

ment of affordable housing for Native Hawaiians to carry out affordable housing activities with those grant amounts.

(Pub. L. 104-330, title VIII, § 803, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2878, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2971.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (c)(2)(E)(i)(I) and (d)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Fair Housing Act, referred to in subsecs. (c)(2)(E)(i)(I) and (d)(1), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

##### CODIFICATION

Pub. L. 106-568, §203, and Pub. L. 106-569, §513, enacted substantially identical sections 803 of Pub. L. 104-330. This section is based on the text of section 803 of Pub. L. 104-330, as added by Pub. L. 106-569, §513. Section 803 of Pub. L. 104-330, as added by Pub. L. 106-568, referred to title VIII of the Act popularly known as the Civil Rights Act of 1968 instead of the Fair Housing Act in subsecs. (c)(2)(E)(i)(I) and (d)(1). Title VIII of the Civil Rights Act of 1968 is title VIII of Pub. L. 90-284 which is known as the Fair Housing Act, see References in Text note above. The reference to "such title" in subsec. (c)(2)(E)(i)(I) probably refers to title VI of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968 (the Fair Housing Act).

#### § 4224. Review of plans

##### (a) Review and notice

###### (1) Review

###### (A) In general

The Secretary shall conduct a review of a housing plan submitted to the Secretary under section 4223 of this title to ensure that the plan complies with the requirements of that section.

###### (B) Limitation

The Secretary shall have the discretion to review a plan referred to in subparagraph (A) only to the extent that the Secretary considers that the review is necessary.

###### (2) Notice

###### (A) In general

Not later than 60 days after receiving a plan under section 4223 of this title, the Secretary shall notify the Director of the Department of Hawaiian Home Lands whether the plan complies with the requirements under that section.

###### (B) Effect of failure of Secretary to take action

For purposes of this subchapter, if the Secretary does not notify the Director, as re-

quired under this subsection and subsection (b), upon the expiration of the 60-day period described in subparagraph (A)—

(i) the plan shall be considered to have been determined to comply with the requirements under section 4223 of this title; and

(ii) the Director shall be considered to have been notified of compliance.

##### (b) Notice of reasons for determination of non-compliance

If the Secretary determines that a plan submitted under section 4223 of this title does not comply with the requirements of that section, the Secretary shall specify in the notice under subsection (a)—

(1) the reasons for noncompliance; and

(2) any modifications necessary for the plan to meet the requirements of section 4223 of this title.

##### (c) Review

###### (1) In general

After the Director of the Department of Hawaiian Home Lands submits a housing plan under section 4223 of this title, or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make a determination under this subsection, the Secretary shall review the plan (including any amendments or modifications thereto) to determine whether the contents of the plan—

(A) set forth the information required by section 4223 of this title to be contained in the housing plan;

(B) are consistent with information and data available to the Secretary; and

(C) are not prohibited by or inconsistent with any provision of this chapter or any other applicable law.

###### (2) Incomplete plans

If the Secretary determines under this subsection that any of the appropriate certifications required under section 4223(c)(2)(E) of this title are not included in a plan, the plan shall be considered to be incomplete.

##### (d) Updates to plan

###### (1) In general

Subject to paragraph (2), after a plan under section 4223 of this title has been submitted for a fiscal year, the Director of the Department of Hawaiian Home Lands may comply with the provisions of that section for any succeeding fiscal year (with respect to information included for the 5-year period under section 4223(b) of this title or for the 1-year period under section 4223(c) of this title) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

###### (2) Complete plans

The Director shall submit a complete plan under section 4223 of this title not later than 4 years after submitting an initial plan under that section, and not less frequently than every 4 years thereafter.

##### (e) Effective date

This section and section 4223 of this title shall take effect on the date provided by the Sec-

retary pursuant to section 4227(a)<sup>1</sup> of this title to provide for timely submission and review of the housing plan as necessary for the provision of assistance under this subchapter for fiscal year 2001.

(Pub. L. 104-330, title VIII, § 804, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2881, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2975.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1)(C), was in the original “this Act”, meaning Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, known as the Native American Housing Assistance and Self-Determination Act of 1996. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

##### CODIFICATION

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted substantially identical sections 804 of Pub. L. 104-330. This section is based on the text of section 804 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513.

### § 4225. Treatment of program income and labor standards

#### (a) Program income

##### (1) Authority to retain

The Department of Hawaiian Home Lands may retain any program income that is realized from any grant amounts received by the Department under this subchapter if—

(A) that income was realized after the initial disbursement of the grant amounts received by the Department; and

(B) the Director agrees to use the program income for affordable housing activities in accordance with the provisions of this subchapter.

##### (2) Prohibition of reduction of grant

The Secretary may not reduce the grant amount for the Department of Hawaiian Home Lands based solely on—

(A) whether the Department retains program income under paragraph (1); or

(B) the amount of any such program income retained.

##### (3) Exclusion of amounts

The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the Department.

#### (b) Labor standards

##### (1) In general

Any contract or agreement for assistance, sale, or lease pursuant to this subchapter shall contain—

(A) a provision requiring that an amount not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or

local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, technicians employed in the development and all maintenance, and laborers and mechanics employed in the operation, of the affordable housing project involved; and

(B) a provision that an amount not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to sections 3141-3144, 3146, and 3147 of title 40 shall be paid to all laborers and mechanics employed in the development of the affordable housing involved.

#### (2) Exceptions

Paragraph (1) and provisions relating to wages required under paragraph (1) in any contract or agreement for assistance, sale, or lease under this subchapter, shall not apply to any individual who performs the services for which the individual volunteered and who is not otherwise employed at any time in the construction work and received no compensation or is paid expenses, reasonable benefits, or a nominal fee for those services.

(Pub. L. 104-330, title VIII, § 805, as added Pub. L. 106-568, title II, § 203, Dec. 27, 2000, 114 Stat. 2883, and Pub. L. 106-569, title V, § 513, Dec. 27, 2000, 114 Stat. 2976.)

#### Editorial Notes

##### CODIFICATION

“Sections 3141-3144, 3146, and 3147 of title 40” substituted in subsec. (b)(1)(B) for “the Act commonly known as the ‘Davis-Bacon Act’ (46 Stat. 1494; chapter 411; 40 U.S.C. 276a et seq.)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Pub. L. 106-568, § 203, and Pub. L. 106-569, § 513, enacted substantially identical sections 805 of Pub. L. 104-330. This section is based on the text of section 805 of Pub. L. 104-330, as added by Pub. L. 106-569, § 513.

### § 4226. Environmental review

#### (a) In general

##### (1) Release of funds

##### (A) In general

The Secretary may carry out the alternative environmental protection procedures described in subparagraph (B) in order to ensure—

(i) that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law that further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this subchapter; and

(ii) to the public undiminished protection of the environment.

##### (B) Alternative environmental protection procedure

In lieu of applying environmental protection procedures otherwise applicable, the Secretary may by regulation provide for the release of funds for specific projects to the

<sup>1</sup> So in original. Probably should be section “4227”.