

that are consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996. None of such information provided by a manufacturer, wholesaler, or distributor shall be disclosed without its consent to another manufacturer, wholesaler, or distributor, or shall be used in any manner to give a manufacturer, wholesaler, or distributor a proprietary advantage.

(d) Guidelines

The Secretary, in order to maintain the confidentiality of relevant information and ensure that none of the information contained in the systems involved may be used to provide proprietary advantage within the vaccine market, while allowing State, local, and tribal health officials access to such information to maximize the delivery and availability of vaccines to high priority populations, during times of influenza pandemics or other pandemics, vaccine shortages, and supply disruptions, in consultation with manufacturers, distributors, wholesalers and State, local, and tribal health departments, shall develop guidelines for subsections (a) and (b).

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section, \$30,800,000 for each of fiscal years 2019 through 2023.

(f) Report to Congress

As part of the National Health Security Strategy described in section 300hh-1 of this title, the Secretary shall provide an update on the implementation of subsections (a) through (d).

(July 1, 1944, ch. 373, title III, § 319A, as added Pub. L. 106-505, title I, § 102, Nov. 13, 2000, 114 Stat. 2316; amended Pub. L. 107-188, title I, § 111(1), June 12, 2002, 116 Stat. 611; Pub. L. 109-417, title II, § 204(a), Dec. 19, 2006, 120 Stat. 2850; Pub. L. 113-5, title II, § 202(b), Mar. 13, 2013, 127 Stat. 175; Pub. L. 116-22, title VII, § 701(b), June 24, 2019, 133 Stat. 961; Pub. L. 117-328, div. FF, title II, § 2232, Dec. 29, 2022, 136 Stat. 5754.)

Editorial Notes

REFERENCES IN TEXT

Section 264(c) of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (c), is section 264(c) of Pub. L. 104-191, which is set out as a note under section 1320d-2 of this title.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117-328, § 2232(1), inserted “, or other federally purchased vaccine to address another pandemic” after “in an influenza pandemic” and “or other pandemic” after “during an influenza pandemic”.

Subsec. (d). Pub. L. 117-328, § 2232(2), inserted “or other pandemics” after “influenza pandemics”.

2019—Subsec. (e). Pub. L. 116-22 substituted “2019 through 2023” for “2014 through 2018”.

2013—Subsec. (e). Pub. L. 113-5 substituted “\$30,800,000 for each of fiscal years 2014 through 2018” for “such sums for each of fiscal years 2007 through 2011”.

2006—Pub. L. 109-417 amended section catchline and text generally, substituting provisions relating to vaccine tracking and distribution for provisions relating to establishment of capacities to combat threats to public health.

2002—Subsec. (a)(1). Pub. L. 107-188 substituted “five years” for “10 years”.

§ 247d-2. Earlier development of diagnostic tests

The Secretary may contract with public and private entities, as appropriate, to increase capacity in the rapid development, validation, manufacture, and dissemination of diagnostic tests, as appropriate, to State, local, and Tribal health departments and other appropriate entities for immediate public health response activities to address an emerging infectious disease with respect to which a public health emergency is declared under section 247d of this title, or that has significant potential to cause such a public health emergency.

(July 1, 1944, ch. 373, title III, § 319B, as added Pub. L. 117-328, div. FF, title II, § 2303(b), Dec. 29, 2022, 136 Stat. 5758.)

Editorial Notes

PRIOR PROVISIONS

A prior section 247d-2, act July 1, 1944, ch. 373, title III, § 319B, as added Pub. L. 106-505, title I, § 102, Nov. 13, 2000, 114 Stat. 2317; amended Pub. L. 107-188, title I, § 111(2), June 12, 2002, 116 Stat. 611, related to grants to States to assess public health needs, prior to repeal by Pub. L. 109-417, title II, § 204(b)(1), Dec. 19, 2006, 120 Stat. 2851.

§ 247d-3. Repealed. Pub. L. 109-417, title II, § 204(b)(1), Dec. 19, 2006, 120 Stat. 2851

Section, act July 1, 1944, ch. 373, title III, § 319C, as added Pub. L. 106-505, title I, § 102, Nov. 13, 2000, 114 Stat. 2317; amended Pub. L. 107-188, title I, § 131(b), June 12, 2002, 116 Stat. 626, related to grants to improve State and local public health agencies.

§ 247d-3a. Improving State and local public health security

(a) In general

To enhance the security of the United States with respect to public health emergencies, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award cooperative agreements to eligible entities to enable such entities to conduct the activities described in subsection (d).

