

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)<sup>1</sup> of this title shall be allocated 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)<sup>1</sup> 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.)

REFERENCES IN TEXT

Section 6371f of this title, referred to in subsec. (a)(1), (2), was amended by Pub. L. 101-440, §8(b), Oct. 18, 1990, 104 Stat. 1015, and, as so amended, no longer contains a subsec. (b).

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-454 inserted reference to Northern Mariana Islands.

**§ 6371h. Administration; detailed description in annual report**

(a) The Secretary may prescribe such rules as may be necessary in order to carry out the provisions of this part.

(b) The Secretary shall include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.

(Pub. L. 94-163, title III, §399, as added Pub. L. 95-619, title III, §302(a), Nov. 9, 1978, 92 Stat. 3247; amended Pub. L. 96-470, title II, §203(b), Oct. 19, 1980, 94 Stat. 2242.)

AMENDMENTS

1980—Subsec. (b). Pub. L. 96-470 substituted “include in his annual report a detailed description” for “, with in one year after November 9, 1978, and annually thereafter while funds are available under this part, submit to Congress a detailed report” and “Such description” for “Such report”.

**§ 6371h-1. Energy sustainability and efficiency grants and loans for institutions**

**(a) Definitions**

In this section:

**(1) Combined heat and power**

The term “combined heat and power” means the generation of electric energy and heat in a single, integrated system, with an overall thermal efficiency of 60 percent or greater on a higher-heating-value basis.

**(2) District energy systems**

The term “district energy systems” means systems providing thermal energy from a renewable energy source, thermal energy source, or highly efficient technology to more than 1 building or fixed energy-consuming use from 1 or more thermal-energy production facilities through pipes or other means to provide space heating, space conditioning, hot water, steam, compression, process energy, or other end uses for that energy.

**(3) Energy sustainability**

The term “energy sustainability” includes using a renewable energy source, thermal energy source, or a highly efficient technology for transportation, electricity generation,

heating, cooling, lighting, or other energy services in fixed installations.

**(4) Institution of higher education**

The term “institution of higher education” has the meaning given the term in section 15801 of this title.

**(5) Institutional entity**

The term “institutional entity” means an institution of higher education, a public school district, a local government, a municipal utility, or a designee of 1 of those entities.

**(6) Renewable energy source**

The term “renewable energy source” has the meaning given the term in section 918c of title 7.

**(7) Sustainable energy infrastructure**

The term “sustainable energy infrastructure” means—

(A) facilities for production of energy from renewable energy sources, thermal energy sources, or highly efficient technologies, including combined heat and power or other waste heat use; and

(B) district energy systems.

**(8) Thermal energy source**

The term “thermal energy source” means—

(A) a natural source of cooling or heating from lake or ocean water; and

(B) recovery of useful energy that would otherwise be wasted from ongoing energy uses.

**(b) Technical assistance grants**

**(1) In general**

Subject to the availability of appropriated funds, the Secretary shall implement a program of information dissemination and technical assistance to institutional entities to assist the institutional entities in identifying, evaluating, designing, and implementing sustainable energy infrastructure projects in energy sustainability.

**(2) Assistance**

The Secretary shall support institutional entities in—

(A) identification of opportunities for sustainable energy infrastructure;

(B) understanding the technical and economic characteristics of sustainable energy infrastructure;

(C) utility interconnection and negotiation of power and fuel contracts;

(D) understanding financing alternatives;

(E) permitting and siting issues;

(F) obtaining case studies of similar and successful sustainable energy infrastructure systems; and

(G) reviewing and obtaining computer software for assessment, design, and operation and maintenance of sustainable energy infrastructure systems.

**(3) Eligible costs for technical assistance grants**

On receipt of an application of an institutional entity, the Secretary may make grants to the institutional entity to fund a portion of the cost of—

(A) feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

(B) analysis and implementation of strategies to overcome barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

(C) detailed engineering of sustainable energy infrastructure.

**(c) Grants for energy efficiency improvement and energy sustainability**

**(1) Grants**

**(A) In general**

The Secretary shall award grants to institutional entities to carry out projects to improve energy efficiency on the grounds and facilities of the institutional entity.

**(B) Requirement**

To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 1 grant each year to an institution of higher education in each State.

**(C) Minimum funding**

Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

**(2) Criteria**

Evaluation of projects for grant 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 energy sources or thermal energy sources;

(D) reduction in consumption of fossil fuels;

(E) active student participation; and

(F) need for funding assistance.

