies

with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

### (5) Acceptance of gifts, devises, and bequests

accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this chapter, or of any subchapter thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

### (6) Acceptance of voluntary and uncompensated services

accept voluntary and uncompensated services;

### (7) Allocation and expenditure of funds; transfer of funds to other Federal agencies

allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this chapter as he deems necessary to carry out the provisions hereof, including expenditure for construction, repairs, and capital improvements;



**(8) Dissemination of data and information**

disseminate, without regard to the provisions of section 3204 of Title 39, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

**(9) Seal**

adopt an official seal, which shall be judicially noticed;

**(10) Collection or compromise of obligations**

collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with sections 3701(1) and 3711 of Title 31.

**(11) Expenditures for printing and binding, rent, and repairs, alteration, and improvement of buildings**

expend funds made available for purposes of this chapter as follows: (A) for printing and binding, in accordance with applicable law and regulations; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this chapter, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

**(12) Grants or contracts for assignment or referral of volunteers; payment of program costs**

notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this chapter (except as provided in section 4958 of this title), which may provide that the agency or organization shall pay all or a part of the costs of the program;

**(13) Educational and vocational counseling**

provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this chapter to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating

poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

**(14) Specific necessary or appropriate functions**

establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this chapter, with necessary adjustments on account of overpayments and underpayments) as are necessary or appropriate to carry out the provisions of this chapter; and

**(15) Other necessary or appropriate functions**

generally perform such functions and take such steps, consistent with the purposes and provisions of this chapter, as he deems necessary or appropriate to carry out the provisions of this chapter.

(Pub.L. 93-13, Title IV, § 402, Oct. 1, 1973, 87 Stat. 406; Pub.L. 94-293, § 4(b), May 27, 1976, 90 Stat. 526; Pub.L. 97-214, § 10(b)(2), July 12, 1982, 96 Stat. 175.)

**Historical Note**

**References in Text.** This chapter, referred to in introductory clause and in pars. (3), (5), (7), (11), (12), (13), (14), and (15) in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended former section 3067 of this title and section 8332(b)(7) of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Civil Service laws, referred to in par. (1), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

**Codification.** In par. (10), "sections 3701(1) and 3711 of title 31" was substituted for "the Federal Claims Collection Act of 1966 (31 U.S.C. 951-53)" on authority of Pub.L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

**1982 Amendment.** Par. (7). Pub.L. 97-214, § 10(b)(2), struck out "(without regard to the provisions of section 4774(d) of Title 10)," following "the provisions hereof, including".

**1976 Amendment.** Par. (12). Pub.L. 94-293 substituted "as provided in section

4958 of this title" for "for volunteers serving under part A of subchapter I thereof".

**Effective Date of 1982 Amendment.** Amendment by Pub.L. 97-214 effective on Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub.L. 97-214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

**Effective Date of 1976 Amendment.** Amendment by Pub.L. 94-293 effective on Oct. 1, 1976 and not applicable to any agreement for the assignment of volunteers entered into before such date during the period of any such agreement, see section 4(c) of Pub.L. 94-293, set out as an Effective Date note under section 4958 of this title.

**Additional Functions of Director.** For additional functions of the Director of ACTION Agency relating to mitigating community problems, fostering voluntary action, initiating proposals for more effective application of voluntary action in federal programs, and making grants for voluntary action programs, see section 1-601 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of Title 22, Foreign Relations and Inter-course.



**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 97-214, 1982 U.S. Code Cong. and Adm. News, p. 441.

#### Code of Federal Regulations

Availability of information, see 1215.1 et seq.  
Employee conduct and responsibilities, see 45 CFR 1201.735-101 et seq.  
Official seal, see 45 CFR 1204.1 et seq.

## § 5043. Political activities

### (a) Funds use prohibition; "election" and "Federal office" defined

No part of any funds appropriated to carry out this chapter, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or the outcome of any election to any State or local public office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" (when referring to an election for Federal office) has the same meaning given such term by section 431(1) of Title 2, and the term "Federal office" has the same meaning given such term by section 431(3) of Title 2.

### (b) Prohibition on program identification

(1) Programs assisted under this chapter shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (A) any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (C) any voter registration activity.

(2) No funds appropriated to carry out this chapter shall be used by any program assisted under this chapter in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except—

(A) in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(B) in connection with an authorization or appropriations measure directly affecting the operation of the program.

### (c) Enforcement; rules and regulations

The Director, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

(Pub.L. 93-113, Title IV, § 403, Oct. 1, 1973, 87 Stat. 408; Pub.L. 96-143, §§ 8, 18(c)(1), Dec. 13, 1979, 93 Stat. 1077, 1083; Pub.L. 96-187, Title I, § 112(e)(1), Jan. 8, 1980, 93 Stat. 1366.)

### Historical Note

**References in Text.** This chapter, referred to in subsecs. (a) and (b), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**1980 Amendment.** Subsec. (a). Pub.L. 96-187 substituted "section 431(1) of title 2" and "section 43(3) of title 2" for "section 431(a) of title 2" and "section 431(c) of title 2", respectively.

**1979 Amendment.** Subsec. (a). Pub.L. 96-143, § 8(a), inserted "or the outcome of any election to any State or local public office," following "Federal office," and "(when referring to an election for Federal office)" preceding "has the same meaning".

Subsec. (b). Pub.L. 96-143, § 8(b), designated existing provisions as par. (1), cls. (1)

to (3) thereof as cls. (A) to (C), and last sentence thereof as subsec. (c) and added par. (2).

Subsec. (c). Pub.L. 96-143, §§ 8(b)(3), 18(c)(1), designated as subsec. (c) provisions formerly contained in last sentence of subsec. (b) and, as so designated, substituted "Office of Personnel Management" for "Civil Service Commission".

