

§ 392a. Repealed. Pub. L. 95-567, title II, § 201, Nov. 2, 1978, 92 Stat. 2409

Section, act June 19, 1934, ch. 652, title III, § 392A, as added June 5, 1976, Pub. L. 94-309, § 8, 90 Stat. 685, related to demonstrations of telecommunications, grants and contracts.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 2, 1978, see section 403 of Pub. L. 95-567, set out as an Effective Date of 1978 Amendment note under section 390 of this title.

§ 393. Criteria for approval and expenditures by Secretary

(a) Construction and planning grants

The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with others, shall establish criteria for making construction and planning grants. Such criteria shall be consistent with the objectives and provisions set forth in this subpart, and shall be made available to interested parties upon request.

(b) Basis for determination

The Secretary shall base determinations of whether to approve applications for grants under this subpart, and the amount of such grants, on criteria developed pursuant to subsection (a) and designed to achieve—

(1) the provision of new telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

(2) the expansion of the service areas of existing public telecommunications entities;

(3) the development of public telecommunications facilities owned by, operated by, and available to minorities and women; and

(4) the improvement of the capabilities of existing public broadcast stations to provide public telecommunications services, including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals.

(c) Noncommercial radio broadcast station facilities

Of the sums appropriated pursuant to section 391 of this title for any fiscal year, a substantial amount shall be available for the expansion and development of noncommercial radio broadcast station facilities.

(June 19, 1934, ch. 652, title III, § 393, as added Pub. L. 87-447, May 1, 1962, 76 Stat. 66; amended Pub. L. 90-129, title II, § 201(2), Nov. 7, 1967, 81 Stat. 367; Pub. L. 95-567, title I, § 104, Nov. 2, 1978, 92 Stat. 2408; Pub. L. 99-272, title V, § 5001(b), Apr. 7, 1986, 100 Stat. 117; Pub. L. 102-356, § 3, Aug. 26, 1992, 106 Stat. 949.)

Editorial Notes

AMENDMENTS

1992—Subsec. (b)(4). Pub. L. 102-356 inserted before period at end “, including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals”.

1986—Subsecs. (c), (d). Pub. L. 99-272 redesignated subsec. (d) as (c) and struck out former subsec. (c) relating to extension of services to new areas.

1978—Pub. L. 95-567 amended section generally, striking out provisions dealing with keeping records and access to records by Secretary and Comptroller General and inserting provisions dealing with criteria for approval and expenditures by Secretary. See sections 392(h) and 395(h) of this title.

1967—Pub. L. 90-129 substituted “subpart” for “part” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-567 effective Nov. 2, 1978, see section 403 of Pub. L. 95-567, set out as a note under section 390 of this title.

§ 393a. Long-range planning for facilities

(a) The Secretary, in consultation with the Corporation, public telecommunications entities, and as appropriate with other parties, shall develop a long-range plan to accomplish the objectives set forth in section 390 of this title. Such plan shall include a detailed 5-year projection of the broadcast and nonbroadcast public telecommunications facilities required to meet such objectives, and the expenditures necessary to provide such facilities.

(b) Repealed. Pub. L. 104-66, title I, § 1021(a), Dec. 21, 1995, 109 Stat. 712.

(June 19, 1934, ch. 652, title III, § 393A, formerly § 396, as added Pub. L. 87-447, May 1, 1962, 76 Stat. 67; renumbered § 394 and amended Pub. L. 90-129, title II, § 201(2), (4), Nov. 7, 1967, 81 Stat. 367; Pub. L. 95-567, title I, § 105, Nov. 2, 1978, 92 Stat. 2409; renumbered § 393A, Pub. L. 101-437, title II, § 203(a)(1), Oct. 17, 1990, 104 Stat. 998; Pub. L. 104-66, title I, § 1021(a), Dec. 21, 1995, 109 Stat. 712.)