**(3) Condition**

As a condition of receiving a grant under this subsection, an institutional entity shall agree—

(A) to implement a public awareness campaign concerning the project in the community in which the institutional entity is located; and

(B) to submit to the Secretary, and make available to the public, reports on any efficiency improvements, energy cost savings, and environmental benefits achieved as part of a project carried out under paragraph (1), including quantification of the results relative to the criteria described under paragraph (2).

**(d) Grants for innovation in energy sustainability**

**(1) Grants**

**(A) In general**

The Secretary shall award grants to institutional entities to engage in innovative energy sustainability projects.

**(B) Requirement**

To the extent that applications have been submitted, grants under subparagraph (A) shall include not less than 2 grants each year to institutions of higher education in each State.

**(C) Minimum funding**

Not less than 50 percent of the total funding for all grants under this subsection shall be awarded in grants to institutions of higher education.

**(2) Innovation projects**

An innovation project carried out with a grant under this subsection shall—

**(A) involve—**

- (i) an innovative technology that is not yet commercially available; or
- (ii) available technology in an innovative application that maximizes energy efficiency and sustainability;

(B) have the greatest potential for testing or demonstrating new technologies or processes; and

(C) to the extent undertaken by an institution of higher education, ensure active student participation in the project, including the planning, implementation, evaluation, and other phases of projects.

**(3) Condition**

As a condition of receiving a grant under this subsection, an institutional entity shall agree to submit to the Secretary, and make available to the public, reports that describe the results of the projects carried out using grant funds.

**(e) Allocation to institutions of higher education with small endowments****(1) In general**

Of the total amount of grants provided to institutions of higher education for a fiscal year under this section, the Secretary shall provide not less than 50 percent of the amount to institutions of higher education that have an endowment of not more than \$100,000,000.

**(2) Requirement**

To the extent that applications have been submitted, at least 50 percent of the amount described in paragraph (1) shall be provided to institutions of higher education that have an endowment of not more than \$50,000,000.

**(f) Grant amounts****(1) In general**

If the Secretary determines that cost sharing is appropriate, the amounts of grants provided under this section shall be limited as provided in this subsection.

**(2) Technical assistance grants**

In the case of grants for technical assistance under subsection (b), grant funds shall be available for not more than—

**(A) an amount equal to the lesser of—**

- (i) \$50,000; or
- (ii) 75 percent of the cost of feasibility studies to assess the potential for implementation or improvement of sustainable energy infrastructure;

(B) an amount equal to the lesser of—

**(i) \$90,000; or**

(ii) 60 percent of the cost of guidance on overcoming barriers to project implementation, including financial, contracting, siting, and permitting barriers; and

(C) an amount equal to the lesser of—

**(i) \$250,000; or**

(ii) 40 percent of the cost of detailed engineering and design of sustainable energy infrastructure.

**(3) Grants for efficiency improvement and energy sustainability**

In the case of grants for efficiency improvement and energy sustainability under subsection (c), grant funds shall be available for not more than an amount equal to the lesser of—

**(A) \$1,000,000; or**

(B) 60 percent of the total cost.

**(4) Grants for innovation in energy sustainability**

In the case of grants for innovation in energy sustainability under subsection (d), grant funds shall be available for not more than an amount equal to the lesser of—

**(A) \$500,000; or**

(B) 75 percent of the total cost.

**(g) Loans for energy efficiency improvement and energy sustainability****(1) In general**

Subject to the availability of appropriated funds, the Secretary shall provide loans to institutional entities for the purpose of implementing energy efficiency improvements and sustainable energy infrastructure.

**(2) Terms and conditions****(A) In general**

Except as otherwise provided in this paragraph, loans made under this subsection shall be on such terms and conditions as the Secretary may prescribe.

**(B) Maturity**

The final maturity of loans made within a period shall be the lesser of, as determined by the Secretary—

**(i) 20 years; or**

(ii) 90 percent of the useful life of the principal physical asset to be financed by the loan.

**(C) Default**

No loan made under this subsection may be subordinated to another debt contracted by the institutional entity or to any other claims against the institutional entity in the case of default.

**(D) Benchmark interest rate****(i) In general**

Loans under this subsection shall be at an interest rate that is set by reference to a benchmark interest rate (yield) on marketable Treasury securities with a similar maturity to the direct loans being made.

**(ii) Minimum**

The minimum interest rate of loans under this subsection shall be at the inter-

est rate of the benchmark financial instrument.

**(iii) New loans**

The minimum interest rate of new loans shall be adjusted each quarter to take account 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.)