

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 101-625, title VIII, §851, Nov. 28, 1990, 104 Stat. 4375, provided that: "This subtitle [subtitle D (§§851-863) of title VIII of Pub. L. 101-625, enacting this chapter] may be cited as the 'AIDS Housing Opportunity Act'."

REGULATIONS

Pub. L. 102-550, title VI, §606(k), Oct. 28, 1992, 106 Stat. 3811, provided that:

"(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12901 et seq.] (as amended by this section). Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such subtitle (as amended), which shall take effect upon publication.

"(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section) after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance."

§ 12902. Definitions

For purposes of this chapter:

(1) The term "acquired immunodeficiency syndrome and related diseases" or "AIDS" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "applicant" means a State, a unit of general local government, or a nonprofit organization eligible to receive assistance under this chapter.

(3) The term "low-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "grantee" means a State or unit of general local government receiving grants from the Secretary under this chapter.

(5) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term "locality" means the geographical area within the jurisdiction of a local government.

(7) The term "recipient" means a grantee or other applicant receiving funds under this chapter.¹

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "State" means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this chapter.

(10) The term "unit of general local government" has the same meaning as in section 12704 of this title.

(11) The term "city" has the meaning given the term in section 5302(a) of this title.

(12) The term "eligible person" means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

(13) The term "nonprofit organization" means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

(14) The term "project sponsor" means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this chapter.

(15) The term "HIV" means infection with the human immunodeficiency virus.

(16) The term "individuals living with HIV or AIDS" means, with respect to the counting of cases in a geographic area during a period of time, the sum of—

(A) the number of living non-AIDS cases of HIV in the area; and

(B) the number of living cases of AIDS in the area.

(Pub. L. 101-625, title VIII, §853, Nov. 28, 1990, 104 Stat. 4375; Pub. L. 102-550, title VI, §606(c), Oct. 28, 1992, 106 Stat. 3807; Pub. L. 114-201, title VII, §701(b), July 29, 2016, 130 Stat. 814.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in par. (7), was in the original "this title", and was translated as reading "this subtitle", meaning subtitle D (§§851-863) of title VIII of Pub. L. 101-625, to reflect the probable intent of Congress.

AMENDMENTS

2016—Par. (1). Pub. L. 114-201, §701(b)(1), inserted "or 'AIDS'" before "means".

¹ See References in Text note below.

Pars. (15), (16). Pub. L. 114–201, §701(b)(2), added pars. (15) and (16).

1992—Par. (2). Pub. L. 102–550, §606(c)(1), substituted “organization eligible to receive assistance under this chapter” for “sponsor receiving assistance from a grantee”.

Par. (5). Pub. L. 102–550, §606(c)(2), substituted “term ‘metropolitan statistical area’ means” for “term ‘metropolitan area’ means”.

Pars. (11) to (14). Pub. L. 102–550, §606(c)(3), added pars. (11) to (14).

§ 12903. General authority

(a) Grants authorized

The Secretary shall, to the extent of amounts approved in appropriations Acts under section 12912 of this title, make grants to States, units of general local government, and nonprofit organizations.

(b) Implementation of eligible activities

A grantee shall carry out eligible activities under section 12904 of this title through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.

(c) Allocation of resources

(1) Allocation of resources

(A) Allocation formula

The Secretary shall allocate 90 percent of the amount approved in appropriations Acts under section 12912 of this title among States and metropolitan statistical areas as follows:

(I)¹ 75 percent of such amounts among—

(I) cities that are the most populous unit of general local government in a metropolitan statistical area with a population greater than 500,000, as determined on the basis of the most recent census, and with more than 2,000 individuals living with HIV or AIDS, using the data specified in subparagraph (B); and

(II) States with more than 2,000 individuals living with HIV or AIDS outside of metropolitan statistical areas.

(ii) 25 percent of such amounts among States and metropolitan statistical areas based on the method described in subparagraph (C).

(B) Source of data

For purposes of allocating amounts under this paragraph for any fiscal year, the number of individuals living with HIV or AIDS shall be the number of such individuals as confirmed by the Director of the Centers for Disease Control and Prevention, as of December 31 of the most recent calendar year for which such data is available.

(C) Allocation under subparagraph (A)(ii)

For purposes of allocating amounts under subparagraph (A)(ii), the Secretary shall develop a method that accounts for—

(I)¹ differences in housing costs among States and metropolitan statistical areas

based on the fair market rental established pursuant to section 1437f(c) of this title or another methodology established by the Secretary through regulation; and

(ii) differences in poverty rates among States and metropolitan statistical areas based on area poverty indexes or another methodology established by the Secretary through regulation.

(2) Maintaining grants

(A) Continued eligibility of fiscal year 2016 grantees

A grantee that received an allocation in fiscal year 2016 shall continue to be eligible for allocations under paragraph (1) in subsequent fiscal years, subject to—

(i) the amounts available from appropriations Acts under section 12912 of this title;

(ii) approval by the Secretary of the most recent comprehensive housing affordability strategy for the grantee approved under section 12705 of this title;² and

(iii) the requirements of subparagraph (C).

(B) Adjustments

Allocations to grantees described in subparagraph (A) shall be adjusted annually based on the administrative provisions included in fiscal year 2016 appropriations Acts.

(C) Redetermination of continued eligibility

The Secretary shall redetermine the continued eligibility of a grantee that received an allocation in fiscal year 2016 at least once during the 10-year period following fiscal year 2016.

(D) Adjustment to grants

For each of fiscal years 2017, 2018, 2019, 2020, and 2021, with respect to a grantee that received an allocation in the prior fiscal year, the Secretary shall ensure that the grantee’s share of total formula funds available for allocation does not decrease more than 5 percent nor gain more than 10 percent of the share of the total available formula funds that the grantee received in the preceding fiscal year.

(3) Alternative grantees

(A) Requirements

The Secretary may award funds reserved for a grantee eligible under paragraph (1) to an alternative grantee if—

(I)¹ the grantee submits to the Secretary a written agreement between the grantee and the alternative grantee that describes how the alternative grantee will take actions consistent with the applicable comprehensive housing affordability strategy approved under section 12705 of this title;²

(ii) the Secretary approves the written agreement described in clause (I) and agrees to award funds to the alternative grantee; and

(iii) the written agreement does not exceed a term of 10 years.

¹ So in original. Probably should be “(i)”.

² See References in Text note below.