

(c) Conditions for financial assistance; applications consistent with related State programs and health plans

(1) The Secretary may not provide financial assistance to States, schools, or hospitals for energy conservation projects unless the application for a grant for such project is submitted through, or approved by the appropriate State hospital facilities agency or State school facilities agency, respectively, and determined by the State energy agency to comply with the State plan.

(2) Applications of States, schools, and hospitals and State plans pursuant to this part shall be consistent with—

(A) related State programs for educational facilities in such State, and

(B) State health plans under section 300m-3(c)(2)¹ and 300o-2¹ of this title, and shall be coordinated through the review mechanisms required under section 300m-2¹ of this title and section 1320a-1 of this title.

(d) Compliance required for approval; reasons for disapproval; resubmittal; amendment

The Secretary shall approve such applications submitted by a State energy agency as he determines to be in compliance with this section and with the requirements of the applicable State plan approved under section 6371c of this title. The Secretary shall state the reasons for his disapproval in the case of any application which he disapproves. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application and the Secretary shall approve such resubmitted application as he determines to be in compliance with this section and the requirements of the State plan. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application. All or any portion of an application under this section may be disapproved to the extent that funds are not available under this part to carry out such application or portion.

(e) Suspension of further assistance for failure to comply

Whenever the Secretary, after reasonable notice and opportunity for hearing to any State, school, or hospital receiving assistance under this part, finds that there has been a failure to comply substantially with the provisions set forth in the application approved under this section, the Secretary shall notify the State, school, or hospital that further assistance will not be made available to such State, school or hospital under this part until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied no further assistance shall be made to such State, school, or hospital under this part.

(Pub. L. 94-163, title III, §395, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3244.)

REFERENCES IN TEXT

Sections 300m-2 and 300m-3 of this title, referred to in subsec. (c)(2)(B), were repealed effective Jan. 1, 1987, by

¹ See References in Text note below.

Pub. L. 99-660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799.

Section 300o-2 of this title, referred to in subsec. (c)(2)(B), was repealed by Pub. L. 96-79, title II, §202(a), Oct. 4, 1979, 93 Stat. 632.

§ 6371e. Grants for project costs and technical assistance

(a) Authorization of Secretary; project costs

The Secretary may make grants to schools and hospitals for carrying out energy conservation projects the applications for which have been approved under section 6371d of this title.

(b) Restrictions on use of funds

(1) Except as provided in paragraph (2), amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may not be used to pay more than 50 percent of the costs of any energy conservation project. The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.

(2) Amounts made available for purposes of this section (together with any amounts available for such purposes from other Federal sources) may be used to pay not to exceed 90 percent of the costs of an energy conservation project if the Secretary determines that a project meets the hardship criteria of section 6371a(d) of this title. Grants made under this paragraph shall be from the funds provided under section 6371g(a)(2) of this title.

(c) Allocation requirements

Grants made under this section in any State in any year shall be made in accordance with the requirements contained in section 6371g of this title.

(d) Technical assistance costs

(1) The Secretary may make grants to States for paying technical assistance costs. Schools in any State shall not be allocated less than 30 percent of the funds for energy conservation projects within such State and hospitals in any State shall not be allocated less than 30 percent of such funds.

(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State—

(A) has adopted a State plan in accordance with section 6371c of this title, the administration of which is in accordance with applicable regulations; and

(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of

Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.

(Pub. L. 94-163, title III, §396, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3245; amended Pub. L. 101-440, §6(a), (c), (d), Oct. 18, 1990, 104 Stat. 1011.)

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101-440, §6(a), inserted at end “The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.”

Subsec. (d). Pub. L. 101-440, §6(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 101-440, §6(c), struck out subsec. (e) which prohibited funds for buildings used principally for administration.

§ 6371f. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.

(Pub. L. 94-163, title III, §397, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3246; amended Pub. L. 101-440, §8(b), Oct. 18, 1990, 104 Stat. 1015; Pub. L. 105-388, §2(b), Nov. 13, 1998, 112 Stat. 3477.)

AMENDMENTS

1998—Pub. L. 105-388 amended section generally, substituting provisions authorizing appropriations for fiscal years 1999 through 2003 for provisions authorizing appropriations for fiscal years 1991 through 1993.

1990—Pub. L. 101-440 amended section generally, substituting provisions authorizing appropriations for fiscal years 1991 through 1993 for provisions authorizing appropriations for fiscal years ending Sept. 30, 1978, Sept. 30, 1979, and Sept. 30, 1980.

§ 6371g. Allocation of grants

(a) Section 6371e grants

(1) Except as otherwise provided in subsection (b) of this section, the Secretary shall allocate 90 percent of the amounts made available under section 6371f(b)¹ of this title in any year for purposes of making energy conservation project grants pursuant to section 6371e of this title as follows:

(A) Eighty percent of amounts made available under section 6371f(b)¹ of this title shall be allocated among the States in accordance with a formula to be prescribed, by rule, by the Secretary, taking into account population and climate of each State, and such other factors as the Secretary may deem appropriate.

(B) Ten percent of amounts made available under section 6371f(b)¹ of this title shall be al-

located among the States in such manner as the Secretary determines by rule after taking into account the availability and cost of fuel or other energy used in, and the amount of fuel or other energy consumed by, schools and hospitals in the States, and such other factors as he deems appropriate.

(2) The Secretary shall allocate 10 percent of the amounts made available under section 6371f(b)¹ of this title in any year for purposes of making grants as provided under section 6371e(b)(2) of this title in excess of the 50 percent limitation contained in section 6371e(b)(1) of this title.

(3) In the case of any State which received for any fiscal year an amount which exceeded 50 percent of the cost of any energy audit as provided in section 6371b(e)(2) of this title, the aggregate amount allocated to such State under this subsection for such fiscal year (determined after applying paragraphs (1) and (2)) shall be reduced by an amount equal to such excess. The amount of such reduction shall be reallocated to the States for such fiscal year as provided in this subsection except that for purposes of such reallocation, the State which received such excess shall not be eligible for any portion of such reallocation.

(b) Restrictions on allocations to States

The total amount allocated to any State under subsection (a) of this section in any year shall not exceed 10 percent of the total amount allocated to all the States in such year under such subsection (a) of this section. Except for the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands, not less than 0.5 percent of such total allocation to all States for that year shall be allocated in such year for the total of grants to States and to schools and hospitals in each State which has an approved State plan under this part.

(c) Prescription of rules governing allocations among States with regard to energy audits

Not later than 60 days after November 9, 1978, the Secretary shall prescribe rules governing the allocation among the States of funds for grants for preliminary energy audits and energy audits. Such rules shall take into account the population and climate of such States and such other factors as he may deem appropriate.

(d) Prescription of rules limiting allocations to States for administrative expenses

The Secretary shall prescribe rules limiting the amount of funds allocated to a State which may be expended for administrative expenses by such State.

(e) Reallocations

Funds allocated for projects in any States for a fiscal year under this section but not obligated in such fiscal year shall be available for reallocation under subsection (a) of this section in the subsequent fiscal year.

(Pub. L. 94-163, title III, §398, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3246; amended Pub. L. 98-454, title VI, §601(e), Oct. 5, 1984, 98 Stat. 1736.)

¹ See References in Text note below.