

(B) if known, the extent to which such practices were adopted and implemented by such other public schools.

(3) The number and amount of subgrants awarded under this section to carry out activities described in each of subparagraphs (A) through (C) of subsection (b)(1).

(4) A description of—

(A) how the State entity complied with, and ensured that eligible applicants complied with, the assurances included in the State entity's application; and

(B) how the State entity worked with authorized public chartering agencies, and how the agencies worked with the management company or leadership of the schools that received subgrant funds under this section, if applicable.

(Pub. L. 89-10, title IV, §4303, as added Pub. L. 114-95, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1995.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 7221b, Pub. L. 89-10, title IV, §4303, formerly title V, §5203, as added Pub. L. 107-110, title V, §501, Jan. 8, 2002, 115 Stat. 1790; renumbered title IV, §4303, Pub. L. 114-95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, related to applications from State agencies, prior to repeal by Pub. L. 114-95, §5, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1806, 1993, effective Dec. 10, 2015, except with respect to certain non-competitive programs and competitive programs.

A prior section 4303 of Pub. L. 89-10 was renumbered section 8573, and is classified to section 7973 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

### § 7221c. Facilities financing assistance

#### (a) Grants to eligible entities

##### (1) In general

From the amount reserved under section 7221a(b)(1) of this title, the Secretary shall use not less than 50 percent to award, on a competitive basis, not less than 3 grants to eligible entities that have the highest-quality applications approved under subsection (d), after considering the diversity of such applications, to demonstrate innovative methods of helping charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

##### (2) Eligible entity defined

For the purposes of this section, the term “eligible entity” means—

(A) a public entity, such as a State or local governmental entity;

(B) a private nonprofit entity; or

(C) a consortium of entities described in subparagraphs (A) and (B).

#### (b) Grantee selection

The Secretary shall evaluate each application submitted under subsection (d), and shall determine whether the application is sufficient to merit approval.

#### (c) Grant characteristics

Grants under subsection (a) shall be of sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

#### (d) Applications

##### (1) In general

An eligible entity desiring to receive a grant under this section shall submit an application to the Secretary in such form as the Secretary may reasonably require.

##### (2) Contents

An application submitted under paragraph (1) shall contain—

(A) a statement identifying the activities that the eligible entity proposes to carry out with funds received under subsection (a), including how the eligible entity will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

(B) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

(C) a description of the eligible entity's expertise in capital market financing;

(D) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools, including how the eligible entity will offer a combination of rates and terms more favorable than the rates and terms that a charter school could receive without assistance from the eligible entity under this section;

(E) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought; and

(F) in the case of an application submitted by a State governmental entity, a description of the actions that the eligible entity has taken, or will take, to ensure that charter schools within the State receive the funding that charter schools need to have adequate facilities.

#### (e) Charter school objectives

An eligible entity receiving a grant under subsection (a) shall use the funds deposited in the reserve account established under subsection (f) to assist one or more charter schools to access private-sector capital to accomplish one or more of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

(3) The predevelopment costs required to assess sites for purposes of paragraph (1) or (2) and that are necessary to commence or continue the operation of a charter school.

**(f) Reserve account**

**(1) Use of funds**

To assist charter schools in accomplishing the objectives described in subsection (e), an eligible entity receiving a grant under subsection (a) shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under subsection (a) (other than funds used for administrative costs in accordance with subsection (g)) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible entity for one or more of the following purposes:

(A) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in subsection (e).

(B) Guaranteeing and insuring leases of personal and real property for an objective described in subsection (e).

(C) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

(D) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

**(2) Investment**

Funds received under subsection (a) and deposited in the reserve account established under paragraph (1) shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

**(3) Reinvestment of earnings**

Any earnings on funds received under subsection (a) shall be deposited in the reserve account established under paragraph (1) and used in accordance with this subsection.

**(g) Limitation on administrative costs**

An eligible entity may use not more than 2.5 percent of the funds received under subsection (a) for the administrative costs of carrying out its responsibilities under this section (excluding subsection (k)).

