

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315, §314(c)(1), substituted “\$1,100,000,000” for “\$375,000,000” in introductory provisions.

Subsec. (a)(1). Pub. L. 110-315, §314(c)(2), substituted “\$733,333,333” for “\$250,000,000”.

Subsec. (a)(2). Pub. L. 110-315, §314(c)(3), substituted “\$366,666,667” for “\$125,000,000”.

§ 1066d. Authority of Secretary

In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

(1) shall, within 120 days of August 14, 2008, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

(A) specify the time and manner for submission of proposals; and

(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

(2) shall ensure that—

(A) the selection process for the designated bonding authority is conducted on a competitive basis; and

(B) the evaluation and selection process is transparent;

(3) shall—

(A) review the performance of the designated bonding authority after the third year of the insurance agreement; and

(B) following the review described in subparagraph (A), implement a revised competitive selection process, if determined necessary by the Secretary in consultation with the Advisory Board established pursuant to section 1066f of this title;

(4) shall require that the first loans for capital projects authorized under section 1066b of this title be made no later than March 31, 1994;

(5) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

(6)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dis-

pose of, lease, and otherwise deal with, such property, except that—

(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(7) may sell, exchange, or lease real or personal property and securities or obligations;

(8) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved;

(9) may, directly or by grant or contract, provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a capital improvement loan, including a loan under this part; and

(10) not later than 120 days after August 14, 2008, shall submit to the authorizing committees a report on the progress of the Department in implementing the recommendations made by the Government Accountability Office in October 2006 for improving the Historically Black College and Universities Capital Financing Program.

(Pub. L. 89-329, title III, §345, formerly title VII, §725, as added Pub. L. 102-325, title VII, §704, July 23, 1992, 106 Stat. 745; amended Pub. L. 103-208, §2(j)(16), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, §345, and amended Pub. L. 105-244, title III, §§301(a)(3), (4), (c)(6), 306(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1647; Pub. L. 110-315, title III, §314(d), Aug. 14, 2008, 122 Stat. 3181.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 1132c-4 of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 345 of Pub. L. 89-329 was classified to section 1069a of this title prior to the general amendment of this subchapter by Pub. L. 99-498.

AMENDMENTS

2008—Par. (1). Pub. L. 110-315, §314(d)(1), substituted “August 14, 2008,” for “July 23, 1992,” in introductory provisions.

Pars. (2) to (9). Pub. L. 110-315, §314(d)(2), (3), added pars. (2) and (3) and redesignated former pars. (2) to (7) as (4) to (9), respectively.

Par. (10). Pub. L. 110-315, §314(d)(4)–(6), added par. (10). 1998—Par. (2). Pub. L. 105-244, §301(c)(6), substituted “section 1066b” for “section 1132c-2”.

Par. (7). Pub. L. 105-244, §306(c), added par. (7).

1993—Pars. (2) to (6). Pub. L. 103-208 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102-325, except as otherwise provided, see section 5(a) of Pub. L. 103-208, set out as a note under section 1051 of this title.

§ 1066e. Repealed. Pub. L. 105-244, title III, § 306(d), Oct. 7, 1998, 112 Stat. 1647

Section, Pub. L. 89-329, title III, § 346, formerly title VII, § 726, as added Pub. L. 102-325, title VII, § 704, July 23, 1992, 106 Stat. 746; amended Pub. L. 103-208, § 2(j)(17), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, § 346, Pub. L. 105-244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, prohibited institution receiving a loan under this part from receiving grant under former part A of subchapter VII of this chapter.

Editorial Notes

CODIFICATION

Section was formerly classified to section 1132c-5 of this title prior to renumbering by Pub. L. 105-244.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1066f. HBCU Capital Financing Advisory Board

(a) Establishment and purpose

There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the “Advisory Board”) which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

(b) Board membership

(1) Composition

The Advisory Board shall be appointed by the Secretary and shall be composed of 11 members as follows:

(A) The Secretary or the Secretary’s designee.

(B) Three members who are presidents of private historically Black colleges or universities.

(C) Three members who are presidents of public historically Black colleges or universities.

(D) The president of the United Negro College Fund, Inc., or the president’s designee.

(E) The president of the National Association for Equal Opportunity in Higher Education, or the designee of the Association.

(F) The executive director of the White House Initiative on historically Black colleges and universities.

(G) The president of the Thurgood Marshall College Fund, or the designee of the president.

(2) Terms

The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

(C) a member may continue to serve after the expiration of a term until a successor is appointed.

(c) Additional recommendations from Advisory Board

(1) In general

In addition to the responsibilities of the Advisory Board described in subsection (a), the Advisory Board shall advise the Secretary and the authorizing committees regarding—

(A) the fiscal status and strategic financial condition of not less than ten historically Black colleges and universities that have—

(i) obtained construction financing through the program under this part and seek additional financing or refinancing under such program; or

(ii) applied for construction financing through the program under this part but have not received financing under such program; and

(B) the feasibility of reducing borrowing costs associated with the program under this part, including reducing interest rates.

(2) Report

Not later than six months after August 14, 2008, the Advisory Board shall prepare and submit a report to the authorizing committees regarding the historically Black colleges and universities described in paragraph (1)(A) that includes administrative and legislative recommendations for addressing the issues related to construction financing facing such historically Black colleges and universities.

(Pub. L. 89-329, title III, § 347, formerly title VII, § 727, as added Pub. L. 102-325, title VII, § 704, July 23, 1992, 106 Stat. 746; renumbered title III, § 347, and amended Pub. L. 105-244, title III, §§ 301(a)(3), (4), 306(e), Oct. 7, 1998, 112 Stat. 1636, 1647; Pub. L. 110-315, title III, § 314(e), Aug. 14, 2008, 122 Stat. 3182.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 1132c-6 of this title prior to renumbering by Pub. L. 105-244.

PRIOR PROVISIONS

A prior section 347 of Pub. L. 89-329 was classified to section 1069c of this title prior to the general amendment of this subchapter by Pub. L. 99-498.