

generating plants or electric transmission lines or systems, shall consider such general criteria consistent with the provisions of this chapter as may be published by the Secretary of Energy.

(May 20, 1936, ch. 432, title I, § 16, as added Pub. L. 95-91, title VII, § 709(f), Aug. 4, 1977, 91 Stat. 608; amended Pub. L. 103-354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221.)

#### AMENDMENTS

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” before “in making”.

### § 917. Prohibition on restricting water and waste facility services to electric customers

#### (a) Prohibition

Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

#### (b) Ensuring compliance

The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a).

#### (c) “Rural development programs” defined

In this section, the term “rural development program” means the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375<sup>1</sup> and subtitle E [7 U.S.C. 2009 et seq.] of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

(2) Subtitle G<sup>1</sup> of title XVI and sections 2281 [42 U.S.C. 5177a], 2333, and 2381 [7 U.S.C. 950aaa-2, 3125b] of the Food, Agriculture, Conservation, and Trade Act of 1990.

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 1932 note).

(5) Title V [7 U.S.C. 2661 et seq.] and section 603(c) [7 U.S.C. 2204a] of the Rural Development Act of 1972.

(6) Sections 905 and 940a<sup>1</sup> of this title and subchapter IV of this chapter.

#### (d) Regulations

Not later than 60 days after April 4, 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a).

(May 20, 1936, ch. 432, title I, § 17, as added Pub. L. 104-127, title VII, § 778, Apr. 4, 1996, 110 Stat. 1150.)

#### REFERENCES IN TEXT

Section 375 of the Consolidated Farm and Rural Development Act, referred to in subsec. (c)(1), was classi-

<sup>1</sup> See References in Text note below.

fied to section 2008j of this title prior to repeal by Pub. L. 87-128, title III, § 375(j)(7), as added Pub. L. 106-78, title VIII, § 816(d), Oct. 22, 1999, 113 Stat. 1182.

The Consolidated Farm and Rural Development Act, referred to in subsec. (c)(1), is Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 307, as amended. Subtitle E of the Act is classified generally to subchapter V (§ 2009 et seq.) of chapter 50 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

The Food, Agriculture, Conservation, and Trade Act of 1990, referred to in subsec. (c)(2), is Pub. L. 101-624, Nov. 28, 1990, 104 Stat. 3359, as amended. Subtitle G of title XVI of the Act, known as the Alternative Agricultural Research and Commercialization Act of 1990, was classified generally to subchapter VI (§ 5901 et seq.) of chapter 88 of this title prior to repeal by Pub. L. 107-171, title VI, § 6201(a), May 13, 2002, 116 Stat. 418. For complete classification of this Act to the Code, see Short Title of 1990 Amendments note set out under section 1421 of this title and Tables.

The Rural Development Act of 1972, referred to in subsec. (c)(5), is Pub. L. 92-419, Aug. 30, 1972, 86 Stat. 657, as amended. Title V of the Act is classified generally to subchapter II (§ 2661 et seq.) of chapter 59 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of this title and Tables.

Sections 905 and 940a of this title, referred to in subsec. (c)(6), were repealed by Pub. L. 104-127, title VII, § 774(a), 780, Apr. 4, 1996, 110 Stat. 1150, 1151.

#### PRIOR PROVISIONS

A prior section 917, act May 20, 1936, ch. 432, title I, § 17, as added Nov. 28, 1990, Pub. L. 101-624, title XXIII, § 2343, 104 Stat. 4027, related to establishment of technical assistance unit to provide advice and technical assistance to electric and telephone borrowers under this chapter, prior to repeal by Pub. L. 102-237, title VII, § 703(b), Dec. 13, 1991, 105 Stat. 1881.

### § 918. General prohibitions

#### (a) No consideration of borrower’s level of general funds

The Secretary shall not deny or reduce any loan or loan advance under this chapter based on a borrower’s level of general funds.

#### (b) Loan origination fees

The Secretary may not charge any fee or charge not expressly provided in this chapter in connection with any loan made or guaranteed under this chapter.

#### (c) Consultants

##### (1) In general

To facilitate timely action on applications by borrowers for financial assistance under this chapter and for approvals required of the Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Secretary may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

##### (2) Conflicts of interest

The Secretary shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other conflicts of interest in the outcome of the application of the borrower.