Editorial Notes

AMENDMENTS

1995—Subsec. (b). Pub. L. 104-66 struck out subsec. (b) which read as follows: “The plan required in subsection (a) of this section shall be updated annually, and a summary of the activities of the Secretary in implementing the plan, shall be submitted concurrently to the President and the Congress not later than the 31st day of December of each year.”

1978—Pub. L. 95-567 substituted provisions dealing with long-range planning for facilities for provisions authorizing the Secretary to establish rules and regulations necessary for this subpart. See section 392(e) of this title.

1967—Pub. L. 90-129, § 201(2), substituted “subpart” for “part”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-567 effective Nov. 2, 1978, see section 403 of Pub. L. 95-567, set out as a note under section 390 of this title.

SUBPART B—NATIONAL ENDOWMENT FOR CHILDREN’S EDUCATIONAL TELEVISION

§ 394. Establishment of National Endowment

(a) Purpose

It is the purpose of this section to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

(b) Establishment; contracts and grants

(1) There is established, under the direction of the Secretary, a National Endowment for Children's Educational Television. In administering the National Endowment, the Secretary is authorized to—

(A) contract with the Corporation for the production of educational television programming for children; and

(B) make grants directly to persons proposing to create and produce educational television programming for children.

The Secretary shall consult with the Advisory Council on Children's Educational Television in the making of the grants or the awarding of contracts for the purpose of making the grants.

(2) Contracts and grants under this section shall be made on the condition that the programming shall—

(A) during the first two years after its production, be made available only to public television licensees and permittees and non-commercial television licensees and permittees; and

(B) thereafter be made available to any commercial television licensee or permittee or cable television system operator, at a charge established by the Secretary that will assure the maximum practicable distribution of such programming, so long as such licensee, permittee, or operator does not interrupt the programming with commercial advertisements.

The Secretary may, consistent with the purpose and provisions of this section, permit the programming to be distributed to persons using other media, establish conditions relating to such distribution, and apply those conditions to any contract or grant made under this section. The Secretary may waive the requirements of subparagraph (A) if the Secretary finds that neither public television licensees and permittees nor noncommercial television licensees and permittees will have an opportunity to air such programming in the first two years after its production.

(c) Criteria for contracts and grants; applications for contracts and grants

(1) The Secretary, with the advice of the Advisory Council on Children's Educational Television, shall establish criteria for making contracts and grants under this section. Such criteria shall be consistent with the purpose and provisions of this section and shall be made available to interested parties upon request. Such criteria shall include—

(A) criteria to maximize the amount of programming that is produced with the funds made available by the Endowment;

(B) criteria to minimize the costs of—

(i) selection of grantees,

(ii) administering the contracts and grants, and

(iii) the administrative costs of the programming production; and

(C) criteria to otherwise maximize the proportion of funds made available by the Endowment that are expended for the cost of programming production.

(2) Applications for grants under this section shall be submitted to the Secretary in such form

and containing such information as the Secretary shall require by regulation.

(d) Amount of grants

Upon approving any application for a grant under subsection (b)(1)(B), the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of the project for which the grant is made.

(e) Advisory Council on Children's Educational Television

(1) The Secretary shall establish an Advisory Council on Children's Educational Television. The Secretary shall appoint ten individuals as members of the Council and designate one of such members to serve as Chairman.

(2) Members of the Council shall have terms of two years, and no member shall serve for more than three consecutive terms. The members shall have expertise in the fields of education, psychology, child development, or television programming, or related disciplines. Officers and employees of the United States shall not be appointed as members.

(3) While away from their homes or regular places of business in the performance of duties for the Council, the members of the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5.

(4) The Council shall meet at the call of the Chairman and shall advise the Secretary concerning the making of contracts and grants under this section.

(f) Recordkeeping relating to grants; audits

(1) Each recipient of a grant under this section shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this section, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to a grant received under this section.

(g) Issuance of rules and regulations

The Secretary is authorized to make such rules and regulations as may be necessary to carry out this section, including those relating to the order of priority in approving applications for projects under this section or to determining the amounts of contracts and grants for such projects.

