

(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance. (Pub. L. 94-385, title IV, §414A, as added Pub. L. 102-486, title I, §142(a), Oct. 24, 1992, 106 Stat. 2842.)

§ 6864b. Technical transfer grants

(a) In general

The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 6863 or section 6864 of this title for—

- (1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;
- (2) producing technical information for use by persons involved in weatherizing low-income housing;
- (3) exchanging information; and
- (4) conducting training programs for persons involved in weatherizing low-income housing.

(b) Conditions

(1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.

(2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.

(Pub. L. 94-385, title IV, §414B, as added Pub. L. 102-486, title I, §142(a), Oct. 24, 1992, 106 Stat. 2842.)

§ 6865. Limitations on financial assistance

(a) Purchase of materials and administration of projects

(1) Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes, and a State may provide in the plan adopted pursuant to subsection (b) of this section for recipients of grants of less than \$350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part.

(2) The Secretary shall establish energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 6325(g) of this title, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation invest-

ment in a dwelling, and (iv) account for interaction among energy efficiency measures.

(b) Allocation, termination or discontinuance by Secretary

The Secretary shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.] or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors; and

(B) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 6868 of this title.

(c) Limitations on expenditures; exceptions; annual adjustments

(1) Except as provided in paragraphs (3) and (4), the expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of \$6,500 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—

(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

(B) the cost of transporting labor, tools, and materials to a dwelling unit;

(C) the cost of having onsite supervisory personnel;

(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective,¹ and

(E) the cost of making heating and cooling modifications, including replacement²

(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1994, may receive further financial assistance for weatherization under this part.

(3) Beginning with fiscal year 2000, the dwelling unit averages provided in paragraphs (1) and

¹ So in original. The comma probably should be a semicolon.

² So in original. Probably should be followed by a period.

(4) shall be adjusted annually by increasing the average amount by an amount equal to—

(A) the average amount for the previous fiscal year, multiplied by

(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of the fiscal year for which the determination is being made, or (ii) three percent.

(4) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters for a renewable energy system shall not exceed an average of \$3,000 per dwelling unit.

(5)(A) The Secretary shall by regulations—

(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(i).

(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial.

(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that—

(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

(6) In this subsection—

(A) the term “renewable energy system” means a system which—

(i) when installed in connection with a dwelling, transmits or uses—

(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

(II) wind energy for nonbusiness residential purposes;

(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

(B) the term “biomass” means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

(d) Supplementary financial assistance to States

Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 6872(b)³ of this title to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

(1) consult with the State Energy Advisory Board established under section 6325(g) of this title; and

(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

(e) Supplementary financial assistance to grant recipients

(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 6872(b)³ of this title, among the States an equal amount for each State not to exceed \$100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1) of this section, prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.

(Pub. L. 94-385, title IV, §415, Aug. 14, 1976, 90 Stat. 1155; Pub. L. 95-619, title II, §231(c), Nov. 9, 1978, 92 Stat. 3225; Pub. L. 96-294, title V, §§571, 572, 573(a), 575, 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 98-558, title IV, §§403, 404, Oct. 30, 1984, 98 Stat. 2887, 2888; Pub. L. 101-440, §7(d)-(f), (i), Oct. 18, 1990, 104 Stat. 1013, 1014; Pub. L.

³ See References in Text note below.

106-469, title VI, §601(b), Nov. 9, 2000, 114 Stat. 2040; Pub. L. 109-58, title II, §206(a), Aug. 8, 2005, 119 Stat. 654; Pub. L. 111-5, div. A, title IV, §407(b), (e), Feb. 17, 2009, 123 Stat. 146.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (b)(2), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

Section 6872 of this title, referred to in subssecs. (d) and (e)(1)(A), was amended by Pub. L. 105-388, §3, Nov. 13, 1998, 112 Stat. 3477, and, as so amended, no longer contains a subsec. (b).

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111-5, §407(b), substituted “\$6,500” for “\$2,500” in introductory provisions.

