

(7) The term “recipient” means a grantee or other applicant receiving funds under this chapter.<sup>1</sup>

(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”.

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)<sup>1</sup> 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)<sup>1</sup> differences in housing costs among States and metropolitan statistical areas

<sup>1</sup> See References in Text note below.

<sup>1</sup> So in original. Probably should be “(i)”.

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;<sup>2</sup> 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)<sup>1</sup> 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;<sup>2</sup>

(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.

### **(B) Renewal**

An agreement approved pursuant to subparagraph (A) may be renewed by the parties with the approval of the Secretary.

### **(C) Definition**

In this paragraph, the term “alternative grantee” means a public housing agency (as defined in section 1437a(b) of this title), a unified funding agency (as defined in section 11360 of this title), a State, a unit of general local government, or an instrumentality of State or local government.

## **(4) Reallocations**

If a State or metropolitan statistical area declines an allocation under paragraph (1)(A), or the Secretary determines, in accordance with criteria specified in regulation, that a State or metropolitan statistical area that is eligible for an allocation under paragraph (1)(A) is unable to properly administer such allocation, the Secretary shall reallocate any funds reserved for such State or metropolitan statistical area as follows:

(A) For funds reserved for a State—

(I)<sup>1</sup> to eligible metropolitan statistical areas within the State on a pro rata basis; or

(ii) if there is no eligible metropolitan statistical areas within a State, to metropolitan cities and urban counties within the State that are eligible for grant under section 5306 of this title, on a pro rata basis.

(B) For funds reserved for a metropolitan statistical area, to the State in which the metropolitan statistical area is located.

(C) If the Secretary is unable to make a reallocation under subparagraph (A) or (B), the Secretary shall make such funds available on a pro rata basis under the formula in paragraph (1)(A).

## **(5) Nonformula allocation**

### **(A) In general**

The Secretary shall allocate 10 percent of the amounts appropriated under section 12912 of this title among—

(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.

### **(B) Selection**

In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of eligible persons in the community; (iii) extent of local planning and coordination of housing programs for eligible persons; and (iv) the likelihood of the continuation of State and local efforts.

### **(C) National significance projects**

For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to

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

assess the effectiveness of a particular model for providing supportive housing for eligible persons; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

**(d) Applications**

Funds made available under this section shall be allocated among applications submitted by applicants and approved by the Secretary. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

- (1) a description of the proposed activities;
- (2) a description of the size and characteristics of the population that would be served by the proposed activities;
- (3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;
- (4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this chapter;
- (5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and
- (6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

**(e) Additional requirement for metropolitan areas**

In addition to the other requirements of this section, to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization.

**(f) Additional requirement for city formula grantees**

In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.

(Pub. L. 101-625, title VIII, § 854, Nov. 28, 1990, 104 Stat. 4376; Pub. L. 102-550, title VI, § 606(d), (j)(2), Oct. 28, 1992, 106 Stat. 3807, 3810; Pub. L. 114-201, title VII, § 701(a), July 29, 2016, 130 Stat. 812; Pub. L. 115-31, div. K, title II, § 203, May 5, 2017, 131 Stat. 779.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 12705 of this title, referred to in subsec. (c)(2)(A)(ii), (3)(A)(I), was in the original “section 105” or “section 105 of this Act”, meaning section 105 of the AIDS Housing Opportunity Act, and was translated as meaning section 105 of the Cranston-Gonzalez National Affordable Housing Act, to reflect the probable intent of Congress. The AIDS Housing Opportunity Act does not contain a section 105.

**AMENDMENTS**

2017—Subsec. (c)(2)(A)(i). Pub. L. 115-31, § 203(1), redesignated subcl. (I) as cl. (i).

Subsec. (c)(2)(D). Pub. L. 115-31, § 203(2), amended subpar. (D) generally. Prior to amendment, text read as follows: “For each of fiscal years 2017, 2018, 2019, 2020, and 2021, the Secretary shall ensure that a grantee that received an allocation in the prior fiscal year does not receive an allocation that is 5 percent less than or 10 percent greater than the amount allocated to such grantee in the preceding fiscal year.”

2016—Subsec. (c). Pub. L. 114-201 added pars. (1) to (4), redesignated former par. (3) as (5), and struck out former pars. (1) and (2) which related to formula allocation and minimum grant, respectively.

1992—Subsec. (a). Pub. L. 102-550, § 606(d)(1), substituted “, units of general local government, and non-profit organizations” for “and units of general local government”.

Subsec. (b). Pub. L. 102-550, § 606(d)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: “**ELIGIBILITY.**—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 12705 of this title. A grantee shall carry out activities authorized under this chapter through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.”

