Mexico to require, under the Atomic Energy Act of 1954 (as amended by title II of this Act) [42 U.S.C. 2011 et seq.] or under State authority as permitted under section 274 of such Act [42 U.S.C. 2021] or under other provision of law, the owners of the following active uranium mill sites to undertake appropriate action to regulate and control all residual radioactive materials at such sites to protect public health, safety, and the environment: the former Homestake-New Mexico Partners site near Milan, New Mexico, and the Anaconda carbonate process tailings site near Bluewater, New Mexico. Such study shall be completed and a report thereof submitted to the Congress and to the Secretary within one year after November 8, 1978, together with such recommendations as may be appropriate. If the Commission determines that such authority is not adequate to regulate and control such materials at such sites in the manner provided in the first sentence of this section, the Commission shall include in the report a statement of the basis for such determination. Nothing in this chapter shall be construed to prevent or delay action by a State as permitted under section 274 of the Atomic Energy Act of 1954 [42 U.S.C. 2021] or under any other provision of law or by the Commission to regulate such residual radioactive materials at such sites prior to completion of such study.

(Pub. L. 95–604, title III, § 301, Nov. 8, 1978, 92 Stat. 3042.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, as amended, which is classified generally to chapter 23 (§ 2011 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of this title and Tables.

Title II of this Act, referred to in text, is title II (§§ 201–209) of Pub. L. 95–604, Nov. 8, 1978, 92 Stat. 3033, as amended, which enacted sections 2022, 2113, 2114 of this title, amended sections 2014, 2021, 2111, and 2201 of this title, and enacted provisions set out as notes under sections 2014, 2021, and 2113 of this title. For complete classification of title II to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7942 of this title.

§ 7942. Designation by Secretary as processing sites for subchapter I purposes

(a) New Mexico cooperative agreement respecting certain residual radioactive materials; submission to Congressional committees

Within ninety days from the date of his receipt of the report and recommendations submitted by the Commission under section 7941 of this title, notwithstanding the limitations contained in section 7911(6)(A) and in section 7925(a) of this title, if the Commission determines, based on such study, that such sites cannot be regulated and controlled by the State or the Commission in the manner described in section 7941 of this title, the Secretary may designate either or both of the sites referred to in section 7941 of this title as a processing site for purposes of subchapter I of this chapter. Following such designation, the Secretary may enter into cooperative agreements with New Mexico to perform remedial action pursuant to such subchapter I concerning only the residual radioactive materials at such site resulting from uranium produced for sale to a Federal agency prior to January 1, 1971, under contract with such agency. Any such designation shall be submitted by the Secretary, together with his estimate of the cost of carrying out such remedial action at the designated site, to the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

(b) Effective date

(1)[1] No designation under subsection (a) of this section shall take effect before the expiration of one hundred and twenty calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die) after receipt by such Committees of such designation.

(c) Subchapter I provisions applicable

Except as otherwise specifically provided in subsection (a) of this section, any remedial action under subchapter I of this chapter with respect to any sites designated under this subchapter shall be subject to the provisions of subchapter I of this chapter (including the authorization of appropriations referred to in section 7922(b) of this title).

(Pub. L. 95–604, title III, § 302, Nov. 8, 1978, 92 Stat. 3042; H. Res. 549, Mar. 25, 1980.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress. Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

Committee on Interstate and Foreign Commerce of the House of Representatives changed to Committee on Energy and Commerce immediately prior to noon on Jan. 3, 1981, by House Resolution No. 549, Ninety-sixth Congress, Mar. 25, 1980. Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9601 of this title.

CHAPTER 89—CONGREGATE HOUSING SERVICES

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[1] So in original. Subsec. (b) enacted without a par. (2).

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1437g, 3535, 8011 of this title.

§ 8001. Congressional findings

The Congress finds that—

(1) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling temporarily disabled or handicapped individuals to maintain their dignity and independence and to avoid costly and unnecessary institutionalization;

(2) a large and growing number of elderly and handicapped residents of public housing projects and of nonprofit projects for the elderly and handicapped face premature and unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of the supportive services required for the successful development of adequate numbers of congregate housing projects; and

(3) supplemental supportive services, available on a secure and continuing basis, are essential to a successful congregate housing program.

(Pub. L. 95–557, title IV, § 402, Oct. 31, 1978, 92 Stat. 2104.)

SHORT TITLE

Section 401 of title IV of Pub. L. 95–557 provided that: ''This title [enacting this chapter and amending section 1437e of this title] may be cited as the 'Congregate Housing Services Act of 1978'.''

§ 8002. Definitions

For the purpose of this chapter—

(1) the term ''congregate housing'' means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (B) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants;

(2) the term ''congregate services programs'' means programs to be undertaken by a public housing agency or a nonprofit corporation to provide assistance, including personal assistance and nutritional meals, to eligible project residents who, with such assistance, can remain independent and avoid unnecessary institutionalization;

(3) the term ''elderly'' means sixty-two years of age or over;

(4) the term ''eligible project resident'' means elderly handicapped individuals, nonelderly handicapped individuals, or temporarily disabled individuals, who are residents of congregate housing projects administered by a public housing agency or by a nonprofit corporation;

(5) the term ''handicapped'' means having an impairment which (A) is expected to be of long-continued and indefinite duration, and (B) substantially impedes an individual's ability to live independently unless the individual receives supportive congregate services; such impairment may include a functional disability or frailty which is a normal consequence of the human aging process;

(6) the term ''personal assistance'' means service provided under this chapter which may include, but is not limited to, aid given to eligible project residents in grooming, dressing, and other activities which maintain personal appearance and hygiene;

(7) the term ''professional assessment committee'' means a group of at least three persons appointed by a local public housing agency or a nonprofit corporation and shall include qualified medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adult persons, or both, in relation to the performance of the normal tasks of daily living;

(8) the term ''temporarily disabled'' means an impairment which (A) is expected to be of no more than six months' duration, and (B) substantially impedes an individual's ability to live independently unless the individual receives supportive congregate services; and

(9) the term ''nonprofit corporation'' means any corporation responsible for a housing project assisted under section 1701q of title 12.

(Pub. L. 95–557, title IV, § 403, Oct. 31, 1978, 92 Stat. 2105.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8005 of this title.

§ 8003. Contracts to provide congregate services programs

The Secretary of Housing and Urban Development (hereinafter referred to as the ''Secretary'') is authorized to enter into contracts with local public housing agencies under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] (hereinafter referred to as ''public housing agencies'') and with nonprofit corporations, utilizing sums appropriated under this chapter, to provide congregate services programs for eligible project residents in order to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive congregate services. Each contract between the Secretary and a public housing agency or nonprofit corporation shall be for a term of not less than three years or more than five years and shall be renewable at the expiration of such term. Each public housing agency or nonprofit corporation entering into such a contract shall be reserved a sum equal to its total approved contract amount from the moneys authorized and appropriated for the fiscal year in which the notification date of funding approval falls.

