

PART A—GENERAL PROVISIONS

AMENDMENTS

2009—Pub. L. 111-22, div. B, title I, §1101(1), May 20, 2009, 123 Stat. 1669, substituted “General Provisions” for “Comprehensive Homeless Assistance Plan” in heading.

§ 11360. Definitions

For purposes of this subchapter:

(1) At risk of homelessness

The term “at risk of homelessness” means, with respect to an individual or family, that the individual or family—

(A) has income below 30 percent of median income for the geographic area;

(B) has insufficient resources immediately available to attain housing stability; and

(C)(i) has moved frequently because of economic reasons;

(ii) is living in the home of another because of economic hardship;

(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

(iv) lives in a hotel or motel;

(v) lives in severely overcrowded housing;

(vi) is exiting an institution; or

(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

(2) Chronically homeless**(A) In general**

The term “chronically homeless” means, with respect to an individual or family, that the individual or family—

(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 15002 of this title), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

(B) Rule of construction

A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

(3) Collaborative applicant

The term “collaborative applicant” means an entity that—

(A) carries out the duties specified in section 11360a of this title;

(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under part C in accordance with a collaborative process; and

(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

(4) Collaborative application

The term “collaborative application” means an application for a grant under part C that—

(A) satisfies section 11382 of this title; and

(B) is submitted to the Secretary by a collaborative applicant.

(5) Consolidated Plan

The term “Consolidated Plan” means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

(6) Eligible entity

The term “eligible entity” means, with respect to a part, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such part.

(7) Families with children and youth defined as homeless under other Federal statutes

The term “families with children and youth defined as homeless under other Federal statutes” means any children or youth that are defined as “homeless” under any Federal statute other than this part, but are not defined as homeless under section 11302 of this title, and shall also include the parent, parents, or guardian of such children or youth under part B of subchapter VI this¹ chapter (42 U.S.C. 11431 et seq.).

(8) Geographic area

The term “geographic area” means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 5306 of this title.

(9) Homeless individual with a disability**(A) In general**

The term “homeless individual with a disability” means an individual who is homeless, as defined in section 11302 of this title, and has a disability that—

(i)(I) is expected to be long-continuing or of indefinite duration;

(II) substantially impedes the individual’s ability to live independently;

(III) could be improved by the provision of more suitable housing conditions; and

(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

¹ So in original. Probably should be “of this”.

(ii) is a developmental disability, as defined in section 15002 of this title; or

(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

(B) Rule

Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

(10) Legal entity

The term “legal entity” means—

(A) an entity described in section 501(c)(3) of title 26 and exempt from tax under section 501(a) of such title;

(B) an instrumentality of State or local government; or

(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

(11) Metropolitan city; urban county; non-entitlement area

The terms “metropolitan city”, “urban county”, and “nonentitlement area” have the meanings given such terms in section 5302(a) of this title.

(12) New

The term “new” means, with respect to housing, that no assistance has been provided under this subchapter for the housing.

(13) Operating costs

The term “operating costs” means expenses incurred by a project sponsor operating transitional housing or permanent housing under this subchapter with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; or

(C) coordination of services as needed to ensure long-term housing stability.

(14) Outpatient health services

The term “outpatient health services” means outpatient health care services, mental health services, and outpatient substance abuse services.

(15) Permanent housing

The term “permanent housing” means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

(16) Personally identifying information

The term “personally identifying information” means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

(A) a first and last name;

(B) a home or other physical address;

(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

(D) a social security number; and

(E) any other information, including date of birth, racial or ethnic background, or reli-

gious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

(17) Private nonprofit organization

The term “private nonprofit organization” means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(18) Project

The term “project” means, with respect to activities carried out under part C, eligible activities described in section 11383(a) of this title, undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

(19) Project-based

The term “project-based” means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

(A) is between—

(i) the recipient or a project sponsor; and

(ii) an owner of a structure that exists as of the date the contract is entered into; and

(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

(20) Project sponsor

The term “project sponsor” means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

(21) Recipient

Except as used in part B, the term “recipient” means an eligible entity who—

(A) submits an application for a grant under section 11382 of this title that is approved by the Secretary;

(B) receives the grant directly from the Secretary to support approved projects described in the application; and

(C)(i) serves as a project sponsor for the projects; or

(ii) awards the funds to project sponsors to carry out the projects.

(22) Secretary

The term “Secretary” means the Secretary of Housing and Urban Development.

(23) Serious mental illness

The term “serious mental illness” means a severe and persistent mental illness or emotional impairment that seriously limits a person’s ability to live independently.

(24) Solo applicant

The term “solo applicant” means an entity that is an eligible entity, directly submits an

application for a grant under part C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

(25) Sponsor-based

The term “sponsor-based” means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

- (A) is between—
 - (i) the recipient or a project sponsor; and
 - (ii) an independent entity that—
 - (I) is a private organization; and
 - (II) owns or leases dwelling units; and
- (B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

(26) State

Except as used in part B, the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(27) Supportive services

The term “supportive services” means services that address the special needs of people served by a project, including—

- (A) the establishment and operation of a child care services program for families experiencing homelessness;
- (B) the establishment and operation of an employment assistance program, including providing job training;
- (C) the provision of outpatient health services, food, and case management;
- (D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;
- (E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;
- (F) the provision of mental health services, trauma counseling, and victim services;
- (G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);
- (H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual’s ability to obtain and retain housing;
- (I) the provision of—
 - (i) transportation services that facilitate an individual’s ability to obtain and maintain employment; and
 - (ii) health care; and
- (J) other supportive services necessary to obtain and maintain housing.

(28) Tenant-based

The term “tenant-based” means, with respect to rental assistance, assistance that—

(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under part C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

- (i) in a particular structure or unit for not more than the first year of the participation;
- (ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

(29) Transitional housing

The term “transitional housing” means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

(30) Unified funding agency

The term “unified funding agency” means a collaborative applicant that performs the duties described in section 11360a(g) of this title.

(31) Underserved populations

The term “underserved populations” includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

(32) Victim service provider

The term “victim service provider” means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women’s shelters, domestic violence transitional housing programs, and other programs.

(33) Victim services

The term “victim services” means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.

(Pub. L. 100-77, title IV, §401, as added Pub. L. 111-22, div. B, title I, §1101(3), May 20, 2009, 123 Stat. 1669.)

PRIOR PROVISIONS

A prior section 401 of Pub. L. 100-77 was renumbered section 403 and is classified to section 11361 of this title.

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.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

HEARTH ACT TECHNICAL CORRECTIONS

Pub. L. 112-141, div. F, title II, §100261, July 6, 2012, 126 Stat. 978, provided that: “For purposes of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.)—

“(1) the term ‘local government’ includes an instrumentality of a unit of general purpose local government other than a public housing agency that is established pursuant to legislation and designated by the chief executive to act on behalf of the local government with regard to activities funded under such title IV and includes a combination of general purpose local governments, such as an association of governments, that is recognized by the Secretary of Housing and Urban Development;

“(2) the term ‘State’ includes any instrumentality of any of the several States designated by the Governor to act on behalf of the State and does not include the District of Columbia;

“(3) for purposes of environmental review, the Secretary of Housing and Urban Development shall continue to permit assistance and projects to be treated as assistance for special projects that are subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547), and subject to the regulations issued by the Secretary of Housing and Urban Development to implement such section; and

“(4) a metropolitan city and an urban county that each receive an allocation under such title IV and are located within a geographic area that is covered by a single continuum of care may jointly request the Secretary of Housing and Urban Development to permit the urban county or the metropolitan city, as agreed to by such county and city, to receive and administer their combined allocations under a single grant.”

DEFINITIONS

For provisions relating to definitions of “State” and “local government” as used in this section, see section 100261 of Pub. L. 112-141, set out as a HEARTH Act Technical Corrections note above.

§ 11360a. Collaborative applicants**(a) Establishment and designation**

A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

- (1) submit an application for amounts under this part; and
- (2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

(b) No requirement to be a legal entity

An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

(c) Remedial action

If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under part C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

(d) Construction

Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under parts B and C.

(e) Appointment of agent**(1) In general**

Subject to paragraph (2), a collaborative applicant may designate an agent to—

- (A) apply for a grant under section 11382(c) of this title;
- (B) receive and distribute grant funds awarded under part C; and
- (C) perform other administrative duties.

(2) Retention of duties

Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this subchapter.

(f) Duties

A collaborative applicant shall—

(1) design a collaborative process for the development of an application under part C, and for evaluating the outcomes of projects for which funds are awarded under part B, in such a manner as to provide information necessary for the Secretary—

- (A) to determine compliance with—
 - (i) the program requirements under section 11386 of this title; and
 - (ii) the selection criteria described under section 11386a of this title; and
- (B) to establish priorities for funding projects in the geographic area involved;

(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as “HMIS”) that—

- (A) collects unduplicated counts of individuals and families experiencing homelessness;
- (B) analyzes patterns of use of assistance provided under parts B and C for the geographic area involved;
- (C) provides information to project sponsors and applicants for needs analyses and funding priorities; and
- (D) is developed in accordance with standards established by the Secretary, including standards that provide for—

- (i) encryption of data collected for purposes of HMIS;