

§ 9133. Payments; Federal share; and maintenance of effort requirements

(a) Payments

Subject to appropriations provided pursuant to section 9123 of this title, the Director shall pay to each State library administrative agency having a State plan approved under section 9134 of this title the Federal share of the cost of the activities described in the State plan.

(b) Federal share

(1) In general

The Federal share shall be 66 percent.

(2) Non-Federal share

The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

(c) Maintenance of effort

(1) State expenditures

(A) Requirement

(i) In general

The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this part shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in the allotment for any fiscal year shall be equal to the allotment multiplied by a fraction—

(I) the numerator of which is the result obtained by subtracting the level of such State expenditures for the fiscal year for which the determination is made, from the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made; and

(II) the denominator of which is the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

(ii) Calculation

Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

(B) Decrease in Federal support

If the amount made available under this subchapter for a fiscal year is less than the amount made available under this subchapter for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Level of State expenditures

The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library adminis-

trative agency for library programs that are consistent with the purposes of this subchapter. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

(3) Waiver

The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(Pub. L. 94-462, title II, §223, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-299; amended Pub. L. 105-128, §5, Dec. 1, 1997, 111 Stat. 2549.)

Editorial Notes

AMENDMENTS

1997—Subsec. (c)(1)(A)(i). Pub. L. 105-128 amended second sentence generally. Prior to amendment, second sentence read as follows: "The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made."

§ 9134. State plans

(a) State plan required

(1) In general

In order to be eligible to receive a grant under this subchapter, a State library administrative agency shall submit a State plan to the Director once every 5 years, as determined by the Director.

(2) Duration

The State plan shall cover a period of 5 fiscal years.

(3) Revisions

If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

(b) Contents

The State plan shall—

(1) establish goals, and specify priorities, for the State consistent with the purposes of this subchapter;

(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subchapter, and section 9141 of this title, that the State library administrative agency will carry out during such year using such grant;

(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subchapter;

(6) describe how the State library administrative agency will work with other State agencies and offices where appropriate to coordinate resources, programs, and activities and leverage, but not replace, the Federal and State investment in—

(A) programs and activities under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] (including programs and activities under subparts 2 and 3 of part B of title II [20 U.S.C. 6641 et seq., 6661 et seq.], and parts A and B of title IV [20 U.S.C. 7101 et seq., 7171 et seq.], of such Act);

(B) early childhood education, including coordination with—

(i) the State's activities carried out under subsections (b)(4) and (e)(1) of section 9837 of title 42; and

(ii) the activities described in the State's strategic plan in accordance with section 9837b(a)(4)(B)(i) of title 42;

(C) workforce development, including coordination with—

(i) the activities carried out by the State workforce development board under section 101 of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111];

(ii) the State's one-stop delivery system established under section 121(e) of such Act [29 U.S.C. 3151(e)]; and

(iii) the activities carried out by the State in support of adult education and literacy under title II of such Act [29 U.S.C. 3271 et seq.]; and

(D) other Federal programs and activities that relate to library services, including economic, business, and community development, health information, critical thinking skills, digital literacy skills, financial literacy and other types of literacy skills;

(7) provide assurances that the State will comply with subsection (f); and

(8) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subchapter and to determine the extent to which funds provided under this subchapter have been effective in carrying out the purposes of this subchapter.

(c) Evaluation and report

Each State library administrative agency receiving a grant under this subchapter shall independently evaluate, and report to the Director regarding, the activities assisted under this subchapter, prior to the end of the 5-year plan.

(d) Information

Each library receiving assistance under this subchapter shall submit to the State library ad-

ministrative agency such information as such agency may require to meet the requirements of subsection (c).

(e) Approval

(1) In general

The Director shall approve any State plan under this subchapter that meets the requirements of this subchapter and provides satisfactory assurances that the provisions of such plan will be carried out.

(2) Public availability

Each State library administrative agency receiving a grant under this subchapter shall make the State plan available to the public, including through electronic means.

(3) Administration

If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

(B) offer the State library administrative agency the opportunity to revise its State plan;

(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

(D) provide the State library administrative agency the opportunity for a hearing.

(f) Internet safety

(1) In general

No funds made available under this subchapter for a library described in section 9122(1)(A) or (B) of this title that does not receive services at discount rates under section 254(h)(6) of title 47 may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless—

(A) such library—

(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene;

(II) child pornography; or

(III) harmful to minors; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(B) such library—

(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene; or

(II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(2) Access to other materials

Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting against materials other than those referred to in subclauses (I), (II), and (III) of paragraph (1)(A)(i).

(3) Disabling during certain use

An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

(4) Timing and applicability of implementation**(A) In general**

A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this subchapter following the effective date of this subsection, and for each subsequent program funding year thereafter.

(B) Process**(i) Libraries with Internet safety policies and technology protection measures in place**

A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this subchapter.