(b) Eligible entities

To be eligible to receive an award under subsection (a), an entity shall—

(1)(A) be a State;

(B) be a political subdivision determined by the Secretary to be eligible for an award under this section (based on criteria described in subsection (h)(4)); or

(C) be a consortium of States; and

(2) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require, including—

(A) an All-Hazards Public Health Emergency Preparedness and Response Plan which shall include—

(i) a description of the activities such entity will carry out under the agreement to meet the goals identified under section 300hh-1 of this title, including with respect to chemical, biological, radiological, or nuclear threats, whether naturally occurring, unintentional, or deliberate;

(ii) a description of the activities such entity will carry out with respect to pan-

demic influenza, as a component of the activities carried out under clause (i), and consistent with the requirements of paragraphs (2) and (5) of subsection (g);

(iii) preparedness and response strategies and capabilities that take into account the medical and public health needs of at-risk individuals in the event of a public health emergency;

(iv) a description of the mechanism the entity will implement to utilize the Emergency Management Assistance Compact, or other mutual aid agreement, for medical and public health mutual aid, and, as appropriate, the activities such entity will implement pursuant to section 247d-7b of this title to improve enrollment and coordination of volunteer health care professionals seeking to provide medical services during a public health emergency, which may include—

(I) providing a public method of communication for purposes of volunteer coordination (such as a phone number);

(II) providing for optional registration to participate in volunteer services during processes related to State medical licensing, registration, or certification or renewal of such licensing, registration, or certification; or

(III) other mechanisms as the State determines appropriate;

(v) a description of how the entity will include the State Unit on Aging in public health emergency preparedness;

(vi) a description of how, as appropriate, the entity may partner with relevant public and private stakeholders, including public health agencies with specific expertise that may be relevant to public health security, such as environmental health agencies, in public health emergency preparedness and response;

(vii) a description of how, as applicable, such entity may integrate information to account for individuals with behavioral health needs during and following a public health emergency;

(viii) a description of how the entity, as applicable and appropriate, will coordinate with State emergency preparedness and response plans in public health emergency preparedness, including State education agencies¹ (as defined in section 7801 of title 20), State child care lead agencies (designated under section 9858b of this title), and other relevant State agencies²

(ix) in the case of entities that operate on the United States-Mexico border or the United States-Canada border, a description of the activities such entity will carry out under the agreement that are specific to the border area including disease detection, identification, investigation, and preparedness and response activities related to emerging diseases and infectious disease outbreaks whether naturally occurring or

due to bioterrorism, consistent with the requirements of this section;

(x) a description of any activities that such entity will use to analyze real-time clinical specimens for pathogens of public health or bioterrorism significance, including any utilization of poison control centers;

(xi) a description of how the entity will partner with health care facilities, including hospitals and nursing homes and other long-term care facilities, to promote and improve public health preparedness and response;

(xii) a description of how the entity will provide technical assistance to improve public health preparedness and response, as appropriate, to agencies or other entities that operate facilities within the entity's jurisdiction in which there is an increased risk of infectious disease outbreaks in the event of a public health emergency declared under section 247d of this title, such as residential care facilities, group homes, and other similar settings; and

(xiii) a description of how, as appropriate and practicable, the entity will include critical infrastructure partners, such as utility companies within the entity's jurisdiction, in planning pursuant to this subparagraph to help ensure that critical infrastructure will remain functioning during, or return to function as soon as practicable after, a public health emergency;

(B) an assurance that the entity will report to the Secretary on an annual basis (or more frequently as determined by the Secretary) on the evidence-based benchmarks and objective standards established by the Secretary to evaluate the preparedness and response capabilities of such entity under subsection (g);

(C) an assurance that the entity will conduct, on at least an annual basis, an exercise or drill that meets any criteria established by the Secretary to test the preparedness and response capabilities of such entity, including addressing the needs of at-risk individuals, and that the entity will report back to the Secretary within the application of the following year on the strengths and weaknesses identified through such exercise or drill, and corrective actions taken to address material weaknesses;

(D) an assurance that the entity will require relevant staff to complete relevant preparedness and response trainings, including trainings related to efficient and effective operation during an incident or event within an Incident Command System;

(E) an assurance that the entity will provide to the Secretary the data described under section 247d-4(c)(3) of this title as determined feasible by the Secretary;

(F) an assurance that the entity will conduct activities to inform and educate the hospitals within the jurisdiction of such entity on the role of such hospitals in the plan required under subparagraph (A);

¹ So in original. Section 7801 of title 20 defines "State educational agencies".

² So in original. Probably should be followed by a semicolon.

(G) an assurance that the entity, with respect to the plan described under subparagraph (A), has developed and will implement an accountability system to ensure that such entity makes satisfactory annual improvement and describes such system in the plan under subparagraph (A);

(H) a description of the means by which to obtain public comment and input on the plan described in subparagraph (A) and on the implementation of such plan, that shall include an advisory committee or other similar mechanism for obtaining comment from the public and from other State, local, and tribal stakeholders; and

(I) as relevant, a description of the process used by the entity to consult with local departments of public health to reach consensus, approval, or concurrence on the relative distribution of amounts received under this section.