(Pub. L. 95–557, title IV, § 404, Oct. 31, 1978, 92 Stat. 2106.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

§ 8004. Congregate services program

(a) Essential services for maintaining independent living

Congregate services programs assisted under this chapter must include full meal service adequate to meet nutritional needs, and may also include housekeeping aid, personal assistance, and other services essential for maintaining independent living.

(b) Duplication of services

No services funded under this chapter may duplicate services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Federal Government or any other public or private department, agency, or organization.

(c) Consultation with Area Agency on Aging or other appropriate State agency

A public housing agency or nonprofit corporation applying for assistance to provide congregate services to elderly residents shall consult with the Area Agency on Aging (or, where no Area Agency on Aging exists, with the appropriate State agency under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.]) in determining the means of providing services under this chapter and in identifying alternative available sources of funding for such services.

(d) Submission of proposed application to Area Agency on Aging or other appropriate State agency

Prior to the submission of a final application for either new or renewed funding under this chapter for the provision of congregate services to elderly residents, a public housing agency and a nonprofit corporation shall present a copy of a proposed application to the Area Agency on Aging (or, where no Area Agency on Aging exists to the appropriate State agency under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.]) for review and comment. Such agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this chapter.

(e) Nonelderly handicapped individuals as eligible project residents

(1) A public housing agency or nonprofit corporation applying for assistance to provide congregate services to nonelderly handicapped resi-

dents shall consult with the appropriate agency, if any, designated by applicable State law as having responsibility for the development, provision, or identification of social services to permanently disabled adults, for the purpose of determining the means of providing services under this chapter and of identifying alternative available sources of funding for such services.

(2) Such public housing agency and nonprofit corporation shall also, prior to the submission of a final application for either new or renewed funding under this chapter, present a copy of the proposed application to such appropriate agency for review and comment. The public housing agency and nonprofit corporation shall consider such review and comment in the development of any final application for either new or renewed funding under this chapter.

(f) Manner of providing congregate services

Any nonprofit corporation or public housing agency receiving assistance under this chapter may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(g) Amount of annual contributions of receiving agency

Nonprofit corporations and public housing agencies receiving assistance for congregate services programs under this chapter shall be required to maintain the same dollar amount of annual contribution which they were making, if any, in support of the provision of services eligible for assistance under this chapter before the date of the submission of the application for such assistance unless the Secretary determines that the waiver of this requirement is necessary for the maintenance of adequate levels of services to eligible project residents. If any contract or lease entered into by a public housing agency or nonprofit corporation pursuant to subsection (f) of this section provides for adjustments in payments for services to reflect changes in the cost of living, then the amount of annual contribution required to be maintained by such public agency or nonprofit corporation under the preceding sentence shall be readjusted in the same manner.

(h) Fees for meal and other services

Each nonprofit corporation and public housing agency shall establish fees for meal service and other appropriate services provided to eligible project residents. These fees shall be reasonable, may not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to such residents who cannot afford meal and service fees. When meal services are provided to other project residents, fees shall be reasonable and may not exceed the cost of providing the meal service.

(i) Standards for provision of services

The Secretary shall establish standards for the provision of services under this chapter, and, in developing such service standards, the Secretary shall consult with the Secretary of Health and Human Services and with appropriate organizations representing the elderly and handicapped, as determined by the Secretary.

(Pub. L. 95–557, title IV, § 405, Oct. 31, 1978, 92 Stat. 2106; Pub. L. 96–399, title II, § 208, Oct. 8, 1980, 94 Stat. 1634; Pub. L. 98–479, title II, § 201(j), Oct. 17, 1984, 98 Stat. 2228.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsecs. (c) and (d), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§ 3001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

AMENDMENTS

1984—Subsec. (i). Pub. L. 98–479 substituted ''Health and Human Services'' for ''the Department of Health, Education, and Welfare''.

1980—Subsecs. (c), (d). Pub. L. 96–399, § 208(a), (b), inserted reference to congregate services to elderly residents.

Subsec. (e). Pub. L. 96–399, § 208(c), in par. (1) substituted ''A public housing agency or nonprofit corporation applying for assistance to provide congregate services to nonelderly handicapped residents shall consult with the appropriate agency'' for ''When nonelderly handicapped individuals are included among the eligible project residents, the public housing agency and nonprofit corporation shall consult with the appropriate local agency'', and in par. (2) substituted ''appropriate agency'' for ''appropriate local agency''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8006 of this title.

§ 8005. Eligibility for services

(a) Professional assessment committee for determination of eligibility

The identification of project residents eligible to participate in a congregate services program assisted under this chapter, and the designation of the services appropriate to their individual functional abilities and needs, shall be made by a professional assessment committee. Such committee shall utilize procedures which insure that the process of determining eligibility of individuals for services under this title shall accord such individuals fair treatment and due process and a right of appeal of such determination of eligibility, and shall also assure the confidentiality of personal and medical records.

(b) Participation of other residents in meal services program

Other residents may participate in a congregate meal service program assisted under this chapter if the local public housing agency or nonprofit corporation determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

(c) Notification of change in membership of professional assessment committee

Any public housing agency or nonprofit corporation receiving assistance under this chapter shall notify the Secretary of any change in the membership of the professional assessment committee within thirty days of such change. Such notification shall list the names and professional qualifications of new members of the committee.

(d) Procedure for changes in membership of professional assessment committee

Procedures shall be established to insure that changes in the membership of the professional assessment committee are consistent with the requirements of section 8002(7) of this title.

(Pub. L. 95–557, title IV, § 406, Oct. 31, 1978, 92 Stat. 2107.)

§ 8006. Application procedure for assistance

(a) Matters included in application

An application for assistance under this chapter shall include—

(1) a plan specifying the types and priorities of the basic services the public housing agency or nonprofit corporation proposes to provide during the term of the contract; such plan must be related to the needs and characteristics of the eligible project residents and, to the maximum extent practicable, provide for the changing needs and characteristics of all project residents; such plan shall be determined after consultation with eligible project residents and with the professional assessment committee;

(2) a list of names and professional qualifications of the members of the professional assessment committee;

(3) the fee schedule established pursuant to section 8004(h) of this title;

(4) any comment received in connection with any review of a proposed application pursuant to section 8004(d) or 8004(e)(2) of this title; and

(5) a statement affirming (A) that the nonprofit corporation or public housing agency has followed the consultation procedures required in subsections (c), (d), and (e) of section 8004 of this title, and (B) that such application complies with subsection (b) of such section.

(b) Deadlines for submission of application

The Secretary shall establish appropriate deadlines for each fiscal year for the submission of applications for funding under this chapter and shall notify any public housing agency and nonprofit corporation applying for assistance under this chapter of acceptance or rejection of its application within ninety days of such submission.

