

ment of the Department of Housing and Urban Development Reform Act of 1989 [Dec. 15, 1989] and before the date of the enactment of this Act [Nov. 28, 1990] is hereby approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949 [42 U.S.C. 1490o(b)].”

§ 1490p. Accountability

(a) Notice regarding assistance

(1) Publication of notice of availability

The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary under this subchapter.

(2) Publication of application procedures

The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be sufficient to enable any eligible applicant to apply for such assistance.

(3) Publication of selection criteria

Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) Documentation of decisions

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

(C) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B) is readily available for public inspection for a period of not less than 10 years, beginning not less than 30 days following the date on which the award or allocation is made.

(5) Emergency exception

The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for ade-

quate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary’s reasons for so doing.

(b) Disclosures by applicants

The Secretary shall require the disclosure of information with respect to any application for assistance under this subchapter submitted by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance under this subchapter in excess of \$200,000 in the aggregate during any fiscal year. Such information shall include the following:

(1) Other government assistance

Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance under this subchapter. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

(2) Interested parties

The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance under this subchapter or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

(3) Expected sources and uses

A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

(c) Updating of disclosure

During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

(d) Repealed. Pub. L. 104-65, § 11(b)(2), Dec. 19, 1995, 109 Stat. 701

(e) Remedies and penalties

(1) Administrative remedies

If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b), (c), or (d) this¹ section has occurred, the Secretary shall—

(A) in the case of a selection that has not been made, determine whether to terminate

¹ So in original. Probably should be “of this”.

the selection process or take other appropriate actions; and

(B) in the case of a selection that has been made, determine whether to—

(i) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(ii) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

(iii) recapture any funds that have been disbursed;

(iv) permit the violating applicant selected to continue to participate in the program; or

(v) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this paragraph.

(2) Civil penalties

Whoever violates any section² of this section shall be subject to the imposition of a civil penalty in a civil action brought by the United States in an appropriate district court of the United States. A civil penalty under this paragraph may not exceed—

(A) \$100,000 in the case of an individual; or

(B) \$1,000,000 in the case of an applicant other than an individual.

(3) Deposit of penalties in insurance funds

Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the Rural Housing Insurance Fund.

(4) Nonexclusiveness of remedies

This subsection may not be construed to limit the applicability of any requirements, sanctions, penalties, or remedies established under any other law. The Secretary shall not be relieved of any obligation to carry out the requirements of this section because such other requirements, sanctions, penalties, or remedies apply.

(f) Limitation of assistance

The Secretary shall certify that assistance provided by the Secretary to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources. The Secretary shall adjust the amount of assistance provided to an applicant to compensate for any changes reported under subsection (c).

(g) Regulations

Not less than 180 days following December 15, 1989, the Secretary shall promulgate regulations to implement this section.

(h) "Assistance" defined

For purposes of this section, the term "assistance" means any housing grant, loan, guarantee, insurance, rebate, subsidy, tax credit bene-

fit, or other form of direct or indirect assistance, for the original construction or development of the project.

(i) Report by Secretary

The Secretary shall submit to the Congress, not later than 180 days following December 15, 1989, a report describing actions taken to carry out this section, including actions to inform and educate officers and employees of the Department of Agriculture regarding the provisions of this section.

(July 15, 1949, ch. 338, title V, § 536, as added Pub. L. 101-235, title IV, § 401(a), Dec. 15, 1989, 103 Stat. 2045; amended Pub. L. 101-625, title VII, § 719(a), Nov. 28, 1990, 104 Stat. 4297; Pub. L. 104-65, § 11(b)(2), Dec. 19, 1995, 109 Stat. 701.)

CODIFICATION

December 15, 1989, referred to in subsec. (g), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 101-235, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104-65 struck out subsec. (d) which related to regulation of lobbyists and consultants.

1990—Subsec. (h). Pub. L. 101-625 inserted before period at end " , for the original construction or development of the project".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 104-65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104-65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE

Pub. L. 101-235, title IV, § 401(b), Dec. 15, 1989, 103 Stat. 2048, provided that: "Section 536 of the Housing Act of 1949 [this section], as added by subsection (a), shall take effect on the effective date of regulations implementing such section."

§ 1490p-1. Office of Rural Housing Preservation

(a) Establishment

There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director designated by the Secretary of Agriculture.

(b) Purposes

The purposes of the Office are:

(1) to review and process applications under section 1472(c) of this title and section 1485(t) of this title related to the preservation of rural rental housing;

(2) to provide technical or financial assistance to any other projects needing such assistance;

(3) to coordinate and direct all other activities related to the preservation of rural housing; and

(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949.

(July 15, 1949, ch. 338, title V, § 537, as added Pub. L. 102-550, title VII, § 712(c), Oct. 28, 1992, 106 Stat. 3841.)

² So in original. Probably should be "subsection".