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Title: PART 367 - INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

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Authority:

29 U.S.C. 796k, unless otherwise noted.

Source:

59 FR 41909, Aug. 15, 1994, unless otherwise noted.

Subpart A—General

§ 367.1 What is the Independent Living Services for Older Individuals Who Are Blind program?

This program supports projects that—

(a) Provide any of the independent living (IL) services to older individuals who are blind that are described in § 367.3(b);

(b) Conduct activities that will improve or expand services for these individuals; and

(c) Conduct activities to help improve public understanding of the problems of these individuals.

(Authority: 29 U.S.C. 796k(a) and (b)) § 367.2 Who is eligible for an award?

Any designated State agency (DSA) is eligible for an award under this program if the DSA—

(a) Is authorized to provide rehabilitation services to individuals who are blind; and

(b) Submits to and obtains approval from the Secretary of an application that meets the requirements of section 752(i) of the Act and §§ 367.10 and 367.11.

(Authority: 29 U.S.C. 796k(a)(2)) § 367.3 What activities may the Secretary fund?

(a) The DSA may use funds awarded under this part for the activities described in § 367.1 and paragraph (b) of this section.

(b) For purposes of § 367.1(a), IL services for older individuals who are blind include—

(1) Services to help correct blindness, such as—

(i) Outreach services;

(ii) Visual screening;

(iii) Surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

(iv) Hospitalization related to these services;

(2) The provision of eyeglasses and other visual aids;

(3) The provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

(4) Mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

(5) Guide services, reader services, and transportation;

(6) Any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

(7) IL skills training, information and referral services, peer counseling, and individual advocacy training; and

(8) Other IL services, as defined in section 7(30) of the Act and as listed in 34 CFR 365.22.

(Authority: 29 U.S.C. 796k (d) and (e)) § 367.4 What regulations apply?

The following regulations apply to the Independent Living Services for Older Individuals Who Are Blind program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) [Reserved]

(2) 34 CFR part 75 (Direct Grant Programs), with respect to grants under subpart C.

(3) 34 CFR part 76 (State-Administered Programs), with respect to grants under subpart D.

(4) 34 CFR part 77 (Definitions That Apply to Department Regulations).

(5) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(6) [Reserved]

(7) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(8) 34 CFR part 82 (New Restrictions on Lobbying).

(9) [Reserved]

(10) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 367.

(c) The following provisions in 34 CFR part 364:

(1) Section 364.4 (What definitions apply?).

(2) Section 364.5 (What is program income and how may it be used?)

(3) Section 364.6 (What requirements apply to the obligation of Federal funds and program income?)

(4) Section 364.30 (What notice must be given about the Client Assistance Program (CAP)?).

(5) Section 364.37 (What access to records must be provided?).

(6) Section 364.56 (What are the special requirements pertaining to the protection, use, and release of personal information?).

(d) The following provisions in 34 CFR part 365:

(1) Section 365.13 (What requirements apply if the State's non-Federal share is in cash?).

(2) Section 365.14 (What conditions relating to cash or in-kind contributions apply to awards to grantees, subgrantees, or contractors?).

(3) Section 365.15 (What requirements apply if the State's non-Federal share is in kind?).

(4) Section 365.16 (What requirements apply to refunds and rebates?).

(e)(1) 2 CFR part 180 (OMB Guidelines to Agencies on Debarment and Suspension (Nonprocurement)), as adopted at 2 CFR part 3485; and

(2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) as adopted at 2 CFR part 3474.

(Authority: 29 U.S.C. 711(c) and 796k)

[59 FR 41909, Aug. 15, 1994, as amended at 79 FR 76098, Dec. 19, 2014]

§ 367.5 What definitions apply?

In addition to the definitions in 34 CFR 364.4, the following definitions also apply to this part:

Independent living services for older individuals who are blind means those services listed in § 367.3(b).

Older individual who is blind means an individual age fifty-five or older whose severe visual impairment makes competitive employment extremely difficult to obtain but for whom IL goals are feasible.

(Authority: 29 U.S.C. 711(c) and 796j)

Subpart B—What Are the Application Requirements?

§ 367.10 How does a designated State agency (DSA) apply for an award?

To receive a grant under section 752(i) or a reallocation grant under section 752(j)(4) of the Act, a DSA must submit to and obtain approval from the Secretary of an application for assistance under this program at the time, in the form and manner, and containing the agreements, assurances, and information, that the Secretary determines to be necessary to carry out this program.

(Approved by the Office of Management and Budget under control number 1820-0018)

(Authority: 29 U.S.C. 796k(c)(2) and (i)(1)) § 367.11 What assurances must a DSA include in its application?

