pended for provision that such funds would remain available for one year after the last day of the fiscal year, and also made allowance for the funds to be used for the cost of administering this section.

1976—Pub. L. 94–309 substituted provision authorizing appropriation of $7,500,000 for period July 1, 1976, through September 30, 1976, and $30,000,000 for fiscal year ending September 30, 1977, to assist (through matching grants) in the construction of noncommercial educational television or radio broadcasting facilities as provided in this subpart and provision that sums appropriated under this section for any fiscal year or period shall remain available for payment of grants for projects for which applications approved under section 392 of this title have been submitted under such section within one year after the last day of such fiscal year or period for provision authorizing appropriation for fiscal year ending June 30, 1974 and for the succeeding fiscal year such sums not to exceed $25,000,000 for fiscal year ending June 30, 1974, and $30,000,000 for the succeeding fiscal year, as may be necessary to carry out the purposes of section 390 of this title and provision that sums appropriated under this section for any fiscal year shall remain available for payment of grants for projects for which applications approved under section 392 of this title have been submitted under such section prior to the end of the succeeding fiscal year, respectively.

1973—Pub. L. 93–84 substituted authorization of appropriation of amounts not exceeding $25,000,000 and $30,000,000 for fiscal year ending June 30, 1974 and the succeeding fiscal year, respectively, for authorization of appropriation of amount not exceeding $25,000,000 for fiscal year ending June 30, 1973.

1972—Pub. L. 92–411 substituted authorization of appropriation of $25,000,000 for fiscal year ending June 30, 1973, for authorization of $15,000,000 for such year, and struck out authorization of appropriations for fiscal years 1963 to 1972.

1969—Pub. L. 91–97 authorized appropriations of $15,000,000 for fiscal year ending June 30, 1971, and for each of the two succeeding fiscal years, and extended date for submission of applications from ''prior to July 1, 1971'' to ''prior to July 1, 1974''.

1967—Pub. L. 90–129 authorized appropriations of $10,500,000, and $12,500,000, and $15,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, and extended date for submission of applications from ''prior to July 1, 1968'', to ''prior to July 1, 1971''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 12 of Pub. L. 100–626 provided that: ''This Act and the amendments made by this Act [amending this section and sections 396, 398, 399, and 605 of this title and enacting provisions set out as notes under sections 396 and 609 of this title] are effective on the date of enactment of this Act [Nov. 7, 1988], except that the amendments made by sections 6 and 7(d) [amending section 396 of this title] are effective on October 1, 1989.''

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.

§ 392. Grants for construction

(a) Applications for grants

For each project for the construction of public telecommunications facilities there shall be submitted to the Secretary an application for a grant containing such information with respect to such project as the Secretary may require, including the total cost of such project, the amount of the grant requested for such project, and a 5-year plan outlining the applicant's projected facilities requirements and the projected costs of such facilities requirements. Each applicant shall also provide assurances satisfactory to the Secretary that—

(1) the applicant is (A) a public broadcast station; (B) a noncommercial telecommunications entity; (C) a system of public telecommunications entities; (D) a nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes; or (E) a State or local government (or any agency thereof), or a political or special purpose subdivision of a State;

(2) the operation of such public telecommunications facilities will be under the control of the applicant;

(3) necessary funds to construct, operate, and maintain such public telecommunications facilities will be available when needed;

(4) such public telecommunications facilities will be used primarily for the provision of public telecommunications services, and that the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services will not interfere with the provision of such public telecommunications services as required in this part;

(5) the applicant has participated in comprehensive planning for such public telecommunications facilities in the area which the applicant proposes to serve, and such planning has included an evaluation of alternate technologies and coordination with State educational television and radio agencies, as appropriate; and

(6) the applicant will make the most efficient use of the grant.

(b) Amount of grant

Upon approving any application under this section with respect to any project for the construction of public telecommunications facilities, the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amount shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of such project.

(c) Information and assurances

The Secretary may provide such funds as the Secretary deems necessary for the planning of any project for which construction funds may be obtained under this section. An applicant for a planning grant shall provide such information with respect to such project as the Secretary may require and shall provide assurances satisfactory to the Secretary that the applicant meets the eligible requirements of subsection (a) of this section to receive construction assistance.