(ii) Libraries without Internet safety policies and technology protection measures in place

A library covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

(I) for the first program year after the effective date of this subsection in which the library applies for funds under this subchapter, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after the effective date of this subsection in which the library applies for funds under this subchapter, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this subchapter for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

(iii) Waivers

Any library subject to a certification under clause (ii)(II) that cannot make the certification otherwise required by that

clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The library shall notify the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after the effective date of this subsection for which the library is applying for funds under this subchapter.

(5) Noncompliance**(A) Use of General Education Provisions Act remedies**

Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this¹ subchapter is failing to comply substantially with the requirements of this subsection, the Director may—

(i) withhold further payments to the recipient under this subchapter,

(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

(B) Recovery of funds prohibited

The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

(C) Resumption of payments

Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

(6) Separability

If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

(7) Definitions

In this subsection:

(A) Child pornography

The term “child pornography” has the meaning given such term in section 2256 of title 18.

(B) Harmful to minors

The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

¹ So in original. Probably should be preceded by “under”.

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(C) Minor

The term “minor” means an individual who has not attained the age of 17.

(D) Obscene

The term “obscene” has the meaning applicable to such term in section 1460 of title 18.

(E) Sexual act; sexual contact

The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2246 of title 18.

(Pub. L. 94-462, title II, §224, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-300; amended Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-340; Pub. L. 108-81, title II, §205, title V, §504(f), Sept. 25, 2003, 117 Stat. 999, 1004; Pub. L. 111-340, title II, §204, Dec. 22, 2010, 124 Stat. 3600; Pub. L. 113-128, title V, §512(t)(2), July 22, 2014, 128 Stat. 1712; Pub. L. 114-95, title IX, §9215(aaa)(2), Dec. 10, 2015, 129 Stat. 2184; Pub. L. 115-410, §11, Dec. 31, 2018, 132 Stat. 5417.)

Editorial Notes

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(6)(A), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. Subparts 2 and 3 of part B of title II of the Act are classified generally to subparts 2 (§6641 et seq.) and 3 (§6661 et seq.), respectively, of subchapter II of chapter 70 of this title. Parts A and B of title IV of the Act are classified generally to parts A (§7101 et seq.) and B (§7171 et seq.), respectively, of subchapter IV of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(6)(C)(iii), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title II of the Act, known as the Adult Education and Family Literacy Act, is classified generally to subchapter II (§3271 et seq.) of chapter 32 of Title 29, Labor. For complete classification of these Acts to the Code, see sections 1(a) and 201 of Pub. L. 113-128, set out as Short Title notes under section 3101 of Title 29 and Tables.

For the effective date of this subsection, referred to in subsec. (f)(4), as 120 days after Dec. 21, 2000, see §1(a)(4) [div. B, title XVII, §1712(b)] of Pub. L. 106-554, set out as an Effective Date of 2000 Amendment note below.

The General Education Provisions Act, referred to in subsec. (f)(5)(A), is title IV of Pub. L. 90-247, Jan. 2, 1968, 81 Stat. 814, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

AMENDMENTS

2018—Subsec. (b)(6)(A). Pub. L. 115-410, §11(1), added subpar. (A) and struck out former subpar. (A) which

read as follows: “elementary and secondary education, including coordination with the activities within the State that are supported by a grant under section 6646 of this title;”.

Subsec. (b)(6)(C)(iii). Pub. L. 115-410, §11(2), added cl. (iii).

Subsec. (b)(6)(D). Pub. L. 115-410, §11(3), inserted “, business,” after “economic” and substituted “, health information, critical thinking skills, digital literacy skills, financial literacy and other types of literacy skills” for “and health information”.

2015—Subsec. (b)(6)(A). Pub. L. 114-95 substituted “including coordination with the activities within the State that are supported by a grant under section 6646 of this title” for “including coordination with the activities within the State that are supported by a grant under section 6383 of this title”.

2014—Subsec. (b)(6)(C)(i). Pub. L. 113-128, §512(t)(2)(A), substituted “the activities carried out by the State workforce development board under section 3111 of title 29” for “the activities carried out by the State workforce investment board under section 2821(d) of title 29”.

Subsec. (b)(6)(C)(ii). Pub. L. 113-128, §512(t)(2)(B), substituted “the State’s one-stop delivery system established under section 3151(e) of title 29” for “the State’s one-stop delivery system established under section 2864(c) of title 29”.

2010—Subsec. (b)(6) to (8). Pub. L. 111-340, §204(1), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

Subsec. (e)(2). Pub. L. 111-340, §204(2), inserted “, including through electronic means” before period at end.

2003—Subsec. (a)(1). Pub. L. 108-81, §205(1), substituted “once every 5 years, as determined by the Director.” for “not later than April 1, 1997.”

Subsec. (b)(5). Pub. L. 108-81, §504(f), struck out “and” at end.

Subsec. (f). Pub. L. 108-81, §205(2)(A), substituted “this subchapter” for “this chapter” wherever appearing.

Subsec. (f)(1). Pub. L. 108-81, §205(2)(B), substituted “section 9122(1)(A) or (B)” for “9122(2)(A) or (B)” and made technical amendment to reference in original act which appears in text as reference to section 254(h)(6) of title 47.