(c) Review of performance of services program prior to submission of application for renewed funding

Within twelve months prior to the submission of an application for renewed funding under this chapter, each nonprofit corporation and public housing agency shall review the performance, appropriateness, and fee schedules of their congregate services program with eligible project residents and with the professional assessment committee. The results of such review shall be included in any application for renewal and shall be considered in the development of the application for renewal by the nonprofit corporation or public housing agency and in its evaluation by the Secretary.

(Pub. L. 95–557, title IV, § 407, Oct. 31, 1978, 92 Stat. 2108.)

§ 8007. Evaluation of applications and programs

(a) Application evaluations

In evaluating applications for assistance under this chapter, the Secretary shall consider—

(1) the types and priorities of the basic services proposed to be provided, and the relationship of such proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(2) how quickly services will be established following approval of the application;

(3) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(4) the professional qualifications of the members of the professional assessment committee; and

(5) the reasonableness of fee schedules established for each congregate service.

(b) Program evaluations

In evaluating programs receiving assistance under this chapter, the Secretary shall—

(1) establish procedures for the review and evaluation of the performance of nonprofit corporations and public housing agencies receiving assistance under this chapter, including provisions for the submission of an annual report, by each such nonprofit corporation and public housing agency, which evaluates the impact and effectiveness of its congregate services program; and

(2) publish annually and submit to the Congress, a report on and evaluation of the impact and effectiveness of congregate services programs assisted under this chapter. Such report and evaluation shall be based, in part, on the evaluations required to be submitted pursuant to paragraph (1).

(c) Report to Congress

(1) The Secretary shall contract with a university or qualified research institution to produce a report—

(A) documenting the number of elderly living in federally assisted housing at risk of institutionalization;

(B) studying and comparing alternative delivery systems in the States, including the congregate housing services program, to provide services to older persons in assisted congregate housing;

(C) assessing existing and potential financial resources at the Federal, State, and local levels for the support of congregate housing services; and

(D) making legislative recommendations as to the feasibility of permitting State housing agencies and other appropriate State agencies to participate and operate the program on a matching grant basis.

(2) The Secretary shall submit the report to the Congress not later than September 30, 1988.

(Pub. L. 95–557, title IV, § 408, Oct. 31, 1978, 92 Stat. 2108; Pub. L. 98–181, title II, § 224(a), Nov. 30, 1983, 97 Stat. 1191; Pub. L. 100–242, title I, § 163(b), (c), Feb. 5, 1988, 101 Stat. 1860.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–242 added subsec. (c) and struck out former subsec. (c) which required Secretary to prepare and submit a report to Congress evaluating the congregate housing services program, not later than March 15, 1984.

1983—Subsec. (c). Pub. L. 98–181 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8008 of this title.

§ 8008. Funding procedures

(a) The Secretary shall establish procedures—

(1) to assure timely payments to nonprofit corporations and public housing agencies for approved assisted congregate services programs with provision made for advance funding sufficient to meet necessary startup costs;

(2) to permit reallocation of funds approved for the establishment of congregate services in existing public housing projects and projects assisted under section 1701q of title 12 if the services are not established within six months of the notification date of funding approval;

(3) to assure that where such funding has been approved for the establishment of congregate services for public housing projects and projects assisted under section 1701q of title 12 under construction or approved for construction, these services shall be in place at the start of the project's occupancy by tenants requiring such services for maintaining independent living;

(4) to establish accounting and other standards in order to prevent any fraudulent or inappropriate use of funds under this chapter; and

(5) to assure that no more than 1 per centum of the funds appropriated under this chapter for any fiscal year may be used by public housing agencies and nonprofit corporations for evaluative purposes as required by section 8007(b)(1) of this title.

(b) The Secretary shall establish a reserve fund, not to exceed 10 per centum of the funds appropriated in each fiscal year for the provision of services under this chapter, in order to supplement grants awarded to public housing agencies and nonprofit corporations under this chapter when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible project residents.

(Pub. L. 95–557, title IV, § 409, Oct. 31, 1978, 92 Stat. 2109.)

§ 8009. Miscellaneous provisions

(a) Utilization of elderly and permanently disabled adult persons

Each public housing agency and nonprofit corporation shall, to the maximum extent practicable, utilize elderly and permanently disabled adult persons who are residents of public housing projects or projects assisted under section 1701q of title 12, but who are not eligible project residents, to participate in providing the services assisted under this chapter. Such persons shall be paid wages which shall not be lower than whichever is the highest of—

(1) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.], if section 6(a)(1) of such Act [29 U.S.C. 206(a)(1)] applied to the resident and if he or she were not exempt under section 13 [29 U.S.C. 213] thereof;

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(b) Tax treatment of services received

No service provided to a public housing resident or to a resident of a housing project assisted under section 1701q of title 12 under this chapter, except for wages paid under subsection (a) of this section, may be treated as income for the purpose of any other program or provision of State or Federal law.

(c) Individuals receiving aid considered residents of own household

Individuals receiving services assisted under this chapter shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

(d) Regulations

The Secretary may issue regulations to carry out the provisions of this chapter.

(Pub. L. 95–557, title IV, § 410, Oct. 31, 1978, 92 Stat. 2109.)

REFERENCES IN TEXT

The Fair Labor Standards Act of 1938, referred to in subsec. (a)(1), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

§ 8010. Authorization of appropriations

(a) There are authorized to be appropriated to carry out this chapter $10,000,000 for each of the fiscal years 1988 and 1989.

(b) Sums appropriated pursuant to this section shall remain available until expended.

(Pub. L. 95–557, title IV, § 411, Oct. 31, 1978, 92 Stat. 2110; Pub. L. 98–181, title II, § 224(b), Nov. 30, 1983, 97 Stat. 1191; Pub. L. 98–479, title I, § 102(f), Oct. 17, 1984, 98 Stat. 2222; Pub. L. 100–242, title I, § 163(a), Feb. 5, 1988, 101 Stat. 1860.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–242 amended subsec. (a) generally, substituting provisions authorizing appropriations to carry out this chapter for fiscal years 1988 and 1989, for provisions authorizing appropriations to carry out this chapter for fiscal years 1979 through 1982, 1984, and 1985.

1984—Subsec. (a)(4). Pub. L. 98–479 inserted a semicolon at end.

1983—Subsec. (a)(5), (6). Pub. L. 98–181 added pars. (5) and (6).

