

student body in which more than 20 percent of the students are Hispanic Americans or Native Americans; and

(C) qualified HUBZone small business concerns.

(2) EXCEPTION.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term “small business concern” has the meaning such term has under section 3 of the Small Business Act;

(B) the term “socially and economically disadvantaged individuals” has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section; and

(C) the term “qualified HUBZone small business concern” has the meaning given that term in section 3(p)<sup>1</sup> of the Small Business Act (15 U.S.C. 632(o)<sup>2</sup>).

(g) NONSUPPLANTING REQUIREMENT.—

(1) IN GENERAL.—Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

(2) BASE LEVEL AMOUNT.—The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the “base level account” for the fiscal year in which a grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1859; amended Pub. L. 105-135, title VI, §604(e)(2), Dec. 2, 1997, 111 Stat. 2633.)

#### Editorial Notes

##### REFERENCES IN TEXT

Sections 3 and 8(d) of the Small Business Act, referred to in subsec. (f)(3), are classified to sections 632 and 637(d), respectively, of Title 15, Commerce and Trade. Section 3(p) of the Act was redesignated as section 31(b) by Pub. L. 115-91, div. A, title XVII, §1701(a)(2), Dec. 12, 2017, 131 Stat. 1795, and is now classified to section 657a(b) of Title 15.

##### PRIOR PROVISIONS

A prior section 6701, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1010; Pub. L. 98-185, §§2, 9(a), Nov. 30, 1983, 97 Stat. 1309, 1311, related to definitions and application of chapter, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

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

<sup>2</sup> So in original. Probably should be “632(p)”.

#### AMENDMENTS

1997—Subsec. (f)(1)(C). Pub. L. 105-135, §604(e)(2)(A), added subpar. (C).

Subsec. (f)(3)(C). Pub. L. 105-135, §604(e)(2)(B), added subpar. (C).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-135 effective Oct. 1, 1997, see section 3 of Pub. L. 105-135, set out as a note under section 631 of Title 15, Commerce and Trade.

##### REGULATIONS

Pub. L. 103-322, title III, §31001(b), Sept. 13, 1994, 108 Stat. 1881, provided that: “Within 90 days of the date of enactment of this Act [Sept. 13, 1994] the Secretary shall issue regulations, which may be interim regulations, to implement subsection (a) [enacting this chapter], modifying the regulations for carrying into effect the Revenue Sharing Act [former chapter 67 of this title] that were in effect as of July 1, 1987, and that were published in 31 C.F.R. part 51. The Secretary need not hold a public hearing before issuing these regulations.”

#### § 6702. Local Government Fiscal Assistance Fund

(a) ADMINISTRATION OF FUND.—The Department of the Treasury has a Local Government Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund—

- (1) \$270,000,000 for fiscal year 1996;
- (2) \$283,500,000 for fiscal year 1997;
- (3) \$355,500,000 for fiscal year 1998;
- (4) \$355,500,000 for fiscal year 1999; and
- (5) \$355,500,000 for fiscal year 2000.

Such sums are to remain available until expended.

(c) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Secretary in furtherance of the purposes of the program. Such sums are to remain available until expended.

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1861.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 6702, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1012, related to payments to governments, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

#### Statutory Notes and Related Subsidiaries

##### DEFICIT NEUTRALITY

Pub. L. 103-322, title III, §31001(c), Sept. 13, 1994, 108 Stat. 1881, provided that: “Any appropriation to carry out the amendment made by this subtitle [subtitle J (§§31001, 31002) of title III of Pub. L. 103-322, enacting this chapter] to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.”

#### § 6703. Qualification for payment

(a) IN GENERAL.—The Secretary shall issue regulations establishing procedures under which

eligible units of general local government are required to provide notice to the Secretary of the units' proposed use of assistance under this chapter. Subject to subsection (c), the assistance provided shall be used, in amounts determined by the unit, for activities under, or for activities that are substantially similar to an activity under, 1 or more of the following programs and the notice shall identify 1 or more of the following programs for each such use:

(1) The Drug Abuse Resistance Education Program under section 5122 of the Elementary and Secondary Education Act of 1965.

(2) The National Youth Sports Program under section 682 of the Community Services Block Grant Act (Public Law 97-35) as amended by section 205, Public Law 103-252.

(3) The Gang Resistance Education and Training Program under the Act entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes", approved November 5, 1990 (Public Law 101-509).

(4) Programs under title I of the Workforce Innovation and Opportunity Act.

(5) Programs under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), as amended.

(6) Programs under the School to Work Opportunities Act (Public Law 103-239).

(7) Substance Abuse Treatment and Prevention programs authorized under title V or XIX of the Public Health Services Act (43 U.S.C. 201 et seq.).<sup>1</sup>

(8) Programs under the Head Start Act (42 U.S.C. 9831 et seq.).

(9) Programs under part A or B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(10) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(11) Programs under the National Literacy Act of 1991.

(12) Programs under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

(13) The demonstration partnership programs including the community initiative targeted to minority youth under section 203<sup>1</sup> of the Human Services Reauthorization Act of 1994 (Public Law 103-252).

