

this section by States or State designated entities is audited not less than annually to ensure compliance with this section;

(B) authority for the Secretary to audit, provide for an audit, or otherwise verify a State or State designated entity's activities to ensure compliance with this section;

(C) a requirement that, for the purposes of subparagraphs (A) and (B), any financial statement submitted by a grantee or recipient to the Secretary shall be reviewed by an independent certified public accountant in accordance with Statements on Standards for Accounting and Review Services, issued by the American Institute of Certified Public Accountants;

(D) requirements for a process for application to, and selection by, each State or State designated entity for activities meeting the State or State designated entity's priority housing needs to be funded with grant amounts under this section, which shall provide for priority in funding to be based upon—

- (i) geographic diversity;
- (ii) ability to obligate amounts and undertake activities so funded in a timely manner;
- (iii) in the case of rental housing projects under subsection (c)(7)(A), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families;
- (iv) in the case of rental housing projects under subsection (c)(7)(A), the extent of the duration for which such rents will remain affordable;
- (v) the extent to which the application makes use of other funding sources; and
- (vi) the merits of an applicant's proposed eligible activity;

(E) requirements to ensure that grant amounts provided to a State or State designated entity under this section that are used for rental housing under subsection (c)(7)(A) are used only for the benefit of extremely low- and very low-income families; and

(F) requirements and standards for establishment, by a State or State designated entity, for use of grant amounts in 2009 and subsequent years of performance goals, benchmarks, and timetables for the production, preservation, and rehabilitation of affordable rental and homeownership housing with such grant amounts.

(h) Affordable housing trust fund

If, after July 30, 2008, in any year, there is enacted any provision of Federal law establishing an affordable housing trust fund other than under this chapter for use only for grants to provide affordable rental housing and affordable homeownership opportunities, and the subsequent year is a year referred to in subsection (c), the Secretary shall in such subsequent year and any remaining years referred to in subsection (c) transfer to such affordable housing trust fund the aggregate amount allocated pursuant to subsection (c) in such year. Notwithstanding any other provision of law, assistance provided

using amounts transferred to such affordable housing trust fund pursuant to this subsection may not be used for any of the activities specified in clauses (i) through (vi) of subsection (c)(9)(D).

(i) Funding accountability and transparency

Any grant under this section to a grantee by a State or State designated entity, any assistance provided to a recipient by a State or State designated entity, and any grant, award, or other assistance from an affordable housing trust fund referred to in subsection (h) shall be considered a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note). Upon the request of the Director of the Office of Management and Budget, the Secretary shall obtain and provide such information regarding any such grants, assistance, and awards as the Director of the Office of Management and Budget considers necessary to comply with the requirements of such Act, as applicable, pursuant to the preceding sentence.

(Pub. L. 102-550, title XIII, §1338, as added Pub. L. 110-289, div. A, title I, §1131(b), July 30, 2008, 122 Stat. 2712.)

Editorial Notes

REFERENCES IN TEXT

Section 4103 of title 25, referred to in subsec. (c)(2), was in the original "section 4 of the Native American Housing Assistance and Self-Determination Act of 1997 (25 U.S.C. 4103)", and was translated as meaning section 4 of the Native American Housing Assistance and Self-Determination Act of 1996, to reflect the probable intent of Congress.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (c)(7)(B)(i)(II), is Pub. L. 101-625, Nov. 28, 1990, 104 Stat. 4079. Title II of the Act, known as the HOME Investment Partnerships Act, is classified principally to subchapter II (§12721 et seq.) of chapter 130 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 12701 of Title 42 and Tables.

Section 132 of the Federal Housing Finance Regulatory Reform Act of 2008, referred to in subsec. (c)(7)(B)(iv), probably means section 1132 of Pub. L. 110-289, which is set out as a note under section 1701x of this title.

This chapter, referred to in subsec. (h), was in the original "this title", meaning title XIII of Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3941, which is classified principally to this chapter. For complete classification of title XIII to the Code, see Short Title note set out under section 4501 of this title and Tables.

The Federal Funding Accountability and Transparency Act of 2006, referred to in subsec. (i), is Pub. L. 109-282, Sept. 26, 2006, 120 Stat. 1186, which is set out as a note under section 6101 of Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1338 of Pub. L. 102-550, title XIII, Oct. 28, 1992, 106 Stat. 3964, was set out as a note under section 4562 of this title, prior to repeal by Pub. L. 110-289, div. A, title I, §1122(a)(2), July 30, 2008, 122 Stat. 2689.

§ 4569. Capital Magnet Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the

Capital Magnet Fund, which shall be a special account within the Community Development Financial Institutions Fund.

(b) Deposits to Trust Fund

The Capital Magnet Fund shall consist of—

- (1) any amounts transferred to the Fund pursuant to section 4567 of this title; and
- (2) any amounts as are or may be appropriated, transferred, or credited to such Fund under any other provisions of law.

