

Manager Fact Sheet: Volunteers

April 2010

Introduction:

This fact sheet provides assistance to state human resource professionals and managers who work with volunteers within the executive branch. This fact sheet will discuss who qualifies as a volunteer and some considerations for developing and maintaining a volunteer program.

Why Volunteers?

People do volunteer work for a myriad of different reasons from wanting to change their environment for a few hours a week to wanting to sharpen their skills to enable them to be more competitive in the job market.

A well-planned, well-organized volunteer program can have countless rewards for an agency, its staff, the volunteer, state government and the citizens we serve.

Definition:

The Fair Labor Standards Act (FLSA) specifically recognizes the role of volunteers in public agencies. **Volunteers** are defined as individuals who perform hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered (29 CFR 553.101).

Federal and State Laws:

Volunteers are exempt from the minimum wage and overtime provisions of the FLSA and state wage and hour laws. In fact, volunteers, under the provisions of the FLSA, may not receive compensation for their services (29 CFR 553 et seq.).

State law provides similar exemptions. Persons who are not regular employees of a nonprofit organization and who voluntarily offer their services to a nonprofit organization on a fully or partially reimbursed basis are exempt from minimum wage and overtime (39-3-406, MCA).

Volunteers may, however, be paid expenses, reasonable benefits, a nominal fee or a combination thereof for their services. The U.S. Department of Labor has stated that a fee will be presumed to be nominal if it does not exceed 20 percent of what the agency would otherwise pay a full-time employee.

Volunteers are not eligible for benefits under the state retirement system or the health, life, or disability insurance plans.

The Volunteer Relationship:

According to the FLSA, individuals are considered volunteers only when their services are offered freely and without pressure or coercion, direct or implied, from an employer (29 CFR 553.101(c)).

We recommend that agencies who use the services of volunteers execute a Volunteer Service Agreement. The agreement should make it clear that the volunteer will not be paid for hours, projects or services and does not expect payment. A sample agreement is provided with this fact sheet.

State employees may not volunteer their time to do the job they were hired to perform. The FLSA states "an individual shall not be considered a volunteer if the individual is otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer." The act further defines "same type of services" as similar or identical services.

Planning and Development:

When designing and implementing a volunteer program, agency managers should consider how the program will support their agency's mission, goals and objectives.

In addition, managers should consider:

- tasks the volunteers will perform;
- direct and indirect costs to the agency;
- recruitment, selection, orientation and training processes;
- on-going supervision and recognition;
- confidentiality concerns; and
- written expectations and outcomes.

When considering using volunteers, agency management must also consider insurance costs and obligations. The state property insurance may cover damage to property and the liability insurance plan may cover negligent acts. Workers' compensation benefits should be the same as for paid staff.

Should you have questions you may contact the following agencies:

Liability and property insurance questions may be directed to Risk Management and Tort Defense Division at 406-444-2421 or via their web site at <http://rmtd.mt.gov>

Workers' compensation insurance questions may be directed to Health Care and Benefits Division at 406-444-7462 or via their web site at <http://benefits.mt.gov/>