**(3) Payment of costs**

The Secretary may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Secretary.

**(4) Contracts, grants, and agreements**

The Secretary may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section.

**(5) Use of consultants**

Nothing in this subsection shall limit the authority of the Secretary to retain the services of consultants from funds made available to the Secretary or otherwise.

(May 20, 1936, ch. 432, title I, § 18, as added Pub. L. 101-624, title XXIII, § 2353, Nov. 28, 1990, 104 Stat. 4039; amended Pub. L. 103-129, § 2(c)(4), Nov. 1, 1993, 107 Stat. 1364; Pub. L. 103-354, title II, § 235(a)(13), Oct. 13, 1994, 108 Stat. 3221; Pub. L. 115-334, title VI, § 6602(b)(1), Dec. 20, 2018, 132 Stat. 4776.)

## AMENDMENTS

2018—Subsecs. (a), (b). Pub. L. 115-334 struck out “and the Governor of the telephone bank” after “The Secretary”.

1994—Pub. L. 103-354 substituted “Secretary” for “Administrator” wherever appearing.

1993—Pub. L. 103-129 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

**§ 918a. Energy generation, transmission, and distribution facilities efficiency grants and loans in rural communities with extremely high energy costs****(a) In general**

The Secretary, acting through the Rural Utilities Service, may—

(1) in coordination with State rural development initiatives, make grants and loans to persons, States, political subdivisions of States, and other entities organized under the laws of States to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities in which the average residential expenditure for home energy is at least 275 percent of the national average residential expenditure for home energy (as determined by the Energy Information Agency using the most recent data available);

(2) make grants and loans to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105-277) to acquire, construct, extend, upgrade, and otherwise improve energy generation, transmission, or distribution facilities serving communities described in paragraph (1); and

(3) make grants to State entities, in existence as of November 9, 2000, to establish and support a revolving fund to provide a more cost-effective means of purchasing fuel where the fuel cannot be shipped by means of surface transportation.

**(b) Authorization of appropriations****(1) In general**

There are authorized to be appropriated to carry out this section \$50,000,000 for fiscal year 2001 and such sums as are necessary for each subsequent fiscal year.

**(2) Limitation on planning and administrative expenses**

Not more than 4 percent of the amounts made available under paragraph (1) may be used for planning and administrative expenses.

(May 20, 1936, ch. 432, title I, § 19, as added Pub. L. 106-472, title III, § 301, Nov. 9, 2000, 114 Stat. 2069.)

## REFERENCES IN TEXT

The Denali Commission Act of 1998, referred to in subsec. (a)(2), is title III of div. C of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-637, which is set out as a note under section 3121 of Title 42, The Public Health and Welfare.

**§ 918b. Acquisition of existing systems in rural communities with high energy costs**

On and after November 28, 2001, notwithstanding any other provision of law, the Secretary of Agriculture, acting through the Administrator of the Rural Utilities Service<sup>1</sup> shall use the authorities provided in the Rural Electrification Act of 1936 [7 U.S.C. 901 et seq.] to finance the acquisition of existing generation, transmission and distribution systems and facilities serving high cost, predominantly rural areas by entities capable of and dedicated to providing or improving service in such areas in an efficient and cost effective manner.

(Pub. L. 107-76, title VII, § 748, Nov. 28, 2001, 115 Stat. 738; Pub. L. 115-334, title XII, § 12408(b), Dec. 20, 2018, 132 Stat. 4977.)

## REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in text, is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to this chapter (§901 et seq.). For complete classification of this Act to the Code, see section 901 of this title and Tables.

## CODIFICATION

Section was enacted as part of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, and not as part of the Rural Electrification Act of 1936 which comprises this chapter.

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 106-387, § 1(a) [title I, § 771], Oct. 28, 2000, 114 Stat. 1549, 1549A-45.

## AMENDMENTS

2018—Pub. L. 115-334 inserted “the Secretary of Agriculture, acting through” before “the Administrator of the Rural Utilities Service”.

**§ 918c. Rural and remote communities electrification grants****(a) Definitions**

In this section:

<sup>1</sup> So in original. Probably should be followed by a comma.