§ 8011. Revised congregate housing services program

(a) Findings and purposes

(1) Findings

The Congress finds that—

(A) the effective provision of congregate services may require the redesign of units and buildings to meet the special physical needs of the frail elderly persons and the creation of congregate space to accommodate services that enhance independent living;

(B) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older persons and persons with disabilities to maintain their dignity and independence;

(C) independent living with assistance is a preferable housing alternative to institutionalization for many frail older persons and persons with disabilities;

(D) 365,000 persons in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(E) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(F) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(G) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(H) supportive services would promote the invaluable option of independent living for nonelderly persons with disabilities in federally assisted housing;

(I) approximately 25 percent of congregate housing services program sites provide congregate services to young individuals with disabilities;

(J) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(K) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) Purposes

The purposes of this section are—

(A) to provide assistance to retrofit individual dwelling units and renovate public and common areas in eligible housing to meet the special physical needs of eligible residents;

(B) to create and rehabilitate congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(C) to improve the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services;

(D) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of the elderly and persons with disabilities;

(E) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(F) to improve the quality of life of older Americans living in federally assisted housing;

(G) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(H) to develop partnerships between the Federal Government and State governments in providing services to the frail elderly and persons with disabilities; and

(I) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) Contracts for congregate services programs

(1) In general

The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors, utilizing any amounts appropriated under subsection (n) of this section—

(A) to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services; or

(B) to adapt housing to better accommodate the physical requirements and service needs of eligible residents.

(2) Term of contracts

Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government, or local nonprofit housing sponsor, shall be for a term of 5 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) Reservation of amounts

For each State, Indian tribe, unit of general local government, and nonprofit housing sponsor, receiving a contract under this subsection,[1] the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) Eligible activities

(1) In general

A congregate services program under this section shall provide meal and other services

[1] So in original. Probably should be ''section,''.

for eligible project residents (and other residents and nonresidents, as provided in subsection (e) of this section), as provided in this section, that are coordinated on site.

(2) Meal services

Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) Food stamps and agricultural commodities

In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 2018 of title 7; and

(II) if approved under such section, accept coupons (as defined in section 2012(e) of title 7) as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) Preference for nutrition providers

In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965 [42 U.S.C. 3021 et seq.]; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.] or any other program for congregate services.

(3) Retrofit and renovation

Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term ''congregate space'' shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(4) Service coordinator

Assistance under this section may be provided with respect to the employment of one or more individuals (hereinafter referred to as ''service coordinator'') who may be responsible for—

(A) working with the professional assessment committee established under subsection (f)[2] of this section on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d) of this section can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues. The Secretary may fund the employment of service coordinators by using amounts appropriated under this section and by permitting owners to use existing sources of funds, including excess project reserves.

(5) Other services

Congregate services programs assisted under this section may include services for transpor-

[2] So in original. Probably should be subsection ''(e)''.

tation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, personal emergency response, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(6) Determination of needs

In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(7) Fees

(A) Eligible project residents

The owner of each eligible housing project shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees for meals shall be in the following amounts:

(i) Full meal services

The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)]), or the cost of providing the services, whichever is less.

(ii) Less than full meal services

The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) Other residents and nonresidents

Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) and for nonresidents that receive services from a congregate services program pursuant to subsection (e) of this section. Such fees shall be in an amount equal to the cost of providing the services.

(8) Direct and indirect provision of services

Any State, Indian tribe, unit of general local government, or nonprofit housing sponsor that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) Eligibility for services

(1) Eligible project residents

Any eligible resident who is a resident of an eligible housing project (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section.

(2) Economic need

In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) Identification

(A) In general

A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) Professional assessment committee

A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of the frail elderly and persons with disabilities in relation to the performance of tasks of daily living.

(4) Eligibility of other residents

The elderly and persons with disabilities who reside in an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (d) of this section.

(5) Eligibility of nonresidents

The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(f) Eligible contract recipients and distribution of assistance

The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) of this section with—

(1) owners of eligible housing;

(2) States that submit applications in behalf of owners of eligible housing; and

(3) Indian tribes and units of general local government that submit applications on behalf of owners of eligible housing.

(g) Applications

The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by or on behalf of owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

(1) a description of the type of assistance the applicant is applying for;

(2) in the case of an application involving rehabilitation or retrofit, a description of the activities to be carried out, the number of elderly persons to be served, the costs of such activities, and evidence of a commitment for the services to be associated with the project;

(3) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period;

(4) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (3) will be provided for not less than 1 year following the completion of activities assisted under subsection (d) of this section;

(5) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(6) a certifications[3] from the appropriate State or local agency (as determined by the Secretary) that—

(A) the provision of the qualifying supportive services identified under paragraph (3) will enable eligible residents to live independently and avoid unnecessary institutionalization,

(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (3), and

(C) the agency and the applicant will, during the term of the contract, actively seek assistance for such services from other sources;

(7) a description of any fees that would be established pursuant to subsection (d) of this section; and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall act on each application within 60 days of its submission.

(h) Selection and evaluation of applications and programs

(1) In general

Each Secretary concerned shall establish criteria for selecting States, Indian tribes, units of general local government, and local nonprofit housing sponsors to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of—

(A) the extent to which the activities described in subsection (d)(3) of this section will foster independent living and the provision of such services;

(B) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services, the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(C) the schedule for establishment of services following approval of the application;

(D) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(E) the professional qualifications of the members of the professional assessment committee;

(F) the reasonableness and application of fees schedules established for congregate services;

(G) the adequacy and accuracy of the proposed budgets; and

(H) the extent to which the owner will provide funds from other services in excess of that required by this section.

(2) Evaluation of provision of congregate services programs

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n)[4] of this section, establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section—

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section.

(i) Congregate services program funding

(1) Cost distribution

(A) Contribution requirement

In providing contracts under subsection (b) of this section, each Secretary concerned

[3] So in original. Probably should be ''certification''.

[4] So in original. Probably should be subsection ''(m)''.

shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, unit of general[5] government, or nonprofit housing sponsor that receives amounts under a contract under subsection (b) of this section shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.] may be considered for purposes of fulfilling the requirement under this clause. The Secretary concerned shall encourage owners to use excess residual receipts to the extent available to supplement funds for retrofit and supportive services under this section.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b) of this section.

(iii) Fees under subsection (d)(7) of this section shall provide 10 percent of the cost.

(B) Exceptions

(i) For any congregate services program that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.] on November 28, 1990,[6] the unit of general local government or nonprofit housing sponsor, in coordination with a local government with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 6-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 6-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding November 28, 1990.[6]

(ii) To the extent that the limitations under subsection (d)(7) of this section regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) Eligible supplemental contributions

If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b) of this section), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) Prohibition of substitution of funds

The Secretary concerned shall require each State, Indian tribe, unit of general local government, and local nonprofit housing sponsor, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, local government, or sponsor was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) Limitation

For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) Consultation

The Secretary shall consult with the Secretary of Health and Human Services regarding the availability of assistance from other Federal programs to support services under this section and shall make information available to applicants for assistance under this section.

(j) Miscellaneous provisions

(1) Use of residents in providing services

Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize the elderly and persons with disabilities who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938 [29 U.S.C. 201 et seq.], if section 6(a)(1) of such Act [29 U.S.C. 206(a)(1)] applied to the resident and if the resident were not exempt under section 13 of such Act [29 U.S.C. 213];

(B) the State of[7] local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

[5] So in original. Probably should be ''general local''.

[6] See Codification note below.

[7] So in original. Probably should be ''or''.

