

tion grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain the following:

(A) A description of how the local educational agency meets the award criteria under paragraph (4), including the information described in clauses (i) through (iv) of paragraph (4)(A) and subparagraphs (B) and (C) of paragraph (4).

(B) In the case of an application for an emergency grant—

(i) a description of the school facility deficiency that poses a health or safety hazard to the occupants of the facility and a description of how the deficiency will be repaired; and

(ii) a signed statement from an appropriate local official certifying that a deficiency in the school facility threatens the health or safety of the occupants of the facility or that prevents the use of all or a portion of the building.

(C) In the case of an application for a modernization grant—

(i) an explanation of the need for the school facility modernization project;

(ii) the date on which original construction of the facility to be modernized was completed;

(iii) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 7703(a)(1) of this title in average daily attendance in each school facility; and

(iv) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located.

(D) A description of the project for which a grant under this subsection will be used, including a cost estimate for the project.

(E) A description of the interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.

(F) Such other information and assurances as the Secretary may reasonably require.

(7) Report

(A) In general

Not later than January 1 of each year, the Secretary shall prepare and submit to the appropriate congressional committees a report that contains a justification for each grant awarded under this subsection for the prior fiscal year.

(B) Definition

In this paragraph, the term “appropriate congressional committees” means—

(i) the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives; and

(ii) the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate.

(Pub. L. 89–10, title VIII, §8007, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3763;

amended Pub. L. 104–134, title I, §101(d) [title III, §306(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–398, §1 [[div. A], title XVIII, §1811], Oct. 30, 2000, 114 Stat. 1654, 1654A–383; Pub. L. 107–110, title VIII, §803, Jan. 8, 2002, 115 Stat. 1950.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–110 amended heading and text generally, reorganizing and revising provisions relating to emergency and modernization grants.

2000—Pub. L. 106–398 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) authorizing payments to certain local educational agencies for construction.

1996—Subsec. (a)(2)(B). Pub. L. 104–134 struck out “and in which the agency at any 2 times during the four fiscal years preceding October 20, 1994, was denied by a vote of the agency’s eligible voters a bond referendum for the purposes of school construction or renovation” before semicolon at end.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 7708. Facilities

(a) Current facilities

From the amount appropriated for any fiscal year under section 7714(f) of this title, the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(b) Transfer of facilities

(1) In general

The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950¹ (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950¹ (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

(2) Other requirements

Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89–10, title VIII, §8008, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3764.)

REFERENCES IN TEXT

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means section 10 of act Sept. 23, 1950, ch. 995, which was classified to section 640 of this title prior to repeal

¹ See References in Text note below.

by Pub. L. 103-382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965.

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably means section 10 of act Sept. 23, 1950, ch. 995, as added by Pub. L. 85-620, title I, §101, Aug. 12, 1958, 72 Stat. 553, as amended, which was classified to section 640 of this title prior to repeal by Pub. L. 103-382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965. The act Sept. 23, 1950, did not contain a section 10 on Jan. 1, 1958.

Sections 204 and 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably mean sections 204 and 310 of act Sept. 23, 1950, ch. 995, which were classified to sections 274 and 300, respectively, of this title prior to the general amendment of that Act by Pub. L. 85-620, Aug. 12, 1958, 72 Stat. 548. The act Sept. 30, 1950, did not contain a section 204 or 310 on Jan. 1, 1958.

§ 7709. State consideration of payments in providing State aid

(a) General prohibition

Except as provided in subsection (b) of this section, a State may not—

(1) consider payments under this subchapter in determining for any fiscal year—

(A) the eligibility of a local educational agency for State aid for free public education; or

(B) the amount of such aid; or

(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

(b) State equalization plans

(1) In general

A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under section 7703(a)(2)(B) of this title and, with respect to a local educational agency that receives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) of this title) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.

(2) Computation

(A) In general

For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expendi-

tures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 25 percent.

(B) Other factors

In making a determination under this subsection, the Secretary shall—

(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

(3) Exception

Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

(c) Procedures for review of State equalization plans

(1) Written notice

(A) In general

Any State that wishes to consider payments described in subsection (b)(1) of this section in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

(B) Contents

Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

(2) Opportunity to present views

Before making a determination under subsection (b) of this section, the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

(3) Qualification procedures

If the Secretary determines that a program of State aid qualifies under subsection (b) of this section, the Secretary shall—