**Effective Date of 1980 Amendment.** Amendment by Pub.L. 96-187 effective on Jan. 8, 1980, see section 301(a) of Pub.L. 96-187, set out as an Effective Date of 1980 Amendment note under section 431 of Title 2, The Congress.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 96-187, 1979 U.S. Code Cong. and Adm. News, p. 2860.

### Library References

United States Ⓒ82(6).

C.J.S. United States § 122.

## § 5044. Special limitations

### (a) Volunteer activities; limitation

The Director shall prescribe regulations and shall carry out the provisions of this chapter so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this chapter is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

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**(b) Support costs**

All support, including transportation provided to volunteers under this chapter, shall be furnished at the lowest possible costs consistent with the effective operation of volunteer programs.

**(c) Compensation of supervising agencies or organizations**

No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

**(d) Labor or antilabor organization activities; funds use prohibition**

No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

**(e) Selection procedure**

Persons serving as volunteers under this chapter shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this chapter. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this chapter who wish to become volunteers as he determines will further the purposes of this chapter.

**(f) Delegation of functions; compensation: conversion requirement; Peace Corps exceptions**

Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this chapter only to persons appointed or employed pursuant to clauses (1) and (2) of section 5042 of this title, and persons assigned or delegated such substantial responsibilities on October 1, 1973, and who are receiving compensation in accordance with provisions of law other than the applicable provisions of Title 5 on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after October 1, 1973.

**(g) Government assistance; eligibility; special limitations**

(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this chapter shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any

governmental program, except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater.

(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under subchapter I of this chapter who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service. (Pub.L. 93-113, Title IV, § 404, Oct. 1, 1973, 87 Stat. 408; Pub.L. 96-143, § 9, Dec. 13, 1979, 93 Stat. 1077.)

**Historical Note**

**References in Text.** This chapter, referred to in subsecs. (a), (b), (c), (f), and (g), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Peace Corps Act, referred to in subsec. (f), is Pub.L. 87-293, Sept. 22, 1961, 75 Stat. 612, which is classified principally to chapter 34 (section 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code see Short Title note set out under section 2501 of Title 22 and Tables volume.

The Fair Labor Standards Act of 1938, referred to in subsec. (g)(1), is Act June 25, 1938, c. 676, 52 Stat. 1060, as amended,

which is classified principally to chapter 8 (section 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables volume.

**1979 Amendment.** Subsec. (g). Pub.L. 96-143 designated existing provisions as par. (1) and, in par. (1) as so designated, inserted ", except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater" following "governmental program" and added par. (2).

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183.

**Code of Federal Regulations**

Limitations applicable, see 45 CFR 1216.1-1 et seq.

**Notes of Decisions**

Eligibility for government assistance 2  
Labor or antilabor organization activity 1

1. **Labor or antilabor organization activity**  
Finding that VISTA volunteer's activities in organizing demonstration protesting pro-

posed budget cutbacks and teacher layoffs in schools serving community violated subsec. (d) of this section which prohibits use of appropriated funds to finance labor organization was contrary to meaning and intent of this section, which was intended to prevent taxpayers' money from being used to finance labor union organization and related activities



or antiunion groups and their activities. Kensington Joint Action Council v. Pauken, D.C.Pa.1982, 531 F.Supp. 656.

In light of overwhelming uncontradicted evidence showing absence of any union connection with demonstration organized by VISTA volunteer to protest proposed cutbacks and reductions in educational programs other than to focus mayor's attention on concerns of parents in community, ACTION Director's decisions that actions taken by volunteer were labor related in violation of subsec. (d) of this section and that termination of VISTA sponsor was therefore required were arbitrary and capricious. *Id.*

## 2. Eligibility for government assistance

Decision of Department of Public Welfare discontinuing claimant's welfare benefits after she reported workmen's compensation benefits received after claimant was injured while working under VISTA program, even though her earnings as a VISTA volunteer were exempted for purposes of calculating public assistance benefits, did not constitute a clear abuse of discretion or a clearly arbitrary action. *Savko v. Com., Dept. of Public Welfare*, 1979, 407 A.2d 152, 47 Pa.Cmwlt. 168.

Congress in enacting legislation establishing VISTA program, which provided in part under subsec. (g)(1) of this section that payments to volunteers "shall not in any way reduce or eliminate the level of eligibility for assistance or services any such volunteers

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may be receiving under any governmental program," intended its use of phrase "any governmental program" to extend proscription of that provision to states and their political subdivisions in respect of local welfare programs receiving no federal financial assistance. *Gilbert v. State, Dept. of Human Services, Division of Public Welfare*, 1979, 400 A.2d 803, 167 N.J.Super. 217.

In view of subsec. (g)(1) of this section providing that payments to VISTA volunteers "shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program," recipient's state general assistance benefits could not be terminated on grounds that recipient's receipt of VISTA stipend caused her monthly income to exceed level of eligibility for general assistance. *Id.*

Prior to administrative letter of June 23, 1975, income earned as VISTA volunteer was to be treated as income fully exempted from consideration in determining eligibility for public assistance in home relief category. *Rae v. Berger*, 1975, 373 N.Y.S.2d 775, 84 Misc.2d 474.

The Department of Social and Rehabilitation Services could not reduce its assistance to VISTA employee by the \$250 per month received by him as compensation. *In re McGhee*, 1980, 618 P.2d 859, 5 Kan.App.2d 461.

## § 5045. National Voluntary Service Advisory Council

- (a) Establishment; membership; appointment and term; representation of interests; temporary and permanent chairperson; initial and annual meetings; compensation and travel expenses; ex officio membership

There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than twenty-five members appointed, not later than ninety days after October 1, 1973, by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this chapter. The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council shall receive compensation and travel expenses as provided in section 5042(2) of this title with respect to experts and consultants. The Di-

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rector and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

### (b) Functions of Council

The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this chapter; and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this chapter and make recommendations (including such proposals for changes in this chapter as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of this chapter.