(d) Studies

Any studies conducted by or for any grant recipient under this section shall be provided to the Secretary, if such studies are conducted through the use of funds received under this section.

(e) Rules and regulations

The Secretary shall establish such rules and regulations as may be necessary to carry out

this subpart, including rules and regulations relating to the order of priority in approving applications for construction projects and relating to determining the amount of each grant for such projects.

(f) Minorities and women

In establishing criteria for grants pursuant to section 393 of this title and in establishing procedures relating to the order of priority established in subsection (e) of this section in approving applications for grants, the Secretary shall give special consideration to applications which would increase minority and women's ownership of, operation of, and participation in public telecommunications entities. The Secretary shall take affirmative steps to inform minorities and women of the availability of funds under this subpart, and the localities where new public telecommunications facilities are needed, and to provide such other assistance and information as may be appropriate.

(g) Recovering funds

If, within 10 years after completion of any project for construction of public telecommunications facilities with respect to which a grant has been made under this section—

(1) the applicant or other owner of such facilities ceases to be an agency, institution, foundation, corporation, association, or other entity described in subsection (a)(1) of this section; or

(2) such facilities cease to be used primarily for the provision of public telecommunications services (or the use of such public telecommunications facilities for purposes other than the provision of public telecommunications services interferes with the provision of such public telecommunications services as required in this part);

the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time the applicant ceases to be such an entity or at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bore to the cost of construction of such facilities.

(h) Recordkeeping requirements

Each recipient of assistance under this subpart shall keep such records as may be reasonably necessary to enable the Secretary to carry out the functions of the Secretary under this subpart, including a complete and itemized inventory of all public telecommunications facilities under the control of such recipient, and records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, 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.

(i) Accessibility of records

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance under this subpart that are pertinent to assistance received under this subpart.

(June 19, 1934, ch. 652, title III, § 392, as added Pub. L. 87–447, May 1, 1962, 76 Stat. 65; amended Pub. L. 90–129, title I, §§ 102, 103(b)–(e), 104, Nov. 7, 1967, 81 Stat. 365–367; Pub. L. 94–309, § 4, June 5, 1976, 90 Stat. 683; Pub. L. 95–567, title I, § 103(a), Nov. 2, 1978, 92 Stat. 2405; Pub. L. 97–35, title XII, § 1223, Aug. 13, 1981, 95 Stat. 725.)

AMENDMENTS

1981—Subsec. (a)(4). Pub. L. 97–35, § 1223(a), inserted provisions relating to noninterference of facilities with services required under this part, and substituted ''primarily'' for ''only''.

Subsec. (g)(2). Pub. L. 97–35, § 1223(b), substituted ''primarily'' for ''only'', and provisions relating to interference of uses of facilities for provisions relating to good cause for release of applicant or owner from requirements.

1978—Pub. L. 95–567 completely revised and restructured existing provisions, inserting provisions requiring applicant to submit a 5 year plan, allowing nonprofit educational or cultural groups to apply for grants, authorizing the Secretary to make grants up to 75 percent of the cost, establishing rules and regulations for approving grants and administering grants made before, on or after Nov. 2, 1978, and striking out provisions for an 8½ percent limit on grants and criteria for awarding grants.

1976—Subsec. (a)(1)(C). Pub. L. 94–309, § 4(a), substituted ''a public or private nonprofit college or university or other educational or cultural institution which is affiliated with an eligible college or university'' for ''a college or university deriving its support in whole or in part from tax revenues''.

Subsec. (d). Pub. L. 94–309, § 4(b), substituted separate provisions relating to grant criteria for television and for radio in place of single provision that Secretary shall base his determinations of whether to approve applications for grants and the amount of grants on criteria set forth in regulations and designed to achieve, with respect to noncommercial educational television channels, prompt and effective use of all such channels remaining available and, with respect to noncommercial educational television and radio broadcasting facilities, equitable geographical distribution of such facilities throughout the States and provision of such facilities which will serve the greatest number of persons in as many areas as possible and which are adaptable to the broadest educational uses.

