

under this subchapter at the time of a Gulf hurricane disaster are not adversely affected by any formula calculation for fiscal year 2009 or for any of the four succeeding fiscal years, as necessary; and

(C) make available to each affected institution an amount that is not less than the amount made available to such institution under this subchapter for fiscal year 2006, except that for any fiscal year for which the funds appropriated for payments under this subchapter are less than the appropriated level for fiscal year 2006, the amount made available to such institutions shall be ratably reduced among the institutions receiving funds under this subchapter.

(2) Definitions

In this subsection:

(A) Affected institution

The term “affected institution” means an institution of higher education that—

(i) is—

(I) a part A institution (which term shall have the meaning given the term “eligible institution” under section 1058(b) of this title); or

(II) a part B institution, as such term is defined in section 1061(2) of this title, or as identified in section 1063b(e) of this title;

(ii) is located in an area affected by a Gulf hurricane disaster; and

(iii) is able to demonstrate that, as a result of the impact of a Gulf hurricane disaster, the institution—

(I) incurred physical damage;

(II) has pursued collateral source compensation from insurance, the Federal Emergency Management Agency, and the Small Business Administration, as appropriate; and

(III) was not able to fully reopen in existing facilities or to fully reopen to the pre-hurricane enrollment levels during the 30-day period beginning on August 29, 2005.

(B) Area affected by a Gulf hurricane disaster; Gulf hurricane disaster

The terms “area affected by a Gulf hurricane disaster” and “Gulf hurricane disaster” have the meanings given such terms in section 209 of the Higher Education Hurricane Relief Act of 2005 (Public Law 109-148, 119 Stat. 2809).

(Pub. L. 89-329, title III, § 392, formerly § 352, as added Pub. L. 99-498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1304; amended Pub. L. 100-50, § 2(a)(14), (15), June 3, 1987, 101 Stat. 336; Pub. L. 102-325, title III, § 305(b), July 23, 1992, 106 Stat. 478; renumbered § 392 and amended Pub. L. 105-244, title III, §§ 301(a)(2), 308(d), Oct. 7, 1998, 112 Stat. 1636, 1649; Pub. L. 110-315, title III, §§ 318, 320(5), Aug. 14, 2008, 122 Stat. 3185, 3188; Pub. L. 111-39, title III, § 301(8), July 1, 2009, 123 Stat. 1938.)

Editorial Notes

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (b)(3), was repealed and section 1058(b)(1)(F) was re-

designated section 1058(b)(1)(E) by Pub. L. 102-325, title III, § 302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

Section 209 of the Higher Education Hurricane Relief Act of 2005, referred to in subsec. (c)(2)(B), is section 209 of title IV of div. B of Pub. L. 109-148, Dec. 30, 2005, 119 Stat. 2808, which is not classified to the Code.

CODIFICATION

Section was formerly classified to section 1067 of this title prior to renumbering by Pub. L. 105-244.

AMENDMENTS

2009—Subsec. (a)(6). Pub. L. 111-39 made technical amendment to reference in original act which appears in text as reference to section 1801 of title 25.

2008—Subsec. (b)(2). Pub. L. 110-315, § 320(5), substituted “eligible institutions under part A” for “eligible institutions under part A institutions” in introductory provisions. See Codification note above.

Subsec. (c). Pub. L. 110-315, § 318, added subsec. (c).

1998—Subsec. (a)(5) to (7). Pub. L. 105-244 struck out “or” at end of par. (5), added par. (6), and redesignated former par. (6) as (7).

1992—Subsec. (a). Pub. L. 102-325 substituted “Secretary may waive” for “Secretary shall waive”.

1987—Subsec. (a)(2). Pub. L. 100-50, § 2(a)(14), substituted “low-income” for “low- and middle-income”.

Subsec. (b)(3). Pub. L. 100-50, § 2(a)(15), added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-39 effective as if enacted on the date of enactment of Pub. L. 110-315 (Aug. 14, 2008), see section 3 of Pub. L. 111-39, set out as a note under section 1001 of this title.

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 1992 AMENDMENT

Amendment by Pub. L. 102-325 effective Oct. 1, 1992, see section 2 of Pub. L. 102-325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the last item on page 79 identifies a reporting provision which, as subsequently amended, is contained in subsec. (b)(2) of this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 1068b. Application review process

(a) Review panel

(1) All applications submitted under this subchapter by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Tribal Colleges and Universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter and consistent with the provisions of this subchapter, including—

(A) explanations and examples of the types of activities referred to in section 1057(b) of this title that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 1062 of this title that should receive special consideration for grants awarded under part B;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(b) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

(c) Notification

Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this subchapter of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(d) Exclusion

The provisions of this section shall not apply to applications submitted under part D.

(Pub. L. 89-329, title III, § 393, formerly § 353, as added Pub. L. 99-498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered § 393 and amended Pub. L. 105-244, title III, §§ 301(a)(2), 308(e), Oct. 7, 1998, 112 Stat. 1636, 1649.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 1068 of this title prior to renumbering by Pub. L. 105-244.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-244, § 308(e)(1), substituted “Tribal Colleges and Universities” for “Native American colleges and universities”.

Subsec. (d). Pub. L. 105-244, § 308(e)(2), added subsec. (d).

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.

§ 1068c. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this subchapter; or

(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this subchapter;

for the activities described in section 1057(b) of this title or section 1062 of this title, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) Duration

Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 1059 of this title or section 1062 of this title.

(Pub. L. 89-329, title III, § 394, formerly § 354, as added Pub. L. 99-498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered § 394, Pub. L. 105-244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 1069 of this title prior to renumbering by Pub. L. 105-244.

§ 1068d. Assistance to institutions under other programs

(a) Assistance eligibility

Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B may be eligible for waivers in accordance with subsection (b).

(b) Waiver applicability

(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such applica-