(c) Repealed. Pub.L. 96-470, Title I, § 113, Oct. 19, 1980, 94 Stat. 2240

(d) Applicability of provisions to National Advisory Council to ACTION Agency established by administrative action after January 1, 1976

In the event that a National Advisory Council to the ACTION Agency is established by administrative action after January 1, 1976, the provisions of subsections (a), (b), and (c) of this section shall apply to any such Council.

(Pub.L. 93-113, Title IV, § 405, Oct. 1, 1973, 87 Stat. 409; Pub.L. 94-293, § 5(a), May 27, 1976, 90 Stat. 526; Pub.L. 96-470, Title I, § 113, Oct. 19, 1980, 94 Stat. 2240; Pub.L. 96-533, Title VI, § 602(b), Dec. 16, 1980, 94 Stat. 3156.)

### Historical Note

**References in Text.** This chapter, referred to in subsections (a), and (b), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**1980 Amendments.** Subsec. (a). Pub.L. 96-533, § 602(b)(1), struck out "and the Peace Corps Act (22 U.S.C. 2501 et seq.)" following "under this chapter".

Subsec. (b)(1). Pub.L. 96-533, § 602(b)(2), struck out "and the Peace Corps Act (22 U.S.C. 2501 et seq.)" following "this chapter".

Subsec. (b)(2). Pub.L. 96-533, § 602(b)(3), struck out "and the Peace Corps Act" following "under this chapter" and "and such Act" following "in this chapter" and "of this chapter", respectively.

Subsec. (c). Pub.L. 96-470, struck out subsec. (c), which provided that, not later than Jan. 1 of each calendar year beginning with calendar year 1975, the Council make an annual report of its findings and recommendations to the President for transmittal by the President to Congress together with the comments and recommendations of the President.

**1976 Amendment.** Subsec. (d). Pub.L. 94-293 added subsec. (d).

**Termination of Advisory Councils.** Advisory councils established after Jan. 5, 1973 to terminate not later than the expiration of the two-year period beginning on the date of its establishment unless in the case of a council established by the President or an officer of the federal government, such council is renewed by appropriate action prior to the end of such period, or in the case of a council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub.L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S.



Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-470, 1980 U.S. Code Cong. and Adm. News, p. 4675; Pub.L. 96-533,

1980 U.S. Code Cong. and Adm. News, p. 6540.

## § 5046. Labor standards for federally assisted projects, buildings, and works

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and in section 276c of Title 40.

(Pub.L. 93-113, Title IV, § 406, Oct. 1, 1973, 87 Stat. 410.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Davis-Bacon Act, referred to in text, is Act Mar. 3, 1931, c. 411, 46 Stat. 1494, as

amended, which is classified generally to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables volume.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

### Code of Federal Regulations

Interpretation of fringe benefits provisions, see 29 CFR 5.20 et seq.

## § 5047. Report to President for transmittal to Congress

Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal by the President to the Congress a full and complete report on the activities of the ACTION Agency during such year.

(Pub.L. 93-113, Title IV, § 407, Oct. 1, 1973, 87 Stat. 410.)

### Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 5048. Joint funding; single non-Federal share requirement; grant or contract requirement waiver

Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this chapter, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this chapter, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this chapter, which requirement is inconsistent with the similar requirements under or pursuant to this chapter.

(Pub.L. 93-113, Title IV, § 408, Oct. 1, 1973, 87 Stat. 410.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Delegation of Authority to Issue Joint Funding Regulations.** Authority of the Presi-

dent under this section delegated to the Administrator of General Services, see section 3 of Ex. Ord. No. 11867, eff. June 19, 1975, 40 F.R. 26253, set out as a note under section 4252 of this title, and policy functions transferred to Director of Office of Management and Budget, see section 1 of Ex. Ord. No. 11893, eff. Dec. 31, 1975, 41 F.R. 1040, set out as a note under section 4252 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

### Code of Federal Regulations

Budgetary implementation requirements, see 45 CFR 1228.1 et seq.

## § 5049. Prohibition of Federal control of educational institution or school system

Nothing contained in this chapter shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.

(Pub.L. 93-113, Title IV, § 409, Oct. 1, 1973, 87 Stat. 410.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section

8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.



**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 5050. Coordination with other programs

The Director shall take necessary steps to coordinate volunteer programs authorized under this chapter with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this chapter with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this chapter. The Director, in consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provisions for the listing and description of volunteer work on all employment application forms.

(Pub.L. 93-113, Title IV, § 410, Oct. 1, 1973, 87 Stat. 410; Pub.L. 96-143, § 10, Dec. 13, 1979, 93 Stat. 1078.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**1979 Amendment.** Pub.L. 96-143 added provisions requiring the Director in consulta-

tion with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies to take steps to encourage employers to review the consideration they give volunteer service in the information requested on their standard application forms.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183.

## § 5051. Performance of functions by existing departments or offices rather than new departments or offices

In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this chapter, no funds appropriated to carry out this chapter shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

(Pub.L. 93-113, Title IV, § 411, Oct. 1, 1973, 87 Stat. 411.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992

to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 5052. Suspension and termination of financial assistance; procedures; notice and hearing; emergency situations; refunding applications

The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this chapter, whenever he determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this chapter shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days; nor shall an application for refunding under this chapter be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this chapter shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(Pub.L. 93-113, Title IV, § 412, Oct. 1, 1973, 87 Stat. 411.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992

to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

### Code of Federal Regulations

Procedures applicable, see 45 CFR 1206.1-1 et seq.

