

(iii) meets the eligibility criteria in section 5705(c) of this title; and

(B) includes, collateral support programs, loan participation programs, State-run venture capital fund programs, and credit guarantee programs.

(13) State program

The term “State program” means a State capital access program or a State other credit support program.

(14) Secretary

The term “Secretary” means the Secretary of the Treasury.

(Pub. L. 111-240, title III, §3002, Sept. 27, 2010, 124 Stat. 2568.)

Editorial Notes

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in par. (2)(B), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified principally to chapter 14 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see section 1751 of this title and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 111-240, title III, §3001, Sept. 27, 2010, 124 Stat. 2568, provided that: “This title [enacting this chapter] may be cited as the ‘State Small Business Credit Initiative Act of 2010’.”

§ 5702. Federal funds allocated to States

(a) Program established; purpose

There is established the State Small Business Credit Initiative, to be administered by the Secretary. Under the Program, the Secretary shall allocate Federal funds to participating States and make the allocated funds available to the participating States as provided in this section for the uses described in this section.

(b) Allocation formula

(1) In general

Not later than 30 days after September 27, 2010, the Secretary shall allocate Federal funds to participating States so that each State is eligible to receive an amount equal to the average of the respective amounts that the State—

(A) would receive under the 2009 allocation, as determined under paragraph (2); and

(B) would receive under the 2010 allocation, as determined under paragraph (3).

(2) 2009 allocation formula

(A) In general

The Secretary shall determine the 2009 allocation by allocating Federal funds among the States in the proportion that each such State’s 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all States.

(B) Minimum allocation

The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State re-

ceives less than 0.9 percent of the Federal funds.

(C) 2008 state employment decline defined

In this paragraph and with respect to a State, the term “2008 State employment decline” means the excess (if any) of—

(i) the number of individuals employed in such State determined for December 2007; over

(ii) the number of individuals employed in such State determined for December 2008.

(3) 2010 allocation formula

(A) In general

The Secretary shall determine the 2010 allocation by allocating Federal funds among the States in the proportion that each such State’s 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

(B) Minimum allocation

The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) 2009 unemployment number defined

In this paragraph and with respect to a State, the term “2009 unemployment number” means the number of individuals within such State who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

(c) Availability of allocated amount

The amount allocated by the Secretary to each participating State under subsection (b) shall be made available to the State as follows:

(1) Allocated amount generally to be available to State in one-thirds

(A) In general

The Secretary shall—

(i) apportion the participating State’s allocated amount into thirds;

(ii) transfer to the participating State the first $\frac{1}{3}$ when the Secretary approves the State for participation under section 5703 of this title; and

(iii) transfer to the participating State each successive $\frac{1}{3}$ when the State has certified to the Secretary that it has expended, transferred, or obligated 80 percent of the last transferred $\frac{1}{3}$ for Federal contributions to, or for the account of, State programs.

(B) Authority to withhold pending audit

The Secretary may withhold the transfer of any successive $\frac{1}{3}$ pending results of a financial audit.

(C) Inspector General audits

(i) In general

The Inspector General of the Department of the Treasury shall carry out an audit of the participating State’s use of allocated Federal funds transferred to the State.

(ii) Recoupment of misused transferred funds required

The allocation agreement between the Secretary and the participating State shall provide that the Secretary shall recoup any allocated Federal funds transferred to the participating State if the results of the an audit include a finding that there was an intentional or reckless misuse of transferred funds by the State.

(iii) Penalty for misstatement

Any participating State that is found to have intentionally misstated any report issued to the Secretary under the Program shall be ineligible to receive any additional funds under the Program. Funds that had been allocated or that would otherwise have been allocated to such participating State shall be paid into the general fund of the Treasury for reduction of the public debt.

(iv) Municipalities

In this subparagraph, the term “participating State” shall include a municipality given special permission to participate in the Program, under section 5703(d) of this title.

(D) Exception

The Secretary may, in the Secretary’s discretion, transfer the full amount of the participating State’s allocated amount to the State in a single transfer if the participating State applies to the Secretary for approval to use the full amount of the allocation as collateral for a qualifying loan or swap funding facility.

(2) Transferred amounts

Each amount transferred to a participating State under this section shall remain available to the State until used by the State as permitted under paragraph (3).

(3) Use of transferred funds

Each participating State may use funds transferred to it under this section only—

(A) for making Federal contributions to, or for the account of, an approved State program;

(B) as collateral for a qualifying loan or swap funding facility;

(C) in the case of the first $\frac{1}{3}$ transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 5 percent of that first $\frac{1}{3}$; or

(D) in the case of each successive $\frac{1}{3}$ transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 3 percent of that successive $\frac{1}{3}$.

(4) Termination of availability of amounts not transferred within 2 years of participation

Any portion of a participating State’s allocated amount that has not been transferred to the State under this section by the end of the 2-year period beginning on the date that the Secretary approves the State for participation may be deemed by the Secretary to be no

longer allocated to the State and no longer available to the State and shall be returned to the General Fund of the Treasury.

(5) Transferred amounts not assistance

The amounts transferred to a participating State under this section shall not be considered assistance for purposes of subtitle V of title 31.

(6) Definitions

In this section—

(A) the term “allocated amount” means the total amount of Federal funds allocated by the Secretary under subsection (b) to the participating State; and

(B) the term “ $\frac{1}{3}$ ” means—

(i) in the case of the first $\frac{1}{3}$ and second $\frac{1}{3}$, an amount equal to 33 percent of a participating State’s allocated amount; and

(ii) in the case of the last $\frac{1}{3}$, an amount equal to 34 percent of a participating State’s allocated amount.

(Pub. L. 111-240, title III, §3003, Sept. 27, 2010, 124 Stat. 2570.)

§ 5703. Approving States for participation

(a) Application

Any State may apply to the Secretary for approval to be a participating State under the Program and to be eligible for an allocation of Federal funds under the Program.

(b) General approval criteria

The Secretary shall approve a State to be a participating State, if—

(1) a specific department, agency, or political subdivision of the State has been designated to implement a State program and participate in the Program;

(2) all legal actions necessary to enable such designated department, agency, or political subdivision to implement a State program and participate in the Program have been accomplished;

(3) the State has filed an application with the Secretary for approval of a State capital access program under section 5704 of this title or approval as a State other credit support program under section 5705 of this title, in each case within the time period provided in the respective section; and

(4) the State and the Secretary have executed an allocation agreement that—

(A) conforms to the requirements of this chapter;

(B) ensures that the State program complies with such national standards as are established by the Secretary under section 5708(a)(2) of this title;

(C) sets forth internal control, compliance, and reporting requirements as established by the Secretary, and such other terms and conditions necessary to carry out the purposes of this chapter, including an agreement by the State to allow the Secretary to audit State programs;

(D) requires that the State program be fully positioned, within 90 days of the State’s execution of the allocation agreement with the Secretary, to act on providing