(c) Limitation

Beginning in fiscal year 2009, the Secretary may not award a cooperative agreement to a State unless such State is a participant in the Emergency System for Advance Registration of Volunteer Health Professionals described in section 247d-7b of this title.

(d) Use of funds

(1) In general

An award under subsection (a) shall be expended for activities to achieve the preparedness goals described under paragraphs (1), (2), (4), (5), and (6) of section 300hh-1(b) of this title.

(2) Effect of section

Nothing in this subsection may be construed as establishing new regulatory authority or as modifying any existing regulatory authority.

(e) Coordination with local response capabilities

An entity shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities of relevant Metropolitan Medical Response Systems, local public health departments, the Cities Readiness Initiative, local emergency plans, and any regional health care emergency preparedness and response system established pursuant to the applicable guidelines under section 247d-3c of this title.

(f) Consultation with Homeland Security

In making awards under subsection (a), the Secretary shall consult with the Secretary of Homeland Security to—

(1) ensure maximum coordination of public health and medical preparedness and response activities with the Metropolitan Medical Response System, and other relevant activities;

(2) minimize duplicative funding of programs and activities; and

(3) analyze activities, including exercises and drills, conducted under this section to develop recommendations and guidance on best practices for such activities.

(g) Achievement of measurable evidence-based benchmarks and objective standards

(1) In general

Not later than 180 days after December 19, 2006, the Secretary shall develop or where ap-

propriate adopt, and require the application of, measurable evidence-based benchmarks and objective standards that measure levels of preparedness with respect to the activities described in this section and with respect to activities described in section 247d-3b of this title. In developing such benchmarks and standards, the Secretary shall consult with and seek comments from State, local, and tribal officials and private entities, as appropriate. Where appropriate, the Secretary shall incorporate existing objective standards. Such benchmarks and standards shall—

(A) include outcome goals representing operational achievements of the National Preparedness Goals developed under section 300hh-1(b) of this title with respect to all-hazards, including chemical, biological, radiological, or nuclear threats; and

(B) at a minimum, require entities to—

(i) measure progress toward achieving the outcome goals; and

(ii) at least annually, test, exercise, and rigorously evaluate the public health and medical emergency preparedness and response capabilities of the entity, and report to the Secretary on such measured and tested capabilities and measured and tested progress toward achieving outcome goals, based on criteria established by the Secretary.

(2) Criteria for pandemic influenza plans

(A) In general

Not later than 180 days after December 19, 2006, the Secretary shall develop and disseminate to the chief executive officer of each State criteria for an effective State plan for responding to pandemic influenza. The Secretary shall periodically update, as necessary and appropriate, such pandemic influenza plan criteria and shall require the integration of such criteria into the benchmarks and standards described in paragraph (1).

(B) Rule of construction

Nothing in this section shall be construed to require the duplication of Federal efforts with respect to the development of criteria or standards, without regard to whether such efforts were carried out prior to or after December 19, 2006.³

(3) Technical assistance

The Secretary shall, as determined appropriate by the Secretary, provide to a State, upon request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality assessments, the setting of State objectives and assessment methods, the development of measures of satisfactory annual improvement that are valid and reliable, and other relevant areas.

(4) Notification of failures

The Secretary shall develop and implement a process to notify entities that are determined by the Secretary to have failed to meet

³ See Codification note below.

the requirements of paragraph (1) or (2). Such process shall provide such entities with the opportunity to correct such noncompliance. An entity that fails to correct such noncompliance shall be subject to paragraph (5).

(5) Withholding of amounts from entities that fail to achieve benchmarks or submit influenza plan

Beginning with fiscal year 2019, and in each succeeding fiscal year, the Secretary shall—

(A) withhold from each entity that has failed substantially to meet the benchmarks and performance measures described in paragraph (1) for either of the 2 immediately preceding fiscal years (beginning with fiscal year 2018), pursuant to the process developed under paragraph (4), the amount described in paragraph (6); and

(B) withhold from each entity that has failed to submit to the Secretary a plan for responding to pandemic influenza that meets the criteria developed under paragraph (2), the amount described in paragraph (6).

(6) Amounts described

(A) In general

The amounts described in this paragraph are the following amounts that are payable to an entity for activities described in this section or section 247d-3b of this title:

(i) For no more than one of each of the first 2 fiscal years immediately following a fiscal year in which an entity experienced a failure described in subparagraph (A) or (B) of paragraph (5), an amount equal to 10 percent of the amount the entity was eligible to receive for the respective fiscal year.