1967—Subsec. (a). Pub. L. 90–129, § 103(b)(1), inserted ''noncommercial'' and ''or radio'' in introductory text.

Subsec. (a)(1)(B). Pub. L. 90–129, § 103(b)(2), required the State educational television agency applicant for a television facilities project to be a noncommercial agency and inserted requirement that applicant for a radio facilities project be a State educational radio agency.

Subsec. (a)(1)(D). Pub. L. 90–129, § 103(b)(3), designated existing provisions as cl. (i), made such cl. (i) applicable to television facilities projects and noncommercial television, and added cl. (ii) and provision for applicant meeting both television and radio broadcasting requirements.

Subsec. (a)(1)(E). Pub. L. 90–129, § 103(b)(4), added cl. (E).

Subsec. (a)(2) to (4). Pub. L. 90–129, § 103(b)(5), struck out ''television'' before ''broadcasting facilities'' wherever appearing.

Subsec. (a)(5). Pub. L. 90–129, § 103(b)(6), added par. (5).

Subsec. (b). Pub. L. 90–129, § 102, substituted limitation on grants for construction of noncommercial educational television and radio broadcasting facilities in any State to 8½ per centum of fiscal year appropriation

for former $1,000,000 limitation for construction of educational television broadcasting facilities in any State.

Subsec. (c). Pub. L. 90–129, §103(c), designated existing provisions as par. (1), restricted such provisions to noncommercial educational television broadcasting facilities, and added par. (2).

Subsec. (d). Pub. L. 90–129, §103(d), inserted in cls. (2) and (3) ''noncommercial'' and ''or noncommercial educational radio broadcasting facilities, as the case may be,'' before and after ''educational television broadcasting facilities'', respectively.

Subsec. (e). Pub. L. 90–129, §104, increased the maximum Federal share in the cost of constructing educational broadcasting facilities from 50 to 75 percent, eliminated the additional credit, formerly allowed the grantee, of 25 percent of the cost of facilities owned by the applicant on the date his application is filed, eliminated the prohibition against using not more than 15 percent of a grant for the acquisition and installation of interconnection facilities, microwave equipment, boosters, translators, and repeaters, and provided for payment of cost of the project from the sum available therefor.

Subsec. (f). Pub. L. 90–129, §103(e), inserted ''or radio'' in introductory text and, in par. (2), ''noncommercial'' and ''or noncommercial educational radio purposes, as the case may be'' before and after ''educational television purposes'', respectively.

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.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 102 of Pub. L. 90–129 provided that the amendment made by that section is effective with respect to grants made from appropriations for any fiscal year beginning after June 30, 1967.

ADMINISTRATION OF GRANTS

Section 103(b) of Pub. L. 95–567 provided that:

''(1) The provisions of section 392(g) of the Communications Act of 1934 [subsec. (g) of this section], as added by subsection (a), shall apply to any grant made under section 392 of such Act [this section] before, on, or after the date of the enactment of this Act [Nov. 2, 1978]. Any authority and responsibilities of the Secretary of Health, Education, and Welfare regarding the administration of such grants are hereby transferred to the Secretary of Commerce.

''(2) Subject to the provisions of section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], the following are hereby transferred to the Secretary of Commerce for appropriate allocation—

''(A) the personnel employed in connection with or in support of, or as an integral part of the mission of, the functions transferred to the Secretary of Commerce from the Secretary of Health, Education, and Welfare by paragraph (1); and

''(B) the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A).

Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds originally were authorized and appropriated.

''(3) The Director of the Office of Management and Budget, in consultation with the Secretary of Commerce and the Secretary of Health, Education, and Welfare, shall—

''(A) make such determinations as may be necessary with regard to the transfer of the functions transferred to the Secretary of Commerce from the Secretary of Health, Education, and Welfare by paragraph (1); and

''(B) make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, arising from, available for, or to be made available for, or in connection with, the functions described in subparagraph (A);

as the Director may deem necessary to accomplish the purposes of this Act [see Short Title of 1978 Amendment note set out under section 609 of this title] and the amendments made by this Act.''

§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.

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) of this section 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.)