

## § 632.79

the employer for time spent in these activities during working hours.

(ii) Reimbursement may be made on a cost reimbursement or fixed cost basis and shall be supported by business receipts, payroll, or other records normally kept by the employer.

(iii) Nothing in this paragraph (b)(1) shall allow reimbursement to private-for-profit employers for the costs of OJT to exceed the amounts allowable in § 632.78.

### § 632.79 Employment activities.

(a) *Community service employment (CSE)*. Community Service Employment is the type of work normally provided by government and includes, but is not limited to, work (including part-time work) in such fields as environmental quality, child care, health care, education, crime prevention and control, prisoner rehabilitation, transportation, recreation, maintenance of parks, streets and other public facilities, solid waste removal, pollution control, housing and neighborhood improvement, rural development, conservation, beautification, veterans outreach, development of alternative energy technologies, and other fields of human betterment and community improvement. It includes work performed by tribally sponsored or owned income generating enterprises owned by Indian tribes, bands, or groups, or Native Alaskan entities, provided the profits from such enterprises are used exclusively for functions normally performed by the governing body of such entities.

(b) *Work experience*. (1) Work experience is a short-term or part-time work assignment with an employing agency or an organization authorized to employ CSE participants. It is otherwise prohibited in the private-for-profit sector.

(2) Participation in work experience shall be for a reasonable length of time, based on the needs of the participant, and subject to the restrictions set forth in § 632.85.

### § 632.80 Other activities.

(a) *General*. Native American grantees may conduct employment and training activities not described in this subpart. The CAP shall describe the

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basic design of activities undertaken as "other activities" and their objectives. These activities may include, but are not limited to:

(1) Removal of artificial barriers to employment;

(2) Job restructuring;

(3) Revision or establishment of merit systems;

(4) Development and implementation of affirmative action plans, including Indian preference plans and Tribal Employment Rights Office (TERO) programs.

(5) Post termination services in § 632.80 for up to 30 days following termination; and

(6) Employment generating services.

(b) *Supportive services*. Supportive services are those which are necessary to enable an individual eligible under this part, but who cannot afford to pay for such services, participate in the program. Such supportive services may include but are not limited to transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance.

### § 632.81 Payments to participants.

(a) *General*. Each participant paid wages for employment activities, allowances for classroom training or reimbursed for OJT or tryout employment will be provided such benefits pursuant to section 142 of the Act.

(b) *Maximum wage rates for CSE*. (1) The wages (including those received from overtime work and leave taken during the period of employment) paid to any CSE participant from funds under the Act shall be limited to a full-time rate of \$10,000 per year (or the hourly, weekly, or monthly rate which, if full-time and annualized, would equal a rate of \$10,000 per year). Approved rates above \$10,000 are fixed at the CETA approved rate as of September 30, 1982, unless adjusted by the Secretary.

(2) Fringe benefits payable from funds under the Act to any CSE participant may not exceed those regularly

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afforded to similarly employed non-JTPA workers.

(3) *Davis-Bacon wages.* All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1931, popularly known as the Davis-Bacon Act, and the implementing regulations in 29 CFR parts 1, 3, 5, and 7.

(c) *Payment of allowances.* (1) A basic hourly allowance for regularly enrolled classroom training or services participants shall not exceed the higher of the State or Federal minimum hourly wage.

(2) Native American grantees are encouraged to submit allowance payment designs which are less than in paragraph (c) (1) of this section. Through innovative reimbursement systems the number of participants should be maximized. The allowance payment system will be described in the Master Plan and as an option may include dependent allowances.

(3) *Repayments.* Native American grantees shall require participants to repay the amount of any overpayment of allowances under this part, except if the overpayment was made in the absence of fault on the part of the participant. Where the Native American grantee requires repayment, any overpayment not repaid may be set off against any future allowance or other payments under the Act to which the participant may become entitled.

(d) *Combined activities.* A primary activity is one in which a participant is enrolled for more than 50 percent of scheduled time. Participants enrolled in a primary activity for which wages are payable and simultaneously in an activity for which allowances are payable may, at the Native American grantee's option, be paid wages for all hours of participation. A participant enrolled in a primary activity for which allowances are payable may, at the Native American grantee's option, be paid allowances for all hours of par-

ticipation, except when OJT is the non-primary component. However, in the latter case, before placing an individual in such an activity, the Native American grantee shall request a determination from the Internal Revenue Service as to whether income from the non-primary component is taxable.

### § 632.82 Benefits and working conditions for participants.

The provisions of sections 142 and 143 of the Act shall apply to benefits and working conditions.

### § 632.83 FICA.

Expenditures may be made from JTPA funds for taxes under the Federal Insurance Contribution Act (FICA), 26 U.S.C. 3101, et seq.

### § 632.84 Non-Federal status of participants.

Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment.

### § 632.85 Participant limitations.

(a) Except as provided in paragraph (c) of this section and for participants in programs that have other statutory limits, participation in work experience shall be limited to a maximum of 1,000 hours during any one year beginning with the day of enrollment in either CETA or JTPA.

(b) No participant may receive wages for CSE for more than 78 weeks during a 2-year period from the participant's initial enrollment in either JTPA or in a program supported by the Comprehensive Employment and Training Act.

(c) The limitation on work experience participation in JTPA set forth in paragraph (a) of this section:

(1) Shall not apply to time spent by in-school youth or title II-B participants enrolled in a work experience program under the Act, nor shall such time be included in determining if an individual has reached such limitations; and

(2) May be waived by the Chief, DINAP and the waiver justification described in the Master Plan or CAP.