

1998—Par. (5)(A). Pub. L. 105-220 substituted “an individual with a disability, as defined in section 705 of title 29” for “a handicapped individual as defined in section 7(7) of the Rehabilitation Act of 1973”.

1992—Par. (9)(G) to (J). Pub. L. 102-486 realigned margin of subpar. (G), added subpars. (H) and (I), and redesignated former subpar. (H) as (J).

1990—Par. (9)(G), (H). Pub. L. 101-440 added subpar. (G) and redesignated former subpar. (G) as (H).

1988—Par. (9)(G). Pub. L. 100-242 substituted a single comma for two consecutive commas after “determine”.

1984—Par. (7)(C). Pub. L. 98-558, §401, added cl. (C).

Par. (9)(B). Pub. L. 98-558, §402(1), in amending subpar. (B) generally, substituted “, including, but not limited to” for “limited to” in provisions preceding cl. (i), “, furnaces, or boilers or any combination thereof” for “designed to substantially increase the energy efficiency of the heating system,” in cl. (i), and “minimizing energy loss through heating system, chimney, or venting devices” for “modifying flue openings which will increase the energy efficiency of the heating system,” in cl. (ii).

Par. (9)(C). Pub. L. 98-558, §402(2), struck out “by rule” after “may determine.”

1980—Par. (1). Pub. L. 96-294, §577(1), substituted provisions defining “Secretary” for provisions defining “Administrator”.

Pars. (7), (9)(G). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

1978—Par. (5). Pub. L. 95-602 substituted “section 7(7) of the Rehabilitation Act of 1973” for “section 7(6) of the Rehabilitation Act of 1973”.

Par. (7)(A). Pub. L. 95-619, §231(a)(1), inserted “125 percent of” after “at or below” and inserted provision authorizing the Administrator to establish a higher level for low-income computations after determining such higher level to be necessary to carry out the purposes of this part.

Par. (9). Pub. L. 95-619, §231(b)(2), substituted a specific listing of items to be considered weatherization materials for purposes of this part for a general statement of the sort of materials that could be considered as such.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

USE OF APPROPRIATIONS

Pub. L. 113-76, div. D, title III, §308, Jan. 17, 2014, 128 Stat. 175, provided that: “None of the funds made available by this [Act] [div D. of Pub. L. 113-76, see Tables for classification] or any subsequent Act for fiscal year 2014 or any fiscal year hereafter may be used to pay the salaries of Department of Energy employees to carry out the amendments made by section 407 of division A of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5, amending this section and sections 6865 and 6866 of this title].”

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97-35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97-35, which is classified to 42 U.S.C. 9905.

§ 6863. Weatherization program

(a) Development and conduct of program by Secretary; grants to States and Indian tribal organizations

The Secretary shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Secretary may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, occupied by low-income families.

(b) Consultation by Secretary with other Federal departments and agencies on development and publication in Federal Register of proposed regulations; required regulatory provisions; standards and procedures; rental units

(1) The Secretary, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, and the heads of such other Federal departments and agencies as the Secretary deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after August 14, 1976, proposed regulations to carry out the provisions of this part. The Secretary shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after August 14, 1976. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, and the Director of the National Institute of Standards and Technology in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balance combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation;

(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.

(3) The Secretary, in coordination with the Secretaries and Director described in paragraph

(2)(A) and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment, not later than 60 days after November 9, 1978, proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors—

- (A) the cost of the weatherization material;
- (B) variation in climate; and
- (C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Secretary in carrying out this part, and by the Secretary of Agriculture in carrying out the weatherization program under section 1474(c) of this title. The Secretary shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after November 9, 1978.

(4) The Secretary may amend the regulations prescribed under paragraph (1) to provide that the standards described in paragraph (2)(A) take into consideration improvements in the health and safety of occupants of dwelling units, and other non-energy benefits, from weatherization.

(5) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.

(6) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(D) no undue or excessive enhancement will occur to the value of such dwelling units.

(7) As a condition of having assistance provided under this part with respect to multi-

family buildings, a State may require financial participation from the owners of such buildings.