(14) The runaway and homeless youth program and the transitional living program for homeless youth under title III of the Juvenile Justice and Delinquency Prevention Act (Public Law 102-586).

(15) After-school activities for school aged children under the Child Care and Development Block Grant Act (42 U.S.C. 9858<sup>1</sup> et seq.).

(16) The community-based family resource programs under section 401<sup>1</sup> of the Human Services Reauthorization Act of 1994 (Public Law 103-252).

(17) The family violence programs under the Child Abuse Prevention and Treatment Act Amendments of 1984.

(18) Job training programs administered by the Department of Agriculture, the Department of Defense, or the Department of Housing and Urban Development.

(b) NOTICE TO AGENCY.—Upon receipt of notice under subsection (a) from an eligible unit of general local government, the Secretary shall notify the head of the appropriate Federal agency for each program listed in subsection (a) that is identified in the notice as a program under which an activity will be conducted with assistance under this chapter. The notification shall state that the unit has elected to use some or all of its assistance under this chapter for activities under that program. The head of a Federal agency that receives such a notification shall ensure that such use is in compliance with the laws and regulations applicable to that program, except that any requirement to provide matching funds shall not apply to that use.

(c) ALTERNATIVE USES OF FUNDS.—

(1) ALTERNATIVE USES AUTHORIZED.—In lieu of, or in addition to, use for an activity described in subsection (a) and notice for that use under subsection (a), an eligible unit of general local government may use assistance under this chapter, and shall provide notice of that use to the Secretary under subsection (a), for any other activity that is consistent with 1 or more of the purposes described in section 6701(a)(2).

(2) NOTICE DEEMED TO DESCRIBE CONSISTENT USE.—Notice by a unit of general local government that it intends to use assistance under this chapter for an activity other than an activity described in subsection (a) is deemed to describe an activity that is consistent with 1 or more of the purposes described in section 6701(a)(2) unless the Secretary provides to the unit, within 30 days after receipt of that notice of intent from the unit, written notice (including an explanation) that the use is not consistent with those purposes.

(d) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(5) all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction,

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

including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40. The Secretary of Labor shall have the authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 3145 of title 40;

(6) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary. As applicable, amounts received under this chapter shall be audited in compliance with the Single Audit Act of 1984;

(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States reasonably requires to review compliance and operations under section 6718(b);

(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b); and

(9) the government will spend the funds only for the purposes set forth in section 6701(a)(2).

(e) **REVIEW BY GOVERNORS.**—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

(f) **SANCTIONS FOR NONCOMPLIANCE.**—

(1) **IN GENERAL.**—If the Secretary decides that a unit of general local government has not complied substantially with subsection (d) or regulations prescribed under subsection (d), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (d) and regulations prescribed under subsection (d).

(2) **NOTICE.**—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

(3) **PAYMENT CONDITIONS.**—The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (d) and regulations prescribed under subsection (d).

(Added Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1861; amended Pub. L. 104-316,

title I, §115(j), Oct. 19, 1996, 110 Stat. 3835; Pub. L. 105-277, div. A, §101(f) [title VIII, §405(c)(3), (d)(27), (f)(19)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-417, 2681-424, 2681-432; Pub. L. 107-217, §3(h)(8), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 109-270, §2(i), Aug. 12, 2006, 120 Stat. 748; Pub. L. 113-128, title V, §512(ff), July 22, 2014, 128 Stat. 1719.)

### Editorial Notes

#### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(1), (9), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27. Parts A and B of chapter 1 of title I of the Act were classified generally to parts A (§2711 et seq.) and B (§2741 et seq.) of division 1 of subchapter I of chapter 47 of Title 20, Education, prior to being omitted in the general amendment of Pub. L. 89-10 by Pub. L. 103-382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See part A (§6311 et seq.) and subpart 3 (§6381 et seq.) of part B of subchapter I of chapter 70 of Title 20. Section 5122 of the Act was classified to section 3192 of Title 20 prior to being omitted in the general amendment of Pub. L. 89-10 by Pub. L. 103-382. A new section 5122 of the Act, relating to applications for assistance under educational reform programs, was added by Pub. L. 107-110 and was classified to section 7213a of Title 20, prior to repeal by Pub. L. 114-95, title IV, §4001(b)(1)(A), Dec. 10, 2015, 129 Stat. 1967.

Section 682 of the Community Services Block Grant Act, referred to in subsec. (a)(2), which was classified to section 9910c of Title 42, The Public Health and Welfare, was omitted in the general amendment of chapter 106 of Title 42, by Pub. L. 105-285, title II, §201, Oct. 27, 1998, 112 Stat. 2728. A new section 682 of the Act, containing similar subject matter, is classified to section 9923 of Title 42.

Public Law 101-509, referred to in subsec. (a)(3), is Pub. L. 101-509, Nov. 5, 1990, 104 Stat. 1389. For complete classification of this Act to the Code, see Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (a)(4), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a)(5), is Pub. L. 101-610, Nov. 16, 1990, 104 Stat. 3127. Subtitle C of title I of the Act is classified generally to division C (§12571 et seq.) of subchapter I of chapter 129 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 12501 of Title 42 and Tables.

