

When Can a County Pay its Volunteers?

When creating the Fair Labor Standards Act (FLSA), Congress did not want to discourage people from volunteering for civic, charitable, or humanitarian causes. Instead, it wanted to prevent the abuse of minimum wage or overtime requirements through coercion or undue pressure upon individuals to “volunteer” their services.

DEFINITION OF VOLUNTEERS

The FLSA defines a volunteer as an individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered.

Individuals are considered volunteers when they offer their services freely and without pressure or coercion from an employer. There are no limitations or restrictions on the types of services private individuals may volunteer to perform for public agencies.

Individuals are not considered volunteers if they are employed by the same public agency to perform the same type of services as those for which they propose to volunteer. For example, a county nurse cannot volunteer nursing services for that same county.

WHEN CAN VOLUNTEERS BE PAID?

According to the FLSA (29 CFR 553.106), volunteers may be paid expenses, reasonable benefits, and/or a nominal fee for their services without losing their status as volunteers. A volunteer may receive:

- A uniform allowance or reimbursement for reasonable cleaning expenses for clothing worn while performing volunteer service.
- Reimbursement for out-of-pocket expenses incurred incidental to providing volunteer services (e.g., payment for meals, transportation expenses, etc).
- Reimbursement for tuition, transportation, and meal expenses involved in attending volunteer training classes.
- Reimbursement for books, supplies, or other materials essential to their volunteer training.
- Reasonable benefits such as inclusion in group insurance or pension plans or “length of service” awards. In Colorado, only statutory volunteers (e.g., volunteer rescue teams or groups, volunteer disaster teams, volunteer ambulance teams or groups, and volunteer search teams) are eligible for workers’ compensation coverage.
- A nominal fee from a public agency. This fee is not a substitute for compensation and must not be tied to productivity. For example, a volunteer emergency medical technician (EMT) may be paid a nominal amount on a “per call” or a monthly basis.

To determine if an individual will lose their volunteer status under the FLSA, the total amount of payments (expenses, fees, benefits) must be examined in the context of the economic realities of the particular situation.

WHAT THIS MEANS FOR COUNTIES

Colorado counties rely on volunteers to perform a range of tasks. Counties should know the rules for when a volunteer can be compensated so a volunteer’s status does not crossover to an employee under Federal and State law. For more information, contact CTSI at (303) 861 0507.