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*President and Executive Director*

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Thomas M. Dowd, Administrator  
Office of Policy Development and Research  
U.S. Department of Labor  
200 Constitution Avenue NW, Room N-5641  
Washington, D.C. 20210

SUBJECT: RIN 1205-AB48 – Proposed SCSEP Regulations

Dear Mr. Dowd,

Since 1968, Senior Service America Inc. has operated SCSEP as one of the U.S. Department of Labor's (DOL) national SCSEP grantees. We have completed our initial analysis of the Notice of Proposed Rule Making (NPRM) of August 14, 2008, and conclude that these proposed regulations will have a detrimental impact on serving older persons with barriers to employment. We are deeply concerned that these regulations, if approved, will reduce SCSEP's capacity to serve communities and older persons most in need, especially from minority and rural communities. Below is a description of our concerns.

**The proposed regulations do not conform with the 2006 Older Americans Act (OAA).** We disagree with the interpretation that the Older Americans Act of 2006 elevated placement into unsubsidized jobs above all other purposes for SCSEP. In our view, Section 516 ("Sense of Congress") of the 2006 OAA establishes community service as SCSEP's primary purpose, followed by job placement:

"It is the sense of Congress that— (1) the older American community service employment program described in this title was established with the intent of placing older individuals in community service positions and providing job training; and (2) placing older individuals in community service positions strengthens the ability of the individuals to become self sufficient, provides much-needed support to organizations that benefit from increased civic engagement, and strengthens the communities that are served by such organizations."

This section of the 2006 OAA describes community service employment not only as a job training activity but also as a way to strengthen "self-sufficiency"—not limited specifically to economic self-sufficiency, but including their emotional and social well-being as well.

Also, the second part of section 516 describes that Congress intends for SCSEP participants to be placed in subsidized community service jobs which provides “much-needed support to organizations” (such as Meals on Wheels, senior centers, and libraries) and “strengthens the communities that are served by such organizations.” Thus, Congress envisions community service employment as an explicit, legitimate purpose of SCSEP, not just as a vehicle for preparing individuals for unsubsidized jobs.

Furthermore, for the first time in the history of the Act, Congress included the following definition of “community service employment” in section 518(a)(2) of the 2006 OAA:

“part-time, temporary employment paid with grant funds ... through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.”

We recommend that DOL insert this definition in proposed regulation 641.140, which already adds five new definitions from the 2006 OAA.

We urge DOL to develop a comprehensive body of regulations that would preserve SCSEP as an aging program governed by the Older Americans Act. It may be helpful to compare SCSEP and senior nutrition programs. By inserting new language in the 2006 OAA, Congress reaffirmed that senior nutrition programs are intended to promote socialization of older individuals as well as reduce hunger. In a similar way, Congress also reaffirmed through new language that SCSEP is intended to provide community service employment as well as placement into unsubsidized jobs in order to promote the well-being of vulnerable, low-income seniors.

**Limiting SCSEP participation to a maximum of 60 months for all participants is both contrary to Congressional intent and counterproductive to assisting the most vulnerable older adults.** We are deeply concerned about the impact of proposed regulation 641.570, which establishes (for approved individuals) a 12-month, once-in-a-lifetime extension to the 48-month limit on SCSEP participation. Such a policy would disregard the specific characteristics of SCSEP participants, their barriers to employment, or the conditions of their job market. There are several arguments against imposing such an arbitrary, across-the-board limit applicable to all SCSEP participants without exception.

First, in the 2006 OAA Congress did not place an absolute time limit for all participants in the SCSEP program—on the contrary, Congress outlined the conditions to be met for extending participation and left the participation open-ended. Second, this proposed regulation is unnecessary if its primary purpose is to reduce the number of long-term SCSEP participants—the SCSEP performance measures and other sections of the 2006 OAA will effectively achieve this goal without imposing a time limit on all participants. Third, this proposed regulation will harm the ability of SCSEP staff to assist the hardest-to-serve individuals based on a participant’s Individual Employment Plan—it will undermine SCSEP’s person-centered approach, demonstrated to be effective especially with “most-in-need” older adults.

Fourth, the proposed regulation will result in involuntary terminations of older adults who are continuing to benefit from SCSEP participation—these terminations will jeopardize the self-sufficiency and damage the sense of well-being of many vulnerable, most-in-need individuals. In summary, we are concerned that proposed regulation 641.570 will have a disparate impact on individuals from racial and language minorities as well as rural communities.

Furthermore, we are concerned that if participants who are continuing to benefit from SCSEP participation are terminated involuntarily, the vast majority will not find any other employment and training program available to assist them in their community. According to DOL's Federal Research and Evaluation Database, less than 5,000 low-income adults 55 and over exited from all Workforce Investment Act (WIA) programs in PY2006 across the country.


**The proposed regulation 641.577, which limits participants to 1300 hours of community service employment, is another example of an unnecessary restriction on a SCSEP grantee's capacity to meet the needs of individual participants and to respond to local conditions.** The 2006 OAA requires that community service employment positions be part-time, a policy reinforced by other regulations that establish service level goals for grantees and require grantees to expend at least 75% of their grant on Participant Wages and Fringe Benefits. The proposed 1300 hour limitation sets an arbitrary cap on participation that disregards the characteristics of a specific participant, the particular needs of a community (such as responding to a natural disaster), and the conditions of that participant's labor market. DOL should allow SCSEP grantees the discretion and flexibility to manage their funding and implement training for each participant based on the Individual Employment Plan and the local labor market. We recommend that DOL drop the 1300 hour limitation on community service employment in proposed regulation 641.577.

**The proposed regulations fail to address the main reasons why WIA serves very few older persons.** We support DOL's goal to strengthen coordination between SCSEP and WIA programs, but we think that the proposed regulations fail to address the main reasons for the small numbers of low-income older adults served by WIA. According to recent GAO reports (GAO-03-350 and GAO-08-548), the current WIA performance measures serve as disincentives for One-Stops to serve significant numbers of older persons. We recommend that DOL postpone all proposed new and revised SCSEP regulations related to WIA coordination, pending the reauthorization of WIA as mentioned in the NPRM.

**The proposed regulations fail to strengthen the coordination that is required between SCSEP and other federal programs, including other OAA programs.** We recommend that DOL develop additional regulations that will enforce and reflect section 503(b) of the 2006 OAA, requiring coordination of SCSEP with other programs under the Older Americans Act, such as state units and area agencies on aging, and with other federal programs such as Foster Grandparents, Senior Companions, and Vocational Rehabilitation. We think that the proposed regulations 641.315 and 641.335 (regarding the State SCSEP Plan) and 641.640 (regarding pilot, demonstration, and evaluation projects) are inadequate as written.

**More time is needed to study the proposed regulations and determine their potential impact on various stakeholders.** The comments in this letter are based on our initial analysis of the proposed regulations. As a national grantee, we operate SCSEP exclusively through a diverse network of 81 community-based, faith-based, and government agencies in 16 states. These organizations assign SCSEP participants to work in over 5,000 public and private nonprofit agencies. Sixty days is insufficient time for us to inform and seek input about the proposed regulations from the diverse and complex network of agencies that comprises our SCSEP delivery system. For this reason, we request that DOL extend the public comment period for at least an additional 60 days or longer to allow for a full and inclusive discussion of the impact of these proposed regulations on participants and communities.

Sincerely yours,



Anthony R. Sarmiento