(2) Effect of services

Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) Eligibility and priority for 1978 Act recipients

Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 1701q of title 12, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.] on November 5, 1990,[8] shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority for assistance under this section after the expiration of such period.

(4) Administrative cost limitation

A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (i)(1)(A)(i) of this section for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

(k) Definitions

For purposes of this section:

(1) The term ''activity of daily living'' means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term ''case management'' means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term ''congregate housing'' means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term ''congregate services'' means services described in subsection (d) of this section.

(5) The term ''congregate services program'' means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term ''eligible housing project'' means—

(A) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)]) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II[9] of the United States Housing Act of 1937;

(B) housing assisted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] with a contract that is attached to the structure under subsection (d)(2) of such section or with a contract entered into in connection with the new construction or moderate rehabilitation of the structure under section 8(b)(2) of the United States Housing Act,[9] as such section existed before October 1, 1983;

(C) housing assisted under section 1701q of title 12;

(D) housing assisted under section 1715*l*(d) or 1715z–1 of title 12, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 1715t of title 12 (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for the remaining useful life of the housing);

(E) housing assisted under section 1484 or 1485 of this title, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for not less than the 20-year period under section 1472(c)(4) of this title); and

(F) housing assisted under section 1486 of this title.

(7) The term ''eligible resident'' means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled.

(8) The term ''frail elderly'' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(9) The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[8] See Codification note below.

[9] See References in Text note below.

(10) The term ''instrumental activity of daily living'' means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(11) The term ''local nonprofit housing sponsor'' includes public housing agencies (as such term is defined in section 3(b)(6) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(6)].[10]

(12) The term ''nonprofit'', as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term ''elderly person'' means a person who is at least 62 years of age.

(14) The term ''person with disabilities'' has the meaning given the term by section 8013 of this title.

(15) The term ''professional assessment committee'' means a committee established under subsection (e)(3)(B) of this section.

(16) The term ''qualifying supportive services'' means new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(17) The term ''Secretary concerned'' means—

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(18) The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(19) The term ''temporarily disabled'' means having an impairment that—

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term ''unit of general local government''—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B)[11] of this section.

(*l*) Reports to Congress

(1) In general

Each Secretary concerned shall submit to the Congress, for each fiscal year for which assistance is provided for congregate services programs under this section, an annual report—

(A) describing the activities being carried out with assistance under this section and the population being served by such activities;

(B) evaluating the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 8012 of this title; and

(C) containing any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) Submission of data to Secretary concerned

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (m) of this section, for the submission of data by recipients of assistance under this section to be used in the repeat[12] required by paragraph (1).

(m) Regulations

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 180-day period beginning on November 28, 1990, jointly issue any regulations necessary to carry out this section.

(n) Authorization of appropriations

(1) Authorization and use

There are authorized to be appropriated to carry out this section $21,000,000 for fiscal year 1993, and $21,882,000 for fiscal year 1994, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for as-

[10] So in original. Probably should be preceded by a closing parenthesis.

[11] So in original. Probably should be subsection ''(h)(1)(B)''.

[12] So in original. Probably should be ''report''.

sistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development:[13] and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

(2) Availability

Any amounts appropriated under this subsection shall remain available until expended.

(*o*) Reserve fund

The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(Pub. L. 101–625, title VIII, § 802, Nov. 28, 1990, 104 Stat. 4304; Pub. L. 102–550, title VI, §§ 604(a), (b), 672, Oct. 28, 1992, 106 Stat. 3805, 3826.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (d)(2)(B)(i), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended. Title III of the Act is classified generally to subchapter III (§ 3021 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Congregate Housing Services Act of 1978, referred to in subsecs. (d)(2)(B)(ii), (i)(1)(A)(i), (B)(i), and (j)(3), is title IV of Pub. L. 95–557, Oct. 31, 1978, 92 Stat. 2104, as amended, which is classified principally to this chapter (§ 8001 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 8001 of this title and Tables.

The Fair Labor Standards Act of 1938, referred to in subsec. (j)(1)(A), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified principally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The United States Housing Act of 1937, referred to in subsec. (k)(6)(A), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, and amended. Title II of the Act, which was classified generally to subchapter II (§ 1437aa et seq.) of chapter 8 of this title, was repealed by Pub. L. 104–330, title V, § 501(a), Oct. 26, 1996, 110 Stat. 4041. For complete classification of this Act to the Code, see Short title note set out under section 1437 of this title and Tables.

Section 8(b)(2) of the United States Housing Act, referred to in subsec. (k)(6)(B), probably means section 8(b)(2) of the United States Housing Act of 1937, which was classified to section 1437f(b)(2) of this title and was repealed by Pub. L. 98–181, title II, § 209(a)(2), Nov. 30, 1983, 97 Stat. 1183.

[13] So in original. The colon probably should be a semicolon.

The Alaska Native Claims Settlement Act, referred to in subsec. (k)(9), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

CODIFICATION

Section was enacted as part of the Cranston-Gonzalez National Affordable Housing Act, and not as part of the Congregate Housing Services Act of 1978 which comprises this chapter.

Section is comprised of section 802 of Pub. L. 101–625. Subsec. (p) of section 802 of Pub. L. 101–625 amended section 1437g of this title.

November 28, 1990, referred to in subsecs. (i)(1)(B)(i) and (m), was in the original "the date of the enactment of this Act" and November 5, 1990, referred to in subsec. (j)(3), was in the original "the date of the enactment of this section", see Effective Date note below.

AMENDMENTS

1992—Subsec. (d)(4). Pub. L. 102–550, § 672, inserted after first sentence of concluding provisions "Such qualifications and standards shall include requiring each service coordinator to be trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues."

Subsec. (i)(1)(B)(i). Pub. L. 102–550, § 604(b), substituted "6-year" for "3-year" in two places.

Subsec. (n)(1). Pub. L. 102–550, § 604(a), in introductory provisions, substituted provisions authorizing appropriations for fiscal years 1993 and 1994 for provisions authorizing appropriations of $25,000,000 for fiscal year 1991 and $26,100,000 for fiscal year 1992.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

EFFECTIVE DATE

This section was enacted as part of Pub. L. 101–625, which was approved Nov. 28, 1990. However, this section was deemed enacted as of Nov. 5, 1990, by Pub. L. 101–507, title II, Nov. 5, 1990, 104 Stat. 1358, set out as an Effective Date of 1990 Amendment note under section 1701q of Title 12, Banks and Banking.

REGULATIONS

Section 604(c) of Pub. L. 102–550 provided that:

"(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a copy of proposed interim regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8011] with respect to eligible federally assisted housing (as such term is defined in section 802(k) of such Act) administered by each such Secretary. Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, each such Secretary shall publish interim regulations implementing such section 802, which shall take effect upon publication.

"(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), each such Secretary shall issue final regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act after notice and opportunity for

public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

''(3) FAILURE UNDER 1990 ACT.—This subsection may not be construed to authorize any failure to comply with the requirements of section 802(m) of the Cranston-Gonzalez National Affordable Housing Act.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437g, 1485, 13631 of this title; title 12 section 1715w.