The School to Work Opportunities Act, referred to in subsec. (a)(6), probably means the School-to-Work Opportunities Act of 1994, Pub. L. 103-239, May 4, 1994, 108 Stat. 568, which is classified principally to chapter 69 (§6101 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 20 and Tables.

The Public Health Services Act, referred to in subsec. (a)(7), probably means the Public Health Service Act, act July 1, 1944, ch. 373, 58 Stat. 682. Titles V and XIX of the Act are classified generally to subchapters III-A (§290aa et seq.) and XVII (§300w et seq.) of chapter 6A 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 201 of Title 42 and Tables.

The Head Start Act, referred to in subsec. (a)(8), is subchapter B (§§635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(10), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Part A of title IV of the Act is classified generally to part A (§1070 et seq.) of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The National Literacy Act of 1991, referred to in subsec. (a)(11), is Pub. L. 102-73, July 25, 1991, 105 Stat. 333, which was repealed by Pub. L. 105-220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (a)(12), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109-270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

Sections 203 and 401 of the Human Services Reauthorization Act of 1994 (Public Law 103-252), referred to in subsec. (a)(13), (16), probably mean sections 203 and 401 of the Human Services Amendments of 1994, Pub. L. 103-252, May 18, 1994, 108 Stat. 654, 666. Section 203 of Pub. L. 103-252 amended section 9910 of Title 42, The Public Health and Welfare. Section 401 of Pub. L. 103-252 generally amended subchapter III (§5116 et seq.) of chapter 67 of Title 42 and repealed sections 5106a-1 and 12339 of Title 42.

The Juvenile Justice and Delinquency Prevention Act, referred to in subsec. (a)(14), probably means the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109. Title III of the Act is classified generally to subchapter III (§11201 et seq.) of chapter 111 of Title 34, Crime Control and Law Enforcement. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 10101 of Title 34 and Tables.

The Child Care and Development Block Grant Act, referred to in subsec. (a)(15), probably means the Child Care and Development Block Grant Act of 1990, subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, as added by Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-236, which is classified generally to subchapter II-B (§9857 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 9857(a) of Title 42 and Tables.

The Child Abuse Prevention and Treatment Act Amendments of 1984, referred to in subsec. (a)(17), probably means the Child Abuse Amendments of 1984, Pub. L. 98-457, Oct. 9, 1984, 98 Stat. 1749. Title III of the Act, relating to family violence programs, is classified generally to chapter 110 (§10401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 5101 of Title 42 and Tables.

Reorganization Plan No. 14 of 1950, referred to in subsec. (d)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

The Single Audit Act of 1984, referred to in subsec. (d)(6), is Pub. L. 98-502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§7501 et seq.) of this title and provisions set out as notes under section 7501 of this title. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 6703, Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1012; Pub. L. 98-185, §3, Nov. 30, 1983, 97 Stat. 1309, related to State and Local Government Fiscal Assistance Trust Fund, prior to repeal by Pub. L. 99-272, title XIV, §14001(a)(1), (e), Apr. 7, 1986, 100 Stat. 327, 329, eff. Oct. 18, 1986.

#### AMENDMENTS

2014—Subsec. (a)(4). Pub. L. 113-128 substituted “Programs under title I of the Workforce Innovation and

Opportunity Act.” for “Programs under title I of the Workforce Investment Act of 1998.”

2006—Subsec. (a)(12). Pub. L. 109-270 which directed the substitution of “Carl D. Perkins Career and Technical Education Act of 2006” for “Carl D. Perkins Vocational and Applied Technology Education Act”, was executed by making the substitution for “Carl Perkins Vocational Educational and Applied Technology Education Act” to reflect the probable intent of Congress.

2002—Subsec. (d)(5). Pub. L. 107-217 substituted “sections 3141-3144, 3146, and 3147 of title 40” for “the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a-276a-5)” and “section 3145 of title 40” for “section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act), as amended (40 U.S.C. 276c, 48 Stat. 948)”.

1998—Subsec. (a)(4). Pub. L. 105-277, §101(f) [title VIII, §405(f)(19)], added par. (4) and struck out former par. (4) which read as follows: “Programs under title II or IV of the Job Training Partnership Act or under title I of the Workforce Investment Act of 1998.”

Pub. L. 105-277, §101(f) [title VIII, §405(d)(27)], added par. (4) and struck out former par. (4) which read as follows: “Programs under title II or IV of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).”

Subsec. (a)(15) to (19). Pub. L. 105-277, §101(f) [title VIII, §405(c)(3)], redesignated pars. (16) to (19) as (15) to (18), respectively, and struck out former par. (15) which read as follows: “The family support program under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.).”

1996—Subsec. (d)(6). Pub. L. 104-316 struck out “after consultation with the Comptroller General of the United States” after “by the Secretary”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

##### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, §405(c)(3), (d)(27)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, §405(f)(19)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, §405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

#### § 6704. State area allocations; allocations and payments to territorial governments

(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

(b) GENERAL FORMULA.—