

SHORT TITLE

Section 7301 of title VII of Pub. L. 103-355 provided that: “This subtitle [subtitle C (§§ 7301-7306) of title VII of Pub. L. 103-355, enacting this section, sections 276d-1 to 276d-3 of this title, and provisions set out below] may be cited as the ‘Community Improvement Volunteer Act of 1994’.”

REPORT ON USE OF VOLUNTEERS BY FOR-PROFIT ENTITIES

Section 7306 of title VII of Pub. L. 103-355 provided that: “Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

“(1) to the maximum extent practicable—

“(A) identifies and assesses the barriers that prevent private for-profit entities from using volunteers permitted under this subtitle [subtitle C (§§ 7301-7306) of title VII of Pub. L. 103-355, see Short Title note above]; and

“(B) assesses whether private for-profit entities should be permitted to use volunteers on projects relating to the construction, repair, or alteration of public buildings and public works if—

“(i) such volunteers are performing services for civic, charitable, humanitarian or educational reasons;

“(ii) the contribution of such services is not for the direct or indirect benefit of the private for-profit entity that is performing or seeking to perform work on such projects; and

“(iii) such projects would not otherwise be possible without the use of volunteers; and

“(2) contains recommendations with respect to other Acts related to the Davis-Bacon Act [40 U.S.C. 276a et seq.] that may be considered in legislation to permit volunteer work.”

§ 276d-1. Waiver for individuals who perform volunteer services for public entities**(a) In general**

The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the “Davis-Bacon Act”) (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in section 276d-3 of this title shall not apply to an individual—

(1) who volunteers—

(A) to perform a service directly to a State or local government or a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b) of this section), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who is not otherwise employed by the same public agency to perform the same type

of services as those for which the individual proposes to volunteer.

(b) Expenses

Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) of this section only in accordance with regulations issued by the Secretary of Labor. In prescribing the regulations, the Secretary shall take into consideration criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker’s compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be determined based on the context of the economic realities of the situation involved and shall be made by the Secretary of Labor.

(c) Economic reality

For purposes of subsection (b) of this section, in determining whether an expense, benefit, or fee described in such subsection may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary of Labor may not permit any such expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

(Pub. L. 103-355, title VII, § 7303, Oct. 13, 1994, 108 Stat. 3382.)

REFERENCES IN TEXT

Act of March 3, 1931, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis-Bacon Act, which is classified generally to sections 276a to 276a-5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 276a of this title and Tables.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 276d, 276d-3 of this title.

§ 276d-2. Waiver for individuals who perform volunteer services for nonprofit entities

The requirement that certain laborers and mechanics be paid in accordance with the wage-set-

ting provisions of the Act of March 3, 1931 (commonly known as the “Davis-Bacon Act”) (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in section 276d-3 of this title shall not apply to any individual—

(1) who volunteers—

(A) to perform a service directly to a public or private nonprofit recipient of Federal assistance for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who is not otherwise employed by the recipient of Federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

(Pub. L. 103-355, title VII, § 7304, Oct. 13, 1994, 108 Stat. 3383.)

REFERENCES IN TEXT

Act of March 3, 1931, referred to in text, is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis-Bacon Act, which is classified generally to sections 276a to 276a-5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 276a of this title and Tables.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 276d, 276d-3 of this title.

§ 276d-3. Contracts affected

For purposes of sections 276d-1 and 276d-2 of this title, the Acts or provisions described in this section are—

(1) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(2) section 254b¹ of title 42;

(3) section 254c¹ of title 42;

(4) the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.); and

(5) the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(Pub. L. 103-355, title VII, § 7305, Oct. 13, 1994, 108 Stat. 3384; Pub. L. 104-208, div. A, title I, § 101(e) [title VII, § 709(a)(4)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-312.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in par. (1), is Pub. L. 93-638, Jan.

4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Sections 254b and 254c of title 42, referred to in pars. (2) and (3), were in the original references to sections 329 and 330 of the Public Health Service Act, act July 1, 1944, which were omitted in the general amendment of subpart I (§ 254b et seq.) of part D of subchapter II of chapter 6A of Title 42, The Public Health and Welfare, by Pub. L. 104-299, § 2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104-299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of Title 42.

The Indian Health Care Improvement Act, referred to in par. (4), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§ 1601 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

The Housing and Community Development Act of 1974, referred to in par. (5), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

AMENDMENTS

1996—Pub. L. 104-208 redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which read as follows: “the Library Services and Construction Act (20 U.S.C. 351 et seq.);”.

EFFECTIVE DATE

For effective date and applicability of section, see section 10001 of Pub. L. 103-355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 276d, 276d-1, 276d-2 of this title.

§ 277. Repealed. Pub. L. 86-249, § 17(16), Sept. 9, 1959, 73 Stat. 485

Section, act Aug. 5, 1892, ch. 380, 27 Stat. 351, placed a limitation on the amount of compensation payable to persons employed outside of the District of Columbia whose compensation is paid from appropriations for public buildings in course of construction.

SAVINGS PROVISION

Section repealed except as to its application to any project referred to in section 613 of this title, see section 17 of Pub. L. 86-249, set out as a note under section 341 of this title.

§ 277a. Omitted

CODIFICATION

Section, acts June 27, 1942, ch. 450, title I, 56 Stat. 407; June 26, 1943, ch. 145, title I, 57 Stat. 178; June 27, 1944, ch. 286, title I, 58 Stat. 368; May 3, 1945, ch. 106, title I, 59 Stat. 114; Mar. 28, 1946, ch. 113, title I, 60 Stat. 67; July 30, 1947, ch. 359, title I, 61 Stat. 594; Apr. 20, 1948, ch. 219, title I, 62 Stat. 183; June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380; Aug. 24, 1949, ch. 506, title I, 63 Stat. 640, related to compensation of per diem employees, at rates approved by the Administrator of General Services, out of appropriations for salaries and expenses, public buildings and grounds in and outside the District of Columbia, and for national industrial reserve; and to emergency employment such persons subject to the Administrator's confirmation. While similar provisions, with respect to such compensation, were contained in the Independent Offices Appropriation Act, 1951, act Sept. 6, 1950, ch. 896, Ch. VIII, title I, 64 Stat. 697, they

¹ See References in Text note below.