(ii) For no more than one of the first 2 fiscal years immediately following the third consecutive fiscal year in which an entity experienced such a failure, in lieu of applying clause (i), an amount equal to 15 percent of the amount the entity was eligible to receive for the respective fiscal year.

(B) Separate accounting

Each failure described in subparagraph (A) or (B) of paragraph (5) shall be treated as a separate failure for purposes of calculating amounts withheld under subparagraph (A).

(7) Reallocation of amounts withheld

(A) In general

The Secretary shall make amounts withheld under paragraph (6) available for making awards under section 247d-3b of this title to entities described in subsection (b)(1) of such section.

(B) Preference in reallocation

In making awards under section 247d-3b of this title with amounts described in subparagraph (A), the Secretary shall give preference to eligible entities (as described in section 247d-3b(b)(1) of this title) that are located in whole or in part in States from which amounts have been withheld under paragraph (6).

(8) Waive or reduce withholding

The Secretary may waive or reduce the withholding described in paragraph (6), for a

single entity or for all entities in a fiscal year, if the Secretary determines that mitigating conditions exist that justify the waiver or reduction.

(h) Funding

(1) Authorization of appropriations

(A) In general

For the purpose of carrying out this section, there is authorized to be appropriated \$685,000,000 for each of fiscal years 2019 through 2023 for awards pursuant to paragraph (3) (subject to the authority of the Secretary to make awards pursuant to paragraphs (4) and (5)).

(B) Requirement for State matching funds

Beginning in fiscal year 2009, in the case of any State or consortium of two or more States, the Secretary may not award a cooperative agreement under this section unless the State or consortium of States agree that, with respect to the amount of the cooperative agreement awarded by the Secretary, the State or consortium of States will make available (directly or through donations from public or private entities) non-Federal contributions in an amount equal to—

(i) for the first fiscal year of the cooperative agreement, not less than 5 percent of such costs (\$1 for each \$20 of Federal funds provided in the cooperative agreement); and

(ii) for any second fiscal year of the cooperative agreement, and for any subsequent fiscal year of such cooperative agreement, not less than 10 percent of such costs (\$1 for each \$10 of Federal funds provided in the cooperative agreement).

(C) Determination of amount of non-Federal contributions

As determined by the Secretary, non-Federal contributions required in subparagraph (B) may be provided directly or through donations from public or private entities and may be in cash or in kind, fairly evaluated, including plant, equipment or services. Amounts provided by the Federal government, or services assisted or subsidized to any significant extent by the Federal government, may not be included in determining the amount of such non-Federal contributions.

(2) Maintaining State funding

(A) In general

An entity that receives an award under this section shall maintain expenditures for public health security at a level that is not less than the average level of such expenditures maintained by the entity for the preceding 2 year period.

(B) Rule of construction

Nothing in this section shall be construed to prohibit the use of awards under this section to pay salary and related expenses of public health and other professionals employed by State, local, or tribal public health agencies who are carrying out activi-

ties supported by such awards (regardless of whether the primary assignment of such personnel is to carry out such activities).

(3) Determination of amount

(A) In general

The Secretary shall award cooperative agreements under subsection (a) to each State or consortium of 2 or more States that submits to the Secretary an application that meets the criteria of the Secretary for the receipt of such an award and that meets other implementation conditions established by the Secretary for such awards.

(B) Base amount

In determining the amount of an award pursuant to subparagraph (A) for a State, the Secretary shall first determine an amount the Secretary considers appropriate for the State (referred to in this paragraph as the “base amount”), except that such amount may not be greater than the minimum amount determined under subparagraph (D).

(C) Increase on basis of population

After determining the base amount for a State under subparagraph (B), the Secretary shall increase the base amount by an amount equal to the product of—

(i) the amount appropriated under paragraph (1)(A) for the fiscal year, less an amount equal to the sum of all base amounts determined for the States under subparagraph (B), and less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); and

(ii) subject to paragraph (4)(C), the percentage constituted by the ratio of an amount equal to the population of the State over an amount equal to the total population of the States (as indicated by the most recent data collected by the Bureau of the Census).

(D) Minimum amount

Subject to the amount appropriated under paragraph (1)(A), an award pursuant to subparagraph (A) for a State shall be the greater of the base amount as increased under subparagraph (C), or the minimum amount under this subparagraph. The minimum amount under this subparagraph is—

(i) in the case of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, an amount equal to the lesser of—

(I) \$5,000,000; or

(II) if the amount appropriated under paragraph (1)(A) is less than \$667,000,000, an amount equal to 0.75 percent of the amount appropriated under such paragraph, less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); or

(ii) in the case of each of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, an amount determined by the Secretary to be appropriate, except that such amount may not exceed the amount determined under clause (i).

