

(4) Use of recaptured funds

Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subchapter, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(h) Third party rights

The requirements under this subchapter regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(i) Dollar limitation on economic development activities

Not more than an aggregate of \$250,000 from amounts made available under sections 1437aaa-1 and 1437aaa-2 of this title may be used for economic development activities under sections 1437aaa-1(b)(6)¹ and 1437aaa-2(b)(9)¹ of this title for any project.

(j) Timely homeownership

Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(k) Capability of resident management corporations and resident councils

To be eligible to receive a grant under section 1437aaa-2 of this title, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage

public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

(I) Records and audit of recipients of assistance**(1) In general**

Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subchapter (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) Access by the Secretary

The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subchapter.

(3) Access by the Comptroller General

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

(Sept. 1, 1937, ch. 896, title III, §305, as added Pub. L. 101-625, title IV, §411, Nov. 28, 1990, 104 Stat. 4155; amended Pub. L. 105-276, title V, §519(c)(2), Oct. 21, 1998, 112 Stat. 2561.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (g)(4), was in the original "this subtitle", and was translated as reading "this title", meaning title III of act Sept. 1, 1937, ch. 896, as added by Pub. L. 101-625, to reflect the probable intent of Congress, because title III of act Sept. 1, 1937, does not contain subtitles.

Section 1437aaa-1(b)(6) of this title, referred to in subsec. (i), was redesignated section 1437aaa-1(b)(7) of this title by Pub. L. 102-550, title X, §1012(h)(1)(A), Oct. 28, 1992, 106 Stat. 3906.

Section 1437aaa-2(b)(9) of this title, referred to in subsec. (i), was redesignated section 1437aaa-2(b)(10) of this title by Pub. L. 102-550, title X, §1012(h)(2)(A), Oct. 28, 1992, 106 Stat. 3906.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105-276 substituted "Amounts from an allocation from the Operating Fund" for "Operating subsidies".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

§ 1437aaa-5. Definitions

For purposes of this subchapter:

(1) The term "applicant" means the following entities that may represent the tenants of the project:

¹ See References in Text note below.

- (A) A public housing agency.
- (B) A resident management corporation, established in accordance with requirements of the Secretary under section 1437r of this title.
- (C) A resident council.
- (D) A cooperative association.
- (E) A public or private nonprofit organization.
- (F) A public body, including an agency or instrumentality thereof.

(2) The term “eligible family” means—

(A) a family or individual who is a tenant in the public housing project on the date the Secretary approves an implementation grant;

(B) a low-income family; or

(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

(3) The term “homeownership program” means a program for homeownership meeting the requirements under this subchapter.

(4) The term “recipient” means an applicant approved to receive a grant under this subchapter or such other entity specified in the approved application that will assume the obligations of the recipient under this subchapter.

(5) The term “resident council” means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(Sept. 1, 1937, ch. 896, title III, §306, as added Pub. L. 101-625, title IV, §411, Nov. 28, 1990, 104 Stat. 4158; amended Pub. L. 104-330, title V, §501(c)(2), Oct. 26, 1996, 110 Stat. 4042.)

AMENDMENTS

1996—Par. (1)(A). Pub. L. 104-330, §501(c)(2)(A), struck out “(including an Indian housing authority)” after “agency”.

Par. (2)(A). Pub. L. 104-330, §501(c)(2)(B), struck out “or Indian” after “public”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§ 1437aaa-6. Relationship to other homeownership opportunities

The program authorized under this subchapter shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 1437c(h)¹ of this title.

¹ See References in Text note below.

(Sept. 1, 1937, ch. 896, title III, §307, as added Pub. L. 101-625, title IV, §411, Nov. 28, 1990, 104 Stat. 4159; amended Pub. L. 104-330, title V, §501(c)(3), Oct. 26, 1996, 110 Stat. 4042; Pub. L. 105-276, title V, §518(a)(2)(C), Oct. 21, 1998, 112 Stat. 2551.)

REFERENCES IN TEXT

Section 1437c(h) of this title, referred to in text, was repealed and a new section 1437c(h), relating to audits, was added by Pub. L. 105-276, title V, §518(a)(1)(A), 566, Oct. 21, 1998, 112 Stat. 2551, 2632. See 1998 Amendment note below.

AMENDMENTS

1998—Pub. L. 105-276, which directed amendment of text by striking out “section 5(h) and” in original (a reference to section 1437c(h) of this title), could not be executed because the word “and” does not appear.

1996—Pub. L. 104-330 struck out “and subchapter II of this chapter” after “section 1437c(h) of this title”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-330 effective Oct. 1, 1997, except as otherwise expressly provided, see section 107 of Pub. L. 104-330, set out as an Effective Date note under section 4101 of Title 25, Indians.

§ 1437aaa-7. Limitation on selection criteria

In establishing criteria for selecting applicants to receive assistance under this subchapter, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

(Sept. 1, 1937, ch. 896, title III, §308, as added Pub. L. 101-625, title IV, §411, Nov. 28, 1990, 104 Stat. 4159.)

§ 1437aaa-8. Annual report

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type, and cost of public housing units sold pursuant to this subchapter;

(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this subchapter;

(3) the amount and type of financial assistance provided under and in conjunction with this subchapter;

(4) the amount of financial assistance provided under this subchapter that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

(Sept. 1, 1937, ch. 896, title III, §309, as added Pub. L. 101-625, title IV, §411, Nov. 28, 1990, 104 Stat. 4159.)