(c) Expenditures from Trust Fund

Amounts in the Capital Magnet Fund shall be available to the Secretary of the Treasury to carry out a competitive grant program to attract private capital for and increase investment in—

- (1) the development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and
- (2) economic development activities or community service facilities, such as day care centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area.

(d) Federal assistance

For purposes of the application of Federal civil rights laws, all assistance provided using amounts in the Capital Magnet Fund shall be considered Federal financial assistance.

(e) Eligible grantees

A grant under this section may be made, pursuant to such requirements as the Secretary of the Treasury shall establish for experience and success in attracting private financing and carrying out the types of activities proposed under the application of the grantee, only to—

- (1) a Treasury certified community development financial institution; or
- (2) a nonprofit organization having as 1 of its principal purposes the development or management of affordable housing.

(f) Eligible uses

Grant amounts awarded from the Capital Magnet Fund pursuant to this section may be used for the purposes described in paragraphs (1) and (2) of subsection (c), including for the following uses:

- (1) To provide loan loss reserves.
- (2) To capitalize a revolving loan fund.
- (3) To capitalize an affordable housing fund.
- (4) To capitalize a fund to support activities described in subsection (c)(2).
- (5) For risk-sharing loans.

(g) Applications

(1) In general

The Secretary of the Treasury shall provide, in a competitive application process established by regulation, for eligible grantees under subsection (e) to submit applications for Capital Magnet Fund grants to the Secretary at such time and in such manner as the Secretary shall determine.

(2) Content of application

The application required under paragraph (1) shall include a detailed description of—

(A) the types of affordable housing, economic, and community revitalization projects that support or sustain residents of an affordable housing project funded by a grant under this section for which such grant amounts would be used, including the proposed use of eligible grants as authorized under this section;

(B) the types, sources, and amounts of other funding for such projects; and

(C) the expected time frame of any grant used for such project.

(h) Grant limitation

(1) In general

Any 1 eligible grantee and its subsidiaries and affiliates may not be awarded more than 15 percent of the aggregate funds available for grants during any year from the Capital Magnet Fund.

(2) Geographic diversity

(A) Goal

The Secretary of the Treasury shall seek to fund activities in geographically diverse areas of economic distress, including metropolitan and underserved rural areas in every State.

(B) Diversity defined

For purposes of this paragraph, geographic diversity includes those areas that meet objective criteria of economic distress developed by the Secretary of the Treasury, which may include—

- (i) the percentage of low-income families or the extent of poverty;
- (ii) the rate of unemployment or underemployment;
- (iii) extent of blight and disinvestment;
- (iv) projects that target extremely low-, very low-, and low-income families in or outside a designated economic distress area; or
- (v) any other criteria designated by the Secretary of the Treasury.

(3) Leverage of funds

Each grant from the Capital Magnet Fund awarded under this section shall be reasonably expected to result in eligible housing, or economic and community development projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.

(4) Commitment for use deadline

Amounts made available for grants under this section shall be committed for use within 2 years of the date of such allocation. The Secretary of the Treasury shall recapture into the Capital Magnet Fund any amounts not so used or committed for use and allocate such amounts in the first year after such recapture.

(5) Prohibited uses

The Secretary shall, by regulation, set forth prohibited uses of grant amounts awarded under this section, which shall include use for—

- (A) political activities;

- (B) advocacy;
- (C) lobbying, whether directly or through other parties;
- (D) counseling services;
- (E) travel expenses; and
- (F) preparing or providing advice on tax returns;

and for the purposes of this paragraph, the prohibited use of funds for political activities includes influencing the selection, nomination, election, or appointment of one or more candidates to any Federal, State or local office as codified in section 501 of title 26.

(6) Additional lobbying restrictions

No assistance or amounts made available under this section may be expended by an eligible grantee to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement as such terms are defined in section 1352 of title 31.

(7) Prohibition of consideration of use for meeting housing goals or duty to serve

In determining the compliance of the enterprises with the housing goals under this section and the duty to serve underserved markets under section 4565 of this title, the Director of the Federal Housing Finance Agency may not consider any Capital Magnet Fund amounts used under this section for eligible activities under subsection (f). The Director of the Federal Housing Finance Agency shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from Capital Magnet Fund grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

(8) Accountability of recipients and grantees

(A) Tracking of funds

The Secretary of the Treasury shall—

(i) require each grantee to develop and maintain a system to ensure that each recipient of assistance from the Capital Magnet Fund uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

(ii) establish minimum requirements for agreements, between the grantee and the Capital Magnet Fund, regarding assistance from the Capital Magnet Fund, which shall include—

(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the grant to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

(II) any other requirements that the Secretary determines are necessary to

ensure appropriate grant administration and compliance.

