

mines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

(j) Flexibility to serve persons defined as homeless under other Federal laws

(1) In general

A collaborative applicant may use not more than 10 percent of funds awarded under this part (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 11383(a) of this title to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 11302(a)(6) of this title, but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 11386a(b)(1)(B) of this title, especially with respect to children and unaccompanied youth.

(2) Limitations

The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

(3) Treatment of certain populations

(A) In general

Notwithstanding section 11302(a) of this title and subject to subparagraph (B), funds awarded under this part may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 11302(a)(6) of this title only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this part.

(B) At risk of homelessness

Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 11302(a)(6) of this title from qualifying for, and being treated for purposes of this part as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this part for which individuals or families that are at risk of homelessness are eligible.

(Pub. L. 100-77, title IV, § 422, as added Pub. L. 111-22, div. B, title III, § 1301(2), May 20, 2009, 123 Stat. 1681.)

Editorial Notes

REFERENCES IN TEXT

The effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, referred to in subsec. (c)(2)(B), is the effective date under section 1503 of title V of div. B of Pub.

L. 111-22, set out as an Effective Date of 2009 Amendment note under section 11302 of this title.

PRIOR PROVISIONS

A prior section 11382, Pub. L. 100-77, title IV, § 422, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4014; amended Pub. L. 104-330, title V, § 506(a)(7), Oct. 26, 1996, 110 Stat. 4044; Pub. L. 106-402, title IV, § 401(b)(14), Oct. 30, 2000, 114 Stat. 1740, which defined terms for purposes of this part, was repealed by Pub. L. 111-22, div. B, title III, § 1301(2), May 20, 2009, 123 Stat. 1680.

Another prior section 11382, Pub. L. 100-77, title IV, § 422, July 22, 1987, 101 Stat. 499; Pub. L. 100-242, title V, § 570(i)(1), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 100-628, title IV, §§ 441(a), 442(a), (b)(1), 443, 444, Nov. 7, 1988, 102 Stat. 3232, 3233; Pub. L. 101-625, title VIII, § 833(b), (k)(1), Nov. 28, 1990, 104 Stat. 4362, 4364, which defined terms for purposes of the supportive housing demonstration program, was repealed by Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4013.

Statutory Notes and Related Subsidiaries

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.

HOMELESS ASSISTANCE GRANTS

Pub. L. 116-260, div. Q, title I, § 104, Dec. 27, 2020, 134 Stat. 2170, provided that:

“(a) RENEWAL OF CONTINUUM OF CARE PROJECTS.—In allocating and awarding amounts provided for the Continuum of Care program under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.), the Secretary of Housing and Urban Development shall renew for one 12-month period, without additional competition, all projects with existing grants expiring during calendar year 2021, including youth homelessness demonstration projects and shelter plus care projects expiring during calendar year 2021, notwithstanding any inconsistent provisions in subtitle C of title IV of the McKinney-Vento Homeless Assistance Act or any other Act.

“(b) PLANNING AND UNIFIED FUNDING AGENCY AWARDS.—Continuum of Care planning and Unified Funding Agency awards expiring in calendar year 2021 may also be renewed and the Continuum of Care may designate a new collaborative applicant to receive the award in accordance with the existing process established by the Secretary of Housing and Urban Development.

“(c) NOTICE.—The Secretary of Housing and Urban Development shall publish a notice that identifies and lists all projects and awards eligible for such non-competitive renewal, prescribes the format and process by which the projects and awards from the list will be renewed, makes adjustments to the renewal amount based on changes to the fair market rent, and establishes a maximum amount for the renewal of planning and Unified Funding Agency awards notwithstanding the requirement that such maximum amount be established in a notice of funding availability.”

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.

§ 11383. Eligible activities

(a) In general

Grants awarded under section 11382 of this title to qualified applicants shall be used to

carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

(1) Construction of new housing units to provide transitional or permanent housing.

(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this chapter, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 11386c of this title. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

(5) Payment of operating costs for housing units assisted under this part or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

(A) are effective at moving homeless individuals and families immediately into housing; or

(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 11360a(f)(3) of this title.

(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section

11360a(f) of this title, for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this part for such costs.

(11) In the case of a collaborative applicant that is a unified funding agency under section 11360a(g) of this title, payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this part for such costs, in addition to funds used under paragraph (10).

(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this part for such costs.

(13)¹ Facilitating and coordinating activities to ensure compliance with subsection (e) of section 12491 of title 34 and monitoring compliance with the confidentiality protections of subsection (c)(4) of such section.

(13)¹ Projects in rural areas that consist of one or more of the following activities:

(A) Payment of short-term emergency lodging, including in motels or shelters, directly or through vouchers.

