

tive Date of 2018 Amendment note under section 11102 of this title.

§ 11322. Accountability and oversight

(a) Sense of Congress

It is the sense of Congress that, in order to ensure that at-risk youth, and youth who come into contact with the juvenile justice system or the criminal justice system, are treated fairly and that the outcome of that contact is beneficial to the Nation—

(1) the Department of Justice, through its Office of Juvenile Justice and Delinquency Prevention, must restore meaningful enforcement of the core requirements in subchapter II; and

(2) States, which are entrusted with a fiscal stewardship role if they accept funds under subchapter II¹ must exercise vigilant oversight to ensure full compliance with the core requirements for juveniles provided for in subchapter II.

(b) Accountability

(1) Agency program review

(A) Programmatic and financial assessment

(i) In general

Not later than 60 days after December 21, 2018, the Director of the Office of Audit, Assessment, and Management of the Office of Justice Programs at the Department of Justice (referred to in this section as the “Director”) shall—

(I) conduct a comprehensive analysis and evaluation of the internal controls of the Office of Juvenile Justice and Delinquency Prevention (referred to in this section as the “agency”) to determine if States and Indian Tribes receiving grants are following the requirements of the agency grant programs and what remedial action the agency has taken to recover any grant funds that are expended in violation of grant programs, including instances where—

(aa) supporting documentation was not provided for cost reports;

(bb) unauthorized expenditures occurred; and

(cc) subrecipients of grant funds were not in compliance with program requirements;

(II) conduct a comprehensive audit and evaluation of a selected statistically significant sample of States and Indian Tribes (as determined by the Director) that have received Federal funds under subchapter II, including a review of internal controls to prevent fraud, waste, and abuse of funds by grantees; and

(III) submit a report in accordance with clause (iv).

(ii) Considerations for evaluations

In conducting the analysis and evaluation under clause (i)(I), and in order to document the efficiency and public benefit of subchapters II and V, the Director shall

take into consideration the extent to which—

(I) greater oversight is needed of programs developed with grants made by the agency;

(II) changes are necessary in the authorizing statutes of the agency in order that the functions of the agency can be performed in a more efficient and effective manner; and

(III) the agency has implemented recommendations issued by the Comptroller General or Office of Inspector General relating to the grant making and grant monitoring responsibilities of the agency.

(iii) Considerations for audits

In conducting the audit and evaluation under clause (i)(II), and in order to document the efficiency and public benefit of subchapters II and V, the Director shall take into consideration—

(I) whether grantees timely file Financial Status Reports;

(II) whether grantees have sufficient internal controls to ensure adequate oversight of grant funds received;

(III) whether grantees’ assertions of compliance with the core requirements were accompanied with adequate supporting documentation;

(IV) whether expenditures were authorized;

(V) whether subrecipients of grant funds were complying with program requirements; and

(VI) whether grant funds were spent in accordance with the program goals and guidelines.

(iv) Report

The Director shall—

(I) submit to the Congress a report outlining the results of the analysis, evaluation, and audit conducted under clause (i), including supporting materials, to the Speaker of the House of Representatives and the President pro tempore of the Senate; and

(II) shall² make such report available to the public online, not later than 1 year after December 21, 2018.

(B) Analysis of internal controls

(i) In general

Not later than 30 days after December 21, 2018, the Administrator shall initiate a comprehensive analysis and evaluation of the internal controls of the agency to determine whether, and to what extent, States and Indian Tribes that receive grants under subchapters II and V are following the requirements of the grant programs authorized under subchapters II and V.

(ii) Report

Not later than 180 days after December 21, 2018, the Administrator shall submit to Congress a report containing—

¹ So in original. Probably should be followed by a comma.

² So in original. The word “shall” probably should not appear.

(I) the findings of the analysis and evaluation conducted under clause (i);

(II) a description of remedial actions, if any, that will be taken by the Administrator to enhance the internal controls of the agency and recoup funds that may have been expended in violation of law, regulations, or program requirements issued under subchapters II and V; and

(III) a description of—

(aa) the analysis conducted under clause (i);

(bb) whether the funds awarded under subchapters II and V have been used in accordance with law, regulations, program guidance, and applicable plans; and

(cc) the extent to which funds awarded to States and Indian Tribes under subchapters II and V enhanced the ability of grantees to fulfill the core requirements.

(C) Report by the Attorney General

Not later than 180 days after December 21, 2018, the Attorney General shall submit to the appropriate committees of the Congress a report on the estimated amount of formula grant funds disbursed by the agency since fiscal year 2010 that did not meet the requirements for awards of formula grants to States under subchapter II.

(2) Office of Inspector General performance audits

(A) In general

In order to ensure the effective and appropriate use of grants administered under this chapter (excluding subchapter IV) and to prevent waste, fraud, and abuse of funds by grantees, the Inspector General of the Department of Justice shall annually conduct audits of grantees that receive funds under this chapter.

(B) Assessment

Not later than 1 year after December 21, 2018, and annually thereafter, the Inspector General shall conduct a risk assessment to determine the appropriate number of grantees to be audited under subparagraph (A) in the year involved.

(C) Public availability on website

The Attorney General shall make the summary of each review conducted under this section available on the website of the Department of Justice, subject to redaction as the Attorney General determines necessary to protect classified and other sensitive information.

(D) Mandatory exclusion

A recipient of grant funds under this chapter (excluding subchapter IV) that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this chapter (excluding subchapter IV) during the first 2 fiscal years beginning after the 12-month period beginning on the date on which the audit report is issued.

