

(6) provide to an institution of higher education an adequate opportunity to review and respond to any program review report and relevant materials related to the report before any final program review report is issued;

(7) review and take into consideration an institution of higher education's response in any final program review report or audit determination, and include in the report or determination—

(A) a written statement addressing the institution of higher education's response;

(B) a written statement of the basis for such report or determination; and

(C) a copy of the institution's response; and

(8) maintain and preserve at all times the confidentiality of any program review report until the requirements of paragraphs (6) and (7) are met, and until a final program review is issued, other than to the extent required to comply with paragraph (5), except that the Secretary shall promptly disclose any and all program review reports to the institution of higher education under review.

(c) Data collection rules

The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a). The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this subchapter.

(d) Training

The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this subchapter.

(e) Special rule

The provisions of section 3403(b) of this title shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.

(Pub. L. 89-329, title IV, § 498A, as added Pub. L. 102-325, title IV, § 499, July 23, 1992, 106 Stat. 652; amended Pub. L. 103-208, § 2(i)(15), Dec. 20, 1993, 107 Stat. 2480; Pub. L. 105-244, title IV, § 494, Oct. 7, 1998, 112 Stat. 1763; Pub. L. 110-315, title IV, § 497, Aug. 14, 2008, 122 Stat. 3328.)

Editorial Notes

AMENDMENTS

2008—Subsec. (b)(6) to (8). Pub. L. 110-315 added pars. (6) to (8).

1998—Subsec. (a)(2). Pub. L. 105-244, § 494(1)(A)(i), substituted “shall” for “may” in introductory provisions.

Subsec. (a)(2)(C). Pub. L. 105-244, § 494(1)(A)(ii), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “institutions with a significant fluctuation in Federal Stafford Loan volume or Federal Pell Grant awards, or both, in the year for which the determination is made compared to the year prior to such year;”.

Subsec. (a)(2)(D). Pub. L. 105-244, § 494(1)(A)(iii), amended subpar. (D) generally. Prior to amendment,

subpar. (D) read as follows: “institutions reported to have deficiencies or financial aid problems by the appropriate State postsecondary review entity designated under subpart 1 of this part or by the appropriate accrediting agency or association;”.

Subsec. (a)(2)(E). Pub. L. 105-244, § 494(1)(A)(iv), inserted “and” after the semicolon.

Subsec. (a)(2)(F), (G). Pub. L. 105-244, § 494(1)(A)(v), added subpar. (F) and struck out former subpars. (F) and (G) which read as follows:

“(F) any institution which is required to be reviewed by a State postsecondary review entity pursuant to subpart 1 of this part under section 1099a-3(b) of this title; and

“(G) such other institutions as the Secretary deems necessary; and”.

Subsec. (a)(3)(A). Pub. L. 105-244, § 494(1)(B), inserted “relevant” after “all”.

Subsec. (b). Pub. L. 105-244, § 494(2), amended heading and text of subsec. (b). Prior to amendment, text read as follows:

“(1) In carrying out paragraphs (1) and (2) of subsection (a) of this section, the Secretary shall establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education.

“(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.”

1993—Subsec. (e). Pub. L. 103-208 struck out comma after “title”.

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.

§ 1099c-2. Review of regulations

(a) Review required

The Secretary shall review each regulation issued under this subchapter that is in effect at the time of the review and applies to the operations or activities of any participant in the programs assisted under this subchapter. The review shall include a determination of whether the regulation is duplicative, or is no longer necessary. The review may involve one or more of the following:

(1) An assurance of the uniformity of interpretation and application of such regulations.

(2) The establishment of a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously.

(3) A determination of the extent to which unnecessary costs are imposed on institutions of higher education as a consequence of the applicability to the facilities and equipment of such institutions of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) Regulatory and statutory relief for small volume institutions

The Secretary shall review and evaluate ways in which regulations under and provisions of

this chapter affecting institution of higher education (other than institutions described in section 1002(a)(1)(C) of this title), that have received in each of the two most recent award years prior to October 7, 1998, less than \$200,000 in funds through this subchapter, may be improved, streamlined, or eliminated.

(c) Consultation

In carrying out subsections (a) and (b), the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this subchapter.

(Pub. L. 89-329, title IV, § 498B, as added Pub. L. 105-244, title IV, § 495, Oct. 7, 1998, 112 Stat. 1764; amended Pub. L. 110-315, title IV, § 498, Aug. 14, 2008, 122 Stat. 3328.)

Editorial Notes

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-315 struck out subsec. (d) which required the Secretary to submit reports to Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section 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.

PART I—COMPETITIVE LOAN AUCTION PILOT PROGRAM

Editorial Notes

CODIFICATION

Part I of title IV of the Higher Education Act of 1965, Pub. L. 89-329, which comprises this part, was formerly classified to part H of this subchapter. See Codification note preceding section 1087a of this title.

PRIOR PROVISIONS

A prior part I (§ 1099e), consisting of part J of title IV of Pub. L. 89-329, which related to investment in historically Black colleges and universities and other minority-serving institutions, was redesignated part F of title III of Pub. L. 89-329 and transferred to part F (§ 1067q) of subchapter III of this chapter.

§ 1099d. Competitive loan auction pilot program

(a) Definitions

In this section:

(1) Eligible Federal PLUS Loan

The term “eligible Federal PLUS Loan” means a loan described in section 1078-2 of this title made to a parent of a dependent student who is a new borrower on or after July 1, 2009.

(2) Eligible lender

The term “eligible lender” has the meaning given the term in section 1085 of this title.

(b) Pilot program

The Secretary shall carry out a pilot program under which the Secretary establishes a mechanism for an auction of eligible Federal PLUS Loans in accordance with this subsection. The pilot program shall meet the following requirements:

(1) Planning and implementation

During the period beginning on September 27, 2007, and ending on June 30, 2009, the Secretary shall plan and implement the pilot program under this subsection. During the planning and implementation, the Secretary shall consult with other Federal agencies with knowledge of, and experience with, auction programs, including the Federal Communication Commission and the Department of the Treasury.

(2) Origination and disbursement; applicability of section 1078-2

Beginning on July 1, 2009, the Secretary shall arrange for the origination and disbursement of all eligible Federal PLUS Loans in accordance with the provisions of this subsection and the provisions of section 1078-2 of this title that are not inconsistent with this subsection.

(3) Loan origination mechanism

The Secretary shall establish a loan origination auction mechanism that meets the following requirements:

(A) Auction for each State

The Secretary administers an auction under this paragraph for each State, under which eligible lenders compete to originate eligible Federal PLUS Loans under this paragraph at all institutions of higher education within such State.

(B) Prequalification process

The Secretary establishes a prequalification process for eligible lenders desiring to participate in an auction under this paragraph that contains, at a minimum—

(i) a set of borrower benefits and servicing requirements each eligible lender shall meet in order to participate in such an auction;

(ii) an assessment of each such eligible lender's capacity, including capital capacity, to participate effectively; and

(iii) a commitment from such eligible lender that, if the lender has a winning bid under subparagraph (F), the lender will enter into the agreement required under subparagraph (G).

(C) Timing and origination

Each State auction takes place every 2 years, and the eligible lenders with the winning bids for the State are the only eligible lenders permitted to originate eligible Federal PLUS Loans made under this paragraph for the cohort of students at the institutions of higher education within the State until the students graduate from or leave the institutions of higher education.

(D) Bids

Each eligible lender's bid consists of the amount of the special allowance payment (after the application of section 1087-1(b)(2)(I)(v) of this title) the eligible lender proposes to accept from the Secretary with respect to the eligible Federal PLUS Loans made under this paragraph in lieu of