

committees of Congress, prior to repeal by Pub. L. 105-332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

§ 1070a-22. Requirements

(a) Funding rules

In awarding grants from the amount appropriated under section 1070a-28 of this title for a fiscal year, the Secretary shall make available—

(1) to eligible entities described in section 1070a-21(c)(1) of this title, not less than 33 percent of such amount;

(2) to eligible entities described in section 1070a-21(c)(2) of this title, not less than 33 percent of such amount; and

(3) to eligible entities described in paragraph (1) or (2) of section 1070a-21(c) of this title, the remainder of such amount taking into consideration the number, quality, and promise of the applications for the grants, and, to the extent practicable—

(A) the geographic distribution of such grant awards; and

(B) the distribution of such grant awards between urban and rural applicants.

(b) Coordination

Each eligible entity shall ensure that the activities assisted under this division are, to the extent practicable, coordinated with, and complement and enhance—

(1) services under this division provided by other eligible entities serving the same school district or State; and

(2) related services under other Federal or non-Federal programs.

(c) Designation of fiscal agent

An eligible entity described in section 1070a-21(c)(2) of this title shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

(d) Cohort approach

(1) In general

The Secretary shall require that eligible entities described in section 1070a-21(c)(2) of this title—

(A) provide services under this division to at least one grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 1437a(b)(1) of title 42);

(B) ensure that the services are provided through the 12th grade to students in the participating grade level and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this division; and

(C) provide services under this division to students who have received services under a previous GEAR UP grant award but have not yet completed the 12th grade.

(2) Coordination requirement

In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

(e) Supplement, not supplant

Grant funds awarded under this division shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this division.

(Pub. L. 89-329, title IV, §404B, as added Pub. L. 105-244, title IV, §403, Oct. 7, 1998, 112 Stat. 1657; amended Pub. L. 106-78, title VII, §752(b)(8), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 110-315, title IV, §404(b), Aug. 14, 2008, 122 Stat. 3207.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (d)(1)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a-22, Pub. L. 89-329, title IV, §404B, as added Pub. L. 102-325, title IV, §402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103-208, §2(b)(13), (14), Dec. 20, 1993, 107 Stat. 2459, related to State eligibility and State plan, prior to the general amendment of this division by Pub. L. 105-244.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-315, §404(b)(1), added subsec. (a) and struck out former subsec. (a) which related to funding rules.

Subsecs. (b), (c). Pub. L. 110-315, §404(b)(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b). Text read as follows: "Each eligible entity described in section 1070a-21(c)(1) of this title, and each eligible entity described in section 1070a-21(c)(2) of this title that conducts a scholarship component under section 1070a-25 of this title, shall use not less than 25 percent and not more than 50 percent of grant funds received under this division for the early intervention component of an eligible entity's program under this division, except that the Secretary may waive the 50 percent limitation if the eligible entity demonstrates that the eligible entity has another means of providing the students with financial assistance that is described in the plan submitted under section 1070a-23 of this title."

Subsec. (d). Pub. L. 110-315, §404(b)(3), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1)(B), (C). Pub. L. 110-315, §404(b)(4), inserted "and provide the option of continued services through the student's first year of attendance at an institution of higher education to the extent the provision of such services was described in the eligible entity's application for assistance under this division" after "grade level" in par. (B) and added par. (C).

Subsec. (e). Pub. L. 110-315, §404(b)(2), (5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: "An eligible entity

described in section 1070a-21(c)(2) of this title shall have a full-time program coordinator or a part-time program coordinator, whose primary responsibility is a project under section 1070a-23 of this title.”

Subsec. (f). Pub. L. 110-315, § 404(b)(2), struck out subsec. (f). Text read as follows: “An eligible entity described in 1070a-21(c)(2) of this title shall ensure that the activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages or employment benefits.”

Subsec. (g). Pub. L. 110-315, § 404(b)(3), redesignated subsec. (g) as (d).

1999—Subsec. (g)(1)(A). Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act”.

§ 1070a-23. Applications

(a) Application required for eligibility

(1) In general

In order for an eligible entity to qualify for a grant under this division, the eligible entity shall submit to the Secretary an application for carrying out the program under this division.

(2) Contents

Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may reasonably require. Each such application shall, at a minimum—

(A) describe the activities for which assistance under this division is sought, including how the eligible entity will carry out the required activities described in section 1070a-24(a) of this title;

(B) describe, in the case of an eligible entity described in section 1070a-21(c)(2) of this title that chooses to provide scholarships, or an eligible entity described in section 1070a-21(c)(1) of this title, how the eligible entity will meet the requirements of section 1070a-25 of this title;

(C) describe, in the case of an eligible entity described in section 1070a-21(c)(2) of this title that requests a reduced match percentage under subsection (b)(2), how such reduction will assist the entity to provide the scholarships described in subsection (b)(2)(A)(ii);

(D) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 1070a-24 of this title;

(E) provide assurances that activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages, or employment benefits;

(F) describe, in the case of an eligible entity described in section 1070a-21(c)(1) of this title that chooses to use a cohort approach, or an eligible entity described in section 1070a-21(c)(2) of this title, how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 1070a-22(d) of this title, and how the eligible entity will serve the cohorts through grade 12, including—

(i) how vacancies in the program under this division will be filled; and

(ii) how the eligible entity will serve students attending different secondary schools;

(G) describe how the eligible entity will coordinate programs under this division with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

(H) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this division;

(I) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit; and

(J) describe the sources of matching funds that will enable the eligible entity to meet the matching requirement described in subsection (b).

(b) Matching requirement

(1) In general

The Secretary shall not approve an application submitted under subsection (a) unless such application—

(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind and may be accrued over the full duration of the grant award period, except that the eligible entity shall make substantial progress towards meeting the matching requirement in each year of the grant award period;

(B) specifies the methods by which matching funds will be paid; and

(C) includes provisions designed to ensure that funds provided under this division shall supplement and not supplant funds expended for existing programs.

(2) Special rule

Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 1070a-21(c)(2) of this title. The Secretary may approve an eligible entity's request for a reduced match percentage—

(A) at the time of application—

(i) if the eligible entity demonstrates significant economic hardship that precludes the eligible entity from meeting the matching requirement; or

(ii) if the eligible entity is described in section 1070a-21(c)(2) of this title and requests that contributions to the eligible entity's scholarship fund established under section 1070a-25 of this title be matched on a two to one basis; or

(B) in response to a petition by an eligible entity subsequent to a grant award under this section if the eligible entity demonstrates that the matching funds described