**(h) Audits and reports**

**(1) Financial record maintenance and audit**

The financial records of each eligible entity receiving a grant under subsection (a) shall be

maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

**(2) Reports**

**(A) Grantee annual reports**

Each eligible entity receiving a grant under subsection (a) shall submit to the Secretary an annual report of the entity's operations and activities under this section (excluding subsection (k)).

**(B) Contents**

Each annual report submitted under subparagraph (A) shall include—

(i) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

(ii) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under paragraph (1) during the reporting period;

(iii) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under subsection (a) in leveraging private funds;

(iv) a listing and description of the charter schools served during the reporting period, including the amount of funds used by each school, the type of project facilitated by the grant, and the type of assistance provided to the charter schools;

(v) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in subsection (e); and

(vi) a description of the characteristics of lenders and other financial institutions participating in the activities carried out by the eligible entity under this section (excluding subsection (k)) during the reporting period.

**(C) Secretarial report**

The Secretary shall review the reports submitted under subparagraph (A) and shall provide a comprehensive annual report to Congress on the activities conducted under this section (excluding subsection (k)).

**(i) No full faith and credit for grantee obligation**

No financial obligation of an eligible entity entered into pursuant to this section (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds that may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this section.

**(j) Recovery of funds**

**(1) In general**

The Secretary, in accordance with chapter 37 of title 31, shall collect—

(A) all of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines,

not earlier than 2 years after the date on which the eligible entity first received funds under subsection (a), that the eligible entity has failed to make substantial progress in carrying out the purposes described in subsection (f)(1); or

(B) all or a portion of the funds in a reserve account established by an eligible entity under subsection (f)(1) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in subsection (f)(1).

**(2) Exercise of authority**

The Secretary shall not exercise the authority provided in paragraph (1) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in subsection (f)(1).

**(3) Procedures**

The provisions of sections 451, 452, and 458 of the General Education Provisions Act [20 U.S.C. 1234, 1234a, 1234g] shall apply to the recovery of funds under paragraph (1).

**(4) Construction**

This subsection shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

**(k) Per-pupil facilities aid program**

**(1) Definition of per-pupil facilities aid program**

In this subsection, the term “per-pupil facilities aid program” means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

(A) that is dedicated solely to funding charter school facilities; or

(B) a portion of which is dedicated for funding charter school facilities.

**(2) Grants**

**(A) In general**

From the amount reserved under section 7221a(b)(1) of this title and remaining after the Secretary makes grants under subsection (a), the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering, per-pupil facilities aid programs.

**(B) Period**

The Secretary shall award grants under this subsection for periods of not more than 5 years.

**(C) Federal share**

The Federal share of the cost described in subparagraph (A) for a per-pupil facilities aid program shall be not more than—

(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

(ii) 80 percent for the second such year;

(iii) 60 percent for the third such year;

(iv) 40 percent for the fourth such year; and

(v) 20 percent for the fifth such year.

**(D) State share**

A State receiving a grant under this subsection may partner with 1 or more organizations, and such organizations may provide not more than 50 percent of the State share of the cost of establishing or enhancing, and administering, the per-pupil facilities aid program.

**(E) Multiple grants**

A State may receive more than 1 grant under this subsection, so long as the amount of total funds provided to charter schools increases with each successive grant.

**(3) Use of funds**

**(A) In general**

A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State of the applicant.

**(B) Evaluations; technical assistance; dissemination**

From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evaluations, to provide technical assistance, and to disseminate information.

**(C) Supplement, not supplant**

Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per-pupil facilities aid programs, operations financing programs, or other programs, for charter schools.

**(4) Requirements**

**(A) Voluntary participation**

No State may be required to participate in a program carried out under this subsection.

**(B) State law**

**(i) In general**

To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

(I) is specified in State law; and

(II) provides annual financing, on a per-pupil basis, for charter school facilities.

