

(10) The Secretary is authorized to use direct hiring authority to hire employees to administer this section.

(Pub. L. 103-325, title I, §104A, as added Pub. L. 116-260, div. N, title V, §522(a), Dec. 27, 2020, 134 Stat. 2079.)

Editorial Notes

REFERENCES IN TEXT

Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (a)(6)(A), is section 308 of Pub. L. 101-73, which is set out as a note under section 1463 of this title.

The National Emergencies Act, referred to in subsec. (j)(1), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

The Equal Credit Opportunity Act, referred to in subsec. (k), is title VII of Pub. L. 90-321, as added by Pub. L. 93-495, title V, §503, Oct. 28, 1974, 88 Stat. 1521, which is classified generally to subchapter IV (§1691 et seq.) of chapter 41 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

Statutory Notes and Related Subsidiaries

PURPOSE

Pub. L. 116-260, div. N, title V, §520, Dec. 27, 2020, 134 Stat. 2079, provided that: “The purpose of this subtitle [subtitle B (§§520-524) of title V of div. N of Pub. L. 116-260, enacting this section and provisions set out as notes under this section] is to establish emergency programs to revitalize and provide long-term financial products and service availability for, and provide investments in, low- and moderate-income and minority communities that have disproportionately suffered from the impacts of the COVID-19 pandemic.”

CONSIDERATIONS IN EXERCISING AUTHORITIES; REQUIREMENTS FOR CREDITORS

Pub. L. 116-260, div. N, title V, §521, Dec. 27, 2020, 134 Stat. 2079, provided that:

“(a) IN GENERAL.—In exercising the authorities under this subtitle [subtitle B (§§520-524) of title V of div. N of Pub. L. 116-260, enacting this section and provisions set out as notes under this section] and the amendments made by this subtitle, the Secretary of the Treasury shall take into consideration increasing the availability of affordable credit for consumers, small businesses, and nonprofit organizations, including for projects supporting affordable housing, community-serving real estate, and other projects, that provide direct benefits to low- and moderate-income communities, low-income and underserved individuals, and minorities, that have disproportionately suffered from the health and economic impacts of the COVID-19 pandemic.

“(b) REQUIREMENT FOR CREDITORS.—Any creditor participating in a program established under this subtitle or the amendments made by this subtitle shall fully comply with all applicable statutory and regulatory requirements relating to fair lending.”

INSPECTOR GENERAL OVERSIGHT

Pub. L. 116-260, div. N, title V, §524, Dec. 27, 2020, 134 Stat. 2089, provided that:

“(a) IN GENERAL.—The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of any program established under this subtitle [subtitle B (§§520-524) of title V of div. N of Pub. L. 116-260, enacting this section and provisions set out as notes under this section] or the amendments made by this subtitle.

“(b) REPORTING.—The Inspector General of the Department of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Secretary of the Treasury not less frequently than 2 times per year a report relating to the oversight provided by the Office of the Inspector General, including any recommendations for improvements to the programs described in subsection (a).”

§ 4704. Applications for assistance

(a) Form and procedures

An application for assistance under this subchapter shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

(b) Minimum requirements

Except as provided in sections 4705 and 4712 of this title, the Fund shall require an application—

(1) to establish that the applicant is, or will be, a community development financial institution;

(2) to include a comprehensive strategic plan for the organization that contains—

(A) a business plan of not less than 5 years in duration that demonstrates that the applicant will be properly managed and will have the capacity to operate as a community development financial institution that will not be dependent upon assistance from the Fund for continued viability;

(B) an analysis of the needs of the investment area or targeted population and a strategy for how the applicant will attempt to meet those needs;

(C) a plan to coordinate use of assistance from the Fund with existing Federal, State, local, and tribal government assistance programs, and private sector financial services;

(D) an explanation of how the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to an investment area or targeted population; and

(E) a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, secondary markets, or other services to investment areas or targeted populations;

(3) to include a detailed description of the applicant’s plans and likely sources of funds to match the amount of assistance requested from the Fund;

(4) in the case of an applicant that has previously received assistance under this subchapter, to demonstrate that the applicant—

(A) has substantially met its performance goals and otherwise carried out its responsibilities under this subchapter and the assistance agreement; and

(B) will expand its operations into a new investment area or serve a new targeted population, offer more products or services, or increase the volume of its business;

(5) in the case of an applicant with a prior history of serving investment areas or tar-

geted populations, to demonstrate that the applicant—

- (A) has a record of success in serving investment areas or targeted populations; and
- (B) will expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business; and

(6) to include such other information as the Fund deems appropriate.

(c) Preapplication outreach program

The Fund shall provide an outreach program to identify and provide information to potential applicants and may provide technical assistance to potential applicants, but shall not assist in the preparation of any application.

(Pub. L. 103-325, title I, §105, Sept. 23, 1994, 108 Stat. 2170.)

§ 4705. Community partnerships

(a) Application

An application for assistance may be filed jointly by a community development financial institution and a community partner to carry out a community partnership.

(b) Application requirements

The Fund shall require a community partnership application—

- (1) to meet the minimum requirements established for community development financial institutions under section 4704(b) of this title, except that the criteria specified in paragraphs (1) and (2)(A) of section 4704(b) of this title shall not apply to the community partner;
- (2) to describe how each coapplicant will participate in carrying out the community partnership and how the partnership will enhance activities serving the investment area or targeted population; and
- (3) to demonstrate that the community partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) Selection criteria

The Fund shall consider a community partnership application based on—

- (1) the community development financial institution coapplicant—
 - (A) meeting the minimum selection criteria described in section 4704 of this title; and
 - (B) satisfying the selection criteria of section 4706 of this title;
- (2) the extent to which the community partner coapplicant will participate in carrying out the partnership;
- (3) the extent to which the community partnership will enhance the likelihood of success of the community development financial institution coapplicant's strategic plan; and
- (4) the extent to which service to the investment area or targeted population will be better performed by a partnership as opposed to the individual community development financial institution coapplicant.

(d) Limitation on distribution of assistance

Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community partner or an affiliate or subsidiary thereof.

(e) Other requirements and limitations

All other requirements and limitations imposed by this subchapter on a community development financial institution assisted under this subchapter shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community partnerships.

(Pub. L. 103-325, title I, §106, Sept. 23, 1994, 108 Stat. 2171.)

§ 4706. Selection of institutions

(a) Selection criteria

Except as provided in section 4712 of this title, the Fund shall, in its sole discretion, select community development financial institution applicants meeting the requirements of section 4704 of this title for assistance based on—

- (1) the likelihood of success of the applicant in meeting the goals of its comprehensive strategic plan;
- (2) the experience and background of the management team;
- (3) the extent of need for equity investments, loans, and development services within the investment areas or targeted populations;
- (4) the extent of economic distress within the investment areas or the extent of need within the targeted populations, as those factors are measured by objective criteria;
- (5) the extent to which the applicant will concentrate its activities on serving its investment areas or targeted populations;
- (6) the amount of firm commitments to meet or exceed the matching requirements and the likely success of the plan for raising the balance of the match;
- (7) the extent to which the matching funds are derived from private sources;
- (8) the extent to which the proposed activities will expand economic opportunities within the investment areas or the targeted populations;
- (9) whether the applicant is, or will become, an insured community development financial institution;
- (10) the extent of support from the investment areas or targeted populations;
- (11) the extent to which the applicant is, or will be, community-owned or community-governed;
- (12) the extent to which the applicant will increase its resources through coordination with other institutions or participation in a secondary market;
- (13) in the case of an applicant with a prior history of serving investment areas or targeted populations, the extent of success in serving them; and