(B) Misuse of funds

If the Secretary of the Treasury determines, after reasonable notice and opportunity for hearing, that a grantee has failed to comply substantially with any provision of this section and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

(i) reduce the amount of assistance under this section to the grantee by an amount equal to the amount of Capital Magnet Fund grant amounts which were not used in accordance with this section;

(ii) require the grantee to repay the Secretary any amount of the Capital Magnet Fund grant amounts which were not used in accordance with this section;

(iii) limit the availability of assistance under this section to the grantee to activities or recipients not affected by such failure to comply; or

(iv) terminate any assistance under this section to the grantee.

(i) Periodic reports

(1) In general

The Secretary of the Treasury shall submit a report, on a periodic basis, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the activities to be funded under this section.

(2) Reports available to public

The Secretary of the Treasury shall make the reports required under paragraph (1) publicly available.

(j) Regulations

(1) In general

The Secretary of the Treasury shall issue regulations to carry out this section.

(2) Required contents

The regulations issued under this subsection shall include—

(A) authority for the Secretary to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;

(B) a requirement that the Secretary ensure that the allocation of each enterprise is audited not less than annually to ensure compliance with this section;

(C) a requirement that, for the purposes of subparagraphs (A) and (B), any financial statement submitted by a grantee to the Secretary shall be reviewed by an independent certified public accountant in accordance with Statements on Standards for Accounting and Review Services, issued by the American Institute of Certified Public Accountants; and

(D) requirements for a process for application to, and selection by, the Secretary for activities to be funded with amounts from the Capital Magnet Fund, which shall provide that—

(i) funds be fairly distributed to urban, suburban, and rural areas; and

(ii) selection shall be based upon specific criteria, including a prioritization of funding based upon—

(I) the ability to use such funds to generate additional investments;

(II) affordable housing need (taking into account the distinct needs of different regions of the country); and

(III) ability to obligate amounts and undertake activities so funded in a timely manner.

(Pub. L. 102-550, title XIII, §1339, as added Pub. L. 110-289, div. A, title I, §1131(b), July 30, 2008, 122 Stat. 2723.)

SUBPART 3—ENFORCEMENT

§ 4581. Cease and desist proceedings

(a) Grounds for issuance

The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines that—

(1) the enterprise has failed to submit a report under section 4547¹ of this title, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

(2) the enterprise has failed to submit the information required under subsection (m) or (n) of section 1723a of this title, or subsection (e) or (f) of section 1456 of this title;

(3) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, the enterprise has failed to submit a housing plan that complies with section 4566(c) of this title within the applicable period; or

(4) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, the enterprise has failed to comply with a housing plan under section 4566(c) of this title.

(b) Procedure

(1) Notice of charges

Each notice of charges issued under this section shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

(2) Issuance of order

If the Director finds on the record made at a hearing described in paragraph (1) that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 4582(a)(4) of this title), the Director may issue and serve upon the enterprise an order requiring the enterprise to—

(A) submit a report under section 4547¹ of this title;

(B) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, submit a housing plan in compliance with section 4566(c) of this title;

(C) solely with respect to the housing goals established under sections 4562(a) and 4563(a)(1) of this title, comply with the housing plan in compliance with section 4566(c) of this title; or

(D) provide the information required under subsection (m) or (n) of section 1723a of this title, or subsection (e) or (f) of section 1456 of this title.

(c) Effective date

An order under this section shall become effective upon the expiration of the 30-day period beginning on the date of service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subpart.

(Pub. L. 102-550, title XIII, §1341, as added Pub. L. 110-289, div. A, title I, §1130(c)(2), July 30, 2008, 122 Stat. 2708.)

Editorial Notes

REFERENCES IN TEXT

Section 4547 of this title, referred to in subsecs. (a)(1) and (b)(2)(A), was repealed by Pub. L. 110-289, div. A, title I, §1104(b), July 30, 2008, 122 Stat. 2667.

PRIOR PROVISIONS

A prior section 4581, Pub. L. 102-550, title XIII, §1341, Oct. 28, 1992, 106 Stat. 3964, related to cease-and-desist proceedings, prior to repeal by Pub. L. 110-289, div. A, title I, §1130(c)(1), July 30, 2008, 122 Stat. 2708.

§ 4582. Hearings

(a) Requirements

(1) Venue and record

Any hearing under section 4581 or 4585 of this title shall be held on the record and in the District of Columbia.

(2) Timing

Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 4581(b)(1) of this title or determination to impose a penalty under section 4585(c)(1) of this title, unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

(3) Procedure

Any such hearing shall be conducted in accordance with chapter 5 of title 5.

(4) Failure to appear

If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) Issuance of order

(1) In general

After any such hearing, and within 90 days after the enterprise has been notified that the

¹ See References in Text note below.