An application for a grant under section 752(i) or a reallocation grant under section 752(j)(4) of the Act must contain an assurance that—

(a) Grant funds will be expended only for the purposes described in § 367.1;

(b) With respect to the costs of the program to be carried out by the State pursuant to this part, the State will make available, directly or through donations from public or private entities, non-Federal contributions toward these costs in an amount that is not less than \$1 for each \$9 of Federal funds provided in the grant;

(c) In carrying out § 367.1(a) and (b), and consistent with 34 CFR 364.28, the DSA will seek to incorporate into and describe in the State plan under section 704 of the Act any new methods and approaches relating to IL services for older individuals who are blind that are developed by projects funded under this part and that the DSA determines to be effective;

(d) At the end of each fiscal year, the DSA will prepare and submit to the Secretary a report, with respect to each project or program the DSA operates or administers under this part, whether directly or through a grant or contract, that contains, information that the Secretary determines necessary for the proper and efficient administration of this program, including—

(1) The number and types of older individuals who are blind, including older individuals who are blind from minority backgrounds, and are receiving services;

(2) The types of services provided and the number of older individuals who are blind and are receiving each type of service;

(3) The sources and amounts of funding for the operation of each project or program;

(4) The amounts and percentages of resources committed to each type of service provided;

(5) Data on actions taken to employ, and advance in employment, qualified—

(i) Individuals with significant disabilities;

(ii) Older individuals with significant disabilities who are blind;

(iii) Individuals who are members of racial or ethnic minority groups;

(iv) Women; and

(v) Elderly individuals;

(6) A comparison, if appropriate, of prior year activities with the activities of the most recent year; and

(7) Any new methods and approaches relating to IL services for older individuals who are blind that are developed by projects funded under this part;

(e) The DSA will—

(1) Provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

(2) Engage in—

(i) Capacity-building activities, including collaboration with other agencies and organizations;

(ii) Activities to promote community awareness, involvement, and assistance; and

(iii) Outreach efforts;

(f) The application is consistent with the State plan for providing IL services required by section 704 of the Act and subpart C of 34 CFR part 364; and

(g) The applicant has been designated by the State as the sole State agency authorized to provide rehabilitation services to individuals who are blind.

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(Authority: 29 U.S.C. 711(c) and 796k(d), (f), (h), and (i))

Subpart C—How Does the Secretary Award Discretionary Grants on a Competitive Basis?

§ 367.20 Under what circumstances does the Secretary award discretionary grants on a competitive basis to States?

(a) In the case of a fiscal year for which the amount appropriated under section 753 of the Act is less than \$13,000,000, the Secretary awards discretionary grants under this part on a competitive basis to States.

(b) Subparts A, B, C, and E of this part govern the award of competitive grants under this part.

(Authority: 29 U.S.C. 796k(b)(1)) § 367.21 How does the Secretary evaluate an application for a discretionary grant?

(a) The Secretary evaluates an application for a discretionary grant on the basis of the criteria in § 367.22.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 29 U.S.C. 711(c) and 796k(b)(1) and (i)(1)) § 367.22 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application for a discretionary grant:

(a) Extent of need for the project (20 points). (1) The Secretary reviews each application to determine the extent to which the project meets the specific needs of the program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(2) The Secretary reviews each application to determine—

(i) The extent that the need for IL services for older individuals who are blind is justified, in terms of complementing or expanding existing IL and aging programs and facilities; and

(ii) The potential of the project to support the overall mission of the IL program, as stated in section 701 of the Act.

(b) Plan of operation (25 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program;

(4) The quality and adequacy of the applicant's plan to use its resources (including funding, facilities, equipment, and supplies) and personnel to achieve each objective;

(5) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or disability;

(6) A clear description of how the applicant will provide equal access to services for eligible project participants who are members of groups that have been traditionally under-represented, including members of racial or ethnic minority groups; and

(7) The extent to which the plan of operation and management includes involvement by older individuals who are blind in planning and conducting program activities.

(c) Quality of key personnel (10 points). (1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other management and decision-making personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(1)(i) and (ii) of this section will commit to the project;

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability; and

(v) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally under-represented, including—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Persons with disabilities; and

(D) Elderly individuals.

(2) To determine personnel qualifications under paragraphs (c)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the scope of the project; and

(ii) Any other qualifications that pertain to the objectives of the project.

(d) Budget and cost effectiveness (5 points). The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project;

(2) Costs are reasonable in relation to the objectives of the project; and

(3) The applicant demonstrates the cost-effectiveness of project services in comparison with alternative services and programs available to older individuals who are blind.

(e) Evaluation plan (5 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

- (1) Accurately evaluate the success and cost-effectiveness of the project;
- (2) Are objective and produce data that are quantifiable; and
- (3) Will determine how successful the project is in meeting its goals and objectives.
- (4) (Cross-reference: See 34 CFR 75.590.)

(f) Adequacy of resources (5 points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including accessibility of facilities, equipment, and supplies.

(g) Service comprehensiveness (20 points). (1) The Secretary reviews each application to determine the extent to which the proposed outreach activities promote maximum participation of the target population within the geographic area served by the project.

(2) The Secretary reviews each application to determine the extent to which the DSA addresses the unmet IL needs in the State of older individuals with varying degrees of significant visual impairment. In making this determination, the Secretary reviews the extent to which the DSA makes available appropriate services listed in § 367.3(b), which may include any or all of the following services:

(i) Orientation and mobility skills training that will enable older individuals who are blind to travel independently, safely, and confidently in familiar and unfamiliar environments.

(ii) Skills training in Braille, handwriting, typewriting, or other means of communication.

(iii) Communication aids, such as large print, cassette tape recorders, and readers.

(iv) Training to perform daily living activities, such as meal preparation, identifying coins and currency, selection of clothing, telling time, and maintaining a household.

(v) Provision of low-vision services and aids, such as magnifiers to perform reading and mobility tasks.

(vi) Family and peer counseling services to assist older individuals who are blind adjust emotionally to the loss of vision as well as to assist in their integration into the community and its resources.

(h) Likelihood of sustaining the program (10 points). The Secretary reviews each application to determine—

(1) The likelihood that the service program will be sustained after the completion of Federal project grant assistance;

(2) The extent to which the applicant intends to continue to operate the service program through cooperative agreements and other formal arrangements; and

(3) The extent to which the applicant will identify and, to the extent possible, use comparable services and benefits that are available under other programs for which project participants may be eligible.

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(Authority: 29 U.S.C. 711(c) and 796k(b)(1) and (i)(1)) § 367.23 What additional factor does the Secretary consider?

In addition to the criteria in § 367.22, the Secretary considers the geographic distribution of projects in making an award.

(Authority: 29 U.S.C. 711(c) and 796k(b)(1) and (i)(1))

Subpart D—How Does the Secretary Award Contingent Formula Grants?

§ 367.30 Under what circumstances does the Secretary award contingent formula grants to States?

(a) In the case of a fiscal year for which the amount appropriated under section 753 of the Act is equal to or greater than \$13,000,000, grants under this part are made to States from allotments under section 752(c)(2) of the Act.

(b) Subparts A, B, D, and E of this part govern the award of formula grants under this part.

(Authority: 29 U.S.C. 796k(c)) § 367.31 How are allotments made?

(a) For purposes of making grants under section 752(c) of the Act and this subpart, the Secretary makes an allotment to each State in an amount determined in accordance with section 752(j) of the Act.

(b) The Secretary makes a grant to a DSA in the amount of the allotment to the State under section 752(j) of the Act if the DSA submits to and obtains approval from the Secretary of an application for assistance under this program that meets the requirements of section 752(i) of the Act and §§ 367.10 and 367.11.

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§ 367.32 How does the Secretary reallocate funds under section 752(j)(4) of the Act?

(a) From the amounts specified in paragraph (b) of this section, the Secretary may make reallocation grants to States, as determined by the Secretary, whose population of older individuals who are blind has a substantial need for the services specified in section 752(d) of the Act and § 367.3(b), relative to the populations in other States of older individuals who are blind.

(b) The amounts referred to in paragraph (a) of this section are any amounts that are not paid to States under section 752(c)(2) of the Act and § 367.31 as a result of—

(1) The failure of a DSA to prepare, submit, and receive approval of an application under section 752(i) of the Act and in accordance with §§ 367.10 and 367.11; or

(2) Information received by the Secretary from the DSA that the DSA does not intend to expend the full amount of the State's allotment under section 752(c) of the Act and this subpart.

(c) A reallocation grant to a State under paragraph (a) of this section is subject to the same conditions as grants made under section 752(a) of the Act and this part.

(d) Any funds made available to a State for any fiscal year pursuant to this section are regarded as an increase in the allotment of the State under § 367.31 for that fiscal year only.

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(Authority: 29 U.S.C. 796k(j)(4))

Subpart E—What Conditions Must Be Met After an Award?

§ 367.40 What matching requirements apply?

(a) Non-Federal contributions required by § 367.11(b) may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) For purposes of non-Federal contributions required by § 367.11(b), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions.

(Authority: 29 U.S.C. 796k (f)) § 367.41 When may a DSA award grants or contracts?

(a) A DSA may operate or administer the program or projects under this part to carry out the purposes specified in § 367.1, either directly or through—

(1) Grants to public or private nonprofit agencies or organizations; or

(2) Contracts with individuals, entities, or organizations that are not public or private nonprofit agencies or organizations.

(b) Notwithstanding paragraph (a) of this section, a DSA may enter into assistance contracts, but not procurement contracts, with public or private nonprofit agencies or organizations in a manner consistent with 34 CFR 366.32(e).

(Authority: 29 U.S.C. 796k (g) and (i)(2)(A)) § 367.42 When does the Secretary award noncompetitive continuation grants?

(a) In the case of a fiscal year for which the amount appropriated under section 753 of the Act is less than \$13,000,000, the Secretary awards noncompetitive continuation grants for a multi-year project to pay for the costs of activities for which a grant was awarded—

(1) Under chapter 2 of title VII of the Act; or

(2) Under part C of title VII of the Act, as in effect on October 28, 1992.

(b) To be eligible to receive a noncompetitive continuation grant under this part, a grantee must satisfy the applicable requirements in this part and in 34 CFR 75.253.

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(Authority: 29 U.S.C. 796k(b)(2))