§ 8012. Hope for elderly independence

(a) Purpose

The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly persons to continue to live independently. The demonstration program under this section shall terminate upon the expiration of the 5-year period determined by the Secretary.

(b) Housing assistance

In connection with this demonstration, the Secretary of Housing and Urban Development may enter into contracts with public housing agencies to provide not more than 1,500 incremental vouchers and certificates under sections 1437f(b) and 1437f(*o*) of this title. A public housing agency may not require that a frail elderly person live in a particular structure or unit, but the agency may restrict the program under this section to a geographic area, where necessary to ensure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly person the option to continue to receive assistance under the housing certificate or voucher program of the agency. In the demonstration, the Secretary may also provide for supportive services in connection with existing contracts for housing assistance under sections 1437f(b) and 1437f(*o*) of this title.

(c) Supportive services requirements and matching funding

(1) Federal, PHA and,[1] individual contributions

The amount estimated by the public housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) The Secretary shall provide 40 percent, using amounts appropriated under this section.

(B) The public housing agency shall ensure the provision of at least 50 percent from sources other than under this section.

(C) Notwithstanding any other provision of law, each frail elderly person shall pay 10 percent of the costs of the supportive services that the person receives, except that a frail elderly person may not be required to pay an amount that exceeds 20 percent of the adjusted income (as the term is defined in section 1437a(b)(5) of this title) of such person and the Secretary shall provide for the waiver of the requirement to pay costs under this subparagraph for persons whose income is determined to be insufficient to provide for any payment.

(D) To the extent that the limitation under subparagraph (C) regarding the percentage of income frail elderly persons may pay for services will result in collected amounts for any public housing agency of less than 10 percent of the cost of providing the services, 50 percent of such remaining costs shall be provided by the public housing agency and 50 percent of such remaining costs shall be provided by the Secretary from amounts appropriated under this section.

(2) Provision of services for entire demonstration

Each public housing agency shall ensure that supportive services appropriate to the needs of the frail elderly persons to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly persons assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance.

(3) Calculation of match

In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services, if such items have a readily discernible market value.

(d) Applications

An application under this section shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

(1) an application for housing assistance under section 1437f of this title, if necessary, and a description of any such assistance already made available that will be used in the demonstration;

(2) a description of the size and characteristics of the population of frail elderly persons and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether a person qualifies as a frail elderly person (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly persons to participate;

[1] So in original. The comma probably should precede ''and''.

(4) a statement that the public housing agency will create a professional assessment committee or will work with another entity which will assist the public housing agency in identifying and providing only services that each frail elderly person needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each person and for monitoring the person's progress in meeting that plan;

(6) the identity of the proposed service providers and a statement of qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly persons to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(1) of this section;

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of housing assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the persons to be served;

(11) a plan for continuing supportive services to frail elderly persons that continue to receive housing assistance under section 1437f of this title after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the Older Americans Act of 1965 [42 U.S.C. 3021 et seq.] and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) Selection

(1) Criteria

The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(A) the ability of the public housing agency to develop and operate the proposed housing assistance and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly persons in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly persons proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) Consultation with HHS

In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) Funding limitations

No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) Required agreements

The Secretary may not approve any assistance for any program under this section unless the public housing agency agrees—

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the housing assistance and supportive services required by each frail elderly person participating in the program;

(3) to ensure the adequate provision of supportive services, at a reasonable cost, to each frail elderly person participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) Definitions

For purposes of this section:

(1) The term ''demonstration period'' means the 5-year period referred to in subsection (a) of this section.

(2) The term ''elderly person'' means a person who is at least 62 years of age.

(3) The term ''frail elderly person'' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(4) The term ''professional assessment committee'' means a group of at least 3 persons appointed by a public housing agency which shall include at least 1 qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(5) The term ''public housing agency'' has the meaning given such term in section 1437a(b)(6) of this title. The term includes an Indian Housing Authority, as defined in section 1437a(b)(11)[2] of this title.

(6) The term ''Secretary'' means the Secretary of Housing and Urban Development.

(7) The term ''supportive services''—

(A) means assistance, that the Secretary determines—

(i) addresses the special needs of frail elderly persons; and

(ii) provides appropriate supportive services or assists such persons in obtaining appropriate services, including personal care, case management services, transportation, meal services, counseling, supervision, and other services essential for

[2] See References in Text note below.

achieving and maintaining independent living; and

(B) does not include medical services, as determined by the Secretary.

(h) Multifamily project demonstration

(1) In general

In addition to the demonstration program authorized by the preceding provisions of this section, the Secretary shall conduct a demonstration in one Federal region, subject to the terms and conditions of this subsection, to determine the feasibility of using housing assistance under section 1437f of this title to assist elderly persons who may become frail to live independently in housing specifically designed for occupancy by such persons in sufficient proportion to achieve economies of scale in the provision of services and facilities.

(2) Section 1437f allocation

From amounts provided pursuant to subsection (j) of this section and subject to availability in appropriation Acts, the Secretary shall enter into a contract with a public housing agency to provide housing assistance under section 1437f(b) of this title to assist elderly persons in at least 75 percent of the units in a single housing project with more than 100 units.

(3) Section 1437f terms

The assistance payment contract under section 1437f of this title shall be attached to the structure and shall be in an initial term of 5 years. The contract shall (at the option of the public housing agency and subject to availability of amounts approved in appropriations Acts) be renewable for 3 additional 5-year terms. Rents for units in the project assisted pursuant to this subsection shall be subject to the rent limitations in effect for the area under section 1437f of this title for projects for the elderly receiving loans under section 1701q of title 12.

(4) Supportive services

The Secretary shall allocate, for the project assisted pursuant to this subsection, a reasonable portion of the amounts appropriated pursuant to the authorization for funds for supportive services in subsection (k) of this section, based on the estimated number of project residents who will be frail elderly individuals during the 5-year period beginning on the date of initial occupancy of the project. Grants for supportive services may be used to assist any occupant in the demonstration project who is a frail elderly individual. Grants for supportive services under this subsection shall be subject to the other terms and conditions specified in this section.

(5) Applications

An application for assistance under this subsection may be submitted by any unit of general local government with a population under 50,000 and shall contain such information as the Secretary deems appropriate.

(6) Selection

The Secretary shall select one application for funding under this subsection based on the following criteria:

(A) The number of elderly persons residing in the applicant's jurisdiction.

(B) The extent of existing housing constructed prior to 1940 in the applicant's jurisdiction.

(C) The number of elderly persons living in adjacent projects to whom the services and facilities provided by the project would be available.

(D) The level of State and local contributions toward the cost of developing the project and of providing supportive services.

(E) The project's contribution to neighborhood improvement.

