

DATE: 08-20-90

CITATION: VAOPGCPREC 87-90
Vet. Aff. Op. Gen. Couns. Prec. 87-90

TEXT:

Letter from individual regarding the Veterans' Job Training Act (VJTA) (Public Law 98-77) and the Veterans' Home Loan Program and Improvements Act of 1987 (Public Law 100-198)

QUESTIONS PRESENTED:

- a. May an employer/investor qualify as a prospective purchaser of VA-acquired real property at a rate below market under section 9(b) of Public Law 100-198 by training unemployed veterans in the rehabilitation of residences on such property without fully participating in the partial wage reimbursement program under the Veterans' Job Training Act (VJTA) (29 U.S.C. § 1721 note)?
- b. May veterans presently be allowed to initiate training under a VJTA program?

COMMENTS:

1. In 1983, Congress enacted Public Law 98-77, the Emergency Veterans' Job Training Act, which established a program of job training for certain eligible veterans. Pursuant to this program, employers who hire and train eligible veterans in an approved program are entitled to be reimbursed for 50 percent of the starting hourly rate of wages of the employee, up to a maximum of \$10,000. (Public Law 98-77, section 8) This provision of law states in pertinent part as follows:

(T)he Administrator shall make quarterly payments to an employer of a veteran participating in an approved program of job training in an amount equal to 50 percent of the ... starting hourly rate of wages paid to the veteran.... (Emphasis added.)

2. Subsequently, section 9(b) of Public Law 100-198 was enacted to assist veterans to obtain training under the VJTA. Under that section, the Secretary may convey real property and improvements at not less than 75 percent of fair market value to persons who use VJTA trainees in the rehabilitation of houses on such property and who give preference to veterans upon resale of such property.

3. The matter raised by the subject correspondence concerns an offer by a prospective employer/investor to waive the right to a wage subsidy under section 8 of the VJTA; that is, he is willing to "carry 100 percent of the veteran's training simply to have an opportunity to acquire houses at the specified discount." This offer obviously does not accord with the specific terms and conditions established by Congress to accomplish its veteran employment objectives.

4. In enacting section 9(b) of Public Law 100-198, Congress sought to boost the existing VJTA program, not create a new one. The property sale discount feature was intended to be an added incentive for employers to hire and train veterans under the VJTA. Congress mandated that, as a quid pro quo for being accorded the privilege of acquiring property at below market price levels, the purchaser would provide the socially desirable service of training unemployed and underemployed veterans by agreeing to use them in the rehabilitation of the purchased property. By statute, the VJTA was made the vehicle for such training so that only by participating in the VJTA program would an "opportunity" be legally available to an employer to purchase homes from VA at the section 9(b) discount price.

5. It follows, as you have stated, that an employer must meet VJTA requirements in order to acquire property at the discount authorized by Public Law 100-198. Nevertheless, the correspondent here, presumably anticipating the infeasibility of meeting VJTA participation requirements, seeks to explore with VA a mutually acceptable administrative mechanism for achieving the purposes of the discount sales program outside the strict confines of the existing statutory provisions. We find, however, that any such mechanism could not be implemented without authorizing legislation.

6. The power of the Department to offer discounted sales is circumscribed by the limitations of Public Law 100-198 regarding VJTA participation, and we are aware of no provision of law which would permit the Secretary to modify the terms of either the VJTA or discount sales program in the manner proposed. Section 8 of the VJTA, for instance, requires that VA reimburse a participating VJTA employer for part of the wages paid to veteran trainees and does not authorize the Secretary to waive this integral program provision.

7. Moreover, VA clearly lacks independent legal authority to fashion and operate its own alternative or replacement programs. Thus, it may be, as the correspondent suggests, that the potential property sale discount would be sufficient incentive, without a separate wage subsidy, for some employers to hire and train veterans subject to VJTA-type strictures as to VA training program approval and monitoring of job training operations. However, it remains the prerogative of Congress to implement any such new incentive program.

8. Responding to your last question, section 17 of the VJTA precludes a veteran's entry into a program of job training after March 31, 1990. Hence, only those employers who, prior to April 1, 1990, had inducted veterans into an approved job training program involving the rehabilitation of residential property could presently bid on section 9(b) property. The subject correspondent, presumably, is not an eligible employer in this context.

HELD:

a. To qualify under section 9, Public Law 100-198, for the privilege of bidding upon and acquiring VA held property at discount rates, a bidder must be a VJTA employer, in full compliance with the provisions of Public Law 98-77, as amended. The Secretary lacks authority to waive the wage reimbursement due a participating employer under the VJTA, or to otherwise modify the VJTA to enable an employer to participate and, hence, qualify for the section 9 discount sales program.

b. No employer may now participate in the discount sales program who had not inducted veterans into a VJTA program involving rehabilitation of residential property prior to April 1, 1990.

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