

ized from any grant amounts received by the Department under this subchapter if—

(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this subchapter.

(2) Prohibition of reduction of grant

The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

(A) whether the Department retains program income under paragraph (1); or

(B) the amount of any such program income retained.

(3) Exclusion of amounts

The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

(b) Labor standards

(1) In general

Any contract or agreement for assistance, sale, or lease pursuant to this subchapter shall contain—

(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141–3144, 3146, and 3147 of title 40 shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

(2) Exceptions

Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this subchapter, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

(Pub. L. 104–330, title VIII, § 805, as added Pub. L. 106–568, title II, § 203, Dec. 27, 2000, 114 Stat. 2883, and Pub. L. 106–569, title V, § 513, Dec. 27, 2000, 114 Stat. 2976.)

CODIFICATION

“Sections 3141–3144, 3146, and 3147 of title 40” substituted in subsec. (b)(1)(B) for “the Act commonly known as the ‘Davis-Bacon Act’ (46 Stat. 1494; chapter 411; 40 U.S.C. 276a et seq.)” on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first sec-

tion of which enacted Title 40, Public Buildings, Property, and Works.

Pub. L. 106–568, § 203, and Pub. L. 106–569, § 513, enacted substantially identical sections 805 of Pub. L. 104–330. This section is based on the text of section 805 of Pub. L. 104–330, as added by Pub. L. 106–569, § 513.

§ 4226. Environmental review

(a) In general

(1) Release of funds

(A) In general

The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this subchapter; and

(ii) to the public undiminished protection of the environment.

(B) Alternative environmental protection procedure

In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the Department of Hawaiian Home Lands if the Director of the Department assumes all of the responsibilities for environmental review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake those projects as Federal projects.

(2) Regulations

(A) In general

The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(B) Contents

The regulations issued under this paragraph shall—

(i) provide for the monitoring of the environmental reviews performed under this section;

(ii) in the discretion of the Secretary, facilitate training for the performance of such reviews; and

(iii) provide for the suspension or termination of the assumption of responsibilities under this section.

(3) Effect on assumed responsibility

The duty of the Secretary under paragraph (2)(B) shall not be construed to limit or reduce any responsibility assumed by the Department of Hawaiian Home Lands for grant amounts with respect to any specific release of funds.

(b) Procedure**(1) In general**

The Secretary shall authorize the release of funds subject to the procedures under this section only if, not less than 15 days before that approval and before any commitment of funds to such projects, the Director of the Department of Hawaiian Home Lands submits to the Secretary a request for such release accompanied by a certification that meets the requirements of subsection (c) of this section.

(2) Effect of approval

The approval of the Secretary of a certification described in paragraph (1) shall be deemed to satisfy the responsibilities of the Secretary under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and such other provisions of law as the regulations of the Secretary specify to the extent that those responsibilities relate to the releases of funds for projects that are covered by that certification.

(c) Certification

A certification under the procedures under this section shall—

- (1) be in a form acceptable to the Secretary;
- (2) be executed by the Director of the Department of Hawaiian Home Lands;
- (3) specify that the Department of Hawaiian Home Lands has fully carried out its responsibilities as described under subsection (a) of this section; and
- (4) specify that the Director—

(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary to the extent that those laws apply by reason of subsection (a) of this section; and

(B) is authorized and consents on behalf of the Department of Hawaiian Home Lands and the Director to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities of the Director of the Department of Hawaiian Home Lands as such an official.

(Pub. L. 104-330, title VIII, § 806, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2883, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2977.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(1), (b)(2), and (c)(4)(A), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted substantially identical sections 806 of Pub. L. 104-330. This section is based on the text of section 806 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513.

§ 4227. Regulations

The Secretary shall issue final regulations necessary to carry out this subchapter not later than October 1, 2001.

(Pub. L. 104-330, title VIII, § 807, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2885, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2979.)

CODIFICATION

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted substantially identical sections 807 of Pub. L. 104-330. This section is based on the text of section 807 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513. Section 807 of Pub. L. 104-330, as added by Pub. L. 106-568, § 203, required the issuance of final regulations not later than October 1, 2000, instead of October 1, 2001.

§ 4228. Affordable housing activities**(a)¹ National objectives and eligible families****(1) Primary objective**

The national objectives of this subchapter are—

(A) to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income Native Hawaiian families;

(B) to ensure better access to private mortgage markets and to promote self-sufficiency of low-income Native Hawaiian families;

(C) to coordinate activities to provide housing for low-income Native Hawaiian families with Federal, State, and local activities to further economic and community development;

(D) to plan for and integrate infrastructure resources on the Hawaiian Home Lands with housing development; and

(E) to—

(i) promote the development of private capital markets; and

(ii) allow the markets referred to in clause (i) to operate and grow, thereby benefiting Native Hawaiian communities.

(2) Eligible families**(A) In general**

Except as provided under subparagraph (B), assistance for eligible housing activities under this subchapter shall be limited to low-income Native Hawaiian families.

(B) Exception to low-income requirement**(i) In general**

The Director may provide assistance for homeownership activities under—

(I) section 4229(b) of this title;

(II) model activities under section 4229(f) of this title; or

(III) loan guarantee activities under section 1715z-13b of title 12 to Native Hawaiian families who are not low-income families, to the extent that the Secretary approves the activities under that section to address a need for housing for those families that cannot be reasonably met without that assistance.

(ii) Limitations

The Secretary shall establish limitations on the amount of assistance that may be

¹ So in original. No subsec. (b) has been enacted.