

stitutions. To be eligible to receive funds under this part, an institution outside the United States shall make arrangements with the agent designated by the Secretary under this subsection to receive funds under this part.

(Pub. L. 89-329, title IV, § 452, as added Pub. L. 99-498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102-325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103-66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 105-33, title VI, § 6102, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105-244, title IV, § 401(g)(5), Oct. 7, 1998, 112 Stat. 1652; Pub. L. 111-152, title II, § 2209(a), Mar. 30, 2010, 124 Stat. 1077.)

#### PRIOR PROVISIONS

A prior section 1087b, Pub. L. 89-329, title IV, § 452, as added Pub. L. 90-575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031, authorized grants for programs of cooperative education, prior to repeal by Pub. L. 94-482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

#### AMENDMENTS

2010—Subsec. (d). Pub. L. 111-152 added subsec. (d).  
 1998—Subsec. (c). Pub. L. 105-244 substituted “Federal Pell Grants” for “basic grants”.  
 1997—Subsecs. (b) to (d). Pub. L. 105-33 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which required the Secretary to pay fees to institutions of higher education and alternative loan originators to assist in meeting the cost of loan origination.  
 1993—Pub. L. 103-66 amended section generally, substituting provisions relating to funds for origination of direct student loans for former provisions relating to payment rules.  
 1992—Pub. L. 102-325 amended section generally, substituting provisions relating to payment rules for former provisions authorizing demonstration projects.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

### § 1087c. Selection of institutions for participation and origination

#### (a) General authority

The Secretary shall enter into agreements pursuant to section 1087d(a) of this title with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 1087d(b) of this title with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 1087f(b) of this title or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994-1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

#### (b) Selection criteria

##### (1) Application

Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

##### (2) Selection procedure

The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 1087d(a) of this title, from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe.

#### (c) Selection criteria for origination

##### (1) In general

The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

- (A) has an agreement under subsection<sup>1</sup> 1087d(a) of this title;
- (B) desires to originate loans under this part; and
- (C) meets the criteria described in paragraph (2).

##### (2) Selection criteria

The Secretary may approve an institution to originate loans only if such institution—

- (A) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, or part D of this subchapter;
- (B) is not overdue on program or financial reports or audits required under this subchapter;
- (C) is not subject to an emergency action, or a limitation, suspension, or termination under section 1078(b)(1)(T), 1082(h), or 1094(c) of this title;
- (D) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this subchapter, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;
- (E) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and
- (F) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

#### (d) Eligible institutions

The Secretary may not select an institution of higher education for participation under this

<sup>1</sup> So in original. Probably should be “section”.

section unless such institution is an eligible institution under section 1085(a) of this title.

**(e) Consortia**

Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d) of this section) with agreements under section 1087d(a) of this title may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) of this section with respect to loan origination.

(Pub. L. 89–329, title IV, § 453, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 342; Pub. L. 103–208, § 2(e), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 105–244, title IV, § 451, Oct. 7, 1998, 112 Stat. 1715; Pub. L. 111–39, title IV, § 404(b)(1), July 1, 2009, 123 Stat. 1946.)

CODIFICATION

Amendment by section 2 of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087c, Pub. L. 89–329, title IV, § 453, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 92–318, title I, § 136(b)(2), June 23, 1972, 86 Stat. 272, authorized grants and contracts for training and research in cooperative education programs, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

2009—Subsec. (c)(3). Pub. L. 111–39 struck out par. (3). Text read as follows: “The Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 1087g(a)(2) of this title.”

1998—Subsec. (a). Pub. L. 105–244, § 451(a), amended heading, redesignated par. (1) as entire subsec., and struck out pars. (2) to (4) which provided for transition from loan programs under part B of this subchapter to direct student loan program under this part and defined term “new student loan volume”.

Subsec. (b)(2). Pub. L. 105–244, § 451(b), substituted “prescribe,” for “prescribe, by, to the extent possible—

“(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and  
“(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

“(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.”

Subsec. (c)(2). Pub. L. 105–244, § 451(c)(1)(A), (B), substituted “Selection criteria” for “Transition selection criteria” in heading and “The Secretary” for “For academic year 1994–1995, the Secretary” in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (B) as (A).

Pub. L. 105–244, § 451(c)(1)(C), struck out subpar. (A) which read as follows: “made loans under part D of this

subchapter in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 1087bb(g) of this title for the most recent fiscal year for which data are available;”.

Subsec. (c)(2)(B) to (D). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (C), (D), and (F) as (B) to (D), respectively. Former subpar. (B) redesignated (A).

Subsec. (c)(2)(E). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (G) as (E).

Pub. L. 105–244, § 451(c)(1)(D), struck out subpar. (E) which read as follows: “in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part G of this subchapter;”.

Subsec. (c)(2)(F) to (H). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (G) and (H) as (E) and (F), respectively. Former subpar. (F) redesignated (D).

Subsec. (c)(3). Pub. L. 105–244, § 451(c)(2), struck out “after transition” after “approval” in heading and substituted “The Secretary” for “For academic year 1995–1996 and subsequent academic years, the Secretary” in text.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to selection of institutions for participation and origination for former provisions relating to selection by Secretary.

Subsec. (b)(2)(B). Pub. L. 103–208 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.” See Codification note above.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to selection by the Secretary for former provisions relating to agreements with institutions of higher education.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–39 effective as if enacted on the date of enactment of Pub. L. 110–315 (Aug. 14, 2008), see section 3 of Pub. L. 111–39, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

**§ 1087d. Agreements with institutions**

**(a) Participation agreements**

An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 1091 of this title;

(B) estimate the need of each such student as required by part E of this subchapter for an academic year, except that, any loan obtained by a student under this part with the