(E) Priority

In awarding grants under this chapter (excluding subchapter IV), the Administrator

shall give priority to a State or Indian Tribe that did not have an unresolved audit finding during the 3 fiscal years prior to the date on which the State or Indian Tribe submits an application for a grant under this chapter.

(F) Reimbursement

If a State or an Indian Tribe is awarded a grant under this chapter (excluding subchapter IV) during the 2-fiscal-year period in which the recipient is barred from receiving grants under subparagraph (D), the Attorney General shall—

(i) deposit an amount equal to the amount of the grant funds that were improperly awarded to the grantee into the general fund of the Treasury; and

(ii) seek to recoup the costs of the repayment to the general fund under clause (i) from the grantee that was erroneously awarded grant funds.

(G) Definition

In this paragraph, the term “unresolved audit finding” means a finding in the final audit report of the Inspector General—

(i) that the audited State or Indian Tribe has used grant funds for an unauthorized expenditure or otherwise unallowable cost; and

(ii) that is not closed or resolved during the 12-month period beginning on the date on which the final audit report is issued.

(3) Nonprofit organization requirements

(A) Definition

For purposes of this paragraph and the grant programs described in this chapter (excluding subchapter IV), the term “nonprofit organization” means an organization that is described in section 501(c)(3) of title 26 and is exempt from taxation under section 501(a) of such title.

(B) Prohibition

The Administrator may not award a grant under any grant program described in this chapter (excluding subchapter IV) to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding paying the tax described in section 511(a) of title 26.

(C) Disclosure

(i) In general

Each nonprofit organization that is awarded a grant under a grant program described in this chapter (excluding subchapter IV) and uses the procedures prescribed in regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees, and key employees, shall disclose to the Administrator, in the application for the grant, the process for determining such compensation, including—

(I) the independent persons involved in reviewing and approving such compensation;

(II) the comparability data used; and

(III) contemporaneous substantiation of the deliberation and decision.

(ii) Public inspection upon request

Upon request, the Administrator shall make the information disclosed under clause (i) available for public inspection.

(4) Conference expenditures**(A) Limitation**

No amounts authorized to be appropriated to the Department of Justice under this chapter may be used by the Attorney General, or by any individual or organization awarded discretionary funds through a cooperative agreement under this chapter, to host or support any expenditure for conferences that uses more than \$20,000 in funds made available to the Department of Justice, unless the Deputy Attorney General or such Assistant Attorney Generals, Directors, or principal deputies as the Deputy Attorney General may designate, provides prior written authorization that the funds may be expended to host a conference.

(B) Written approval

Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food and beverages, audio-visual equipment, honoraria for speakers, and entertainment.

(C) Report

The Deputy Attorney General shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on Education and the Workforce of the House of Representatives on all conference expenditures approved under this paragraph.

(5) Prohibition on lobbying activity**(A) In general**

Amounts authorized to be appropriated under this chapter may not be utilized by any recipient of a grant made using such amounts—

(i) to lobby any representative of the Department of Justice regarding the award of grant funding; or

(ii) to lobby any representative of a Federal, State, local, or tribal government regarding the award of grant funding.

(B) Penalty

If the Attorney General determines that any recipient of a grant made using amounts authorized to be appropriated under this chapter has violated subparagraph (A), the Attorney General shall—

(i) require the recipient to repay the grant in full; and

(ii) prohibit the recipient to receive another grant under this chapter for not less than 5 years.

(C) Clarification

For purposes of this paragraph, submitting an application for a grant under this chapter shall not be considered lobbying activity in violation of subparagraph (A).

(6) Annual certification

Beginning in the 1st fiscal year that begins after the effective date of this section, the At-

torney General shall submit to the Committee on the Judiciary and the Committee on Appropriations of the Senate, and the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives, an annual certification that—

(A) all audits issued by the Inspector General of the Department of Justice under paragraph (2) have been completed and reviewed by the appropriate Assistant Attorney General or Director;

(B) all mandatory exclusions required under paragraph (2)(D) have been issued;

(C) all reimbursements required under paragraph (2)(F)(i) have been made; and

(D) includes a list of any grant recipients excluded under paragraph (2) during the then preceding fiscal year.

(c) Preventing duplicative grants**(1) In general**

Before the Attorney General awards a grant to an applicant under this chapter, the Attorney General shall compare potential grant awards with other grants awarded under this chapter to determine if duplicate grant awards are awarded for the same purpose.

(2) Report

If the Attorney General awards duplicate grants to the same applicant for the same purpose¹ the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on Education and the Workforce of the House of Representatives a report that includes—

(A) a list of all duplicate grants awarded, including the total dollar amount of any duplicate grants awarded; and

(B) the reason the Attorney General awarded the duplicative grant.

(d) Compliance with auditing standards

The Administrator shall comply with the Generally Accepted Government Auditing Standards, published by the General Accountability Office (commonly known as the “Yellow Book”), in the conduct of fiscal, compliance, and programmatic audits of States.

(Pub. L. 93-415, title VI, §602, as added Pub. L. 115-385, title IV, §402(a), Dec. 21, 2018, 132 Stat. 5154.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2) to (5) and (c)(1), was in the original “this Act”, meaning Pub. L. 93-415, Sept. 7, 1974, 88 Stat. 1109, known as the Juvenile Justice and Delinquency Prevention Act of 1974, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title of 1974 Act note set out under section 10101 of this title and Tables.

The effective date of this section, referred to in subsec. (b)(6), probably means the date of enactment of Pub. L. 115-385, which was approved Dec. 21, 2018.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section not applicable with respect to funds appropriated for any fiscal year that begins before Dec. 21,

2018, see section 3 of Pub. L. 115-385, set out as an Effective Date of 2018 Amendment note under section 11102 of this title.

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