Subsec. (c)(2). Pub. L. 111-5, §407(e), substituted “September 30, 1994” for “September 30, 1979”.

2005—Subsec. (c)(1). Pub. L. 109-58, §206(a)(1), substituted “in paragraphs (3) and (4)” for “in paragraph (3)” in introductory provisions.

Subsec. (c)(3). Pub. L. 109-58, §206(a)(2), substituted “dwelling unit averages provided in paragraphs (1) and (4)” for “\$2,500 per dwelling unit average provided in paragraph (1)” in introductory provisions.

Subsec. (c)(4) to (6). Pub. L. 109-58, §206(a)(3), added pars. (4) to (6).

2000—Subsec. (a)(1). Pub. L. 106-469, §601(b)(1), struck out first sentence which read as follows: “Except as provided in paragraph (2), an average of at least forty percent of the funds provided in a State under this part for weatherization materials, labor, and related matters described in subsection (c) of this section shall be spent for weatherization materials.”

Subsec. (a)(2). Pub. L. 106-469, §601(b)(2)(C), struck out subpar. (B) which read as follows: “The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques.”

Pub. L. 106-469, §601(b)(2)(B), which directed amendment of par. (2) by substituting “establish” for “approve a State’s application to waive the 40 percent requirement established in paragraph (1) if the State includes in its plan”, was executed by making the substitution for “approve a State’s application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan”, to reflect the probable intent of Congress.

Pub. L. 106-469, §601(b)(2)(A), struck out “(A)” before “The Secretary shall approve”.

Subsec. (c)(1). Pub. L. 106-469, §601(b)(3)(A), (B), in introductory provisions, substituted “paragraph (3)” for “paragraphs (3) and (4)” and “\$2,500” for “\$1,600”.

Subsec. (c)(1)(E). Pub. L. 106-469, §601(b)(3)(C)–(E), added subpar. (E).

Subsec. (c)(3). Pub. L. 106-469, §601(b)(4), in introductory provisions, substituted “2000, the \$2,500 per dwelling unit average” for “1991, the \$1,600 per dwelling unit limitation” and “average amount” for “limitation amount”, in subpar. (A), substituted “average” for “limitation”, and, in subpar. (B), inserted “the” after “beginning of”.

Subsec. (c)(4). Pub. L. 106-469, §601(b)(5), struck out par. (4), which required the Secretary, upon State application, to establish a separate average per dwelling unit limitation for dwelling units in the State.

1990—Subsec. (a). Pub. L. 101-440, §7(d), substituted “(1) Except as provided in paragraph (2), an average” for “An average”, inserted before period at end “”, and a State may provide in the plan adopted pursuant to subsection (b) of this section for recipients of grants of

less than \$350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part”, and added par. (2).

Subsec. (c)(1). Pub. L. 101-440, §7(e)(1), substituted “Except as provided in paragraphs (3) and (4), the expenditure” for “The expenditure”.

Subsec. (c)(3), (4). Pub. L. 101-440, §7(e)(2), added pars. (3) and (4).

Subsec. (d). Pub. L. 101-440, §7(i), added subsec. (d). Pub. L. 101-440, §7(f), struck out subsec. (d) which established a performance fund to provide financial assistance to those States the Secretary determined to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance.

Subsec. (e). Pub. L. 101-440, §7(i), added subsec. (e). 1984—Subsec. (a). Pub. L. 98-558, §403(1), substituted provisions that an average of at least forty percent of the funds provided shall be spent for weatherization for former provisions which directed the Secretary to use funds to the maximum extent practicable.

Subsec. (c). Pub. L. 98-558, §403(2), in amending subsec. (c) generally, substituted provisions that expenditures shall not exceed an average of \$1,600 per dwelling unit for former provisions which provided for an \$800 per dwelling unit limit in par. (1), struck out “(not to exceed \$150)” after “the cost” in par. (1)(D), substituted provisions that dwelling units partially weatherized between certain dates could receive further financial assistance under this part for former provisions that \$800 limit would not apply if the State policy advisory council requested greater amounts from the Secretary and the Secretary gave approval in par. (2), and deleted former par. (3) which provided that in areas where the Secretary, after consultation with the Secretary of Labor, determined that there was an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary could increase the limitation of \$800 to not more than \$1,600 to cover the costs of paying persons who would install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973.

