

## § 7846. Other general assurances

### (a) Assurances

Any applicant, other than a State educational agency that submits a plan or application under this chapter, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a<sup>1</sup> eligible private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, eligible private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;

(3) the applicant will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

(6) the applicant will—

(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties; and

(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.

### (b) GEPA provision

Section 442 of the General Education Provisions Act [20 U.S.C. 1232e] shall not apply to programs under this chapter.

<sup>1</sup> So in original. Probably should be "an".

(Pub. L. 89–10, title VIII, § 8306, formerly title IX, § 9306, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1971; renumbered title VIII, § 8306, and amended Pub. L. 114–95, title VIII, §§ 8001(a)(3), (b)(2), 8012, Dec. 10, 2015, 129 Stat. 2088, 2089, 2102.)

#### PRIOR PROVISIONS

A prior section 7851, Pub. L. 89–10, title IX, § 9131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3790, which related to improvement of educational opportunities for adult Indians, was omitted in the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

#### AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, § 8012(1), struck out “whether separately or pursuant to section 7845 of this title,” before “shall have on file” in introductory provisions.

Pub. L. 114–95, § 8001(b)(2), made technical amendment to reference in original act which appears in introductory provisions as reference to section 7845 of this title.

Subsec. (a)(2). Pub. L. 114–95, § 8012(2), substituted “eligible” for “nonprofit” in subpars. (A) and (B).

#### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

#### PART D—WAIVERS

## § 7861. Waivers of statutory and regulatory requirements

### (a) In general

#### (1) Request for waiver by State or Indian tribe

A State educational agency or Indian tribe that receives funds under a program authorized under this chapter may submit a request to the Secretary to waive any statutory or regulatory requirement of this chapter.

#### (2) Local educational agency and school requests submitted through the State

##### (A) Request for waiver by local educational agency

A local educational agency that receives funds under a program authorized under this chapter and desires a waiver of any statutory or regulatory requirement of this chapter shall submit a request containing the information described in subsection (b)(1) to the appropriate State educational agency. The State educational agency may then submit the request to the Secretary if the State educational agency determines the waiver appropriate.

##### (B) Request for waiver by school

An elementary school or secondary school that desires a waiver of any statutory or regulatory requirement of this chapter shall submit a request containing the information described in subsection (b)(1) to the local educational agency serving the school. The local educational agency may then submit the request to the State educational agency in accordance with subparagraph (A) if the local educational agency determines the waiver appropriate.