(h) Authorization of appropriations; availability

There are authorized to be appropriated \$2,000,000 for fiscal year 1991, \$4,000,000 for fiscal year 1992, \$5,000,000 for fiscal year 1993, and

\$6,000,000 for fiscal year 1994 to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted within¹ one year after the last day of such fiscal year.

(i) Definitions

For purposes of this section—

(1) the term “educational television programming for children” means any television program which is directed to an audience of children who are 16 years of age or younger and which is designed for the intellectual development of those children, except that such term does not include any television program which is directed to a general audience but which might also be viewed by a significant number of children; and

(2) the term “person” means an individual, partnership, association, joint stock company, trust, corporation, or State or local governmental entity.

(June 19, 1934, ch. 652, title III, §394, as added Pub. L. 101-437, title II, §203(a)(3), Oct. 17, 1990, 104 Stat. 998; amended Pub. L. 102-538, title I, §152, formerly §132, Oct. 27, 1992, 106 Stat. 3540, renumbered §152, Pub. L. 103-66, title VI, §6001(a)(2), Aug. 10, 1993, 107 Stat. 379.)

Editorial Notes

PRIOR PROVISIONS

A prior section 394, act June 19, 1934, §394, was renumbered section 393A by Pub. L. 101-437 and transferred to section 393a of this title.

Another prior section 394, act June 19, 1934, §394, was renumbered section 397 by Pub. L. 90-129 and transferred to section 397 of this title.

AMENDMENTS

1992—Subsec. (h). Pub. L. 102-538 substituted “1991.” for “1991 and” and inserted “, \$5,000,000 for fiscal year 1993, and \$6,000,000 for fiscal year 1994” after “1992”.

Statutory Notes and Related Subsidiaries

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

CONGRESSIONAL FINDINGS

Pub. L. 101-437, title II, §202, Oct. 17, 1990, 104 Stat. 997, provided that: “The Congress finds that—

“(1) children in the United States are lagging behind those in other countries in fundamental intellectual skills, including reading, writing, mathematics, science, and geography;

“(2) these fundamental skills are essential for the future governmental and industrial leadership of the United States;

“(3) the United States must act now to greatly improve the education of its children;

“(4) television is watched by children about three hours each day on average and can be effective in teaching children;

“(5) educational television programming for children is aired too infrequently either because public broadcast licensees and permittees lack funds or because commercial broadcast licensees and permittees or cable television system operators do not have the economic incentive; and

“(6) the Federal Government can assist in the creation of children’s educational television by establishing a National Endowment for Children’s Educational Television to supplement the children’s educational programming funded by other governmental entities.”

**SUBPART C—TELECOMMUNICATIONS
DEMONSTRATIONS**

§ 395. Assistance for demonstration projects

(a) Authorization for grants and contracts

It is the purpose of this subpart to promote the development of nonbroadcast telecommunications facilities and services for the transmission, distribution, and delivery of health, education, and public or social service information. The Secretary is authorized, upon receipt of an application in such form and containing such information as he may by regulation require, to make grants to, and enter into contracts with, public and private nonprofit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations.

(b) Application approval

The Secretary may approve an application submitted under subsection (a) if he determines that—

(1) the project for which application is made will demonstrate innovative methods or techniques of utilizing nonbroadcast telecommunications equipment or facilities to satisfy the purpose of this subpart;

(2) demonstrations and related activities assisted under this subpart will remain under the administration and control of the applicant;

(3) the applicant has the managerial and technical capability to carry out the project for which the application is made; and

(4) the facilities and equipment acquired or developed pursuant to the application will be used substantially for the transmission, distribution, and delivery of health, education, or public or social service information.

(c) Contract with applicant

Upon approving any application under this subpart with respect to any project, the Secretary shall make a grant to or enter into a contract with the applicant in an amount determined by the Secretary not to exceed the reasonable and necessary cost of such project. The Secretary shall pay such amount from the sums available therefor, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(d) Use of funds

Funds made available pursuant to this subpart shall not be available for the construction, remodeling, or repair of structures to house the

¹ So in original. Probably should be “within”.