### Notes of Decisions

Burden of proof 6  
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Nature of show cause proceeding 4  
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VETERANS ADMINISTRATION



**1. Rules and regulations**

Federal agency charged with administering this chapter is not held to strict compliance with implementing regulations; so long as it has substantially complied with content and spirit of rules, its actions will not be faulted for merely technical omissions absent showing of prejudice. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

**2. Refunding applications—Generally**

Although section 5012 of this title and regulations governing selection of grantees state preference for sponsorship by community action agency, no such preferred status is accorded by renewal provisions of this section; all grantees are governed by same procedures and are entitled to no more than show-cause meeting in which to state their cause for renewal. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

Recipient of funds under this chapter can have no property interest in continued funding upon expiration of grant. *Id.*

**3. — Discretion of Director**

Intent of this section, and implementing regulations, providing that application for refunding shall not be denied "unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken" is to reserve to officials of administering federal agency broad discretion in determining whether to renew grants. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

**4. — Nature of show cause proceeding**

Show-cause proceeding as to why recipient's application for refunding under this chapter should not be denied is informal meeting, not a trial. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

**5. — Notice**

Where officials of federal agency charged with administering this chapter had indicated

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their dissatisfaction with recipient's administration of grant long before nonrenewal decision, reasons provided by federal agency in tentative decision not to renew were specific and identified each of areas to be addressed by recipient at show-cause meeting, and recipient responded in detail to each of claims in lengthy submission prepared prior to meeting with officials of administering agency, record showed that recipient was adequately apprised in advance of reasons for federal agency's determination so as to allow it to prepare for show-cause meeting and thus its procedural rights under this chapter had not been abridged in such respect. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

**6. Burden of proof**

Federal agency charged with administering this chapter was not required to convince grant recipient of merits of nonrenewal of grant in meeting to show cause why recipient's application for refunding should not be denied; rather, obligation was solely on recipient to persuade federal officials that recipient was entitled to renewal. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

**7. Issues or decisions reviewable**

Discretion of federal agency charged with administering this chapter does not include right to dispense with minimal procedural rights accorded applicant and applicant may obtain judicial intervention to insure that implementing regulations are complied with by agency. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

**8. Scope of review**

Breadth of discretion vested in federal agency charged with administering this chapter severely restricts scope of judicial review on merits. *Community Action Organization of Erie County, Inc. v. Action*, D.C.N.Y.1982, 546 F.Supp. 494.

**§ 5053. Repealed. Pub.L. 94-293, § 5(b)(1), May 27, 1976, 90 Stat. 526****Historical Note**

Section, Pub.L. 93-113, Title IV, § 413, Oct. 1, 1973, 87 Stat. 411, authorized the Director to carry out the programs of this chapter during the fiscal year ending June 30,

1974, and the three succeeding fiscal years, and authorizing Congress to appropriate such sums as necessary for each fiscal year.

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**Fiscal Year Transition Period of July 1, 1976, through September 30, 1976, Deemed Part of Fiscal Year Beginning October 1, 1976.** Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed part of fiscal year beginning Oct. 1, 1976, for pur-

poses of former provisions of this section, see section 205(18) of Pub.L. 94-274, Apr. 21, 1976, 90 Stat. 393, set out as a note under section 5532 of Title 5, Government Organization and Employees.

**§ 5054. Distribution of benefits between rural and urban areas**

The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this chapter will be distributed equitably between residents of rural and urban areas.

(Pub.L. 93-113, Title IV, § 414, Oct. 1, 1973, 87 Stat. 411.)

**Historical Note**

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title

**Rural Program Report.** Pub.L. 96-143, § 16, Dec. 13, 1979, 93 Stat. 1082, provided that: "Not later than February 1, 1980, the

Director of the ACTION Agency shall submit to the appropriate committees of the Congress a report specifying the special needs and circumstances to be addressed in designing programs under the Domestic Volunteer Service Act of 1973 [this chapter] for implementation in rural areas. Such report shall include a detailed statement of the manner in which the Director intends to address such needs and circumstances, together with a timetable for designing and implementing such programs."

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

**§ 5055. Application of Federal law****(a) General rule**

Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this chapter shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

**(b) Specific Federal legislation**

Individuals enrolled as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under subchapter I of this chapter shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of Title 5, be deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and Title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of Title 28, be deemed employees of the United States, (4) for the purposes of subchapter I of chapter 81 of Title 5



(relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of Title 5, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the annual rate of pay of a volunteer enrolled for a period of full-time service under such subchapter I of this chapter shall be deemed to be that received under the entrance salary for a grade GS-7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such subchapter I of this chapter shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director, and subsections (a) and (b) of section 8113 of Title 5 shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated, and (5) be deemed employees of the United States for the purposes of section 5584 of Title 5 (and stipends and allowances paid under this chapter shall be considered as pay for such purposes).

**(c) Subsequent government employment**

Any period of service of a volunteer enrolled in a program for a period of service of at least one year under part A of subchapter I of this chapter, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B or C of subchapter I of this chapter, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of any Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Office of Personnel Management, the Foreign Service Act of 1980 [22 U.S.C.A. § 3901 et seq.], and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

**(d) Competitive service**

Volunteers serving in programs for periods of service of at least one year under part A of subchapter I of this chapter, and volunteers serving for such periods under Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

**(e) References in other laws to service under provisions relating to Volunteers in Service to America deemed references to service under subchapter I of this chapter**

Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under Title VIII of the Economic Opportunity Act of 1964, as amended [42 U.S.C.A. § 2991 et seq.], shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of subchapter I of this chapter.

**(f) Civil actions**

**(1) The remedy—**

(A) against the United States provided by sections 1346(b) and 2672 of Title 28, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such Title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under subchapter I of this chapter shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

(2) The Attorney General of the United States shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of Title 28 and all references thereto. After removal



the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of Title 28 and with the same effect.

(Pub.L. 93-113, Title IV, § 415, Oct. 1, 1973, 87 Stat. 411; Pub.L. 96-143, §§ 11, 18(c)(2), Dec. 13, 1979, 93 Stat. 1078, 1083; Pub.L. 96-465, Title XXII, § 2206(h), Oct. 17, 1980, 94 Stat. 2163.)

#### Historical Note

**References in Text.** This chapter, referred to in subsecs. (a) and (b)(5), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, as amended, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

The Internal Revenue Code of 1954, referred to in subsec. (b), is set out in Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (b)(2) is Act Aug. 14, 1935, c. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (section 401 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables volume.