(c) Failure of State to submit application; alternate application by any unit of general purpose local government or community action agency; submission of amended application by State

If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Secretary which meets the requirements set forth in section 6864 of this title, any unit of general purpose local government of sufficient size (as determined by the Secretary), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.], may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d) Direct grants to low-income members of Indian tribal organizations or alternate service organizations; application for funds

(1) Reservation of amounts

(A) In general

Subject to subparagraph (B) and notwithstanding any other provision of this part, the Secretary shall reserve from amounts that would otherwise be allocated to a State under this part not less than 100 percent, but not more than 150 percent, of an amount which bears the same proportion to the allocation of that State for the applicable fiscal year as the population of all low-income members of an Indian tribe in that State bears to the population of all low-income individuals in that State.

(B) Restrictions

Subparagraph (A) shall apply only if—

(i) the tribal organization serving the low-income members of the applicable Indian tribe requests that the Secretary make a grant directly; and

(ii) the Secretary determines that the low-income members of the applicable Indian tribe would be equally or better served by making a grant directly than a grant made to the State in which the low-income members reside.

(C) Presumption

If the tribal organization requesting the grant is a tribally designated housing entity (as defined in section 4103 of title 25) that has operated without material audit exceptions (or without any material audit exceptions that were not corrected within a 3-year period), the Secretary shall presume that the low-income members of the applicable Indian tribe would be equally or better served by making a grant directly to the tribal organization than by a grant made to the State in which the low-income members reside.

(2) Administration

The amounts reserved by the Secretary under this subsection shall be granted to the tribal organization serving the low-income members of the Indian tribe, or, where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide services pursuant to this part.

(3) Application

In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary an application meeting the requirements set forth in section 6864 of this title.

(e) Transfer of funds

Notwithstanding any other provision of law, the Secretary may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964 [42 U.S.C. 2809(a)(12)], which further the purpose of this part.

(Pub. L. 94-385, title IV, §413, Aug. 14, 1976, 90 Stat. 1152; Pub. L. 95-619, title II, §231(a)(2), (b)(1), Nov. 9, 1978, 92 Stat. 3224; Pub. L. 96-294, title V, §§573(b), 574, 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 98-479, title II, §201(h), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 101-440, §7(b), Oct. 18, 1990, 104 Stat. 1012; Pub. L. 103-82, title IV, §405(l), Sept. 21, 1993, 107 Stat. 922; Pub. L. 115-325, title II, §203, Dec. 18, 2018, 132 Stat. 4462; Pub. L. 116-260, div. Z, title I, §1011(c), Dec. 27, 2020, 134 Stat. 2442.)

Editorial Notes

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (c), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. Prior to that repeal, section 222(a)(12) of that Act [42 U.S.C. 2809(a)(12)] was redesignated as section 222(a)(5) [42 U.S.C. 2809(a)(5)] by Pub. L. 95-568, §5(a)(2)(E), Nov. 2, 1978, 94 Stat. 2426. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2020—Subsec. (b)(3). Pub. L. 116-260, §1011(c)(1), in introductory provisions, struck out “and with the Director of the Community Services Administration” after “Director described in paragraph (2)(A)” and, in concluding provisions, inserted “and by” after “in carrying out this part,” and struck out “, and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964” after “section 1474(c) of this title”.

Subsec. (b)(4) to (7). Pub. L. 116-260, §1011(c)(2), (3), added par. (4) and redesignated former pars. (4) to (6) as (5) to (7), respectively.

2018—Subsec. (d)(1). Pub. L. 115-325, §203(1), added par. (1) and struck out former par. (1) which related to conditions for reserving funds for direct grants to provide assistance to low-income members of Indian tribes.

Subsec. (d)(2). Pub. L. 115-325, §203(2), inserted heading, substituted “The amounts” for “The sums”, “low-income members of the Indian tribe” for “individuals

for whom such a determination has been made”, and “as the Secretary determines” for “as he determines”, and struck out “on the basis of his determination” before “under this subsection”.

Subsec. (d)(3). Pub. L. 115-325, §203(3), inserted heading.

1993—Subsec. (b)(1). Pub. L. 103-82 struck out “the Director of the ACTION Agency,” after “Labor,”.

