

exceed the amount determined under section 1437a(a) of this title. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

(d) Flood protection standards

Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this part shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this subchapter.

(e) Participation of homeless individuals

The Secretary shall, by regulation, require each recipient or project sponsor to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy-making entity of the recipient or project sponsor, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this part. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(f) Limitation on use of funds

No assistance received under this part (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

(g) Termination of assistance

If an individual or family who receives assistance under this part (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

(Pub. L. 100-77, title IV, § 426, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4018; amended Pub. L. 111-22, div. B, title III, § 1304, May 20, 2009, 123 Stat. 1688.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(4)(D), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175. Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Act, referred to in subsec. (b)(4)(E), probably means “this Act”, Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

Executive Order No. 11988, referred to in subsec. (d), is set out as a note under section 4321 of this title.

PRIOR PROVISIONS

A prior section 11386, Pub. L. 100-77, title IV, § 426, July 22, 1987, 101 Stat. 503, related to establishment of

guidelines for purposes of a supportive housing demonstration program, prior to repeal by Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4013.

AMENDMENTS

2009—Subsecs. (a), (b). Pub. L. 111-22, § 1304(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which related to applications and selection criteria, respectively.

Subsec. (c). Pub. L. 111-22, § 1304(1)–(3), redesignated subsec. (d) as (c), substituted “recipient or project sponsor” for “recipient” in first sentence, and struck out former subsec. (c) which related to required agreements.

Subsec. (d). Pub. L. 111-22, § 1304(5), redesignated subsec. (f) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 111-22, § 1304(4)–(6), redesignated subsec. (g) as (e), substituted “recipient or project sponsor” for “recipient” in two places in first sentence, and struck out former subsec. (e). Text of subsec. (e) read as follows: “Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 11383(a) of this title with an equal amount of funds from sources other than this part.”

Subsec. (f). Pub. L. 111-22, § 1304(5), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsec. (g). Pub. L. 111-22, § 1304(8), redesignated subsec. (j) as (g). Former subsec. (g) redesignated (e).

Subsec. (h). Pub. L. 111-22, § 1304(5), redesignated subsec. (h) as (f).

Subsec. (i). Pub. L. 111-22, § 1304(7), struck out subsec. (i). Text read as follows: “No recipient may use more than 5 percent of a grant received under this part for administrative purposes.”

Subsec. (j). Pub. L. 111-22, § 1304(8), redesignated subsec. (j) as (g).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-22 effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as a note under section 11302 of this title.

DEFINITION

For provisions relating to definition of “local government” as used in this section, see section 100261 of Pub. L. 112-141, set out as a HEARTH Act Technical Corrections note under section 11360 of this title.

§ 11386a. Selection criteria

(a) In general

The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

(b) Required criteria

(1) In general

The criteria established under subsection (a) shall include—

(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 11372 of this title (except that recipients applying from geographic areas where no funds have been awarded under this part, or under parts C, D, E, or F of subchapter IV of this chapter, as in effect prior to May 20, 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers

faced by individual homeless people, and that shall include—

- (i) the length of time individuals and families remain homeless;
- (ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;
- (iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;
- (iv) overall reduction in the number of homeless individuals and families;
- (v) jobs and income growth for homeless individuals and families;
- (vi) success at reducing the number of individuals and families who become homeless;
- (vii) other accomplishments by the recipient related to reducing homelessness; and
- (viii) for collaborative applicants that have exercised the authority under section 11382(j) of this title to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in subsection (b)(1)(F);

(B) the plan of the recipient, which shall describe—

- (i) how the number of individuals and families who become homeless will be reduced in the community;
- (ii) how the length of time that individuals and families remain homeless will be reduced;
- (iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under part B of subchapter VI of this chapter (42 U.S.C. 11431 et seq.);
- (iv) the extent to which the recipient will—

- (I) address the needs of all relevant subpopulations;
- (II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 11386b(d) of this title;
- (III) set quantifiable performance measures;
- (IV) set timelines for completion of specific tasks;
- (V) identify specific funding sources for planned activities; and
- (VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

(v) whether the recipient proposes to exercise authority to use funds under section 11382(j) of this title, and if so, how the recipient will achieve the goals and outcomes identified in subsection (b)(1)(F);

(C) the methodology of the recipient used to determine the priority for funding local projects under section 11382(c)(1) of this title, including the extent to which the priority-setting process—

- (i) uses periodically collected information and analysis to determine the extent

to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

(iii) is based on objective criteria that have been publicly announced by the recipient; and

(iv) is open to proposals from entities that have not previously received funds under this part;

(D) the extent to which the amount of assistance to be provided under this part to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 11313(a)(7) of this title;

(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

(F) for collaborative applicants exercising the authority under section 11382(j) of this title to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this subchapter; or

(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

(G) such other factors as the Secretary determines to be appropriate to carry out this part in an effective and efficient manner.

(2) Additional criteria

In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

(A) Notice

The Secretary shall inform each collaborative applicant, at a time concurrent with

the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this part for the geographic area represented by the collaborative applicant.

(B) Amount

(i) Formula

Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon May 20, 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this part.

(ii) Combinations or consortia

For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

(iii) Authority of Secretary

Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this part for the geographic area.

(3) Homelessness counts

The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 11302(a) of this title.

(c) Adjustments

The Secretary may adjust the formula described in subsection (b)(2) as necessary—

(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this chapter.

(Pub. L. 100-77, title IV, § 427, as added Pub. L. 111-22, div. B, title III, § 1305(3), May 20, 2009, 123 Stat. 1690.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2), was in the original “this Act”, meaning Pub. L. 100-77, July 22, 1987, 101 Stat. 482, known as the McKinney-Vento Homeless Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

PRIOR PROVISIONS

A prior section 427 of Pub. L. 100-77 was renumbered section 432 and is classified to section 11387 of this title.

Another prior section 427 of Pub. L. 100-77, July 22, 1987, 101 Stat. 504; Pub. L. 100-628, title IV, § 453, Nov. 7, 1988, 102 Stat. 3236, which provided for reports to Congress summarizing the activities carried out under the supportive housing demonstration program, was classified to section 11387 of this title prior to repeal by Pub.

L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4013.

EFFECTIVE DATE

Section effective on the earlier of 18 months after May 20, 2009, or 3 months after publication of certain final regulations by Secretary of Housing and Urban Development, see section 1503 of Pub. L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

§ 11386b. Allocation of amounts and incentives for specific eligible activities

(a) Minimum allocation for permanent housing for homeless individuals and families with disabilities

(1) In general

From the amounts made available to carry out this part for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out part B and this part, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

(2) Calculation

In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 11386c of this title.

(3) Adjustment

The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 11386a(b)(2) of this title in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

(4) Suspension

The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this part after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this part.

(5) Termination

The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this part.

(b) Set-aside for permanent housing for homeless families with children

From the amounts made available to carry out this part for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out part B and this part for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

(c) Treatment of amounts for permanent or transitional housing

Nothing in this chapter may be construed to establish a limit on the amount of funding that