Federal Tort Claims provisions of Title 28, referred to in subsec. (b)(3), are the Federal Tort Claims Act, which is classified generally to section 1346(b) and to chapter 171 (section 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

GS-7, referred to in subsec. (b)(4), is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

The Foreign Service Act of 1980, referred to in subsec. (c)(2), is Pub.L. 96-465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (section 3901 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the

Code, see Short Title note set out under section 3901 of Title 22 and Tables volume.

The Economic Opportunity Act of 1964, as amended, referred to in subsecs. (d) and (e), is Pub.L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended. Title VIII of such Act, probably means Title VIII of Pub.L. 88-452 as added by Pub.L. 89-794, Title VIII, § 801, Nov. 8, 1966, 80 Stat. 1472, and generally revised and amended by Pub.L. 90-222, Title I, § 110, Dec. 23, 1967, 81 Stat. 722, which was classified generally to subchapter VIII (section 2991 et seq.) of chapter 34 of this title. Title VIII of the Economic Opportunity Act of 1964 as so added and amended was repealed by Pub.L. 93-113, Title VI, § 603, and its provisions are now covered by this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables volume.

Executive Order Number 11103 (April 10, 1963), referred to in subsec.(d), is set out under section 2504 of Title 22, Foreign Relations and Intercourse.

**1980 Amendment.** Subsec. (c)(1). Pub.L. 96-465, § 2206(h)(1), substituted "any" for "section 1092(a)(1) of title 22 and every other".

Subsec. (c)(2). Pub.L. 96-465, § 2206(h)(2), substituted "Foreign Service Act of 1980" for "Foreign Service Act of 1946".

**1979 Amendment.** Subsec. (b). Pub.L. 96-143, § 11(a), substituted in provisions preceding cl. (1) "as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under subchapter I of this chapter" for "in programs under subchapter I

of this chapter for periods of service of at least one year" and in cl. (4)(A) "the annual rate of pay of a volunteer enrolled for a period of full-time service under such subchapter I of this chapter shall be deemed to be that received under the entrance salary for a grade GS-7 employee, and the annual rate of pay of a volunteer enrolled for a period of part-time service under such subchapter I of this chapter shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director" for "the monthly pay of a volunteer shall be deemed that received under the entrance salary for a grade GS-7 employee" and added cl. (5).

Subsec. (c)(2). Pub.L. 96-143, § 18(c)(2), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (f). Pub.L. 96-143, § 11(b), added subsec. (f).

**Effective Date of 1980 Amendment.** Amendment by Pub.L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub.L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 96-465, 1980 U.S. Code Cong. and Adm. News, p. 4419.

#### EXECUTIVE ORDER NO. 11561

Sept. 25, 1970, 35 F.R. 14981, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055.

#### DELEGATION OF AUTHORITY

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code [section 301 of Title 3; The President], and as President of the United States, the authority conferred upon the President by that portion of section 833(c)(2) of the Economic Opportunity Act of 1964 (42 U.S.C. 2994b(c)(2)) [former section 2994b(c)(2) of this title, now subsec. (c)(2) of this section] which reads "except as otherwise determined by the President" is hereby delegated as follows: (1) To

the Office of Personnel Management to the extent that such authority is with respect to the laws administered by the Office, and (2) to the Secretary of State to the extent that such authority is with respect to the Foreign Service Act of 1946, as amended [section 801 et seq. of Title 22, Foreign Relations and Intercourse].

RICHARD NIXON

#### Code of Federal Regulations

Eligibility for appointment to competitive service, see 45 CFR 1219.1 et seq.

### § 5056. Evaluation of programs and projects

#### (a) General objectives; persons conducting the evaluation

The Director shall periodically measure and evaluate the impact of all programs authorized by this chapter, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

#### (b) General standards; publication; reports of ensuing actions

The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this chapter. Reports submitted pursuant to section 5047 of this title shall describe the actions taken as a result of evaluations carried out under this section.



## (c) Opinions of participants

In carrying out evaluations under this subchapter, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

## (d) Summaries of results; publication

The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

## (e) Federal property

The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

## (f) Funds limitation; reduction of allotments

The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this chapter, to conduct program and project evaluations (directly, or by grants or contracts) as required by this chapter. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

(Pub.L. 93-113, Title IV, § 416, Oct. 1, 1973, 87 Stat. 412.)

## Historical Note

**References in Text.** This chapter, referred to in subsecs. (a), (b), and (f), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sec-

tions 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 5057. Nondiscrimination

(a) The Director shall not provide financial assistance for any program under this chapter unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation. For purposes of this subsection, and for purposes of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (Public Law 94-135, Title III; 42 U.S.C. 6101 et seq.), any program, project, or activity to which volunteers are assigned under this chapter shall be deemed to be receiving Federal financial assistance.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this chapter. The Director shall enforce the provisions of the preceding sentence in accordance with section 2000d-1 of this title. Section 2000d-2 of this title shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this chapter.

(c)(1) The Director shall apply the nondiscrimination policies and authorities set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), in Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and in the Age Discrimination Act of 1975 (Public Law 94-135, Title III; 42 U.S.C. 6101 et seq.) to applicants for enrollment for service as volunteers, and to volunteers serving, under this chapter and the Peace Corps Act (22 U.S.C. 2501 et seq.). Any remedies available to individuals under such laws, other than the right of appeal to the Civil Service Commission authorized by section 717 of the Civil Rights Act of 1964 [42 U.S.C.A. § 2000e-16], and transferred to the Equal Employment Opportunity Commission by Reorganization Plan Number 1 of 1978, shall be available to such applicants or volunteers.