(i) Report

The Secretary shall submit to Congress an annual report evaluating the effectiveness of the demonstrations under this section. The report shall include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate in evaluating the demonstration.

(j) Section 1437f funding

The budget authority available under section 1437c(c) of this title for assistance under sections 1437f(b) and 1437f(*o*) of this title is authorized to be increased by $38,288,000 on or after October 1, 1992, and by $39,896,096 on or after October 1, 1993. The amounts made available under this subsection shall be used only in connection with the demonstration under this section.

(k) Funding for services

There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section $10,000,000 to become available in fiscal year 1993, and $10,420,000 to become available in fiscal year 1994. Any such amounts appropriated under this subsection shall remain available until expended.

(*l*) Implementation

Not later than the expiration of the 180-day period beginning on the date that funds authorized for the demonstrations under this section first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the demonstration programs authorized under this section.

(Pub. L. 101–625, title VIII, § 803, Nov. 28, 1990, 104 Stat. 4317; Pub. L. 102–550, title VI, § 605, Oct. 28, 1992, 106 Stat. 3806.)

REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsec. (d)(12), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended. Title III of the Act is classified generally to subchapter III (§ 3021 et seq.) of chapter 35 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of this title and Tables.

Section 1437a(b)(11) of this title, referred to in subsec. (g)(5), was repealed by Pub. L. 104–330, title V, § 501(b)(1)(D), Oct. 26, 1996, 110 Stat. 4041.

CODIFICATION

Section was enacted as part of the Cranston-Gonzalez National Affordable Housing Act, and not as part of the

Congregate Housing Services Act of 1978 which comprises this chapter.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550, § 605(c)(1), substituted ''determined by the Secretary'' for ''beginning on November 28, 1990''.

Subsec. (g)(1). Pub. L. 102–550, § 605(c)(2), added par. (1) and struck out former par. (1) which read as follows: ''The term 'demonstration period' means the period beginning on November 28, 1990, and ending upon the termination date under subsection (a) of this section.''

Subsec. (j). Pub. L. 102–550, § 605(a), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''The Secretary may provide assistance under sections 1437f(b) and 1437f(*o*) of this title in connection with the demonstrations under this section, in an amount not to exceed $34,000,000 for fiscal year 1991, and $35,500,000 for fiscal year 1992, subject to the approval of sufficient amounts in appropriations Acts under section 1437c of this title.''

Subsec. (k). Pub. L. 102–550, § 605(b), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: ''There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section, $10,000,000 to become available in fiscal year 1991, and $10,400,000 to become available in fiscal year 1992, and remain available until expended.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8011 of this title.

§ 8013. Supportive housing for persons with disabilities

(a) Purpose

The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons; and

(2) provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) Authority to provide assistance

The Secretary is authorized—

(1) to provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4) of this section; and

(2) to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

(A) capital advances in accordance with subsection (d)(1) of this section, and

(B) contracts for project rental assistance in accordance with subsection (d)(2) of this section;

assistance under this paragraph may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(c) General requirements

The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—

(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities,[1] and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) Forms of assistance

(1) Capital advances

A capital advance provided under subsection (b)(2) of this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h) of this section.

(2) Project rental assistance

Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].

(3) Rent contribution

A very low-income person shall pay as rent for a dwelling unit assisted under subsection (b)(2) of this section the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted month-

[1] So in original. The comma probably should be a semicolon.

ly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] shall be the same amount as if the person were being assisted under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].

(4) Tenant-Based Rental Assistance

Tenant-based rental assistance provided under subsection (b)(1) of this section may be provided only through a public housing agency that has submitted, and had approved, an allocation plan under section 1437e(f) of this title, and a public housing agency shall be eligible to apply under this section only for the purposes of providing such assistance. Such assistance shall be made available to eligible persons with disabilities and administered under the same rules that govern rental assistance made available under section 1437f of this title. In determining the amount of assistance provided under subsection (b)(1) of this section for a public housing agency, the Secretary shall consider the needs of the agency as described in the allocation plan.

(e) Term of commitment

(1) Use limitations

All units in housing assisted under subsection (b)(2) of this section shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

(2) Contract terms

The initial term of a contract entered into under subsection (d)(2) of this section shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(f) Applications

Funds made available under subsection (b)(2) of this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under subsection (b)(2) of this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains—

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will receive supportive services based on their individual needs;

(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;

(D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and

(E) identification of the extent of State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 12705 of this title that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) Selection criteria

The Secretary shall establish selection criteria for assistance under subsection (b)(2) of this section, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for housing for persons with disabilities in the area to be served;

(3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(4) the extent to which the applicant has demonstrated that the necessary supportive services will be provided on a consistent, long-term basis;

(5) the extent to which the proposed design of the housing will accommodate the provision of such services;

(6) the extent to which the applicant has control of the site of the proposed housing; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under subsection (b)(2) of this section are used effectively.

(h) Development cost limitations

(1) In general

The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; and (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) RTC properties

In the case of existing housing and related facilities from the Resolution Trust Corporation under section 1441a(c) of title 12, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) Annual adjustments

The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(4) Incentives for savings

(A) Special project account

The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of this title; (ii) substantially reduce the lifecycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) Uses

The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) Funds from other sources

An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) Tenant selection

(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(j) Miscellaneous provisions

(1) Technical assistance

The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) Civil rights compliance

Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.] and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and[2]

(3) Site control

An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) Owner deposit

The Secretary may require an owner to deposit an amount not to exceed $10,000 in a spe-

[2] So in original. The word ''opportunity'' probably should be followed by a period.

cial escrow account to assure the owner's commitment to the housing.

(5) Notice of appeal

The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) Labor standards

(A) In general

The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act [40 U.S.C. 276a et seq.]).

(B) Exemption

Subparagraph (A) shall not apply to any individual who—

(i) performs services for which the individual volunteered;

(ii)(I) does not receive compensation for such services; or

(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(iii) is not otherwise employed at any time in the construction work.

(k) Definitions

As used in this section—

(1) The term ''group home'' means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(2) The term ''person with disabilities'' means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 6001(7)[3] of this title. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term ''person with disabilities'' includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(3) The term ''supportive housing for persons with disabilities'' means housing that—

(A) is designed to meet the special needs of persons with disabilities, and

(B) provides supportive services that address the individual health, mental health or other special needs of such persons.

(4) The term ''independent living facility'' means a project designed for occupancy by not more than 24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe) in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(5) The term ''owner'' means a private nonprofit organization that receives assistance under this section to develop and operate a project for supportive housing for persons with disabilities.

(6) The term ''private nonprofit organization'' means any institution or foundation—

(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of title 26;

(B) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(C) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(D) which is approved by the Secretary as to financial responsibility.

(7) The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

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

(9) The term ''very low-income'' has the same meaning as given the term ''very low-income families'' under section 1437a(b)(2) of this title.