**(ii) Special rule**

A State that is required under State law to provide its charter schools with access to adequate facility space, but that does not have a per-pupil facilities aid program for charter schools specified in State law, is eligible to receive a grant under this subsection if the State agrees to use the funds to develop a per-pupil facilities aid program consistent with the requirements of this subsection.

**(5) Applications**

To be eligible to receive a grant under this subsection, a State shall submit an applica-

tion to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 89–10, title IV, §4304, as added Pub. L. 114–95, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 2004.)

#### Editorial Notes

##### REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (j)(4), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814. Part D of the Act is classified generally to subchapter IV (§1234 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

##### PRIOR PROVISIONS

A prior section 7221c, Pub. L. 89–10, title IV, §4304, formerly title V, §5204, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1792; renumbered title IV, §4304, Pub. L. 114–95, title IV, §4001(b)(2)(A), (B), (D)(iii), Dec. 10, 2015, 129 Stat. 1967, related to administration, prior to repeal by Pub. L. 114–95, §5, title IV, §4301(1), Dec. 10, 2015, 129 Stat. 1806, 1993, effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs.

A prior section 4304 of Pub. L. 89–10 was renumbered section 8574, and is classified to section 7974 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 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 an Effective Date of 2015 Amendment note under section 6301 of this title.

#### § 7221d. National activities

##### (a) In general

From the amount reserved under section 7221a(b)(2) of this title, the Secretary shall—

(1) use not more than 80 percent of such funds to award grants in accordance with subsection (b);

(2) use not more than 9 percent of such funds to award grants, on a competitive basis, to eligible applicants for the purpose of carrying out the activities described in section 7221b(h) of this title in a State that did not receive a grant under section 7221b of this title; and

(3) after the uses described in paragraphs (1) and (2), use the remainder of such funds to—

(A) disseminate technical assistance to—

(i) State entities in awarding subgrants under section 7221b(b)(1) of this title; and

(ii) eligible entities and States receiving grants under section 7221c of this title;

(B) disseminate best practices regarding charter schools; and

(C) evaluate the impact of the charter school program carried out under this part, including the impact on student achievement.

##### (b) Grants for the replication and expansion of high-quality charter schools

###### (1) In general

The Secretary shall make grants, on a competitive basis, to eligible entities having appli-

cations approved under paragraph (3) to enable such entities to open and prepare for the operation of one or more replicated high-quality charter schools or to expand one or more high-quality charter schools.

##### (2) Definition of eligible entity

For purposes of this subsection, the term “eligible entity” means a charter management organization.

##### (3) Application requirements

An eligible entity desiring to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require. The application shall include the following:

###### (A) Existing charter school data

For each charter school currently operated or managed by the eligible entity—

(i) student assessment results for all students and for each subgroup of students described in section 6311(c)(2) of this title;

(ii) attendance and student retention rates for the most recently completed school year and, if applicable, the most recent available 4-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates; and

(iii) information on any significant compliance and management issues encountered within the last 3 school years by any school operated or managed by the eligible entity, including in the areas of student safety and finance.

###### (B) Descriptions

A description of—

(i) the eligible entity’s objectives for implementing a high-quality charter school program with funding under this subsection, including a description of the proposed number of high-quality charter schools the eligible entity proposes to open as a result of the replication of a high-quality charter school or to expand with funding under this subsection;

(ii) the educational program that the eligible entity will implement in such charter schools, including—

(I) information on how the program will enable all students to meet the challenging State academic standards;

(II) the grade levels or ages of students who will be served; and

(III) the instructional practices that will be used;

(iii) how the operation of such charter schools will be sustained after the grant under this subsection has ended, which shall include a multi-year financial and operating model for the eligible entity;

(iv) how the eligible entity will ensure that such charter schools will recruit and enroll students, including children with disabilities, English learners, and other educationally disadvantaged students; and

(v) any request and justification for any waivers of Federal statutory or regulatory requirements that the eligible entity believes are necessary for the successful operation of such charter schools.