Subsec. (f)(7). Pub. L. 108-81, §205(2)(C)(i), substituted “subsection:” for “section:” in introductory provisions.

Subsec. (f)(7)(D). Pub. L. 108-81, §205(2)(C)(ii), substituted “applicable to” for “given”.

2000—Subsec. (b)(6), (7). Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(a)(1)], added par. (6) and redesignated former par. (6) as (7).

Subsec. (f). Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(a)(2)], added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of this title.

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 2000 AMENDMENT

Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1712(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-343, provided that: “The amendment made by this section [amending this section] shall take effect 120 days after the date of the enactment of this Act [Dec. 21, 2000].”

AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF
TECHNOLOGY PROTECTION MEASURES

Pub. L. 106-554, §1(a)(4) [div. B, title XVII, §1721(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A-350, as amended by Pub. L. 114-95, title IX, §9215(q), Dec. 10, 2015, 129 Stat. 2171, provided that:

“(1) IN GENERAL.—Notwithstanding any other provision of law, funds available under part B of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6361 et seq.], or under section 231 of the Library Services and Technology Act [20 U.S.C. 9141], may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title [see Short Title of 2000 Amendments note set out under section 6301 of this title] and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

“(2) TECHNOLOGY PROTECTION MEASURE DEFINED.—In this section, the term ‘technology protection measure’ has the meaning given that term in section 1703 [set out as a note under section 902 of Title 47, Telecommunications].”

PART 2—LIBRARY PROGRAMS

§ 9141. Grants to States

(a) In general

Of the funds provided to a State library administrative agency under section 9123 of this title, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

(1) expanding services for learning and access to information and educational resources in a variety of formats (including new and emerging technology), in all types of libraries, for individuals of all ages in order to support such individuals’ needs for education, lifelong learning, workforce development, economic and business development, health information, critical thinking skills, digital literacy skills, and financial literacy and other types of literacy skills;

(2) establishing or enhancing electronic and other linkages and improved coordination among and between libraries and entities, as described in section 9134(b)(6) of this title, for the purpose of improving the quality of and access to library and information services;

(3)(A) providing training and professional development, including continuing education, to enhance the skills of the current library workforce and leadership, and advance the delivery of library and information services; and

(B) enhancing efforts to recruit future professionals, including those from diverse and underrepresented backgrounds, to the field of library and information services;

(4) developing public and private partnerships with other agencies, tribes, and community-based organizations;

(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills;

(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes

below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved;

(7) developing library services that provide all users access to information through local, State, regional, national, and international collaborations and networks; and

(8) carrying out other activities consistent with the purposes set forth in section 9121 of this title, as described in the State library administrative agency’s plan.

(b) Special rule

Each State library administrative agency receiving funds under this part may apportion the funds available for the priorities described in subsection (a) as appropriate to meet the needs of the individual State.

(Pub. L. 94-462, title II, §231, as added Pub. L. 104-208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009-233, 3009-301; amended Pub. L. 108-81, title II, §206, Sept. 25, 2003, 117 Stat. 999; Pub. L. 111-340, title II, §205, Dec. 22, 2010, 124 Stat. 3600; Pub. L. 115-410, §12, Dec. 31, 2018, 132 Stat. 5417.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-410, §12(1), inserted “(including new and emerging technology)” after “formats” and substituted “workforce development, economic and business development, health information, critical thinking skills, digital literacy skills, and financial literacy and other types of literacy skills” for “workforce development, and digital literacy skills”.

Subsec. (a)(3)(B). Pub. L. 115-410, §12(2), inserted “, including those from diverse and underrepresented backgrounds,” after “professionals”.

Subsec. (a)(4). Pub. L. 115-410, §12(3), inserted “, tribes,” after “agencies”.

2010—Subsec. (a). Pub. L. 111-340, §205(1), inserted “in order to support such individuals’ needs for education, lifelong learning, workforce development, and digital literacy skills” before semicolon at end in par. (1), added pars. (2) and (3), redesignated former par. (2) as (7) and substituted “collaborations and networks; and” for “electronic networks;”, struck out former par. (3) which read “providing electronic and other linkages among and between all types of libraries;”, and added par. (8).

Subsec. (b). Pub. L. 111-340, §205(2), added subsec. (b) and struck out heading and text of former subsec. (b). Prior to amendment, text read as follows: “Each State library administrative agency receiving funds under this part may apportion the funds available for the purposes described in subsection (a) of this section among such purposes, as appropriate, to meet the needs of the individual State.”

2003—Subsec. (a)(1) to (6). Pub. L. 108-81, §206(1), added pars. (1) to (6) and struck out former pars. (1) and (2) which read as follows:

“(1)(A) establishing or enhancing electronic linkages among or between libraries;

“(B) electronically linking libraries with educational, social, or information services;

“(C) assisting libraries in accessing information through electronic networks;

“(D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

“(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and