(B) Repairs to units—

(i) in which homeless individuals and families will be housed; or

(ii) which are currently not fit for human habitation.

(C) Staff training, professional development, skill development, and staff retention activities.

(b) Minimum grant terms

The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

(c) Use restrictions

(1) Acquisition, rehabilitation, and new construction

A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for not less than 15 years.

(2) Other activities

A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 11382 of this title for the duration of the grant period involved.

(3) Conversion

If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may ap-

¹ So in original. Two pars. (13) have been enacted.

prove the project described in the request and authorize the recipient or project sponsor to carry out that project.

(d) Repayment of assistance and prevention of undue benefits

(1) Repayment

If a recipient or project sponsor receives assistance under section 11382 of this title to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

(2) Prevention of undue benefits

Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

(3) Exception

A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this part;

(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of title 26; or

(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

(e) Staff training

The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

(f) Eligibility for permanent housing

Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 11386b of this title may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

(g) Administration of rental assistance

Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, private nonprofit organization, or public housing agency.

(Pub. L. 100-77, title IV, § 423, as added Pub. L. 111-22, div. B, title III, § 1302, May 20, 2009, 123 Stat. 1684; amended Pub. L. 114-94, div. G, title LXXIX, § 79001, Dec. 4, 2015, 129 Stat. 1792; Pub. L. 117-103, div. W, title VI, § 605(a)(2), Mar. 15, 2022, 136 Stat. 886; Pub. L. 117-263, div. E, title LVII, § 5707, Dec. 23, 2022, 136 Stat. 3419.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), 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, 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.

PRIOR PROVISIONS

A prior section 11383, Pub. L. 100-77, title IV, § 423, as added Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4015; amended Pub. L. 106-377, § 1(a)(1) [title II, § 226], Oct. 27, 2000, 114 Stat. 1441, 1441A-30; Pub. L. 109-162, title VI, § 605(1), Jan. 5, 2006, 119 Stat. 3041; Pub. L. 109-271, § 5(b), Aug. 12, 2006, 120 Stat. 759, which related to eligible activities, was repealed by Pub. L. 111-22, div. B, title III, § 1302, May 20, 2009, 123 Stat. 1684.

Another prior section 11383, Pub. L. 100-77, title IV, § 423, July 22, 1987, 101 Stat. 501; Pub. L. 100-628, title IV, §§ 441(b), (c), 445(a), 446-448(a), 449, Nov. 7, 1988, 102 Stat. 3233, 3234; Pub. L. 101-625, title VIII, § 833(c)-(e), (g), Nov. 28, 1990, 104 Stat. 4362, 4363, which outlined types of assistance provided under the supportive housing demonstration program, was repealed by Pub. L. 102-550, title XIV, § 1403(a), Oct. 28, 1992, 106 Stat. 4013.

AMENDMENTS

2022—Subsec. (a)(13). Pub. L. 117-263 added par. (13) relating to the eligibility of certain projects in rural areas.

Pub. L. 117-103 added par. (13) relating to facilitating and coordinating activities to ensure compliance with section 12491(e) of title 34.

2015—Subsec. (g). Pub. L. 114-94 inserted “private nonprofit organization,” after “unit of general local government,”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-103 not effective until Oct. 1 of the first fiscal year beginning after Mar. 15, 2022, see section 4(a) of div. W of Pub. L. 117-103, set out as an Effective Date note under section 6851 of Title 15, Commerce and Trade.

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.

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.

§ 11384. Incentives for high-performing communities

(a) Designation as a high-performing community

(1) In general

The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

(2) Consideration

In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

(3) 2-year phase in

In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

(4) Excess of qualified applicants

If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

(5) Time limit on designation

The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

(b) Application

(1) In general

A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

(2) Content of application

In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

- (A) a report showing how any money received under this part in the preceding year was expended; and

- (B) information that such applicant can meet the requirements described under subsection (d).

(3) Publication of application

The Secretary shall—

- (A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

- (B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

(c) Use of funds

Funds awarded under section 11382(a) of this title to a project sponsor who is located in a high-performing community may be used—

- (1) for any of the eligible activities described in section 11383 of this title; or
- (2) for any of the eligible activities described in paragraphs (4) and (5) of section 11374(a) of this title.

(d) Definition of high-performing community

For purposes of this section, the term “high-performing community” means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

(1) Term of homelessness

The mean length of episodes of homelessness for that geographic area—

- (A) is less than 20 days; or
- (B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

(2) Families leaving homelessness

Of individuals and families—

- (A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or
- (B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

(3) Community action

The communities that compose the geographic area have—

- (A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and
- (B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

(4) Effectiveness of previous activities

If recipients in the geographic area have used funding awarded under section 11382(a) of this title for eligible activities described under section 11374(a) of this title in previous years based on the authority granted under sub-