

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this chapter, including regulations issued under this chapter, by such subgrantee or contractor.

(3) Waiver

If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this chapter and any applicable Federal or State law directly against any subgrantee or contractor for violation of this chapter, including regulations issued under this chapter.

(e) Immediate termination or suspension of assistance in emergency situations

In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(f) Discrimination against participants

If the Secretary determines that any recipient under this chapter has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter, or has testified or is about to testify in any such proceeding or investigation under or related to this chapter, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this chapter or the Secretary's regulations, the Secretary shall, within 30 days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(g) Remedies

The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

(Pub. L. 105-220, title I, §184, Aug. 7, 1998, 112 Stat. 1042.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2)(A), (3)(A), (B), (b)(1), (c)(1) to (3), (5), (d)(1), (2)(D), (3), and (f), was in the original "this title" meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1574 of this title prior to repeal by Pub. L. 105-220.

§ 2935. Reports; recordkeeping; investigations

(a) Reports

(1) In general

Recipients of funds under this chapter shall keep records that are sufficient to permit the preparation of reports required by this chapter and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) Submission to the Secretary

Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this chapter. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress, in which case an estimate may be provided.

(3) Maintenance of standardized records

In order to allow for the preparation of the reports required under subsection (c) of this section, such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

(4) Availability to the public

(A) In general

Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) Exception

Subparagraph (A) shall not apply to—

- (i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and
- (ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) Fees to recover costs

Such recipients may charge fees sufficient to recover costs applicable to the processing

of requests for records under subparagraph (A).

(b) Investigations of use of funds

(1) In general

(A) Secretary

In order to evaluate compliance with the provisions of this chapter, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this chapter.

(B) Comptroller General of the United States

In order to ensure compliance with the provisions of this chapter, the Comptroller General of the United States may conduct investigations of the use of funds received under this chapter by any recipient.

(2) Prohibition

In conducting any investigation under this chapter, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

(3) Audits

(A) In general

In carrying out any audit under this chapter (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable), prior to the commencement of the audit.

(B) Notification requirement

If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) Additional requirement

The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) Rule of construction

Nothing contained in this chapter shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) Accessibility of reports

Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this chapter—

(1) shall make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) shall prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 2938 of this title; and

(3) shall monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this chapter.

(d) Information to be included in reports

(1) In general

The reports required in subsection (c) of this section shall include information regarding programs and activities carried out under this chapter pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 2938 of this title.

(2) Additional requirement

The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) Quarterly financial reports

(1) In general

Each local board in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this chapter. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) Additional requirement

Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(f) Maintenance of additional records

Each State and local board shall maintain records with respect to programs and activities carried out under this chapter that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(g) Cost categories

In requiring entities to maintain records of costs by category under this chapter, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

(Pub. L. 105-220, title I, §185, Aug. 7, 1998, 112 Stat. 1046.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

The Inspector General Act of 1978, referred to in subsec. (b)(3)(D), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1575 of this title prior to repeal by Pub. L. 105-220.

§ 2936. Administrative adjudication**(a) In general**

Whenever any applicant for financial assistance under this chapter is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 2934 of this title.

(b) Appeal

The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) Time limit

Any case accepted for review by the Secretary under subsection (b) of this section shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge

shall become the final decision of the Secretary at the end of the 180-day period.

(d) Additional requirement

The provisions of section 2937 of this title shall apply to any final action of the Secretary under this section.

(Pub. L. 105-220, title I, §186, Aug. 7, 1998, 112 Stat. 1048.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1576 of this title prior to repeal by Pub. L. 105-220.

§ 2937. Judicial review**(a) Review****(1) Petition**

With respect to any final order by the Secretary under section 2936 of this title by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under his¹ chapter, or any final order of the Secretary under section 2936 of this title with respect to a corrective action or sanction imposed under section 2934 of this title, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) Action on petition

The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) Standard and scope of review

No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

¹ So in original. Probably should be “this”.