(2) Not later than 90 days after December 13, 1979, the Director, after consultation with the Equal Employment Opportunity Commission with regard to the application of the policies set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and with the Interagency Coordinating Council, established by section 507 of the Rehabilitation Act of 1973 [29 U.S.C.A. § 794c], and the Interagency Committee on Handicapped Employees, established by section 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. 791(a)), with regard to the application of the policies set forth in Title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), and, not later than 90 days after the Secretary of Health and Human Services publishes final general regulations to carry out the Age Discrimination Act of 1975 (Public Law 94-135, Title III; 42 U.S.C. 6101 et seq.), and after consultation with the Secretary with regard to the application of the policies set forth in such Act, shall prescribe regulations establishing the procedures for the application of such policies and the provision of such remedies so as to promote the enrollment and service of persons as volunteers without regard to the discriminatory factors described in such laws.

(Pub.L. 93-113, Title IV, § 417, Oct. 1, 1973, 87 Stat. 413; Pub.L. 96-143, § 12, Dec. 13, 1979, 93 Stat. 1079; Pub.L. 97-35, Title VI, § 608(f)(3), Aug. 13, 1981, 95 Stat. 488.)

## Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter,

amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provi-



sions set out as notes under sections 4951 and 5041 of this title.

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub.L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (section 2000d et seq.) of chapter 21 of this title. Section 717 of such Act, referred to in subsec. (c), is classified to section 2000e-16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables volume.

The Age Discrimination Act of 1975, referred to in subsecs. (a) and (c), is Pub.L. 94-135, Title III, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (section 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables volume.

The Rehabilitation Act of 1973, referred to in subsec. (c), is Pub.L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Rehabilitation Act of 1973 is classified generally to subchapter V (section 790 et seq.) of chapter 16 of Title 29, Labor. Section 504 of such Act, referred to in subsec. (a), is classified to section 794 of Title 29. Section 501(a) of such Act, referred to in subsec. (c), is classified to section 791(a) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables volume.

The Peace Corps Act, referred to in subsec. (c)(1), is Pub.L. 87-293, Sept. 22, 1961, 75

Stat. 612, as amended, which is classified principally to chapter 34 (section 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables volume.

Reorganization Plan Number 1 of 1978, referred to in subsec. (c)(1), is set out in the Appendix to Title 5, Government Organization and Employees.

**1981 Amendment.** Subsec. (c)(2). Pub.L. 97-35 substituted reference to the Secretary of Health and Human Services for references to the Secretary of Health and Human Resources and the Secretary of Health, Education, and Welfare.

**1979 Amendment.** Subsec. (a). Pub.L. 96-143, § 12(a), inserted "handicap," following "age," and added provisions requiring that for purposes of this subsection, and for purposes of Title VI of the Civil Rights Act of 1964, section 794 of Title 29, and the Age Discrimination Act of 1975, any program, project, or activity to which volunteers are assigned under this chapter be deemed to be receiving Federal financial assistance.

Subsec. (c). Pub.L. 96-143, § 12(b), added subsec. (c).

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

### West's Federal Forms

Complaints, see §§ 1850.5 to 1850.15.

### Code of Federal Regulations

Program requirements, see 45 CFR 1203.1 et seq.

### Library References

Civil Rights ⇨ 9.5.

C.J.S. Civil Rights §§ 56 to 58.

## § 5058. Eligibility for other benefits

Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to subchapter II of this chapter shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar ben-

efit payments, or minimum wage laws. This section shall become effective with respect to all payments made after October 1, 1973.

(Pub.L. 93-113, Title IV, § 418, Oct. 1, 1973, 87 Stat. 413; Pub.L. 96-143, § 18(a)(2), Dec. 13, 1979, 93 Stat. 1083.)

### Historical Note

**1979 Amendment.** Pub.L. 96-143 substituted "subchapter II of this chapter" for "subchapters II and III of this chapter".

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S.

Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183.

## § 5059. Legal expenses

Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this chapter or section 637(b)(1) of Title 15) serving under this chapter have been made parties.

(Pub.L. 93-113, Title IV, § 419, Oct. 1, 1973, 87 Stat. 413.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992

to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

### Code of Federal Regulations

Payment procedures, see 45 CFR 1220.1-1 et seq.

## § 5060. Requirements for prescribing regulations

### (a) Definitions

For purposes of this section—

(1) the term "regulation" means any rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by the Director pursuant to this chapter; and

(2) the term "Committees" means the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

### (b) Citations

Regulations prescribed by the Director or by any other officer of the ACTION Agency, in connection with, or affecting, the administration of any



program carried out under this chapter shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

(c) **Publication in Federal Register; effective date; opportunity to comment**

(1) Except as provided in paragraph (2)(B) of this subsection, no proposed regulation prescribed pursuant to this chapter for the administration of any program carried out under this chapter may take effect until 30 calendar days after it is published in the Federal Register.

(2)(A) During the 30-day period before the date upon which such regulation is to be effective, the Director shall, in accordance with the provisions of section 553 of Title 5, offer any interested party an opportunity to make comment upon, and take exception to, such regulation and shall reconsider any such regulation upon which comment is made or to which exception is taken.

(B) If the Director determines that the 30-day requirement in paragraph (1) of this subsection would cause undue delay in the implementation of a regulation, thereby causing substantial hardship for the intended beneficiaries of any program carried out under this chapter, the Director may waive the application of such requirement and shall immediately submit a notice of such determination and waiver, including a statement of the reasons therefor, to the Committees.

(d) **Transmission of copy of regulation to Congress; hardship exception**

Concurrently with the publication in the Federal Register of any final regulation, a copy of such final regulation shall be transmitted to the Speaker of the House of Representatives and the President of the Senate. Except as is provided in the following sentence, no such final regulation may take effect until 45 calendar days after such transmission. If the Director determines that such 45-day requirement would cause undue delay in the implementation of the regulation, thereby causing substantial hardship for the intended beneficiaries of any program carried out under this chapter, the Director may waive the application of such requirement and shall promptly submit a notice of such determination and waiver, including a statement of the reasons therefor, to the Committees.

