



The Comptroller General
of the United States

Washington, D.C. 20548

Riback
PMT

Decision

Matter of: Senior Community Service Employment Program
File: B-222248
Date: March 13, 1987

DIGEST

The Equal Employment Opportunity Commission questions whether it may be a "host" agency under the Senior Community Service Employment Program, which is funded by federal grant and administered under federal statute by the American Association of Retired Persons. The Commission may properly act as a "host" agency in this context since this would not contravene the provisions of 31 U.S.C. § 1342, which prohibits federal agencies from accepting voluntary services from private citizens in the absence of statutory authority.

DECISION

The issue presented in this matter is whether the Equal Employment Opportunity Commission (EEOC) may serve as a host agency in using enrollees of the Senior Community Service Employment Program for part-time clerical work, notwithstanding that by law federal agencies are generally prohibited from accepting voluntary services.^{1/} We conclude that this general prohibition does not apply to the enrollees in the program at issue, so that EEOC may properly accept their services for part-time clerical work.

BACKGROUND

The Senior Community Service Employment Program is administered by the American Association of Retired Persons, a nongovernmental organization, under a federal grant and an agreement with the Secretary of Labor, as authorized by subchapter IX of Chapter 35, title 42 of the United States Code, 42 U.S.C. §§ 3056-3056f.

^{1/} Mr. William Bartlett, Acting Director, Personnel Management Services, EEOC, requested our decision in this matter.

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Under this program economically disadvantaged persons over 55 years old are enrolled and placed in positions with a view toward ultimately providing them permanent employment. While the enrollees are involved in the program, their salaries are paid out of the grant monies given to the American Association of Retired Persons. Consequently, services are rendered to host establishments free of charge. This being the case, EEOC requests our determination on the question of whether it is barred from accepting the enrollees' services by the prohibition contained in 31 U.S.C. § 1342, which provides that "[a]n officer or employee of the United States Government * * * may not accept voluntary services * * * or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property."

DISCUSSION

The prohibition contained in 31 U.S.C. § 1342 relates to voluntary services rendered by private persons without authorization of law, such as might afford a basis for future claims for pay or compensation against the federal government. See 23 Comp. Gen. 272, 274 (1943). Thus, in the absence of specific statutory authority, federal agencies are generally prohibited from accepting voluntary services offered by individuals. 60 Comp. Gen. 456 (1981).

In 54 Comp. Gen. 560 (1975) we considered a program administered under the statutory authority of the Comprehensive Employment and Training Act (CETA), 29 U.S.C. §§ 801 et seq. (1976 ed., repealed), and we concluded that the prohibition against the acceptance of voluntary services did not apply to that program due to the statutory terms of the CETA legislation. We are of the opinion that the Senior Community Service Employment Program now in question is sufficiently similar to warrant application of the reasoning expressed in that decision.

In 54 Comp. Gen. 560, supra, we considered the language adopted by the Congress in section 608 of CETA, which authorized the Secretary of Labor to use the services and facilities of federal agencies as well as the resources of public and private entities in the performance of his functions under CETA. We concluded that the Congress had therefore intended to make available for purposes of the program whatever facilities of the federal government could be useful in accomplishing its purposes. A provision of law governing the

Senior Community Service Employment Program contained in 42 U.S.C. § 3056a(c) states:

"In carrying out the provisions of this subchapter, the Secretary is authorized to use, with their consent, the services, equipment, personnel and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment and facilities."

In light of the similarity between the two provisions we are of the opinion that the Congress similarly intended to authorize the Secretary of Labor to use federal agencies in the administration of the program in question. In addition, we note that the legislative history of the 1975 congressional enactment which established the current Senior Community Service Employment Program makes it clear that the Congress intended it to be the statutory basis for extending and consolidating programs which previously had been administered under CETA and related enactments.^{2/}

Since it is clear that this program is in many respects akin to CETA in its administration, we are of the opinion that "[u]nder the circumstances considering that the services in question will arise out of a program initiated by the Federal Government, it would be anomalous to conclude that such services are proscribed as being voluntary within the meaning of 31 U.S.C. [1342]." 54 Comp. Gen., supra, at page 561. Accordingly, we conclude that EEOC may properly become a host agency under the Senior Community Service Employment Program.

for 
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^{2/} Public Law 94-135, § 113, November 28, 1975, 89 Stat. 713, 720. See H.R. Rep. 67, 94th Cong., 1st Sess. 11, et seq. (1975); and S. Rep. No. 255, 94th Cong., 1st Sess. 13, 15, 29 (1975). It is also to be noted that a federal agency's acceptance of the services of persons participating in federally funded programs, of this type, does not result in an impermissible augmentation of the agency's appropriations. Community Work Experience Programs, B-211079.2, January 2, 1987.