(4) Certain political subdivisions

(A) In general

For fiscal year 2007, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to political subdivisions that have a substantial number of residents, have a substantial local infrastructure for responding to public health emergencies, and face a high degree of risk from bioterrorist attacks or other public health emergencies. Not more than three political subdivisions may receive awards pursuant to this subparagraph.

(B) Coordination with Statewide plans

An award pursuant to subparagraph (A) may not be made unless the application of the political subdivision involved is in coordination with, and consistent with, applicable Statewide plans described in subsection (b).

(C) Relationship to formula grants

In the case of a State that will receive an award pursuant to paragraph (3), and in which there is located a political subdivision that will receive an award pursuant to subparagraph (A), the Secretary shall, in determining the amount under paragraph (3)(C) for the State, subtract from the population of the State an amount equal to the population of such political subdivision.

(D) Continuity of funding

In determining whether to make an award pursuant to subparagraph (A) to a political subdivision, the Secretary may consider, as a factor indicating that the award should be made, that the political subdivision received public health funding from the Secretary for fiscal year 2006.

(5) Significant unmet needs; degree of risk

(A) In general

For fiscal year 2007, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to eligible entities that—

(i) have a significant need for funds to build capacity to identify, detect, monitor, and respond to a bioterrorist or other threat to the public health, which need will not be met by awards pursuant to paragraph (3); and

(ii) face a particularly high degree of risk of such a threat.

(B) Recipients of grants

Awards pursuant to subparagraph (A) may be supplemental awards to States that receive awards pursuant to paragraph (3), or may be awards to eligible entities described in subsection (b)(1)(B) within such States.

(C) Finding with respect to District of Columbia

The Secretary shall consider the District of Columbia to have a significant unmet

need for purposes of subparagraph (A), and to face a particularly high degree of risk for such purposes, on the basis of the concentration of entities of national significance located within the District.

(6) Funding of local entities

The Secretary shall, in making awards under this section, ensure that with respect to the cooperative agreement awarded, the entity make available appropriate portions of such award to political subdivisions and local departments of public health through a process involving the consensus, approval or concurrence with such local entities.

(7) Availability of cooperative agreement funds

(A) In general

Amounts provided to an eligible entity under a cooperative agreement under subsection (a) for a fiscal year and remaining unobligated at the end of such year shall remain available to such entity for the next fiscal year for the purposes for which such funds were provided.

(B) Funds contingent on achieving benchmarks

The continued availability of funds under subparagraph (A) with respect to an entity shall be contingent upon such entity achieving the benchmarks and submitting the pandemic influenza plan as described in subsection (g).

(i) Administrative and fiscal responsibility

(1) Annual reporting requirements

Each entity shall prepare and submit to the Secretary annual reports on its activities under this section and section 247d-3b of this title. Each such report shall be prepared by, or in consultation with, the health department. In order to properly evaluate and compare the performance of different entities assisted under this section and section 247d-3b of this title and to assure the proper expenditure of funds under this section and section 247d-3b of this title, such reports shall be in such standardized form and contain such information as the Secretary determines and describes within 180 days of December 19, 2006 (after consultation with the States) to be necessary to—

(A) secure an accurate description of those activities;

(B) secure a complete record of the purposes for which funds were spent, and of the recipients of such funds;

(C) describe the extent to which the entity has met the goals and objectives it set forth under this section or section 247d-3b of this title;

(D) determine the extent to which funds were expended consistent with the entity's application transmitted under this section or section 247d-3b of this title; and

(E) publish such information on a Federal Internet website consistent with subsection (j).

(2) Audits; implementation

(A) In general

Each entity receiving funds under this section or section 247d-3b of this title shall, not

less often than once every 2 years, audit its expenditures from amounts received under this section or section 247d-3b of this title. Such audits shall be conducted by an entity independent of the agency administering a program funded under this section or section 247d-3b of this title in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions and generally accepted auditing standards. Within 30 days following the completion of each audit report, the entity shall submit a copy of that audit report to the Secretary.

(B) Repayment

Each entity shall repay to the United States amounts found by the Secretary, after notice and opportunity for a hearing to the entity, not to have been expended in accordance with this section or section 247d-3b of this title and, if such repayment is not made, the Secretary may offset such amounts against the amount of any allotment to which the entity is or may become entitled under this section or section 247d-3b of this title or may otherwise recover such amounts.

(C) Withholding of payment

The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any entity which is not using its allotment under this section or section 247d-3b of this title in accordance with such section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(j) Compilation and availability of data

The Secretary shall compile the data submitted under this section and make such data available in a timely manner on an appropriate Internet website in a format that is useful to the public and to other entities and that provides information on what activities are best contributing to the achievement of the outcome goals described in subsection (g).

(k) Evaluation

(1) In general

Not later than 2 years after June 24, 2019, and every 2 years thereafter, the Secretary shall conduct an evaluation of the evidence-based benchmarks and objective standards required under subsection (g). Such evaluation shall be submitted to the congressional committees of jurisdiction together with the National Health Security Strategy under section 300hh-1 of this title, at such time as such strategy is submitted.

(2) Content

The evaluation under this paragraph shall include—

(A) a review of evidence-based benchmarks and objective standards, and associated metrics and targets;

(B) a discussion of changes to any evidence-based benchmarks and objective

standards, and the effect of such changes on the ability to track whether entities are meeting or making progress toward the goals under this section and, to the extent practicable, the applicable goals of the National Health Security Strategy under section 300hh-1 of this title;

(C) a description of amounts received by eligible entities described in subsection (b) and section 247d-3b(b) of this title, and amounts received by subrecipients and the effect of such funding on meeting evidence-based benchmarks and objective standards; and

(D) recommendations, as applicable and appropriate, to improve evidence-based benchmarks and objective standards to more accurately assess the ability of entities receiving awards under this section to better achieve the goals under this section and section 300hh-1 of this title.

(July 1, 1944, ch. 373, title III, § 319C-1, as added Pub. L. 107-188, title I, § 131(a), June 12, 2002, 116 Stat. 617; amended Pub. L. 109-417, title II, § 201, Dec. 19, 2006, 120 Stat. 2837; Pub. L. 113-5, title II, § 202(a), (c)(1), 204(b), Mar. 13, 2013, 127 Stat. 173, 175, 179; Pub. L. 114-95, title IX, § 9215(kkk)(1), Dec. 10, 2015, 129 Stat. 2187; Pub. L. 116-22, title II, §§ 201(a), 202(a), (b)(1), (d), 203(e)(1), 207(b), title VII, § 705(b), June 24, 2019, 133 Stat. 907-910, 914, 927, 964; Pub. L. 117-328, div. FF, title II, § 2111(a), Dec. 29, 2022, 136 Stat. 5720.)

Editorial Notes

CODIFICATION

December 19, 2006, referred to in subsec. (g)(2)(B), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 109-417, which enacted subsec. (g) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2022—Subsec. (b)(2)(A)(vii). Pub. L. 117-328, § 2111(a)(1)(A), inserted “during and” before “following a public health emergency”.

Subsec. (b)(2)(A)(viii). Pub. L. 117-328, § 2111(a)(1)(B), amended cl. (viii) generally. Prior to amendment, cl. (viii) read as follows: “a description of how the entity, as applicable and appropriate, will coordinate with State emergency preparedness and response plans in public health emergency preparedness, including State educational agencies (as defined in section 7801 of title 20) and State child care lead agencies (designated under section 9858b of this title);”.

Subsec. (b)(2)(A)(xii), (xiii). Pub. L. 117-328, § 2111(a)(1)(C)–(E), added cl. (xii) and redesignated former cl. (xii) as (xiii).

Subsec. (b)(2)(D) to (I). Pub. L. 117-328, § 2111(a)(2), (3), added subpar. (D) and redesignated former subpars. (D) to (H) as (E) to (I), respectively.

2019—Subsec. (a). Pub. L. 116-22, § 202(a)(1), inserted “, acting through the Director of the Centers for Disease Control and Prevention,” after “the Secretary”.

Subsec. (b)(2)(A)(iv). Pub. L. 116-22, § 207(b), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “a description of the mechanism the entity will implement to utilize the Emergency Management Assistance Compact or other mutual aid agreements for medical and public health mutual aid;”.

Subsec. (b)(2)(A)(vi). Pub. L. 116-22, § 202(a)(2)(A), inserted “, including public health agencies with specific expertise that may be relevant to public health security, such as environmental health agencies,” after “stakeholders”.

Subsec. (b)(2)(A)(vii) to (x). Pub. L. 116-22, § 202(a)(2)(B), (C), added cl. (vii) and redesignated former cls. (vii) to (ix) as (viii) to (x), respectively.

Subsec. (b)(2)(A)(xi), (xii). Pub. L. 116-22, § 202(a)(2)(D), (E), added cls. (xi) and (xii).

Subsec. (b)(2)(C). Pub. L. 116-22, § 705(b)(1), substituted “individuals,” for “individuals,.”.

Subsec. (b)(2)(F). Pub. L. 116-22, § 705(b)(2), substituted “makes satisfactory annual improvement and describes” for “make satisfactory annual improvement and describe”.

Subsec. (e). Pub. L. 116-22, § 203(e)(1), substituted “, local emergency plans, and any regional health care emergency preparedness and response system established pursuant to the applicable guidelines under section 247d-3c of this title.” for “, and local emergency plans.”

Subsec. (g)(5). Pub. L. 116-22, § 202(b)(1)(A)(i), substituted “Beginning with fiscal year 2019” for “Beginning with fiscal year 2009” in introductory provisions.

Subsec. (g)(5)(A). Pub. L. 116-22, § 202(b)(1)(A)(ii), substituted “for either of the 2 immediately preceding fiscal years” for “for the immediately preceding fiscal year” and “2018” for “2008”.

Subsec. (g)(6)(A). Pub. L. 116-22, § 202(b)(1)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) consisted of cls. (i) to (iv) describing amounts payable to an entity for the fiscal year immediately following one to four fiscal years in which the entity experienced a failure described in subsec. (g)(5)(A) or (B).

Subsec. (h)(1)(A). Pub. L. 116-22, § 202(d), substituted “\$685,000,000 for each of fiscal years 2019 through 2023 for awards pursuant to paragraph (3) (subject to the authority of the Secretary to make awards pursuant to paragraphs (4) and (5)).” for “\$641,900,000 for fiscal year 2014 for awards pursuant to paragraph (3) (subject to the authority of the Secretary to make awards pursuant to paragraphs (4) and (5)), and \$641,900,000 for each of fiscal years 2015 through 2018.”

Subsec. (k). Pub. L. 116-22, § 201(a), added subsec. (k). 2015—Subsec. (b)(2)(A)(vii). Pub. L. 114-95 substituted “including State educational agencies (as defined in section 7801 of title 20)” for “including State educational agencies (as defined in section 7801(41) of title 20)”.

2013—Subsec. (b)(1)(B). Pub. L. 113-5, § 202(c)(1), substituted “subsection (h)(4)” for “subsection (i)(4)”.

Subsec. (b)(1)(C). Pub. L. 113-5, § 202(a)(1), substituted “consortium of States” for “consortium of entities described in subparagraph (A)”.

Subsec. (b)(2)(A)(i), (ii). Pub. L. 113-5, § 202(a)(2)(A)(i), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

“(i) a description of the activities such entity will carry out under the agreement to meet the goals identified under section 300hh-1 of this title;

“(ii) a pandemic influenza plan consistent with the requirements of paragraphs (2) and (5) of subsection (g);”.

Subsec. (b)(2)(A)(vi) to (ix). Pub. L. 113-5, § 202(a)(2)(A)(ii), (iii), added cls. (vi) to (ix).

Subsec. (b)(2)(C). Pub. L. 113-5, § 202(a)(2)(B), inserted “, including addressing the needs of at-risk individuals,” after “capabilities of such entity”.

Subsec. (b)(2)(D). Pub. L. 113-5, § 204(b), substituted “section 247d-4(c)(3)” for “section 247d-4(d)(3)”.

Subsec. (f)(2) to (4). Pub. L. 113-5, § 202(a)(3), inserted “and” at end of par. (2), substituted period for “; and” at end of par. (3), and struck out par. (4) which read as follows: “disseminate such recommendations and guidance, including through expanding existing lessons learned information systems to create a single Internet-based point of access for sharing and distributing medical and public health best practices and lessons learned from drills, exercises, disasters, and other emergencies.”

Subsec. (g)(1)(A). Pub. L. 113-5, § 202(a)(4)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: “include outcome goals representing operational achievement of the National Preparedness

Goals developed under section 300hh-1(b) of this title; and”.

Subsec. (g)(2)(A). Pub. L. 113-5, § 202(a)(4)(B), inserted at end “The Secretary shall periodically update, as necessary and appropriate, such pandemic influenza plan criteria and shall require the integration of such criteria into the benchmarks and standards described in paragraph (1).”

Subsec. (h). Pub. L. 113-5, § 202(a)(5), (6), redesignated subsec. (i) as (h) and struck out former subsec. (h) which related to grants for real-time disease detection improvement.

Subsec. (h)(1)(A). Pub. L. 113-5, § 202(a)(7)(A)(i), substituted “\$641,900,000 for fiscal year 2014” for “\$824,000,000 for fiscal year 2007, of which \$35,000,000 shall be used to carry out subsection (h),” and “\$641,900,000 for each of fiscal years 2015 through 2018” for “such sums as may be necessary for each of fiscal years 2008 through 2011”.

Subsec. (h)(1)(B) to (D). Pub. L. 113-5, § 202(a)(7)(A)(ii)-(iv), redesignated subpars. (C) and (D) as (B) and (C), respectively, substituted “subparagraph (B)” for “subparagraph (C)” in subpar. (C), and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “There are authorized to be appropriated, \$10,000,000 for fiscal year 2007 to carry out subsection (f)(4) of this section and section 300hh-16 of this title.”

Subsec. (h)(3)(C), (D). Pub. L. 113-5, § 202(a)(7)(B), substituted “paragraph (1)(A)” for “paragraph (1)(A)(i)(I)” wherever appearing.

Subsec. (h)(4)(B). Pub. L. 113-5, § 202(a)(7)(C), substituted “subsection (b)” for “subsection (c)”.

Subsec. (h)(7). Pub. L. 113-5, § 202(a)(7)(D), added par. (7).

Subsec. (i). Pub. L. 113-5, § 202(a)(6), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Subsec. (i)(1)(E). Pub. L. 113-5, § 202(a)(8)(A), substituted “subsection (j)” for “subsection (k)”.

Subsec. (i)(3). Pub. L. 113-5, § 202(a)(8)(B), struck out par. (3) which related to maximum amount of an award under this section that may be carried over to the succeeding fiscal year.

Subsecs. (j), (k). Pub. L. 113-5, § 202(a)(6), redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

2006—Pub. L. 109-417, § 201(1), substituted “Improving State and local public health security” for “Grants to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies” in section catchline.

Subsecs. (a) to (h). Pub. L. 109-417, § 201(2), added subsecs. (a) to (h) and struck out former subsecs. (a) to (h) which related to grants to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies.

Subsec. (i). Pub. L. 109-417, § 201(3), redesignated subsec. (j) as (i).

Pub. L. 109-417, § 201(2), struck out subsec. (i) which defined “eligible entity”.

Subsec. (i)(1) to (3)(A). Pub. L. 109-417, § 201(4)(A), added pars. (1) to (3)(A) and struck out former pars. (1) to (3)(A) which related to appropriations for fiscal years 2003 through 2006, use of amounts to supplement and not supplant other funds, and conditions for receipt of award in fiscal year 2003.

Subsec. (i)(4)(A). Pub. L. 109-417, § 201(4)(B), substituted “fiscal year 2007” for “fiscal year 2003” and struck out “(A)(i)(I)” after “paragraph (1)”.

Subsec. (i)(4)(D). Pub. L. 109-417, § 201(4)(C), substituted “fiscal year 2006” for “fiscal year 2002”.

Subsec. (i)(5)(A). Pub. L. 109-417, § 201(4)(D), in introductory provisions, substituted “fiscal year 2007” for “fiscal year 2003” and struck out “(A)(i)(I)” after “paragraph (1)”.

Subsec. (i)(6). Pub. L. 109-417, § 201(4)(E), added par. (6) and struck out heading and text of former par. (6). Text read as follows: “For fiscal year 2003, the Secretary shall in making awards under this section ensure that appropriate portions of such awards are made available to political subdivisions, local departments of public

health, hospitals (including children’s hospitals), clinics, health centers, or primary care facilities, or consortia of such entities.”

Subsec. (j). Pub. L. 109-417, § 201(5), added subsec. (j).

Pub. L. 109-417, § 201(3), redesignated subsec. (j) as (i).

Subsec. (k). Pub. L. 109-417, § 201(5), added subsec. (k).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-328, div. FF, title II, § 2111(b), Dec. 29, 2022, 136 Stat. 5721, provided that: “The amendments made by subsection (a) [amending this section] shall not apply with respect to any cooperative agreement entered into prior to the date of enactment of this Act [Dec. 29, 2022].”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-22, title II, § 202(b)(2), June 24, 2019, 133 Stat. 909, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to cooperative agreements awarded on or after the date of enactment of this Act [June 24, 2019].”

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of Title 20, Education.

EMERGENCY MEDICAL AND PUBLIC HEALTH COMMUNICATIONS PILOT PROJECTS

Pub. L. 110-53, title XXII, § 2201(d), Aug. 3, 2007, 121 Stat. 541, provided that:

“(1) IN GENERAL.—The Assistant Secretary of Commerce for Communications and Information may establish not more than 10 geographically dispersed project grants to emergency medical and public health care facilities to improve the capabilities of emergency communications systems in emergency medical care facilities.

“(2) MAXIMUM AMOUNT.—The Assistant Secretary may not provide more than \$2,000,000 in Federal assistance under the pilot program to any applicant.

“(3) COST SHARING.—The Assistant Secretary may not provide more than 20 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

“(4) MAXIMUM PERIOD OF GRANTS.—The Assistant Secretary may not fund any applicant under the pilot program for more than 3 years.

“(5) DEPLOYMENT AND DISTRIBUTION.—The Assistant Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

“(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Assistant Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.”

§ 247d-3b. Partnerships for State and regional hospital preparedness to improve surge capacity

(a) In general

The Secretary, acting through the Assistant Secretary for Preparedness and Response, shall award competitive grants or cooperative agreements to eligible entities to enable such entities to improve surge capacity and enhance community and hospital preparedness for, and response to, public health emergencies in accordance with subsection (c), including, as appropriate,