(e) **Schedule of final regulations**

Not later than 60 days after the date of the enactment of any Act affecting the administration of any program carried out under this chapter, the Director shall submit to the Committees a schedule in accordance with which the Director has planned to prescribe final regulations implementing such Act or part of such Act. Such schedule shall provide that all such final regulations shall be prescribed not later than 180 days after the submission of such schedule. Except as is provided in the following sentence, all such final regulations shall be prescribed in accordance with such schedule. If the Director determines that, due to circumstances unforeseen at the time of the submission of any such schedule, the schedule submitted pursuant to

this subsection cannot be met, the Director shall submit a notice of such determination, including a statement of the reasons therefor, to the Committees and shall submit a new schedule which shall then be considered, for the purposes of this subsection, as the schedule originally submitted in connection with the enactment of the Act involved.

(Pub.L. 93-113, Title IV, § 420, Oct. 1, 1973, 87 Stat. 414; Pub.L. 96-143, § 13(a), Dec. 13, 1979, 93 Stat. 1080.)

**Historical Note**

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**1979 Amendment.** Pub.L. 96-143 substituted provisions relating to requirements for prescribing regulations for provisions requiring all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this chapter to be published in the Federal Register at least 30 days prior to their effective date.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183.

§ 5061. **Definitions**

For the purposes of this chapter—

- (1) the term "Director" means the Director of the ACTION agency;
- (2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Samoa and, for the purposes of subchapter II of this chapter, the Trust Territory of the Pacific Islands;
- (3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and
- (4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 2971d of this title: *Provided*, That in determining who is "poor" or "low-income", the Director shall take into consideration existing poverty guidelines as appropriate to local situations.

(Pub.L. 93-113, Title IV, § 421, Oct. 1, 1973, 87 Stat. 414.)

**Historical Note**

**References in Text.** This chapter, referred to in introductory clause in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this ti-

tle and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.



Section 2971d of this title, referred to in par. (4), was repealed by Pub.L. 97-35, Title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 5062. Audit

### (a) Recordkeeping

Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this chapter other than by formal advertising, and which are otherwise authorized by this chapter, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

### (b) Access to books, documents, papers, and records; limitations

The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or loans referred to in subsection (a) of this section.

(Pub.L. 93-113, Title IV, § 422, Oct. 1, 1973, 87 Stat. 414.)

### Historical Note

**References in Text.** This chapter, referred to in subsec. (a), in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections

2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.

## § 5063. Reduction of paperwork

In order to reduce unnecessary, duplicative, or disruptive demands for information, the director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this chapter and take such action as may be necessary to reduce the paperwork required under this chapter. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this chapter.

(Pub.L. 93-113, Title IV, § 423, as added Pub.L. 96-143, § 14(a), Dec. 13, 1979, 93 Stat. 1081.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, as amended, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sec-

tions 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 96-143, see 1979 U.S. Code Cong. and Adm. News, p. 2183.

## § 5064. Review of project renewals

If the executive authority of any State or local government submits to the Director, not later than 30 days before the expiration of any contract or grant to carry out any project under this chapter, a statement which objects to the renewal of such contract or grant, then the Director shall (1) review such statement and take it into account in determining whether to renew such contract or grant; and (2) submit to such executive authority a written statement of reasons regarding the Director's determination with respect to such renewal and specifically with respect to any objection so submitted.

(Pub.L. 93-113, Title IV, § 424, as added Pub.L. 96-143, § 14(a), Dec. 13, 1979, 93 Stat. 1081.)

### Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, as amended, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sec-

tions 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 96-143, see 1979 U.S. Code Cong. and Adm. News, p. 2183.

## SUBCHAPTER V—AUTHORIZATION OF APPROPRIATIONS

### § 5081. National Volunteer Antipoverty Programs

There is authorized to be appropriated to carry out subchapter I of this chapter \$25,763,000 for fiscal year 1982 and \$15,391,000 for fiscal year 1983. Of the amounts appropriated under this section, not less than \$16,000,000 shall first be available for carrying out part A of subchapter I of this chapter for fiscal year 1982, and not less than \$8,000,000 shall first be available for carrying out part A of subchapter I of this chapter for fiscal year 1983.

(Pub.L. 93-113, Title V, § 501, Oct. 1, 1973, 87 Stat. 415; Pub.L. 94-293, § 6(a), May 27, 1976, 90 Stat. 526; Pub.L. 96-143, § 15(a), (b), Dec. 13, 1979, 93 Stat. 1082; Pub.L. 97-35, Title VI, § 607(a), Aug. 13, 1981, 95 Stat. 486.)



## Historical Note

**1981 Amendment.** Pub.L. 97-35 substituted provisions relating to authorization and availability of funds for fiscal years 1982, and 1983, for provisions relating to authorization and availability of funds for the fiscal year ending June 30, 1974, through the fiscal year ending Sept. 30, 1981.

**1979 Amendment.** Subsec. (a). Pub.L. 96-143, § 15(a), inserted "September 30, 1979, September 30, 1980, and September 30, 1981," following "September 30, 1978," and substituted "this section for the purpose of carrying out subchapter I of this chapter" for "this subchapter".

Subsec. (c). Pub.L. 96-143, § 15(b), added subsec. (c).

**1976 Amendment.** Subsec. (a). Pub.L. 94-293 added "September 30, 1977, and September 30, 1978," following "June 30, 1976".

**Additional Appropriations Authorization.** Additional appropriations authorization for meeting increase in stipend to volunteers under section 4955(a)(1) of this title, see section 5(b) of Pub.L. 94-130, set out as a note under section 4955 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

## Library References

Social Security and Public Welfare ◊5.  
United States ◊82(4).

C.J.S. Social Security and Public Welfare  
§§ 6, 7.  
C.J.S. United States § 122.

## § 5082. National Older Americans Volunteer Programs

(a) There is authorized to be appropriated \$28,691,000 for fiscal year 1982 and \$30,412,000 for fiscal year 1983, for the purpose of carrying out programs under part A of subchapter II of this chapter.