1990—Subsec. (b)(2)(B), (C). Pub. L. 101-440, §7(b)(1), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: “designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.”

Subsec. (b)(5), (6). Pub. L. 101-440, §7(b)(2), added pars. (5) and (6).

1988—Subsec. (b)(2)(A). Pub. L. 100-418 substituted “National Institute of Standards and Technology” for “National Bureau of Standards”.

1984—Subsec. (b)(1), (2)(A). Pub. L. 98-479 substituted “Health and Human Services” for “Health, Education, and Welfare”.

1980—Subsecs. (a), (b)(1), (3). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (b)(4). Pub. L. 96-294, §574, added par. (4).

Subsec. (c). Pub. L. 96-294, §§573(b), 577(2), substituted “Secretary” for “Administrator” wherever appearing, and struck out provisions relating to determinations respecting inapplicability of allocation requirement and priority for an applicable community action agency.

Subsecs. (d), (e). Pub. L. 96-294, §577(2), substituted “Secretary” for “Administrator” wherever appearing.

1978—Subsec. (a). Pub. L. 95-619, §231(a)(2), substituted “occupied by low-income families” for “in which the head of the household is a low-income person”.

Subsec. (b)(3). Pub. L. 95-619, §231(b)(1), added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103-82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

WEATHERIZATION ASSISTANCE GRANTS COST SHARING

Pub. L. 106-291, title II, Oct. 11, 2000, 114 Stat. 976, provided in part: “That, hereafter, Indian tribal direct grantees of weatherization assistance shall not be required to provide matching funds.”

Provisions of Pub. L. 106-113, div. B, §1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A-180, which provided that sums appropriated for weatherization assistance grants were to be contingent on a cost share of 25 percent by each participating State or other qualified participant, were repealed by Pub. L. 106-469, title VI, §601(a), Nov. 9, 2000, 114 Stat. 2040.

COMMUNITY SERVICES ADMINISTRATION

Community Services Administration, which was established by section 601 of Economic Opportunity Act of 1964, as amended (42 U.S.C. 2941), terminated when Economic Opportunity Act of 1964, Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, was repealed, except for titles VIII and X, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97-35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in Department of Health and Human Services by section 676 of Pub. L. 97-35, which is classified to 42 U.S.C. 9905.

§ 6864. Financial assistance**(a) Annual application; contents; allocation to States**

The Secretary shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 6863 of this title and (2) to carry out this section. The Secretary shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Secretary may determine necessary, such as the cost of heating and cooling, in order to carry out the purpose and provisions of this part.

(b) Requirements for assistance

The Secretary shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units;

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the

services of volunteers and training participants and public service employment workers, pursuant to title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.], to work under the supervision of qualified supervisors and foremen, (B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C) for complying with the limitations set forth in section 6865 of this title; and

(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 6865(b)(1) of this title, and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this subchapter: *Provided*, Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further*, That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this subchapter or under title II of the Economic Opportunity Act of 1964 [42 U.S.C. 2781 et seq.].

(c) Annual update of data used in allocating funds

Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).

(Pub. L. 94-385, title IV, § 414, Aug. 14, 1976, 90 Stat. 1154; Pub. L. 96-294, title V, §§ 573(c), 577(2), June 30, 1980, 94 Stat. 759, 760; Pub. L. 101-440, § 7(c), (g), Oct. 18, 1990, 104 Stat. 1012, 1014; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 405(d)(38), (f)(29)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-427, 2681-434; Pub. L. 113-128, title V, § 512(k), July 22, 2014, 128 Stat. 1709.)

Editorial Notes

REFERENCES IN TEXT

The Workforce Innovation and Opportunity Act, referred to in subsec. (b)(3), is Pub. L. 113-128, July 22, 2014, 128 Stat. 1425. Title I of the Act is classified generally to subchapter I (§3111 et seq.) of chapter 32 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 29 and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (b)(4), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508. Title II of the Economic Opportunity Act of 1964 was classified generally to subchapter II (§2781 et seq.) of chapter 34 of this title prior to repeal by Pub. L. 97-35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2014—Subsec. (b)(3). Pub. L. 113-128 substituted “securing, to the maximum extent practicable, the services of volunteers and training participants and public