Subsec. (c)(1). Pub. L. 102-550, § 606(d)(3), added par. (1) and struck out former par. (1) which read as follows: “**IN GENERAL.**—90 percent of the amounts approved in appropriations Acts under section 12912 of this title shall be allocated among eligible grantees on the basis of the incidence of acquired immunodeficiency syndrome. Of the amounts made available under the previous sentence, the Secretary shall allocate—

“(A) 75 percent among units of general local government located in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome and States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in subparagraph (A), and

“(B) 25 percent among units of general local government in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, that have a higher than average per capita incidence of acquired immunodeficiency syndrome.”

Subsec. (c)(3). Pub. L. 102-550, § 606(d)(4)(A), substituted “Nonformula allocation” for “Noneligible grantees” in heading.

Subsec. (c)(3)(A). Pub. L. 102-550, § 606(d)(4)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: “**IN GENERAL.**—10 percent of the amounts appropriated under section 12912 of this title shall be distributed to grantees and recipients by the Secretary—

“(i) to meet housing needs in States and localities that do not qualify under paragraph (1), or that do qualify under paragraph (1) but do not have an approved housing strategy under section 12705 of this title, and

“(ii) to fund special projects of national significance.”

Subsec. (c)(3)(B), (C). Pub. L. 102-550, § 606(j)(2), substituted “eligible persons” for “persons with acquired immunodeficiency syndrome” wherever appearing.

Subsec. (d). Pub. L. 102-550, § 606(d)(5), substituted “applications submitted by applicants and approved by the Secretary” for “approvable applications submitted by eligible applicants” in first sentence.

Subsec. (e). Pub. L. 102-550, § 606(d)(6), substituted “other requirements of this section” for “requirements of subsection (b) of this section”.

Subsec. (f). Pub. L. 102-550, § 606(d)(7), added subsec. (f).

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Centers for Disease Control changed to Centers for Disease Control and Prevention by Pub. L. 102-531, title III, § 312, Oct. 27, 1992, 106 Stat. 3504.

#### § 12904. Eligible activities

Grants allocated under this chapter shall be available only for approved activities to carry out strategies designed to prevent homelessness among eligible persons. Approved activities shall include activities that—

(1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 12906 of this title;

(2) facilitate the development and operation of shelter and services for such persons under section 12907 of this title;

(3) provide rental assistance to such persons under section 12908 of this title;

(4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 12909 of this title;

(5) facilitate the development of community residences for eligible persons under section 12910 of this title;

(6) carry out other activities that the Secretary develops in cooperation with eligible States and localities, except that activities developed under this paragraph may be assisted only with amounts provided under section 12903(c)(3)<sup>1</sup> of this title.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

(Pub. L. 101-625, title VIII, § 855, Nov. 28, 1990, 104 Stat. 4378; Pub. L. 102-550, title VI, § 606(e), (h)(2), (j)(3), Oct. 28, 1992, 106 Stat. 3808, 3810.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 12903(c)(3) of this title, referred to in par. (6), was redesignated section 12903(c)(5) of this title by Pub. L. 114-201, title VII, § 701(a)(1), July 29, 2016, 130 Stat. 812.

##### AMENDMENTS

1992—Pub. L. 102-550, § 606(j)(3)(A), in introductory provisions, substituted “eligible persons” for “such persons with acquired immunodeficiency syndrome”.

Par. (3). Pub. L. 102-550, § 606(h)(2), struck out “short-term” after “provide”.

Par. (5). Pub. L. 102-550, § 606(j)(3)(B), struck out “with acquired immunodeficiency syndrome” after “persons”.

Par. (6). Pub. L. 102-550, § 606(e), inserted before period at end “, except that activities developed under this paragraph may be assisted only with amounts provided under section 12903(c)(3) of this title”.

#### § 12905. Responsibilities of grantees

##### (a) Prohibition of substitution of funds

Amounts received from grants under this chapter may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this chapter.

##### (b) Capability

The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this chapter.

##### (c) Cooperation

The recipient shall agree to cooperate and coordinate in providing assistance under this chapter with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for eligible persons and other public and private organizations and agencies providing services for such eligible persons.

##### (d) Prohibition of fees

The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this chapter.

##### (e) Confidentiality

The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this chapter and any other information regarding individuals receiving such assistance.

##### (f) Financial records

The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this chapter.

##### (g) Administrative expenses

###### (1) Grantees

Notwithstanding any other provision of this chapter, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

###### (2) Project sponsors

Notwithstanding any other provision of this chapter, each project sponsor receiving amounts from grants made under this chapter<sup>1</sup> may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.