Subsec. (d). Pub. L. 98-558, §404, added subsec. (d). 1980—Subsec. (a). Pub. L. 96-294, §§571, 577(2), substituted “Secretary” for “Administrator” and provisions limiting amounts used for administrative purposes in any grant made by the Secretary under this part for provisions limiting amounts used for administrative purposes in any grant made pursuant to section 6863(a) of this title and any allocations under this section.

Subsec. (b). Pub. L. 96-294, §§573(a), 577(2), substituted in provision preceding par. (1) “Secretary” for “Administrator”, redesignated former par. (2)(C) as (B), and struck out former par. (2)(B), which related to funds allocated for carrying out weatherization projects under this part in the geographical area served by the emergency program.

Subsec. (c)(1). Pub. L. 96-294, §§572(1), 575, inserted in provision preceding subpar. (A) reference to par. (3) and in subpar. (D) substituted “\$150” for “\$100”.

Subsec. (c)(2). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c)(3). Pub. L. 96-294, §572(2), added par. (3).

1978—Subsec. (a). Pub. L. 95-619, §231(c)(1), authorized expenditure of allocations under this part for costs related to weatherization of a dwelling unit as provided in subsec. (c) of this section and substituted an administrative expenses limitation of five percent of any allocation under this section for a similar limitation of ten percent of any such allocation.

Subsec. (c). Pub. L. 95-619, §231(c)(2), included expenditure of financial assistance provided under this section for costs related to procurement and installation of weatherization materials in dwelling units in the maximum amount available per dwelling unit and increased such maximum amount to \$800 per unit.

PERFORMANCE FUND; RESTRICTION ON USE

Pub. L. 99-190, §101(d) [title II, §201], Dec. 19, 1985, 99 Stat. 1224, 1253, provided: "That section 404 of Public Law 98-558 [enacting subsec. (d) of this section] shall not be effective in any fiscal year in which the amount made available for low income weatherization assistance from appropriations under this head is less than 5 per centum above the amount made available in fiscal year 1985."

§ 6866. Monitoring and evaluation of funded projects; technical assistance; limitation on assistance

The Secretary, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 6867(a) of this title, through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Secretary shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Secretary may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed up to 20 percent of the sums appropriated for such year under this part.

(Pub. L. 94-385, title IV, §416, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760; Pub. L. 111-5, div. A, title IV, §407(d), Feb. 17, 2009, 123 Stat. 146.)

AMENDMENTS

2009—Pub. L. 111-5 substituted "up to 20 percent" for "10 percent".

1980—Pub. L. 96-294 substituted "Secretary" for "Administrator" wherever appearing.

§ 6867. Administration of projects receiving financial assistance

(a) Reporting requirements

The Secretary, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary and the Director to carry out their functions under this part.

(b) Maintenance of records

Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Secretary may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) Audit and examination of books, etc.

The Secretary, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Method of payments

Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(Pub. L. 94-385, title IV, §417, Aug. 14, 1976, 90 Stat. 1156; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

AMENDMENTS

1980—Subsecs. (a) to (c). Pub. L. 96-294 substituted "Secretary" for "Administrator" wherever appearing.

§ 6868. Approval of application or amendment for financial assistance; administrative procedures applicable

(a) The Secretary shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 6863(c) of this title, as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Secretary may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Secretary, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

(Pub. L. 94-385, title IV, §418, Aug. 14, 1976, 90 Stat. 1157; Pub. L. 96-294, title V, §577(2), June 30, 1980, 94 Stat. 760.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-294 substituted "Secretary" for "Administrator" wherever appearing.

§ 6869. Judicial review of final action by Secretary on application

(a) Time for appeal; jurisdiction; filing of administrative record by Secretary

If any applicant is dissatisfied with the Secretary's final action with respect to the applica-