

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 8 - LOW-INCOME HOUSING
SUBCHAPTER II-B - HOME RULE FLEXIBLE GRANT DEMONSTRATION

§ 1437bbb-5. Application

(a) In general

The Secretary shall provide for jurisdictions to submit applications for approval to participate in the demonstration program under this subchapter. An application—

- (1) shall be submitted only after the jurisdiction provides for citizen participation through a public hearing and, if appropriate, other means;
- (2) shall include a plan for the provision of housing assistance with amounts received pursuant to this subchapter that—
 - (A) is developed by the jurisdiction;
 - (B) takes into consideration comments from the public hearing, any other public comments on the proposed program, and comments from current and prospective residents who would be affected; and
 - (C) identifies each term or condition for which the jurisdiction is requesting waiver under section 1437bbb-3 (a)(1) of this title;
- (3) shall describe how the plan for use of amounts will assist in meeting the purposes of, and be used in accordance with, sections 1437bbb and 1437bbb-1 (a) of this title, respectively;
- (4) shall propose standards for measuring performance in using assistance provided pursuant to this subchapter based on the performance standards under subsection (b)(4) of this section;
- (5) shall propose the length of the period for participation of the jurisdiction is ¹ in the demonstration program under this subchapter;
- (6) shall—
 - (A) in the case of the application of any jurisdiction within whose boundaries are areas subject to any other unit of general local government, include the signed consent of the appropriate executive official of such unit to the application; and
 - (B) in the case of the application of a consortia of units of general local government (as provided under section 1437bbb-8 (1)(B) of this title), include the signed consent of the appropriate executive officials of each unit included in the consortia;
- (7) shall include information sufficient, in the determination of the Secretary—
 - (A) to demonstrate that the jurisdiction has or will have management and administrative capacity sufficient to carry out the plan under paragraph (2), including a demonstration that the applicant has a history of effectively administering amounts provided under other programs of the Department of Housing and Urban Development, such as the community development block grant program, the HOME investment partnerships program, and the programs for assistance for the homeless under the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.];
 - (B) to demonstrate that carrying out the plan will not result in excessive duplication of administrative efforts and costs, particularly with respect to activities performed by public housing agencies operating within the boundaries of the jurisdiction;
 - (C) to describe the function and activities to be carried out by such public housing agencies affected by the plan; and
 - (D) to demonstrate that the amounts received by the jurisdiction will be maintained separate from other funds available to the jurisdiction and will be used only to carry out the plan;

(8) shall include information describing how the jurisdiction will make decisions regarding asset management of housing for low-income families under programs for covered housing assistance or assisted with grant amounts under this subchapter;

(9) shall—

(A) clearly identify any State or local laws that will affect implementation of the plan under paragraph (2) and any contractual rights and property interests that may be affected by the plan;

(B) describe how the plan will be carried out with respect to such laws, rights, and interests; and

(C) contain a legal memorandum sufficient to describe how the plan will comply with such laws and how the plan will be carried out without violating or impairing such rights and interests; and

(10) shall identify procedures for how the jurisdiction shall return to providing covered assistance for the jurisdiction under the provisions of subchapter I of this chapter, in the case of determination under subsection (b)(4)(B) of this section.

A plan required under paragraph (2) to be included in the application may be contained in a memorandum of agreement or other document executed by a jurisdiction and public housing agency, if such document is submitted together with the application.

(b) Review, approval, and performance standards

(1) Review

The Secretary shall review each application for participation in the demonstration program under this subchapter and shall determine and notify the jurisdiction submitting the application, not later than 90 days after its submission, of whether the application is approvable under this subchapter. If the Secretary determines that the application of a jurisdiction is approvable under this subchapter, the Secretary shall provide affected public housing agencies an opportunity to review and to provide written comments on the application for a period of not less than 30 days after notification under the preceding sentence. If the Secretary determines that an application is not approvable under this subchapter, the Secretary shall notify the jurisdiction submitting the application of the reasons for such determination. Upon making a determination of whether an application is approvable or nonapprovable under this subchapter, the Secretary shall make such determination publicly available in writing together with a written statement of the reasons for such determination.

(2) Approval

The Secretary may approve jurisdictions for participation in the demonstration program under this subchapter, but only from among applications that the Secretary has determined under paragraph ² are approvable under this subchapter and only in accordance with section 1437bbb-1 (c) of this title. The Secretary shall base the selection of jurisdictions to approve on the potential success, as evidenced by the application, in—

(A) achieving the goals set forth in the performance standards under paragraph (4)(A); and

(B) increasing housing choices for low-income families.

(3) Agreement

The Secretary shall offer to enter into an agreement with each jurisdiction approved for participation in the program under this subchapter providing for assistance pursuant to this subchapter for a period in accordance with section 1437bbb-1 (b) of this title and incorporating a requirement that the jurisdiction achieve a particular level of performance in each of the areas for which performance standards are established under paragraph (4)(A) of this subsection. If the Secretary and the jurisdiction enter into an agreement, the Secretary shall provide any covered housing assistance for the jurisdiction in the manner authorized under this subchapter. The

Secretary may not provide covered housing assistance for a jurisdiction in the manner authorized under this subchapter unless the Secretary and jurisdiction enter into an agreement under this paragraph.

(4) Performance standards

(A) Establishment

The Secretary and each participating jurisdiction may collectively establish standards for evaluating the performance of the participating jurisdiction in meeting the purposes under section 1437bbb of this title, which may include standards for—

- (i) moving dependent low-income families to economic self-sufficiency;
- (ii) reducing the per-family cost of providing housing assistance;
- (iii) expanding the stock of affordable housing and housing choices for low-income families;
- (iv) improving program management;
- (v) increasing the number of homeownership opportunities for low-income families;
- (vi) reducing homelessness through providing permanent housing resources;
- (vii) reducing geographic concentration of assisted families; and
- (viii) any other performance goals that the Secretary and the participating jurisdiction may establish.

(B) Failure to comply

If, at any time during the participation of a jurisdiction in the program under this subchapter, the Secretary determines that the jurisdiction is not sufficiently meeting, or making progress toward meeting, the levels of performance incorporated into the agreement of the jurisdiction pursuant to subparagraph (A), the Secretary shall terminate the participation of the jurisdiction in the program under this subchapter and require the implementation of the procedures included in the application of the jurisdiction pursuant to subsection (a)(10) of this section.

(5) Troubled agencies

The Secretary may establish requirements for the approval of applications under this section submitted by public housing agencies designated under section 1437d (j)(2) of this title as troubled, which may include additional or different criteria determined by the Secretary to be more appropriate for such agencies.

(c) Status of PHAs

This subchapter may not be construed to require any change in the legal status of any public housing agency or in any legal relationship between a jurisdiction and a public housing agency as a condition of participation in the program under this subchapter.

(d) PHA plans

In carrying out this subchapter, the Secretary may provide for a streamlined public housing agency plan and planning process under section 1437c–1 of this title for participating jurisdictions.

Footnotes

¹ So in original.

² So in original. Probably should be preceded by “this”.

(Sept. 1, 1937, ch. 896, title IV, § 406, as added Pub. L. 105–276, title V, § 561, Oct. 21, 1998, 112 Stat. 2620; amended Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675.)

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

References in Text

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(7)(A), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

Amendments

2000—Subsec. (a)(7)(A). Pub. L. 106–400 substituted “McKinney-Vento Homeless Assistance Act” for “Stewart B. McKinney Homeless Assistance Act”.