(b) There is authorized to be appropriated \$49,670,000 for fiscal year 1982 and \$52,650,000 for fiscal year 1983, for the purpose of carrying out programs under part B of subchapter II of this chapter.

(c) There is authorized to be appropriated \$16,610,000 for fiscal year 1982 and \$17,607,000 for fiscal year 1983, for the purpose of carrying out part C of subchapter II of this chapter.

(Pub.L. 93-113, Title V, § 502, Oct. 1, 1973, 87 Stat. 415; Pub.L. 94-135, Title II, § 205(a), Nov. 28, 1975, 89 Stat. 727; Pub.L. 95-478, Title IV, § 402(d), Oct. 18, 1978, 92 Stat. 1558; Pub.L. 97-35, Title VI, § 607(b), Aug. 13, 1981, 95 Stat. 486.)

## Historical Note

**1981 Amendment.** Subsec. (a). Pub.L. 97-35, § 607(b)(1), substituted provisions authorizing appropriations for the fiscal years 1982 and 1983, for provisions authorizing appropriations for the fiscal year ending June 30, 1974, through the fiscal year ending Sept. 30, 1981.

Subsec. (b). Pub.L. 97-35, § 607(b)(2), substituted provisions authorizing appropriations for fiscal years 1982 and 1983, for provisions relating to authorization, availability, and allocation of appropriations from the fiscal year ending June 30, 1974, through the fiscal year ending Sept. 30, 1981.

Subsec. (c). Pub.L. 97-35, § 607(b) added subsec. (c).

**1978 Amendment.** Subsec. (a). Pub.L. 95-478, § 402(d)(1), authorized appropriations of \$25,000,000; \$30,000,000; and \$35,000,000 for fiscal years ending Sept. 30, 1979, through 1981.

Subsec. (b)(2). Pub.L. 95-478, § 402(d)(2), authorized appropriations of \$55,000,000; \$62,500,000; and \$70,000,000 for fiscal years ending Sept. 30, 1979, through 1981, for carrying out part B programs of the subchapter.

**1975 Amendment.** Subsec. (a). Pub.L. 94-135, § 205(a)(1), authorized appropriations of \$6,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and \$22,000,000 for fiscal years ending Sept. 30, 1977, and 1978.

Subsec. (b). Pub.L. 94-135, § 205(a)(2), authorized appropriations of \$10,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and \$43,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in introductory text; \$8,750,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and \$35,000,000 for fiscal years ending Sept. 30, 1977, and 1978, in cl. (A); and \$2,000,000 for period beginning July 1, 1976, and ending Sept. 30, 1976, and \$8,000,000 for

fiscal years ending Sept. 30, 1977, and 1978, in cl. (B).

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

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 94-135, 1975 U.S. Code Cong. and Adm. News, p. 1252; Pub.L. 95-478, 1978 U.S. Code Cong. and Adm. News, p. 3388; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.

## § 5083. Repealed. Pub.L. 95-510, § 102(b), Oct. 24, 1978, 92 Stat. 1781

## Historical Note

Section, Pub.L. 93-113, Title V, § 503, Oct. 1, 1973, 87 Stat. 415; Pub.L. 94-293, § 6(b), May 27, 1976, 90 Stat. 526, authorized appropriations for national volunteer programs to assist small businesses and promote volunteer service by persons with business experience.

**Effective Date of Repeal.** Repeal of section effective Oct. 1, 1979, see section 105 of Pub.L. 95-510, set out as an Effective Date of 1978 Amendment note under section 634 of Title 15, Commerce and Trade.

## § 5084. Administration and coordination

There is authorized to be appropriated for the administration of this chapter, as authorized in subchapter IV of this chapter, \$30,091,000 for fiscal year 1982 and \$29,348,000 for fiscal year 1983.

(Pub.L. 93-113, Title V, § 504, Oct. 1, 1973, 87 Stat. 416; Pub.L. 94-293, § 6(c), May 27, 1976, 90 Stat. 526; Pub.L. 96-143, § 15(c), Dec. 13, 1979, 93 Stat. 1082; Pub.L. 97-35, Title VI, § 607(c), Aug. 13, 1981, 95 Stat. 487.)

## Historical Note

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sections 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**1981 Amendment.** Pub.L. 97-35 substituted provisions authorizing appropriations for fiscal years 1982 and 1983, for provisions authorizing appropriations for the fiscal year

ending June 30, 1974, through the fiscal year ending Sept. 30, 1981.

**1979 Amendment.** Pub.L. 96-143 inserted "September 30, 1979, September 30, 1980, and September 30, 1981," following "September 30, 1978,".

**1976 Amendment.** Pub.L. 94-293 added "September 30, 1977, and September 30, 1978," following "June 30, 1976,".

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155. See, also, Pub.L. 96-143, 1979 U.S. Code Cong. and Adm. News, p. 2183; Pub.L. 97-35, 1981 U.S. Code Cong. and Adm. News, p. 396.



**§ 5085. Availability of appropriations**

Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this chapter or any predecessor authority shall remain available, in accordance with the provisions of this chapter, for obligation and expenditure until expended.

(Pub.L. 93-113, Title V, § 505, Oct. 1, 1973, 87 Stat. 416.)

**Historical Note**

**References in Text.** This chapter, referred to in text, in the original read "this Act" meaning Pub.L. 93-113, Oct. 1, 1973, 87 Stat. 396, as amended, known as the Domestic Volunteer Service Act of 1973, which enacted this chapter, amended section 3067 of this title and section 8332 of Title 5, Government Organization and Employees, repealed sec-

tions 2991, 2992 to 2992b, 2993 to 2993b, 2994 to 2994d, and 3044 to 3044e of this title, and enacted provisions set out as notes under sections 4951 and 5041 of this title.

**Legislative History.** For legislative history and purpose of Pub.L. 93-113, see 1973 U.S. Code Cong. and Adm. News, p. 2155.