***(l)* Allocation of funds**

(1) Allocation

Of any amount made available for assistance under this section in any fiscal year, an

[3] See References in Text note below.

amount shall be used for assistance under subsection (b)[4] of this section that is not less than the amount made available in appropriation Acts for such assistance in the preceding year, and the remainder shall be available for tenant-based assistance under subsection (n).[5]

(2) Capital advances

Of any amounts made available for assistance under subsection (b) of this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1)[6] of this section. Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to November 28, 1990,[7] shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(3) Project rental assistance

Of any amounts made available for assistance under subsection (b) of this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2)[8] of this section.

(m) Effective date and applicability

(1) In general

The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and public comment.

(2) Earlier applicability

The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 1701q of title 12 before November 28, 1990,[7] but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 1701q of title 12 as they were in effect when such assistance was made or reserved.

(3) Coordination

When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 1437f of this title, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

(Pub. L. 101–625, title VIII, § 811, Nov. 28, 1990, 104 Stat. 4324; Pub. L. 102–27, title II, Apr. 10, 1991, 105 Stat. 150; Pub. L. 102–550, title VI, §§ 601(d), 603, 623(a), title IX, § 913(b), Oct. 28, 1992, 106 Stat. 3803, 3805, 3818, 3877.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(2), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVI and XIX of the Act are classified generally to subchapters XVI (§ 1381 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (j)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Fair Housing Act, referred to in subsec. (j)(2), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, which is classified principally to subchapter I of chapter 45 (§ 3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

Act of March 3, 1931 (commonly known as the Davis-Bacon Act), referred to in subsec. (j)(6)(A), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Section 6001(7) of this title, referred to in subsec. (k)(2), was subsequently amended, and section 6001(7) no longer defines the term "developmental disability". However, such term is defined elsewhere in that section.

CODIFICATION

Section was enacted as part of the Cranston-Gonzalez National Affordable Housing Act, and not as part of the Congregate Housing Services Act of 1978 which comprises this chapter.

November 28, 1990, referred to in subsecs. (*l*)(2) and (m)(2), was in the original "the enactment of this Act" and "the date of enactment of this Act", respectively, see Enactment of Section note below.

AMENDMENTS

1992—Pub. L. 102–550, § 623(a)(1), reenacted section catchline without change.

Subsec. (b). Pub. L. 102–550, § 623(a)(2), added heading, introductory provisions, and pars. (1) and (2) and struck out former heading "General authority", introductory provisions, and pars. (1) and (2) which authorized assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which assistance would be provided as capital advances and contracts for project rental assistance, and, in concluding provisions, realigned margin and substituted "assistance under this paragraph" for "Such assistance".

Subsec. (d)(1). Pub. L. 102–550, § 623(a)(3)(A), which directed the substitution of "subsection (b)(2) of this section" for "this section", was executed by making the substitution the first place appearing in first sentence, to reflect the probable intent of Congress.

Subsec. (d)(3). Pub. L. 102–550, § 623(a)(3)(A), substituted "subsection (b)(2) of this section" for "this section".

Subsec. (d)(4). Pub. L. 102–550, § 623(a)(3)(B), added par. (4).

Subsec. (e)(1). Pub. L. 102–550, § 623(a)(4), substituted "subsection (b)(2) of this section" for "this section".

Subsec. (f). Pub. L. 102–550, § 623(a)(5), substituted "subsection (b)(2) of this section" for "this section" in first and second sentences.

Subsec. (g). Pub. L. 102–550, § 623(a)(6), which directed the substitution of "subsection (b)(2) of this section" for "this section", was executed by making the substitution in the introductory provisions and in par. (7), to reflect the probable intent of Congress.

Subsec. (j)(6). Pub. L. 102–550, § 913(b), designated existing provisions as subpar. (A), inserted subpar. heading, substituted "with 12 or more units assisted under this section" for "assisted under this section and de-

[4] So in original. Probably should be subsection "(b)(2)".
[5] So in original. Probably should be subsection "(b)(1)".
[6] So in original. Probably should be subsection "(d)(1)".
[7] See Codification note below.
[8] So in original. Probably should be subsection "(d)(2)".

signed for dwelling use by 12 or more persons with disabilities'', inserted ''commonly known as'' before ''the Davis-Bacon Act'', struck out before period at end ''; but the Secretary may waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction'', and added subpar. (B).

Subsec. (k)(6). Pub. L. 102–550, § 603, struck out ''incorporated private'' before ''institution'' in introductory provisions, added subpar. (A), and redesignated former subpars. (A) to (C) as (B) to (D), respectively.

Subsec. (*l*). Pub. L. 102–550, § 601(d)(1), substituted ''Allocation of funds'' for ''Authorizations'' in heading.

Subsec. (*l*)(1). Pub. L. 102–550, § 601(d)(5), added par. (1). Former par. (1) redesignated (2).

Pub. L. 102–550, § 601(d)(2), inserted first sentence, struck out former first sentence which authorized an appropriation of $271,000,000 for fiscal year 1992 for the purpose of funding capital advances in accordance with subsection (d)(1) of this section, and in second sentence, substituted ''Such amounts'' for ''Amounts so appropriated''.

Subsec. (*l*)(2). Pub. L. 102–550, § 601(d)(4), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Pub. L. 102–550, § 601(d)(3), added par. (2) and struck out former par. (2) which read as follows: ''For the purpose of funding contracts for project rental assistance in accordance with subsection (d)(2) of this section, the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $246,000,000 for fiscal year 1992.''

Subsec. (*l*)(3). Pub. L. 102–550, § 601(d)(4), redesignated par. (2) as (3).

1991—Subsec. (k)(4). Pub. L. 102–27 substituted ''24 persons with disabilities (or such higher number of persons as permitted under criteria that the Secretary shall prescribe)'' for ''20 persons with disabilities''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by subtitles B through F of title VI [§§ 621–685] of Pub. L. 102–550 applicable upon expiration of 6-month period beginning Oct. 28, 1992, except as otherwise provided, see section 13642 of this title.

ENACTMENT OF SECTION

This section was enacted as part of Pub. L. 101–625, which was approved Nov. 28, 1990. However, this section was deemed enacted as of Nov. 5, 1990, by Pub. L. 101–507, title II, Nov. 5, 1990, 104 Stat. 1358, set out as an Effective Date of 1990 Amendment note under section 1701q of Title 12, Banks and Banking.

INAPPLICABILITY OF CERTAIN 1992 AMENDMENTS TO INDIAN PUBLIC HOUSING

Amendment by section 623(a) of Pub. L. 102–550 not applicable with respect to lower income housing developed or operated pursuant to contract between Secretary of Housing and Urban Development and Indian housing authority, see section 626 of Pub. L. 102–550, set out as a note under section 1437a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437a, 1437f, 1437g, 3535, 8011, 11398, 11403g of this title; title 12 sections 1701z–11, 3702, 3705.

CHAPTER 90—NEIGHBORHOOD AND CITY REINVESTMENT, SELF-HELP AND REVITALIZATION

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