

count of changes in the interest rate of the benchmark financial instrument.

**(E) Credit risk**

The Secretary shall—

(i) prescribe explicit standards for use in periodically assessing the credit risk of making direct loans under this subsection; and

(ii) find that there is a reasonable assurance of repayment before making a loan.

**(F) Advance budget authority required**

New direct loans may not be obligated under this subsection except to the extent that appropriations of budget authority to cover the costs of the new direct loans are made in advance, as required by section 661c of title 2.

**(3) Criteria**

Evaluation of projects for potential loan funding shall be based on criteria established by the Secretary, including criteria relating to—

(A) improvement in energy efficiency;

(B) reduction in greenhouse gas emissions and other air emissions, including criteria air pollutants and ozone-depleting refrigerants;

(C) increased use of renewable electric energy sources or renewable thermal energy sources;

(D) reduction in consumption of fossil fuels; and

(E) need for funding assistance, including consideration of the size of endowment or other financial resources available to the institutional entity.

**(4) Labor standards**

**(A) In general**

All laborers and mechanics employed by contractors or subcontractors in the performance of construction, repair, or alteration work funded in whole or in part under this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40. The Secretary shall not approve any such funding without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

**(B) Authority and functions**

The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (1), the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 Fed. Reg. 3176; 64 Stat. 1267) and section 3145 of title 40.

**(h) Program procedures**

Not later than 180 days after December 19, 2007, the Secretary shall establish procedures for the solicitation and evaluation of potential projects for grant and loan funding and administration of the grant and loan programs.

**(i) Authorization**

**(1) Grants**

There is authorized to be appropriated for the cost of grants authorized in subsections

(b), (c), and (d) \$250,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

**(2) Loans**

There is authorized to be appropriated for the initial cost of direct loans authorized in subsection (g) \$500,000,000 for each of fiscal years 2009 through 2013, of which not more than 5 percent may be used for administrative expenses.

(Pub. L. 94-163, title III, § 399A, as added Pub. L. 110-140, title IV, § 471, Dec. 19, 2007, 121 Stat. 1642.)

REFERENCES IN TEXT

Reorganization Plan Number 14 of 1950, referred to in subsec. (g)(4)(B), is set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

**§ 6371i. Records**

Each recipient of assistance under this part shall keep such records, provide such reports, and furnish such access to books and records as the Secretary may by rule prescribe.

(Pub. L. 94-163, title III, § 400, as added Pub. L. 95-619, title III, § 302(a), Nov. 9, 1978, 92 Stat. 3247; amended Pub. L. 105-388, § 5(a)(11), Nov. 13, 1998, 112 Stat. 3479.)

AMENDMENTS

1998—Pub. L. 105-388 struck out “(a)” before “Each recipient”.

**§ 6371j. Application of sections 3141-3144, 3146, and 3147 of title 40**

No grant for a project (other than so much of a grant as is used for a preliminary energy audit, energy audit, or technical assistance or a grant the total project cost of which is \$5,000 or less, excluding costs for a preliminary energy audit, energy audit, or technical assistance) shall be made under this part or part 1 unless the Secretary finds that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction utilizing such grants will be paid at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40; and the Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 3145 of title 40.

(Pub. L. 95-619, title III, § 312, Nov. 9, 1978, 92 Stat. 3254.)

REFERENCES IN TEXT

This part, referred to in text, means part 2 (§§ 310-312) of title III of Pub. L. 95-619, Nov. 9, 1978, 92 Stat. 3248, as amended, which enacted sections 6371j and 6372 to 6372i of this title and enacted provisions set out as a note under section 6372 of this title. For complete classification of this part to the Code, see Tables.

Part 1, referred to in text, means part 1 (§§301-304) of title III of Pub. L. 95-619, Nov. 9, 1978, 92 Stat. 3238, as amended, which enacted sections 6371 to 6371i of this title, amended sections 300k-2 and 300n-1 of this title, and enacted provisions set out as notes under sections 6371 of this title. For complete classification of this part to the Code, see Tables.

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

#### CODIFICATION

In text, "sections 3141-3144, 3146, and 3147 of title 40" substituted for "the Act of March 31, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act)" and "section 3145 of title 40" substituted for "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as a part of the National Energy Conservation Policy Act, and not as a part of the Energy Policy and Conservation Act which comprises this chapter, and consequently is not a part of part E of this subchapter.

#### PART F—ENERGY CONSERVATION PROGRAM FOR BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

#### CODIFICATION

This part was, in the original, designated part H and has been changed to part F for purposes of codification.

#### § 6372. Definitions

For purposes of this part—

(1) The terms "hospital", "State", "school", "Governor", "State energy agency", "energy conservation measure", "energy conservation maintenance and operating procedure", "preliminary energy audit", "technical assistance costs", "energy audit" and "Secretary" have the meanings provided in section 6371 of this title.

(2) The term "unit of local government" means the government of a county, municipality, or township, which is a unit of general purpose government below the State (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes) and the District of Columbia. Such term also means the recognized governing body of an Indian tribe (as defined in section 6862 of this title) which governing body performs substantial governmental functions.

(3) The term "building" has the meaning provided in section 6371 of this title except that for purposes of this part such term includes only buildings which are owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution and does not include any building intended for seasonal use or any building utilized primarily by a school or hospital.

(4) The term "public care institution" means a public or nonprofit institution which owns—

- (A) a facility for long term care, a rehabilitation facility, or a public health center, as described in section 300s-3 of this title, or
- (B) a residential child care center.

(5) The term "public or nonprofit institution" means an institution owned and operated by—

(A) a State, a political subdivision of a State or an agency or instrumentality of either, or

(B) an organization exempt from income tax under section 501(c)(3) or 501(c)(4) of title 26.

(6) The term "technical assistance program costs" means the costs of carrying out a technical assistance program.

(7) The term "technical assistance" means assistance under rules, promulgated by the Secretary, to States, units of local government and public care institutions—

(A) to conduct specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of (i) modification or maintenance and operating procedures in a building, (ii) the acquisition and installation of one or more specified energy conservation measures in such building or (iii) both, or

(B) the planning or administration of such specialized studies.

(Pub. L. 94-163, title III, §400A, as added Pub. L. 95-619, title III, §311(a), Nov. 9, 1978, 92 Stat. 3248; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

#### AMENDMENTS

1986—Par. (5)(B). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

#### SEPARABILITY

For separability of provisions of title III of Pub. L. 95-619, see section 302(c) of Pub. L. 95-619, set out as a note under section 6371 of this title.

#### CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Pub. L. 95-619, title III, §310, Nov. 9, 1978, 92 Stat. 3248, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) the Nation's nonrenewable energy resources are being rapidly depleted;

"(2) buildings owned by units of local government and public care institutions are major consumers of energy, and such units and institutions have been especially burdened by rising energy prices and fuel shortages;

"(3) substantial energy conservation can be achieved in buildings owned by units of local government and public care institutions through the implementation of energy conservation maintenance and operating procedures; and

"(4) units of local government and public care institutions in many instances need financial assistance in order to conduct energy audits and to identify energy conservation maintenance and operating procedures and to evaluate the potential benefits of acquiring and installing energy conservation measures.

"(b) PURPOSE.—It is the purpose of this part [part 2 (§§310-312) of title III of Pub. L. 95-619, enacting sections 6371j and 6372 to 6372i of this title] to authorize grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions."