

health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

**(d) Provision of services**

Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

**(e) Coordination with Secretary of Health and Human Services**

**(1) Approval**

Promptly upon receipt of any application for assistance under this part that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

**(2) Guidelines**

The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this part for the final selection of applications for assistance.

(Pub. L. 100-77, title IV, § 425, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4017.)

**PRIOR PROVISIONS**

A prior section 11385, Pub. L. 100-77, title IV, § 425, July 22, 1987, 101 Stat. 503; Pub. L. 100-628, title IV, § 452, Nov. 7, 1988, 102 Stat. 3235; Pub. L. 101-625, title VIII, § 833(k)(3), Nov. 28, 1990, 104 Stat. 4365, required recipients of assistance under supportive housing demonstration program to obtain an equal amount of funding from non-Federal sources, prior to repeal by Pub. L. 102-550, § 1403(a).

**§ 11386. Program requirements**

**(a) Site control**

The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 11383(a)(3) of this title or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this part.

**(b) Required agreements**

The Secretary may not provide assistance for a proposed project under this part unless the collaborative applicant involved agrees—

(1) to ensure the operation of the project in accordance with the provisions of this part;

(2) to monitor and report to the Secretary the progress of the project;

(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

(4) to require certification from all project sponsors that—

(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

(B) that<sup>1</sup> the address or location of any family violence shelter project assisted under this part will not be made public, except with written authorization of the person responsible for the operation of such project;

(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, part B of subchapter VI [42 U.S.C. 11431 et seq.], and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.], and programs authorized under part B of subchapter VI of this chapter (42 U.S.C. 11431 et seq.); and

<sup>1</sup> So in original. The word “that” probably should not appear.

(E) they will provide data and reports as required by the Secretary pursuant to the Act;<sup>2</sup>

(5) if a collaborative applicant is a unified funding agency under section 11360a(g) of this title and receives funds under this part to carry out the payment of administrative costs described in section 11383(a)(11) of this title, to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

(6) to monitor and report to the Secretary the provision of matching funds as required by section 11386d of this title;

(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

(8) to comply with such other terms and conditions as the Secretary may establish to carry out this part in an effective and efficient manner.

#### (c) Occupancy charge

Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient or project sponsor providing the project, which may not 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 policymaking 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 supple-

ment 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).

<sup>2</sup> See References in Text note below.

## 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